

City of Brookings

MEETING AGENDA

CITY COUNCIL

Monday, January 8, 2024, 7:00pm

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

THE EXECUTIVE SESSION FOR MONDAY NIGHT HAS BEEN CANCELLED.

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Scheduled Public Appearances

(Informational presentations to Council on non-agenda items – 10 minute limit per person.)

1. Diana Cooper – Brookings CORE Response

E. Oral Requests and Communications from the audience

(*Public Comments on non-agenda items – five (5) minute limit per person, please submit Public Comment Form in advance)

F. Consent Calendar

1. Approve Council minutes for December 4th & 5th, 2023 [Pg. 1]
2. Approve Council minutes for December 11, 2023 [Pg. 3]
3. Approve Council minutes for January 2, 2024 [Pg. 7]
4. Accept November Financials [Pg. 8]

G. Staff Reports/Public Hearings/Ordinances/Resolutions/Final Orders

1. Review of the Planning Commission's September 5, 2023 decision on File APP-1-23 denying the appeal of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church, at 401 Fir Street, Assessor's Map & Tax Lot No. 4113-05BC-07300 [Pg. 14]
 - a. Vicinity Map [Pg. 20]
 - b. Property Photo [Pg. 21]
 - c. Minor Change to CUP documents (1999) [Pg. 22]
 - d. Father Lindley deposition excerpts (April 12, 2023) [Pg. 39]
 - e. Notice to Abate (April 14, 2023) [Pg. 49]
 - f. St. Timothy's Church Appeal letter (April 24, 2023) [Pg. 52]
 - g. Planning Commission Final Order (September 5, 2023) [Pg. 58]
 - h. Legal memo (December 7, 2023) [Pg. 61]
2. Amendment No. 2 to ODOT Cooperative Improvement Agreement, US101, Parkview Drive to Lucky Lane [Pg. 67]
 - a. Draft Amendment No. 2 to Cooperative Improvement Agreement No. 32908 [Pg. 69]
 - b. Cooperative Improvement Agreement No. 32908 [Pg. 72]

- c. Amendment No. 1 to Cooperative Improvement Agreement No. 32908 [Pg. 81]
- 3. Utility Relocation for ODOT Sidewalk Project [Pg. 86]
 - a. McLennan Excavation Inc. Bid [Pg. 88]
 - b. Tidewater Contractors Inc. Bid [Pg. 89]
- 4. Transfer of County Orphan Parcels to the City [Pg. 90]
 - a. Curry County Order No. 23342, authorizing donation of property [Pg. 92]
 - b. Map of parcels [Pg. 93]
- 5. Appoint City Representative to the Border Coast Regional Airport Authority Board [Pg. 94]
 - a. Resolution 24-R-1252 BCRAA Representative appointment [Pg. 95]
 - b. Council Committee/Liaison List [Pg. 96]

H. Informational Non-Action Items

- 1. December 2023 Vouchers [Pg. 97]

I. Remarks from Mayor, Councilors and City Manager

J. Adjournment

*Public Comment forms and the agenda packet are available on-line at www.Brookings.or.us/PublicCommentForm and at Brookings City Hall. Return completed Public Comment forms to the Deputy City Recorder before start of the meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

To view the live stream of City Council Meetings, click on <https://www.youtube.com/channel/UCpAYMthEru5N7wOYO3Yyauw>, or search 'City of Brookings Oregon YouTube' in your browser.

City of Brookings CITY COUNCIL MEETING MINUTES

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, December 4, 2023 & Tuesday, December 5, 2023

Call to Order

Council President Andy Martin called the meeting to order at 5:02 PM on December 4, 2023

Roll Call

Council Present: Council President Andy Martin, and Councilors Isaac Hodges, and Kristi Fulton; a quorum present

Staff present: City Manager Janell Howard, Police Chief Kelby McCrae, Police Lieutenant Donny Dotson, Public Works and Development Services Deputy Director Lauri Ziemer, and Deputy Recorder Brooklyn Osterhage

Media Present: 1

Others Present: Approximately 20 audience members

Staff Reports

1. Accept Councilor Schreiber's resignation and declare Councilor position #2 vacant

Staff report presented by Janell Howard

Councilor Hodges moved, Councilor Martin seconded, and Council voted unanimously to read accept resignation of Councilor Schreiber and declare Councilor #2 seat vacant.

2. Council Interviews

Thena Lareteri Lyons, Candice Michel, Phoebe Pereda, Blake Peters, Jim Jollota, DeAnne Varitek, Judy Kaplan, Anthony Bond, Teresa Lawson, Nicholas Chapman, Diana Cooper, Bruce Flowers, Clayton Malmberg

Council took a recess from 7:31 pm to 7:42 pm

3. Elected Official Appointments

Councilor Martin moved, Councilor Hodges seconded, and Council voted unanimously to appoint Phoebe Pereda to Councilor position #2.

The Oath of Office was given to Phoebe Pereda by Deputy Recorder Brooklyn Osterhage.

Adjournment and Continue Meeting

Councilor Martin moved, Councilor Hodges seconded, and Council voted unanimously to continue the meeting to December 5th at 6:00 pm and adjourn.

Tuesday, December 5, 2023

Call to Order

Council President Andy Martin called the meeting to order at 6:00 PM

Roll Call

Council Present: Council President Andy Martin, and Councilors Isaac Hodges, Kristi Fulton, and Phoebe Pereda; a quorum present

Staff present: City Manager Janell Howard, Police Chief Kelby McCrae, Lieutenant Donny Dotson and Deputy Recorder Brooklyn Osterhage

Media Present: 1

Others Present: Approximately 10 audience members

Councilor Pereda moved, Councilor Martin seconded, and Council voted unanimously to appoint Isaac Hodges to position of Mayor.

The Oath of Office was given to Isaac Hodges by Deputy Recorder Brooklyn Osterhage.

Councilor Martin moved, Councilor Fulton seconded, and Council voted unanimously to declare Councilor #1 position vacant.

Council asked Anthony Bond, Clayton Malmberg and DeAnne Varitek additional interview questions.

Councilor Martin moved, Councilor Pereda seconded, and Council voted unanimously to appoint Clayton Malmberg to Council position #1.

The Oath of Office was given to Clayton Malmberg by Deputy Recorder Brooklyn Osterhage.

Adjournment

Mayor Isaac Hodges adjourned the meeting at 6:46 PM.

Respectfully submitted:

ATTESTED:

this 11th day of December, 2023:

Isaac Hodges, Mayor

Janell K. Howard, City Recorder

City of Brookings

CITY COUNCIL MEETING MINUTES

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

Monday, December 11, 2023

Call to Order

Mayor Isaac Hodges called the meeting to order at 7:00 PM

Roll Call

Council Present: Council President Andy Martins, and Councilors Clayton Malmberg, Phoebe Pereda and Kristi Fulton; a quorum present

Staff present: City Manager Janell Howard, Public Works and Development Services Director Tony Baron, Finance Director Lu Ehlers, City Attorney Lori Cooper (by phone) and Deputy Recorder Brooklyn Osterhage

Media Present: 2

Others Present: Approximately 30 audience members

Consent Calendar

1. Approve Council minutes for November 13, 2023
2. Accept October Financials

Councilor Martin moved, Councilor Fulton seconded, and Council voted unanimously, with Councilors Malmberg and Pereda abstaining, to approve the Consent Calendar.

Oral Requests and Communications from the Audience

1. Michael Frederick – 16883 Yellowbrick Road (non-resident), spoke against St. Timothy's abatement.
2. Alex Frederick – 16883 Yellowbrick Road (non-resident), commended new councilors and spoke against the St. Timothy's abatement.
3. Robert O'Sullivan – 96734 DeMoss Road (non-resident), spoke against the St. Timothy's abatement.
4. Teresa Lawson – 820 Brookhaven Drive, Brookings questioned how much the St. Timothy's abatement has cost the City.
5. Diana Cooper – 805 Paradise Lane, Brookings spoke on Brookings CORE Response asking Council to reach out and expressed desire to give a presentation to the Council.
6. David Harris – 922 Timberline Drive, Brookings welcomed new Council members and spoke against St Timothy's abatement.
7. John McKinney – Floral Drive, Brookings applauds new councilors for civic mindedness and spoke against the City Manager.
8. Fran Chambers – 1101 Rowland Lane, Brookings spoke about electric franchise fee and thanked Councilors for stepping up.

Staff Reports

1. Continue the Review of Planning Commission decision on File APP-1-23 Notice of Abatement to St. Timothy's Episcopal Church.

In this matter, Councilor Clayton Malmberg declared ex-parte contact, as he was previously on the Planning Commission and stated he could make an unbiased decision on this matter. There were no bias, personal interest, or conflicts of interest declared.

There were two objections to the jurisdiction of the City Council to hear the matter from the public, and City Attorney Lori Cooper assured all that there was no legal basis to those objections.

PWDS Director Tony Baron gave an overview of the staff report.

Councilor Martin moved, Councilor Malmberg seconded, and Council voted unanimously, with Councilor Pereda abstaining, to affirm the Planning Commission's denial of St. Timothy's Episcopal Church's appeal of the Notice of Abatement issued April 14, 2023 for 401 Fir Street, Assessor's Map & Tax No. 4113-005BC-07300 and direct staff to prepare Findings and Conclusions to be brought back for approval.

2. Authorize the Issuance of Wastewater Revenue Bonds

Staff report presented by Janell Howard

Councilor Martin moved, Councilor Fulton seconded, and Council voted unanimously to read Ordinance 23-O-810 by title only.

Ordinance 23-O-810 was read by title only.

Councilor Martin moved, Councilor Pereda seconded, and Council voted unanimously to adopt Ordinance 23-O-810 authorizing the issuance of Wastewater Revenue Bonds to finance improvements to the Wastewater System.

3. Amend BMC 13.050.250 Water Curtailment

Staff report presented by Tony Baron

Councilor Martin moved, Councilor Fulton seconded, and Council voted unanimously to read Ordinance 23-O-811 by title only.

Ordinance 23-O-811 was read by title only.

Councilor Malmberg moved, Councilor Pereda seconded, and Council voted unanimously to adopt Ordinance 23-O-811, an Ordinance amending the

Brookings Municipal Code, Chapter 13 Public Services, subsection 13.050.250 Water Curtailment as described in Exhibit A.

4. Wastewater Treatment Plant – Outfall Repair Task Order

Staff report presented by Tony Baron

Mayor Hodges asked if this is within our budgeted system replacement funds; Janell Howard answered yes.

Councilor Martin moved, Councilor Pereda seconded, and Council voted unanimously to authorize the City Manager to sign Task Order #2 with Jacobs Engineering in the amount of \$25,000 for the wastewater treatment plant outfall inspection and bid document preparation.

5. Oregon State Fire Marshal (OSFM) Engine Program Intergovernmental Agreement

Staff report presented by Janell Howard

Councilor Malmberg moved, Councilor Pereda seconded, and Council voted unanimously to adopt Resolution 23-R-1251 authorizing the City Manager to sign the Oregon State Fire Marshal 2023 Engine Program Intergovernmental Agreement for a new Type 3 Engine.

6. Audit Report for the fiscal year ended June 30, 2023

Staff report presented by Lu Ehlers

Janell Howard commended Lu and her staff on having an unqualified opinion which means no exceptions or findings. Mayor Hodges thanked Lu as well.

Councilor Fulton moved, Councilor Martin seconded, and Council voted unanimously to accept the City's Audit for the fiscal year ended June 30, 2023.

7. Ratify the City Council decision, adopting Ordinance 23-O-809

Staff report presented by Janell Howard

Mayor Hodges moved, Councilor Malmberg seconded, and Council voted unanimously to ratify and approve previous City Council decision, adoption of Ordinance 23-O-809, from the November 13, 2023 meeting

Remarks from Mayor and Councilors

Councilor Martin requested that an executive session be scheduled soon to review the City Manager's contract with the City Attorney; all of Council was in agreement.

Mayor Hodges spoke on his past and expressed his desire for the City to unite.

Councilor Pereda thanked community for support, expressed her support of Hodges as Mayor and expressed that the community should all find common ground.

Councilor Fulton thanked Mayor Hodges for his honesty, expressed that Council is set to a higher standard, and encouraged the community to volunteer. She also thanked Russ Wedmore for his time as a City employee and congratulated him on his retirement.

Councilor Malmberg thanked everyone for the opportunity to serve and thanked all those who applied for council positions.

Adjournment

Mayor Isaac Hodges adjourned the meeting at 8:36 PM.

Respectfully submitted:

ATTESTED:

this 8th day of January, 2024:

Isaac Hodges, Mayor

Janell K. Howard, City Recorder

City of Brookings CITY COUNCIL MEETING MINUTES

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

Tuesday, January 2, 2024

Call to Order

Mayor Isaac Hodges called the meeting to order at 6:57 PM

Roll Call

Council Present: Mayor Isaac Hodges, Council President Andy Martin, and Councilors Clayton Malmberg, Phoebe Pereda and Kristi Fulton; a quorum present

Staff present: City Manager Janell Howard and Deputy Recorder Brooklyn Osterhage

Media Present: 1

Others Present: Approximately 10 audience members

1. Council discussion regarding the City Manager's contract

Councilor Martin moved, Councilor Pereda seconded, and Council voted unanimously to direct the city attorney to begin the separation agreement negotiations with the City Manager with a deadline of January 8th as discussed in the December 21, 2023 Executive Session; and to schedule an Executive Session immediately preceding the January 8th City Council meeting.

2. Council discussion regarding the hiring of Consultants

Councilor Malmberg moved, Councilor Fulton seconded, and Council voted unanimously to authorize the Mayor to move forward with investigating the hiring of consultants for improvements to City operations.

Adjournment

Mayor Isaac Hodges adjourned the meeting at 7:06 PM.

Respectfully submitted:

ATTESTED:

this 8th day of January, 2024:

Isaac Hodges, Mayor

Janell K. Howard, City Recorder

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	4,026,050.00	3,027,795.66	3,652,912.36	373,137.64	90.7
LICENSES AND PERMITS	297,000.00	29,956.70	115,846.72	181,153.28	39.0
INTERGOVERNMENTAL	294,500.00	32,949.33	107,552.64	186,947.36	36.5
CHARGES FOR SERVICES	1,109,500.00	28,375.48	206,451.34	903,048.66	18.6
OTHER REVENUE	140,500.00	12,371.88	324,741.69	(184,241.69)	231.1
TRANSFERS IN	686,105.00	.00	.00	686,105.00	.0
	6,553,655.00	3,131,449.05	4,407,504.75	2,146,150.25	67.3
<u>EXPENDITURES</u>					
JUDICIAL:					
PERSONAL SERVICES	38,235.00	3,258.89	16,962.02	21,272.98	44.4
MATERIAL AND SERVICES	12,850.00	325.00	2,074.31	10,775.69	16.1
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	51,085.00	3,583.89	19,036.33	32,048.67	37.3
FINANCE AND ADMINISTRATION:					
PERSONAL SERVICES	423,568.00	29,831.29	159,088.50	264,479.50	37.6
MATERIAL AND SERVICES	228,800.00	60,296.72	150,963.06	77,836.94	66.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	652,368.00	90,128.01	310,051.56	342,316.44	47.5
POLICE:					
PERSONAL SERVICES	3,314,004.00	262,173.49	1,294,636.30	2,019,367.70	39.1
MATERIAL AND SERVICES	231,000.00	14,755.88	93,274.73	137,725.27	40.4
CAPITAL OUTLAY	.00	.00	294,941.08	(294,941.08)	.0
DEBT SERVICE	109,426.00	.00	14,306.95	95,119.05	13.1
TRANSFERS OUT	.00	.00	.00	.00	.0
	3,654,430.00	276,929.37	1,697,159.06	1,957,270.94	46.4
FIRE:					
PERSONAL SERVICES	249,661.00	19,722.01	101,764.32	147,896.68	40.8
MATERIAL AND SERVICES	107,500.00	7,685.80	57,136.35	50,363.65	53.2
CAPITAL OUTLAY	.00	.00	.00	.00	.0
DEBT SERVICE	30,580.00	30,579.01	30,579.01	.99	100.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	387,741.00	57,986.82	189,479.68	198,261.32	48.9

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
PLANNING AND BUILDING:					
PERSONAL SERVICES	240,456.00	14,943.15	77,883.18	162,572.82	32.4
MATERIAL AND SERVICES	93,700.00	13,132.99	26,803.45	66,896.55	28.6
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	334,156.00	28,076.14	104,686.63	229,469.37	31.3
PARKS & RECREATION:					
PERSONAL SERVICES	287,161.00	29,185.47	127,986.85	159,174.15	44.6
MATERIAL AND SERVICES	137,900.00	14,536.02	46,327.72	91,572.28	33.6
CAPITAL OUTLAY	.00	.00	891.90	(891.90)	.0
DEBT SERVICE	9,981.00	9,980.00	9,980.00	1.00	100.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	435,042.00	53,701.49	185,186.47	249,855.53	42.6
GOLF COURSE:					
PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	900,000.00	.00	.00	900,000.00	.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	900,000.00	.00	.00	900,000.00	.0
SWIMMING POOL:					
PERSONAL SERVICES	102,122.00	.00	65,350.30	36,771.70	64.0
MATERIAL AND SERVICES	66,700.00	2,524.26	25,374.88	41,325.12	38.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	168,822.00	2,524.26	90,725.18	78,096.82	53.7
NON-DEPARTMENTAL:					
MATERIAL AND SERVICES	175,600.00	15,108.03	53,924.09	121,675.91	30.7
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	575,000.00	.00	.00	575,000.00	.0
CONTINGENCIES AND RESERVES	829,411.00	.00	.00	829,411.00	.0
	1,580,011.00	15,108.03	53,924.09	1,526,086.91	3.4
	8,163,655.00	528,038.01	2,650,249.00	5,513,406.00	32.5
	(1,610,000.00)	2,603,411.04	1,757,255.75	(3,367,255.75)	109.2

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

STREET FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
INTERGOVERNMENTAL	500,000.00	42,576.25	224,385.46	275,614.54	44.9
OTHER REVENUE	22,000.00	96.00	12,538.00	9,462.00	57.0
TRANSFER IN	100,000.00	.00	.00	100,000.00	.0
	<u>622,000.00</u>	<u>42,672.25</u>	<u>236,923.46</u>	<u>385,076.54</u>	<u>38.1</u>
<u>EXPENDITURES</u>					
EXPENDITURES:					
PERSONAL SERVICES	244,962.00	18,104.76	94,368.13	150,593.87	38.5
MATERIAL AND SERVICES	319,700.00	21,682.24	106,797.99	212,902.01	33.4
CAPITAL OUTLAY	15,000.00	.00	.00	15,000.00	.0
DEBT SERVICE	4,409.00	367.40	1,836.96	2,572.04	41.7
TRANSFERS OUT	234,087.00	.00	.00	234,087.00	.0
CONTINGENCIES AND RESERVES	118,842.00	.00	.00	118,842.00	.0
	<u>937,000.00</u>	<u>40,154.40</u>	<u>203,003.08</u>	<u>733,996.92</u>	<u>21.7</u>
	<u>937,000.00</u>	<u>40,154.40</u>	<u>203,003.08</u>	<u>733,996.92</u>	<u>21.7</u>
	<u>(315,000.00)</u>	<u>2,517.85</u>	<u>33,920.38</u>	<u>(348,920.38)</u>	<u>10.8</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

WATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
SOURCE 03	.00	.00	.00	.00	.0
CHARGES FOR SERVICES	2,039,000.00	136,061.13	908,708.32	1,130,291.68	44.6
OTHER INCOME	48,000.00	4,320.00	26,107.83	21,892.17	54.4
TRANSFERS IN	.00	.00	.00	.00	.0
	<u>2,087,000.00</u>	<u>140,381.13</u>	<u>934,816.15</u>	<u>1,152,183.85</u>	<u>44.8</u>
<u>EXPENDITURES</u>					
WATER DISTRIBUTION:					
PERSONAL SERVICES	432,204.00	30,176.05	164,653.49	267,550.51	38.1
MATERIAL AND SERVICES	183,800.00	12,941.90	96,190.46	87,609.54	52.3
CAPITAL OUTLAY	50,000.00	.00	.00	50,000.00	.0
DEBT SERVICE	28,154.00	2,147.38	13,121.44	15,032.56	46.6
TRANSFERS OUT	24,000.00	.00	.00	24,000.00	.0
	<u>718,158.00</u>	<u>45,265.33</u>	<u>273,965.39</u>	<u>444,192.61</u>	<u>38.2</u>
WATER TREATMENT:					
PERSONAL SERVICES	30,042.00	2,381.54	12,218.16	17,823.84	40.7
MATERIAL AND SERVICES	574,515.00	45,021.95	219,664.66	354,850.34	38.2
CAPITAL OUTLAY	10,000.00	.00	.00	10,000.00	.0
DEBT SERVICE	2,386.00	.00	2,384.49	1.51	99.9
TRANSFERS OUT	742,572.00	.00	.00	742,572.00	.0
CONTINGENCIES AND RESERVES	174,327.00	.00	.00	174,327.00	.0
	<u>1,533,842.00</u>	<u>47,403.49</u>	<u>234,267.31</u>	<u>1,299,574.69</u>	<u>15.3</u>
DEPARTMENT 24:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>2,252,000.00</u>	<u>92,668.82</u>	<u>508,232.70</u>	<u>1,743,767.30</u>	<u>22.6</u>
	<u>(165,000.00)</u>	<u>47,712.31</u>	<u>426,583.45</u>	<u>(591,583.45)</u>	<u>258.5</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

WASTEWATER FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
REVENUE					
SOURCE 03	(4,500.00)	.00	.00	(4,500.00)	.0
CHARGES FOR SERVICES	3,566,300.00	276,411.99	1,488,717.53	2,077,582.47	41.7
OTHER REVENUE	15,000.00	.00	4,205.55	10,794.45	28.0
TRANSFER IN	.00	.00	.00	.00	.0
	3,576,800.00	276,411.99	1,492,923.08	2,083,876.92	41.7

EXPENDITURES

WASTEWATER COLLECTION:

PERSONAL SERVICES	675,298.00	45,265.83	246,067.48	429,230.52	36.4
MATERIAL AND SERVICES	290,500.00	5,294.89	73,132.02	217,367.98	25.2
CAPITAL OUTLAY	15,000.00	2,430.00	2,430.00	12,570.00	16.2
DEBT SERVICE	28,154.00	2,147.22	13,120.58	15,033.42	46.6
TRANSFERS OUT	226,533.00	.00	.00	226,533.00	.0
	1,235,485.00	55,137.94	334,750.08	900,734.92	27.1

WASTEWATER TREATMENT:

PERSONAL SERVICES	45,461.00	3,572.40	18,326.90	27,134.10	40.3
MATERIAL AND SERVICES	1,219,029.00	88,870.03	401,003.07	818,025.93	32.9
CAPITAL OUTLAY	15,000.00	.00	.00	15,000.00	.0
DEBT SERVICE	2,386.00	.00	2,384.49	1.51	99.9
TRANSFERS OUT	1,237,643.00	.00	.00	1,237,643.00	.0
CONTINGENCIES AND RESERVES	256,296.00	.00	.00	256,296.00	.0
	2,775,815.00	92,442.43	421,714.46	2,354,100.54	15.2
	4,011,300.00	147,580.37	756,464.54	3,254,835.46	18.9
	(434,500.00)	128,831.62	736,458.54	(1,170,958.54)	169.5

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 5 MONTHS ENDING NOVEMBER 30, 2023

URBAN RENEWAL AGENCY FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	724,170.00	685,375.40	716,290.52	7,879.48	98.9
INTERGOVERNMENTAL	.00	.00	.00	.00	.0
OTHER REVENUE	2,000.00	.00	.00	2,000.00	.0
TRANSFERS IN	.00	.00	.00	.00	.0
	<u>726,170.00</u>	<u>685,375.40</u>	<u>716,290.52</u>	<u>9,879.48</u>	<u>98.6</u>
<u>EXPENDITURES</u>					
GENERAL:					
PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	185,256.00	5,000.00	21,508.75	163,747.25	11.6
CAPITAL OUTLAY	1,460,914.00	63,518.55	64,643.55	1,396,270.45	4.4
DEBT SERVICE	.00	.00	.00	.00	.0
TRANSFERS OUT	.00	.00	.00	.00	.0
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>1,646,170.00</u>	<u>68,518.55</u>	<u>86,152.30</u>	<u>1,560,017.70</u>	<u>5.2</u>
DEPARTMENT 20:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 22:					
MATERIAL AND SERVICES	.00	.00	.00	.00	.0
DEBT SERVICE	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
DEPARTMENT 24:					
CONTINGENCIES AND RESERVES	.00	.00	.00	.00	.0
	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.00</u>	<u>.0</u>
	<u>1,646,170.00</u>	<u>68,518.55</u>	<u>86,152.30</u>	<u>1,560,017.70</u>	<u>5.2</u>
	<u>(920,000.00)</u>	<u>616,856.85</u>	<u>630,138.22</u>	<u>(1,550,138.22)</u>	<u>68.5</u>

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 8, 2024

Originating Dept: PWDS


Signature (submitted by)


City Manager Approval

Subject:

Review of the Planning Commission's September 5, 2023 decision on File APP-1-23 denying the appeal of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church, at 401 Fir Street.

Recommended Motion:

Motion to affirm the Planning Commission decision of APP-1-23 denying the appeal of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church, at 401 Fir Street, Assessor's Map & Tax Lot No. 4113-05BC-07300; zoned R-1-6 (Single Family Residential), based on the findings and conclusions stated in this January 8, 2024, Council Agenda Report.

Financial Impact:

None

Background/Discussion:

St. Timothy's Episcopal Church ("the Church" or "St. Timothy's"), located at 401 Fir Street, Brookings, Oregon operates in the R-1-6 Single-Family Residential District under a "de facto" conditional use permit. The Church existed and was operating prior to 1989, when the Brookings Land Development Ordinance was adopted, and therefore was considered to be a legal non-conforming use at that time (Attachments A & B - Vicinity Map/Property Photo).

In 1999, the Church applied for and was granted by the Planning Commission a "minor change" to its building (adding 392 square feet to the Church building and adding 8 new parking spaces) (Attachment C – Minor Change to CUP documents).

In late 2022, the City became aware that the Church was operating a variety of services which are not typically associated with churches in residential zones. These services include a "day program", "legal clinic", and an "advocacy team/case worker assistance" (collectively referred to by the City as "social services").

Confirmation that the Church was providing these "social services" was provided by Father Bernie Lindley's deposition, which was taken on April 12, 2023 as part of discovery in the lawsuit filed by the Church against the City. During the deposition, Father Lindley admitted the Church operates

a “day program” on Mondays, Wednesdays, and Fridays from 9:00 AM until 12:00 PM.

This “day program” provides access to showers and internet services, as well as weekly HIV/HEP-C screening. In his deposition, Father Lindley also said that the Church operates a “legal” clinic for 19-20 hours per week. The Church also conducts an “advocacy team/case worker assistance” program during the same hours as the “day program” or other hours as needed. The Church has several paid employees, as well as volunteers, who provide these social services. Finally, the Church also hosts a primary health care provider one day a month (Attachment D – Father Lindley deposition excerpts).

On April 14, 2023, the City issued a Notice to Abate (Attachment E) to the Church for operating a variety of social services, including an outreach clinic, a day program, and an advocacy program, in violation of 17.01.040 (Compliance with code provisions in the Brookings Municipal Code (BMC)). The Church was notified that, in order to avoid enforcement and potential civil penalties, it must cease the operation of these activities, which are not allowed in an R-1-6 zone.

On April 24, 2023, the Church’s attorney sent a letter appealing the Notice to Abate (Attachment F).

On September 5, 2023, the Planning Commission issued a Final Order denying St. Timothy’s appeal (Attachment G).

On September 19, 2023, the City Council voted to review the Planning Commission’s decision, pursuant to BMC 17.152.040.

On October 23, 2023, the City Council held a public hearing and received testimony on this matter.

St. Timothy’s requested that the record be held open for an additional seven days. The record was held open for seven days, and was also held open another seven days for rebuttal testimony and evidence. Finally, St. Timothy’s was granted an additional seven days after the rebuttal period to submit legal argument.

On December 11, 2023, the City Council deliberated on the matter, and directed staff to prepare findings for a decision to deny St. Timothy’s appeal.

(NOTE: The abatement of operation of a Benevolent Meal Service without a conditional use permit is being suspended temporarily due to ongoing litigation between the Church and the City. This temporary suspension of abatement of the operation of a Benevolent Meal Service without a conditional use permit may be lifted in the future. If the temporary suspension is lifted, the Church will be issued a separate Notice of Abatement of operation of a Benevolent Meal Service without a conditional use permit.)

AUTHORITY FOR COUNCIL REVIEW

BMC 17.160.020 designates any violations of the Land Development Code as public nuisances that may be abated and removed under BMC 8.15.090. Failure to correct the violation could result in civil penalties of up to \$720.00 per day that the violation exists, per BMC 1.05.010.

BMC 8.15.090.C states that for BMC Title 17 cases (Land Development Code), “where the potential violation is a matter of ambiguity, the code enforcement officer determination of violation may be appealed to the planning commission pursuant to Chapter 17.156 BMC.”

BMC 17.156.010 provides:

“In the event of an ambiguity in this title affecting enforcement, the planning commission shall have the power to hear and decide appeals from administrative interpretations and to declare the meaning and intent, and interpret the provisions of this code. In thus resolving ambiguities, being considered in this appeal, the planning commission shall so interpret this code as to carry out BMC 17.01.020 and the expressed purpose of the zoning district involved.”

BMC 17.01.020 provides the purposes of the Land Development Code, which include classification, designation, and regulation of the location, placement, and use of buildings, structures, and land in appropriate places; to encourage the most appropriate use of land; to conserve and stabilize the value of property; and in general, to promote the health, safety, and welfare of the citizens and visitors of Brookings.

The BMC states that undefined terms “shall be interpreted as they are commonly defined in everyday usage.” BMC 17.08.001.

BMC 17.15.040 provides:

“Within 15 days following the postmark date on the mailing of the final order of the planning commission decision, the City Council may, on its own motion, initiate proceedings to review the action. The City Council shall give notice of the time and place when the decision of the planning commission will be reviewed. Notice of hearing will be given in the manner prescribed in Chapter 17.84 BMC.”

ANALYSIS AND FINDINGS

1. The purpose of the Single Family Residential (R-1-6) zone is to promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the zone, and is intended to provide for single-family residential homes at urban standards. BMC 17.20.010.
2. The BMC allows churches in the Single-Family Residential District as a conditional use per BMC 17.20.040.B. The BMC does not allow the operation of social services such as St. Timothy’s “day program”, “advocacy program”, and legal services in an R-1-6 Single-Family Residential District, either outright or with a conditional use permit.
3. The word “church” is not defined in the BMC. The BMC does not contain any other definitions or meanings related to “church.”
4. Much of the information in the record which St. Timothy’s points to in order to support its contention that its social services programs are typical church uses concern churches that do not provide the same types of social services that St. Timothy’s provides, and many of them that do provide somewhat similar services are not located in residential zones.

In addition, there is a lack of evidence in the record which shows the intensity, frequency, and scope of services provided by these other churches, or whether these churches have obtained conditional use permits, and if so, what conditions have been placed on these uses to mitigate the impacts caused by these uses.

For example, the majority of the entries on a spreadsheet (141 out of 170 entries) submitted by St. Timothy's as evidence that social services like theirs should be considered a typical church use merely show that a "dental van" provides services at some churches, with no information regarding how often and how long the dental van is at these churches.

St. Timothy's has submitted evidence of other churches conducting activities such as food pantries, youth video tournaments, Alcoholics Anonymous meetings, and parent support group meetings. St. Timothy's claims that these types of activities are typical church activities, and are similar to the social services St. Timothy's provides, therefore St. Timothy's social services should be considered typical church uses.

However, churches tend to host these types of activities once or twice a week, or maybe even less often. These types of details are not included in the record, so there is inadequate evidence in the record to support a finding that these other churches' activities are the same as St. Timothy's social services and that therefore St. Timothy's social services are a typical church use.

In addition, there is no evidence in the record as to the impacts of the activities at these other churches, and whether conditions to mitigate any such impacts have been enacted via a conditional use permit or other type of permit.

5. St. Timothy's argues that the City must allow social services to be provided at the church because similar services are allowed at other institutions located in residential zones, such as hospitals and schools.

However, St. Timothy's admits that, unlike their church, these other uses have obtained conditional use permits which contain restrictions on these uses to make them more compatible with the land use zone in which they are located. In the St. Timothy's case, there is not substantial evidence in the record that the church has ever indicated to the City that it would be providing social services at the church. To the extent that St. Timothy's claims that the City knew that social services would be occurring at the church, St. Timothy's never indicated what the extent and scope of these social services would be.

6. St. Timothy's claims that the City allows other churches to conduct certain activities at their churches, such as a music program at the Seventh Day Adventist church, yet the City is now enforcing the BMC against St. Timothy's for similar types of service activities.

However, there is a lack of evidence in the record which shows what the conditional use permits for the other churches in the City do or do not allow, so this comparison cannot be accurately made.

There is also a lack of evidence in the record regarding the level and intensity of activities at other churches in the City, and what the impacts of these activities are to the surrounding neighborhood.

7. St. Timothy's claims that in 1999, when it applied for and was granted a modification to its CUP, it was conducting many of the same social services it is currently conducting.

The only evidence in the record supporting this contention is a July 3, 2023, letter submitted to the City by Father Lindley.

However, Father Lindley's sworn testimony in an April 12, 2023, deposition contradicts his claims that St. Timothy's has been continuously conducting the same social services, at the same scope

and level of intensity that they are offering today. Father Lindley stated in his deposition that the Church has been offering its “day program” only since approximately 2018.

The social services that St. Timothy’s is currently providing were not mentioned in the Church’s 1999 application for a modification to its CUP, and are not mentioned anywhere in the record of that 1999 Planning Commission approval.

St. Timothy’s claims the City is attempting to redefine the word “Church” to restrict St. Timothy’s use, and claims that the City has treated this use (including provision of social services) as valid for decades, and that therefore, the City’s interpretation of the BMC that social services are not allowed in residential zones (which led to the issuance of the Notice of Abatement) is not a valid interpretation.

This is an implausible conclusion, since, as discussed above, it is based on inaccurate and non-credible claims that are not supported (and in fact, contradicted by) evidence in the record.

8. St. Timothy’s states that ORS 227.500 requires local governments to allow “the reasonable use of the real property for activities customarily associated with the practices of the religious activity”, therefore the City must interpret the BMC to allow activities customarily associated with religious activity as part of a church use.

St. Timothy’s claims that there is evidence in the record which shows that the social services being provided by the Church are the types of activities which many churches “customarily” engage in.

The documents on which the Church relies to support this assertion actually show that most churches do *not* provide social services activities. Those churches that do provide services which are perhaps remotely akin to what St. Tim’s provides are not similarly situated to St. Tim’s – they are in commercial or industrial zones, not residential zones, and the scope and frequency of the services they provide do not approach the scope and frequency of what St. Timothy’s provides.

In addition, the state statutes cited by St. Timothy’s contain important qualifying language – that local governments must allow only “reasonable” use of the property for activities customarily associated with religious activities.

Even if the social services provided by St. Timothy’s are found to be “customarily associated with religious activities” (which the City does not concede), the record does not contain substantial evidence that the scope and frequency of the social services being provided by St. Timothy’s are “reasonable.”

As previously discussed, there is not substantial evidence in the record showing that services provided by other churches (again, the City does not concede that the services are similar) are provided to as many people, or as frequently, as St. Timothy’s does. Therefore, there is not substantial evidence in the record to support a conclusion that the services and activities provided by other churches can be considered “reasonable use” of those properties.

St. Timothy’s cites an Oregon Court of Appeals case, *Tarr v. Multnomah County*, to support its arguments that the City must allow the Church’s social services activities. However, this case can be distinguished from the St. Timothy’s matter in several ways. See Legal Memo, Attachment H, (which is incorporated in its entirety into the City Council’s findings and conclusions for this its decision on this appeal).

9. St. Timothy's cites to a 9th Circuit case, *Harbor Missionary Church Corp. v. City of Buenaventura*, for the proposition that federal law (the "Religious Land Use and Institutionalized Person Act", or "RLUIPA") recognizes that requiring a church to move its ministry to the poor to another location is a substantial burden on a church's practice of its religion.

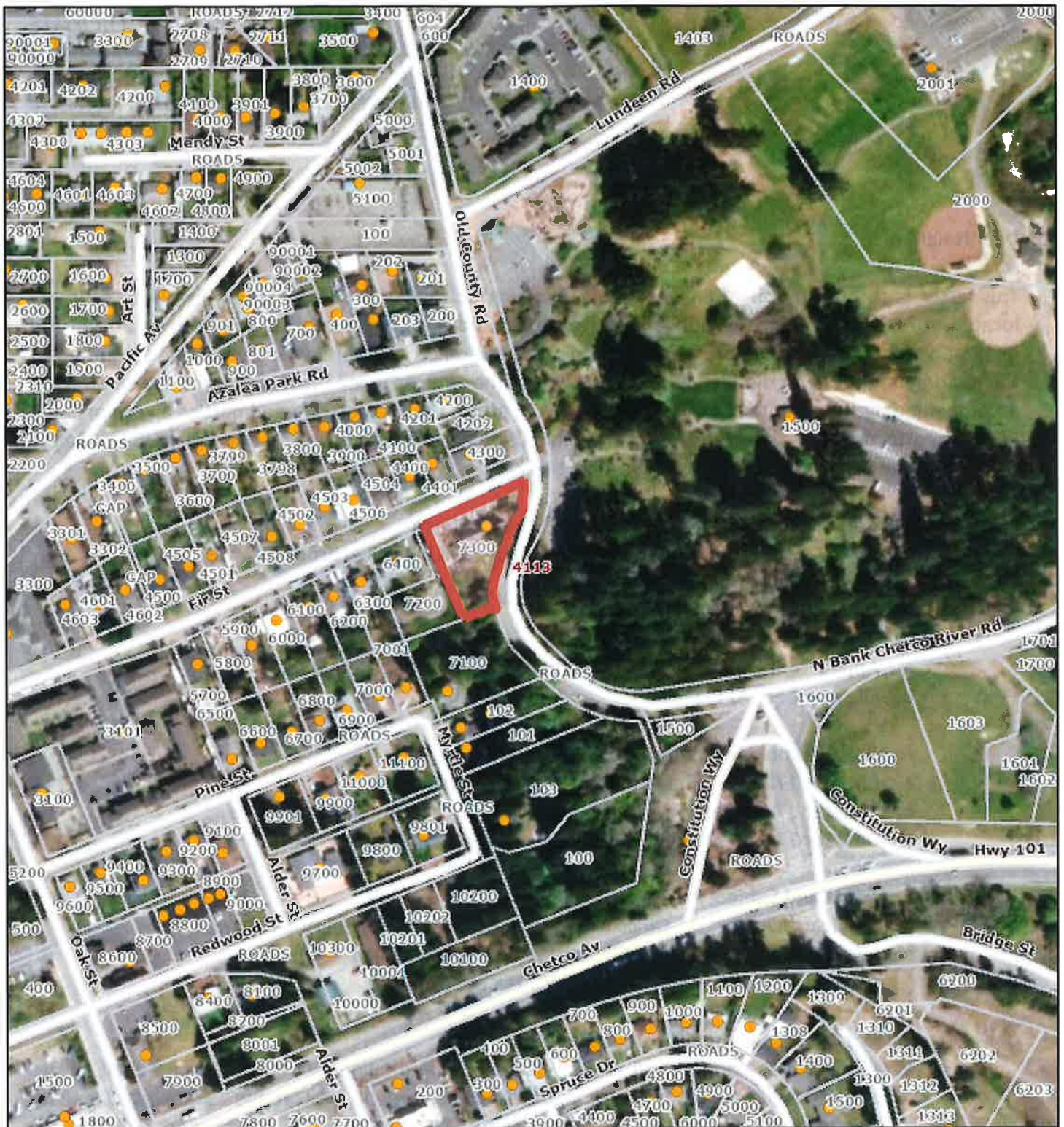
Harbor Missionary can be distinguished from the St. Timothy's matter and therefore is not dispositive to the decision on this appeal (Legal Memo, Attachment H).

CONCLUSIONS

1. There is not substantial evidence in the record to support St. Timothy's assertion that the "day program", the "advocacy program", and the legal services that it provides at the Church location, at the intensity, frequency, and scope that it provides them, are uses that are normally provided by churches in residential zones.
2. There is not substantial evidence in the record to support St. Timothy's assertion that the City must allow social services to be provided at the Church because similar services are allowed at other institutions located in residential zones, such as hospitals and schools.
3. There is not substantial evidence in the record to support St. Timothy's assertion that the City allows activities at other churches, yet the City is now enforcing the BMC against St. Timothy's for similar types of service activities.
4. There is not substantial evidence in the record to support St. Timothy's claims that in 1999, when it applied for and was granted a modification to its CUP, it was conducting all of the same social services, at the same scope, frequency, and intensity as it is currently.
5. The City is not required by ORS 227.500 to interpret the BMC to allow the social services being provided by St. Timothy's.
6. The 9th Circuit case, *Harbor Missionary Church Corp. v. City of Buenaventura*, can be distinguished from the St. Timothy's matter and does not require the City to allow St. Timothy's to provide social service activities at its church located in a residential district.
7. The City Council interprets the Brookings Municipal Code to support staff's decision to issue the April 14, 2023, Notice of Abatement to St. Timothy's Church.

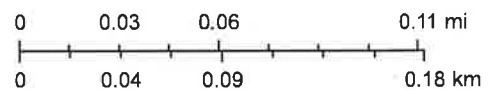
Attachments:

- A. Vicinity Map
- B. Property Photo
- C. Minor Change to CUP documents (1999)
- D. Father Lindley Deposition Excerpts (April 12, 2023)
- E. Notice to Abate (April 14, 2023)
- F. St. Timothy's Church Appeal Letter (April 24, 2023)
- G. Planning Commission Final Order (September 5, 2023)
- H. Legal Memo (December 7, 2023)



6/1/2023, 11:18:21 AM

1:4,514



Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, USGS, EPA, USDA, Maxar



Request for Minor Change to Conditional Use Permit
St. Timothy's Episcopal Church

Proposed improvements: To accommodate our growing congregation, we are planning to extend our nave 16 feet toward Azalea Park. Because our original church building was in existence before city zoning ordinances, we will only need a minor change to our current conditional use permit.

A. Compliance with comprehensive plan: We feel that St. Timothy's is an asset to our neighborhood and that adding onto our church conforms with the comprehensive plan.

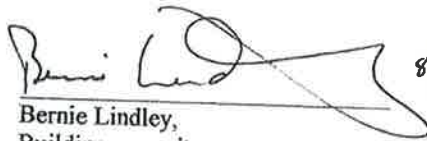
B. Adequate space: Our building is on a double lot. There is adequate room for the addition to the nave and for the extra parking. We did have a problem with the side-yard setback closest to Old County Road, but we have obtained a variance from the planning commission.

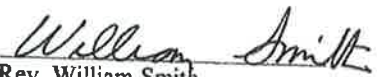
C. Traffic: The increase in traffic will be about seven cars and will typically occur on Sunday morning when the streets are not very busy. Our addition will have a negligible impact on traffic congestion.

D. Adverse impact on adjoining properties: Because we are on a corner lot, and closest property to the new addition is Azalea Park, we will have no detrimental impact on our neighbors.

E. Preservation of scenic attributes: We are proud of the architecture of our church. Our new addition will simply extend the original lines 16 feet. It is likely that the casual observer won't notice the change to the building.

This request is submitted by Bernie Lindley with the approval of the building committee at St. Timothy's and the approval of the Rev. William Smith, Vicar.

 8/4/99
Bernie Lindley,
Building committee member


Rev. William Smith
Vicar, St. Timothy's

MC - 1 - 99 (minor change) to a "De Facto" Conditional use Permit.
"Findings of Fact" above

CITY OF BROOKINGS

898 Elk Drive
Brookings, Oregon 97415
Phone (541) 469-2163
Fax (541) 469-3650
cityhall@brookingsor.org

The Home of Winter Flowers



September 8, 1999

St. Timothy's Episcopal Church
PO Box 1237
Brookings OR 97415

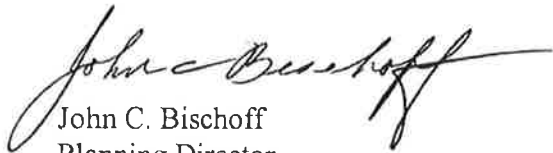
RE: Your application for a minor change to a de facto conditional use permit to allow a 16 foot extension of the chapel areas of the church building (File No. MC-1-99).

This is to inform you of the action taken at the meeting of the Brookings Planning Commission on the above referenced matter.

At the Planning Commission meeting of September 7, 1999, the Commission adopted the Final ORDER and Findings of Fact document (enclosed) in the approval of the application. Approval of this conditional use permit will expire one year from the date of approval unless your project comes under substantial construction within that period.

Please be advised that decisions of the Planning Commission may be appealed to the City Council within fifteen (15) days after the decision of the Commission, pursuant to the Land Development Code, Section 156. If there are any questions please feel free to contact the Planning Offices.

Sincerely,


John C. Bischoff
Planning Director

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

**In the matter of Planning Commission File No.) Final ORDER
MC-1-99; a request for a minor change to a) and Findings of
conditional use permit; St. Timothy's Church,) Fact
applicant)**

ORDER approving of an application for a minor change to what is considered to be a "de facto" Conditional Use Permit to expand the existing church building by extending the chapel area 16 feet to the east; Assessor's Map 41-13-5BC, Tax Lot 7300; R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with the Brookings Land Development Code pursuant to Section 140 Conditional Use Permits; and
2. Such application is required to show evidence that all of the following criteria has been met:
 - A. The proposal is in compliance with the Comprehensive Plan.
 - B. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.
 - C. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
 - D. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.
 - E. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.
3. The Brookings Planning Commission duly set this matter upon the agenda of a public meeting and considered the above described application with the public hearing a matter of record of the Planning Commission meeting of September 7, 1999; and
4. At the public meeting on said conditional use permit application, evidence and testimony was presented by the applicant and recommendations were received from and presented by the Planning Director in the form of a Staff Agenda Report, dated August 26, 1999 and oral presentation of same; and

5. At the conclusion of the presentation of the applicant, Planning Director and the public, after consideration and discussion the Brookings Planning Commission, upon a motion duly seconded, approved the request for the subject conditional use permit and directed staff to prepare a Final ORDER with the findings set forth therein for the approval of said application.

THEREFORE, LET IT BE HEREBY ORDERED that the application of the conditional use permit on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The applicant is requesting a minor change to what is considered to be a "de facto" conditional use permit to expand the existing chapel area by approximately 392 sq. ft. and to add a total of 8 new parking spaces on a 0.67 acre lot.
2. The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and is designated as residential by the Comprehensive Plan.
3. Churches are allowed in the residential zones as a conditional use with a side and rear yard setback of 30 feet..
4. The exiting church building has been on the subject property since before the city had zoning regulations and is thus considered to have a "de facto" conditional use permit.
5. The proposed expansion will consist of extending the chapel area 16 feet to the east.
6. At its closest point the exiting building is 22 feet from the easterly property line. The proposed expansion will place the building 12 feet from the property line.
7. The applicant has requested and received a variance for the new side yard setback (File No. VAR-2-99).
8. Section 92, Off- Street Parking And Loading Regulations, of the Land Development Code, requires churches to provide one parking space for each 4 seats in the main gathering area. The church currently has 17 parking spaces.
9. The proposed building expansion will provide for a total of 80 seats which, under Section 92, would require 20 parking spaces.
10. Fir St. is a paved travel way within a right-of-way of 55 feet with no other improvements adjacent to the subject property.
11. Old County Rd. is a paved travel way with in a 60 foot right-of-way with no other improvements adjacent to the subject property.
12. Development surrounding the subject property consists of single family residential on the north, west and south. The area to the east is the Azalea City Park.

CONCLUSIONS

1. The total building footprint after the expansion will not occupy more than 12% of the total lot area. Although the original parking backs directly on to the existing street, this parking arrangement predates any city ordinance governing parking and is considered to be grand fathered. The application for a minor change to the "de facto" use permit does allow the Planning Commission to require the parking to be relocated to comply with Section 92. However, although the lot is large enough to provide for the parking, the topography does not. Requiring the existing parking to meet code would effectively negate the earlier approval of the variance and make the proposed building expansion moot. Since there have been no complaints or accidents resulting from the existing arrangement, there is no reason to move the parking. The new parking area of 9 spaces meets the requirements of Section 92.

The existing building meets the setback requirements of the R-1-6 Zone except on the east side which does not meet the 30 foot set back requirement. The proposed expansion will decrease this setback even further, however, since this is the side adjacent to Azalea Park, a variance has been issued to allow a lesser setback. With the variance which was approved earlier, the subject site is adequate in size to accommodate the proposed building expansion and additional parking.

2. The proposed expansion to the chapel area of the existing church building will add capacity for approximately 20 seats. Using the seating to parking space ratio of Section 92, this would equate to 5 more cars on the street before and after services. This increase is insignificant and does not impact the ability of Fir St. to handle traffic. The conditions of approval will require the relocation of the church's sign which obscures the view of cars on Fir St. trying to enter Old County Rd.
3. The proposed expansion will have little or no impact on the surrounding neighborhood. The expanded end of the building, because of existing landscaping will hardly be noticeable to the surrounding neighbors. As stated above the amount of traffic generated by the proposed expansion will not create a negative impact on the neighborhood.
4. The existing church building could be considered to be a historical attribute since it has been on the site for so long. The addition to the building will be of the same design and follow the same architectural line as the existing building. Azalea Park, located to the east, is a scenic attribute, however, the proposed addition will not detract from the park's scenic qualities.
5. With the approved variance the proposed expansion of the existing church building meets the requirements of the criteria addressed above and is consistent with the other applicable provisions of the Land Development Code. Although the Comprehensive Plan does not specifically address churches, allowing the proposed expansion will utilize the existing land more efficiently and will not require the church to relocate to accommodate a growing congregation.

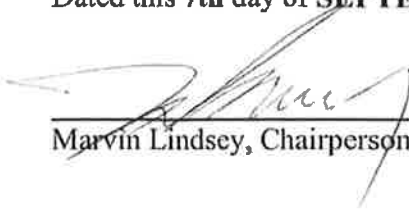
CONDITIONS OF APPROVAL

The conditions of approval are attached to this document and are made apart thereof.

LET IT FURTHER BE OF RECORD that the Planning Commission approved the requested


Conditional Use Permit.

Dated this 7th day of SEPTEMBER, 1999.



Marvin Lindsey, Chairperson

ATTEST:



John C. Bischoff, Planning Director

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT

MC-1-99

September 7, 1999

General Conditions

1. Approval of this conditional use permit will expire one year from approval, unless the project comes under substantial construction within that period. The Planning Commission may extend the permit for an additional one year period at the request of the applicant.
2. The conditions stated herein are mandatory and must be completed. Failure to comply with any condition will result in the review and possible revocation of your permit pursuant to Section 140.110, Violation of Conditions, of the Land Development Code. The loss of your permit will result in the closure of your business.
3. The final construction plans shall be in substantial conformance with the submitted preliminary site plan as amended herein and as approved by the Planning Commission. Substantial changes to the approved preliminary plat require re-approval by the Planning commission.
4. Improvement work shall not be commenced until construction plans including grading have been approved by the City Engineer.
5. All costs of plans checks and inspections by the City Engineer shall be paid by the applicant to the city.
6. Information on the construction plans shall be pursuant to the City of Brookings Standard Specifications document dated August, 1988.
7. Prior to the issuance of an occupancy permit, all street, infrastructure and storm drain construction must be completed.
8. Prior to the issuance of an occupancy permit the new parking area shall be buffered with a sight obscuring fence or by landscaping along the westerly property line, so as to screen the parking from the adjoining residential uses.
9. All outdoor lighting shall be directed and/or shielded so as to prevent light from falling directly on adjoining properties.
10. All buildings shall meet the yard setback and separation requirements pursuant to of the Land Development Code except as allowed by the approved variance (File No. VAR-2-99).
11. All outdoor trash containers shall be screened from view with a decorative fence and gate at least 6 feet high.
12. The existing church sign shall be moved to a location that does not block the view of cars at the stop sign on Fir St. trying to enter Old County Rd.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Conditional Use Permit
FILE NO: MC-1-99
HEARING DATE: September 7, 1999

REPORT DATE: August 24, 1999
ITEM NO: 8.2

GENERAL INFORMATION

APPLICANT: St. Timothy's Church.

REPRESENTATIVE: Bernie Lindley.

REQUEST: A minor change to a de facto conditional use permit to allow a 16 foot extension of the chapel area of the church building.

TOTAL LAND AREA: 0.67 acres.

LOCATION: In the southwest corner of Fir St. and Old County Rd. 401 Fir St.

ASSESSOR'S NUMBER: 41-13-5CB, Tax Lot 7300.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

PROPOSED: Same.

SURROUNDING: North, West and South-R-1-6; East-P/OS (Public Open Space).

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Church building.

PROPOSED: Expansion of existing church building

SURROUNDING: North, West and South-Residential uses; East-Azalea Park.

PUBLIC NOTICE: Mailed to all property owners within 250 feet of subject property and published in local news paper.

BACKGROUND INFORMATION

The subject property is an irregular shaped, 0.67 acre parcel of land located in the southwest corner of Old County Rd. and Fir St. The property fronts on Old County Rd. on the east and Fir St. on the north, however, the Fir St. frontage provides the only usable access to the property. The subject property has 229.58 feet of frontage on Fir St., 273.06 feet of frontage on Old County Rd., a southerly boundary of 68.45 feet, and a westerly boundary of 198.18 feet. The property is currently the site of the St. Timothy's Episcopal Church. The parking area for the church is along the Fir St. frontage and contains 17 parking spaces.

The topography of the subject property varies, starting along the north side of Fir St. frontage is flat and then begins to drop to the south. There is a gully along the west side of Old County Rd. starting at the intersection of Fir St. and increasing rapidly in depth as the land drops toward the south. This gully essentially prevents access to the subject property from Old County Rd.

The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) as is the area to the north, west and south which is developed accordingly. The area to the east is zoned P/OS (Public Open Space) and is the site of Azalea City Park which is directly across Old County Rd. from the subject property.

Old County Rd. is a paved travel way within a 60 foot right-of-way with no other improvements. Fir St. is a paved travel way within a 55 foot right-of-way with no other improvements. The church currently has city water and sewer service.

PROPOSED CONDITIONAL USE PERMIT

Churches are allowed in the R-1-6 with an approved conditional use permit. Since the church building has been located on the subject property since the 1950s, which was before the city established a zoning code, it is considered to have a "de facto" conditional use permit. The existing building is configured with the chapel extending to the east from the main entrance. The applicant is requesting a minor change to the permit to expand the seating area of the chapel to accommodate the growth of the church congregation. This will be accomplished by extending the 24.5 foot wide chapel a total of 16 feet to the east for an addition of 392 sq. ft. (See Exhibit 2). The building footprint is currently 3,047.75 sq. ft. or approximately 10% of the total lot area. The addition will make the footprint 3,439.75 sq. ft. or 12% of the site.

The applicant states that the proposed expansion would allow a total of 80 seats in the chapel which is the largest gathering area. Section 92, Off-Street Parking And Loading Regulations, of the Land Development Code, requires that the church provide 1 parking space for each 4 seats, thus, in this case, 20 spaces. The church currently has 17 parking spaces and as a part of this application is proposing the addition of 9 parking spaces in the westerly portion of the church property and one space along the street at the east end of the existing parking. To accommodate the 9 spaces along the easterly property line, two of the exiting spaces will be eliminated, leaving a total of 25 parking spaces.

The easterly property line of the subject property (also the westerly right-of-way line of Old County Rd.) is at an angle to the east end of the church building. The southeast corner of the building is currently 22 feet from the property line at its closes point. The proposed expansion will place this building corner 12 feet from the property line at its closest point. Since the Land Development Code requires that churches within the residential zones have a side and rear yard setback of at least 30

feet, the applicant has requested and gained approval of a variance to allow the reduced setback (See file No. VAR-2-99).

ANALYSIS

In order to grant any conditional use, the planning commission must find that the application meets the requirements of the following criteria, which is listed in Section 140 Conditional Use Permits, of the LDC.

1. The proposal is in compliance with the Comprehensive Plan.
2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.
3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.
5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.

Since the first criterion includes the requirements of all of the others it will be discussed after the last four.

Criterion 2, Adequate Size And Shape. The subject lot is large enough to accommodate the proposed building expansion and additional parking. The proposed building expansion will place the building 12 feet from the easterly property line which does not meet the setback requirement of 30 feet as required by the Land Development Code, however, the church has received an approved variance for the new setback. The new parking consists of nine 9 X 20 spaces, perpendicular to the west property line with a 24 foot wide paved maneuvering area as required by Section 92. There is also a 4 foot wide strip of land between the parking spaces and the west property line. The conditions of approval will require landscaping or fencing to provide the required buffer between the church use and adjoining residential uses. There is also a four foot wide strip for landscaping along the street in this area. The expanded building will only occupy about 12% of the total site.

Criterion 3, Relation of Streets. Access to the property is from Fir St. which has a right-of-way width of 55 feet in the area adjacent to the subject property. The church building has existed on this site for many years and staff is not aware of any complaints resulting from church traffic. The proposed expansion will provide 20 additional seats which, by the parking ratio would add 5 additional cars to the traffic flow for church services. Even if the traffic increased by 10 cars, the street width is sufficient to accommodate this increase.

The existing parking, currently 17 spaces but to be reduced to 16, backs directly out into the street which is not allowed by current parking regulations. However, since this parking has been in place since before the city had a parking code, it is considered to be a "grandfathered" use. While the request for a change in the conditional use gives the Planning Commission the authority to cause the parking to be changed to meet the code, there is no usable space on the subject property to place this parking. Requiring the existing parking to meet code would effectively negate the earlier approval of the variance and make the proposed building expansion moot. Since there have been no complaints, there appears to be no reason to change the existing parking. The additional parking will meet the requirements of Section 92.

As a condition of approval, the church will be required to move the exiting sign to another location. In its current location the sign tends to block the view of cars stopped at the stop sign on Fir St., from seen cars coming from the right on Old County Rd.

Criterion 4, Neighborhood Impact. The proposed expansion will have little or no impact on the adjoining property. The location of the expansion, the landscaping and the topography of the site will make the building extension almost invisible to the neighbors. The additional parking will be buffered by either landscaping or fencing from the adjoining neighbor on the west.

Criterion 5, Historic, Scenic Or Cultural Attributes. The church itself could be considered to be a historic attribute to the area since it has been there for so long. The applicants findings state that the proposed expansion will follow the original lines of the building. Azalea Park, which is located across Old County Rd. from the subject property is a scenic attribute, however, the proposed expansion of the church building will not impact these qualities for the same reasons stated in Criterion 4, above.

Criterion 1, Compliance With Comprehensive Plan. With the approved variance the proposed expansion of the existing church building meets the requirements of the criteria addressed above and is consistent with the other applicable provisions of the Land Development Code. Although the Comprehensive Plan does not specifically address churches, allowing the proposed expansion will utilize the existing land more efficiently and will not require the church to relocate to accommodate a growing congregation.

FINDINGS

1. The applicant is requesting a minor change to what is considered to be a "de facto" conditional use permit to expand the existing chapel area by approximately 392 sq. ft. and to add a total of 8 new parking spaces on a 0.67 acre lot.
2. The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and is designated as residential by the Comprehensive Plan.
3. Churches are allowed in the residential zones as a conditional use with a side and rear yard setback of 30 feet..
4. The exiting church building has been on the subject property since before the city had zoning regulations and is thus considered to have a "de facto" conditional use permit.
5. The proposed expansion will consist of extending the chapel area 16 feet to the east.

6. At its closest point the exiting building is 22 feet from the easterly property line. The proposed expansion will place the building 12 feet from the property line.
7. The applicant has requested and received a variance for the new side yard setback (File No. VAR-2-99).
8. Section 92, Off- Street Parking And Loading Regulations, of the Land Development Code, requires churches to provide one parking space for each 4 seats in the main gathering area. The church currently has 17 parking spaces.
9. The proposed building expansion will provide for a total of 80 seats which, under Section 92, would require 20 parking spaces.
10. Fir St. is a paved travel way within a right-of-way of 55 feet with no other improvements adjacent to the subject property.
11. Old County Rd. is a paved travel way with in a 60 foot right-of-way with no other improvements adjacent to the subject property.
12. Development surrounding the subject property consists of single family residential on the north, west and south. The area to the east is the Azalea City Park.

CONCLUSIONS

1. The total building footprint after the expansion will not occupy more than 12% of the total lot area. Although the original parking backs directly on to the existing street, this parking arrangement predates any city ordinance governing parking and is considered to be grand fathered. The application for a minor change to the "de facto" use permit does allow the Planning Commission to require the parking to relocated to comply with Section 92. However, although the lot is large enough to provide for the parking, the topography does not. Requiring the existing parking to meet code would effectively negate the earlier approval of the variance and make the proposed building expansion moot. Since there have been no complaints or accidents resulting from the existing arrangement, there is no reason to move the parking. The new parking area of 9 spaces meets the requirements of Section 92.

The existing building meets the setback requirements of the R-1-6 Zone except on the east side which does not meet the 30 foot set back requirement. The proposed expansion will decrease this setback even further, however, since this is the side adjacent to Azalea Park, a variance has been issued to allow a lesser setback. With the variance which was approved earlier, the subject site is adequate in size to accommodate the proposed building expansion and additional parking.

2. The proposed expansion to the chapel area of the existing church building will add capacity for approximately 20 seats. Using the seating to parking space ration of Section 92, this would equate to 5 more cars on the street before and after services. This increase is insignificant and does not impact the ability of Fir St. to handle traffic. The conditions of approval will require the relocation of the church's sign which obscures the view of cars on Fir St. trying to enter Old County Rd.

3. The proposed expansion will have little or no impact on the surrounding neighborhood. The expanded end of the building, because of existing landscaping will hardly be noticeable to the surrounding neighbors. As stated above the amount of traffic generated by the proposed expansion will not create a negative impact on the neighborhood.
4. The existing church building could be considered to be a historical attribute since it has been on the site for so long. The addition to the building will be of the same design and follow the same architectural line as the existing building. Azalea Park, located to the east, is a scenic attribute, however, the proposed addition will not detract from the parks scenic qualities.
5. With the approved variance the proposed expansion of the existing church building meets the requirements of the criteria addressed above and is consistent with the other applicable provisions of the Land Development Code. Although the Comprehensive Plan does not specifically address churches, allowing the proposed expansion will utilize the existing land more efficiently and will not require the church to relocate to accommodate a growing congregation.

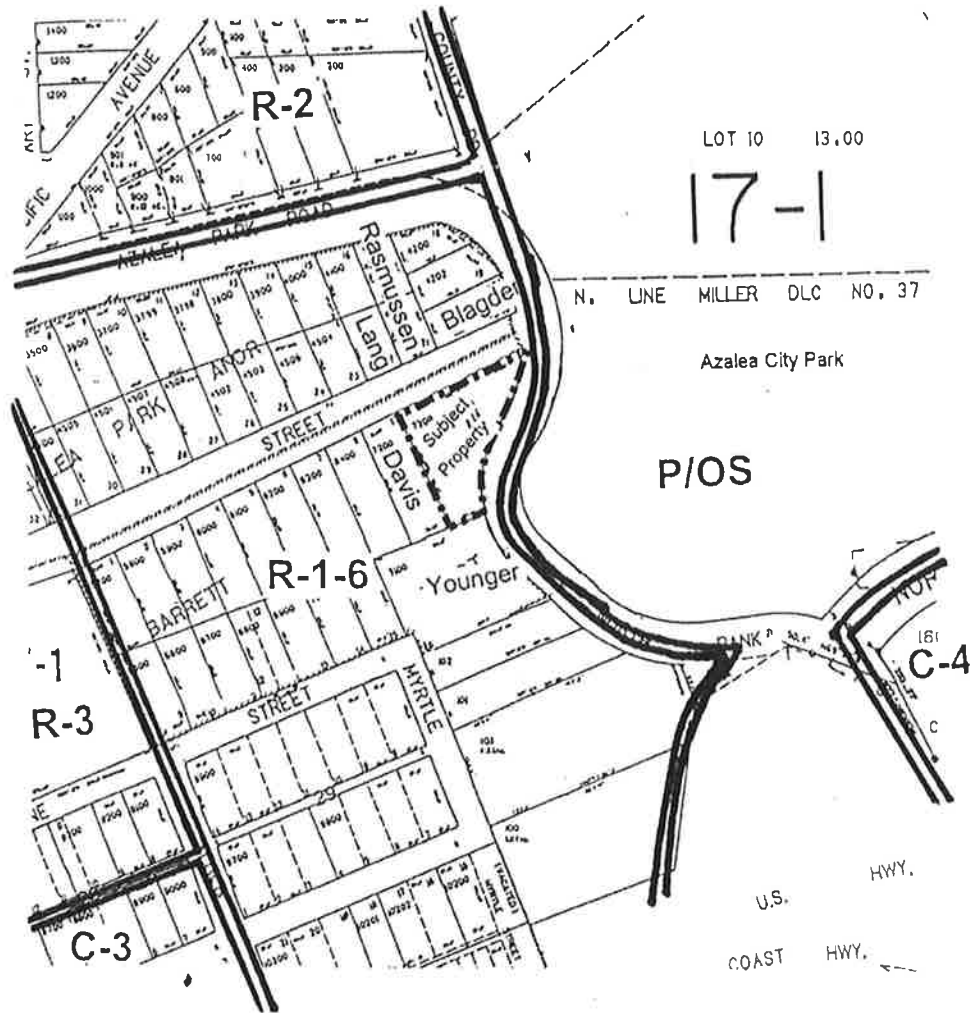
CONDITIONS OF APPROVAL

The proposed conditions of approval are attached to and made a part of this report.

RECOMMENDATION

Staff recommends **Approval** of Case File No. MC-1-99, based on the findings and conclusions stated in the staff report and subject to the conditions of approval listed above.

Staff has prepared a Final ORDER to be considered at this meeting.



APPLICANT: St. timothy's Episcopal Church

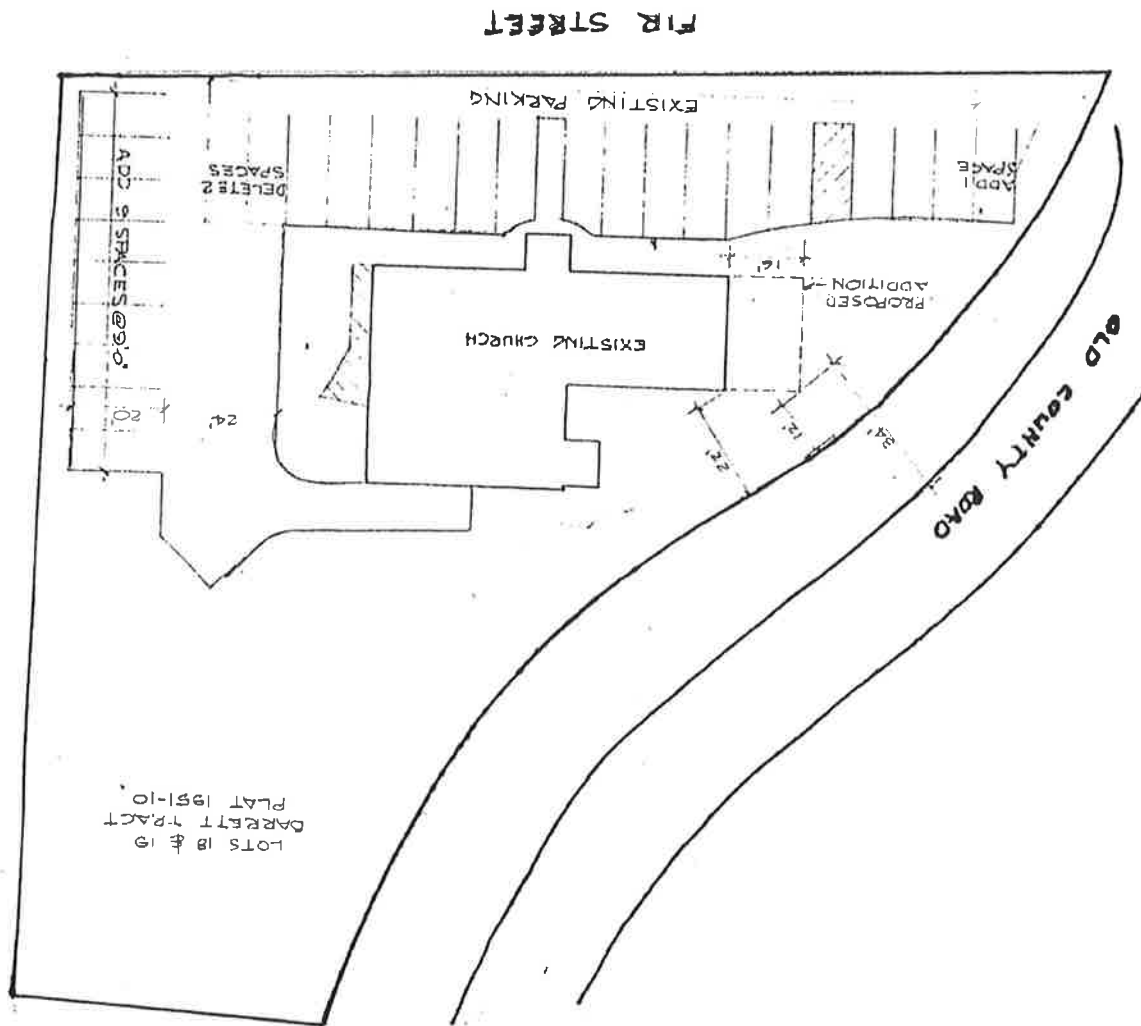
ASSESSOR'S NO: 41-13-5BC Tax Lot 7300

LOCATION: south side of Fir Street at its intersection with Old County Road

SIZE: 0.67 acre

ZONE: R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size)





APPLICANT: St. timothy's Episcopal Church

ASSESSOR'S NO: 41-13-5BC Tax Lot 7300



LOCATION: south side of Fir Street at its intersection with Old County Road

SIZE: 0.67 acre

ZONE: R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size)

Request for Minor Change to Conditional Use Permit
St. Timothy's Episcopal Church

Proposed improvements: To accommodate our growing congregation, we are planning to extend our nave 16 feet toward Azalea Park. Because our original church building was in existence before city zoning ordinances, we will only need a minor change to our current conditional use permit.

A. Compliance with comprehensive plan: We feel that St. Timothy's is an asset to our neighborhood and that adding onto our church conforms with the comprehensive plan.

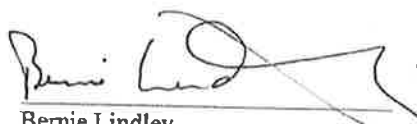
B. Adequate space: Our building is on a double lot. There is adequate room for the addition to the nave and for the extra parking. We did have a problem with the side-yard setback closest to Old County Road, but we have obtained a variance from the planning commission.

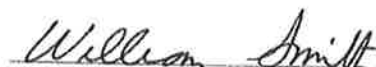
C. Traffic: The increase in traffic will be about seven cars and will typically occur on Sunday morning when the streets are not very busy. Our addition will have a negligible impact on traffic congestion.

D. Adverse impact on adjoining properties: Because we are on a corner lot, and closest property to the new addition is Azalea Park, we will have no detrimental impact on our neighbors.

E. Preservation of scenic attributes: We are proud of the architecture of our church. Our new addition will simply extend the original lines 16 feet. It is likely that the casual observer won't notice the change to the building.

This request is submitted by Bernie Lindley with the approval of the building committee at St. Timothy's and the approval of the Rev. William Smith, Vicar.

 8/4/99
Bernie Lindley,
Building committee member


Rev. William Smith
Vicar, St. Timothy's



Land-Use Permit Application City of Brookings

898 Elk Drive Brookings OR 97415
(541) 469-2163 Ext. 237 Fax (541) 469-3650

Applicants must complete the following form to the best of their knowledge. Incomplete information may cause a delay in the review and the final decision on your request. If requested information is not known to the applicant, city staff will provide such information where appropriate.

APPLICATION FOR:

- | | | |
|--|---|--|
| <input type="checkbox"/> Minor Partition | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Lot Line Adjustment |
| <input type="checkbox"/> Major Partition | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Plan Amendment | <input type="checkbox"/> Variance | <input checked="" type="checkbox"/> Minor Change |
| <input checked="" type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Vacation | <input type="checkbox"/> Sign Permit |
| <input type="checkbox"/> Appeal: Planning Com. | <input type="checkbox"/> Appeal: City Council | |

APPLICANT/OWNER INFORMATION:

Applicant St. Timothy's Episcopal Church
Mailing Address P.O. Box 1237
City Brookings State OR Zip 97415
Telephone No. 469-3314 Fax No. _____
Representative Bernie Lindley
Mailing Address 16225 Chapman Ln
City Brookings State OR Zip 97415
Telephone No. 469-0972 Fax No. _____
Owner (If not applicant) _____
Mailing Address _____
City _____ State _____ Zip _____
Telephone No. _____ Fax No. _____

PROPERTY INFORMATION:

Location 401 Fir Street (SW corner of Old County Rd & Fir St.)
Assessor's Map No. 41-13-5BC Tax Lot No. 7300
Parcel Size .67 acre Existing Zoning R-1-b
Comprehensive Plan Designation residential
Existing Use Church
Proposed Use expansion of church building
Is water service available to the site? Yes
If no, how far to nearest city water line? _____
Is sewer service available to the site? Yes
If no, how far to nearest city line? _____

REQUEST:

We need a minor change to our conditional use permit so that we can expand our existing church because it is located on a lot that is zoned R-1-b.

I hereby certify that the information provided on this application is correct to the best of my knowledge and understand that any false information may result in the rejection of the application and forfeiture of all fees submitted.

Bernie Lindley Date 8/4/99
Applicant's Signature

If applicant is not the owner of the property subject to this request please have the owner sign below or attach a letter signed by the owner authorizing to act on his/her behalf. The signature of only one owner is required, however a list of all owner's names and addresses must be submitted with application.

William A. Smith Date 8/4/99
Property Owner's Signature

File No. MC-1-99 Date Received 8/4/99 Receipt No. 11625 Received by POB

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

ST. TIMOTHY'S EPISCOPAL)	
CHURCH, by and through)	
THE DIOCESE OF OREGON,)	
dba THE EPISCOPAL DIOCESE)	
OF OREGON, an Oregon)	
nonprofit corporation,)	
and REVEREND JAMES)	
BERNARD LINDLEY, vicar of)	
St. Timothy's Episcopal)	
Church,)	
)	
Plaintiffs,)	
)	
v.)	Case Number 1:22-cv-00156-CL
)	
CITY OF BROOKINGS, an)	
Oregon municipal)	
government,)	
)	
Defendant.)	

VIDEOTAPED DEPOSITION OF REVEREND JAMES BERNARD LINDLEY
testifying in his personal capacity

and as 30(b)(6) witness

Taken in behalf of the Defendant

April 12, 2023

TAKEN VIA VIDEOCONFERENCE

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* * *

1 Q. Okay. Does the -- has -- does it continue its
2 activities now?

3 **A. Yes.**

4 Q. Okay. And the -- who are the people on the advocacy
5 team?

6 **A. Sister Cora Rose and Machell Carroll. Those are the**
7 **paid members and then there's a volunteer, her name**
8 **is Veronica, Veronica Spalding. And then another**
9 **unpaid member would be Pastor Jim Abbott, and then**
10 **also Deacon Linda works sometimes on the advocacy**
11 **team, Deacon Linda Lee as an unpaid member of the**
12 **team.**

13 Q. And are those the same people who have been on the
14 advocacy team since it started?

15 **A. No.**

16 Q. When did the advocacy team start?

17 **A. I wish I could remember the exact year and date, you**
18 **know, the month and date -- month and year, but it**
19 **was approximately 2018.**

20 Q. And since it began in approximately 2018, have there
21 always been some paid members of the advocacy team?

22 **A. Yes.**

23 Q. And has that been Cora Rose and Machell Carroll the
24 whole time?

25 **A. It has not.**

1 for a conditional-use permit from the City?

2 **A. We had already been feeding since 2009. That**
3 **ordinance -- when that ordinance went into effect,**
4 **we'd already been feeding for how-many-ever years**
5 **that was, 12 years. I -- I -- I felt that that --**
6 **that ordinance was an unnecessary -- I want to**
7 **choose a good word here -- violation of our right to**
8 **freely practice our faith without government**
9 **interference.**

10 **Q. What other activities do you carry out at**
11 **St. Timothy's? I understand there's a legal clinic**
12 **and a health clinic?**

13 **MS. SONDAG: Objection. Vague.**

14 **BY MS. VAN METER:**

15 **Q. Go ahead and answer.**

16 **A. I don't know who -- what do you mean by "legal**
17 **clinic"?**

18 **Q. Well, you referenced a legal clinic in your sermons,**
19 **so I'm asking what the legal clinic is that you have**
20 **at St. Timothy's.**

21 **A. Okay. Did I use the phrase "legal clinic," though?**

22 **Q. Yes.**

23 **A. Okay. That's surprising to me, because I don't**
24 **think -- we have a lawyer on staff that gives legal**
25 **advice, like a legal aid --**

1 Q. Uh-huh.

2 A. -- to our -- to our community members who would not
3 be able to obtain legal -- legal services otherwise.

4 Q. Okay. So tell me about that. Who is that? How
5 often do they work? Is it out of St. Timothy's?
6 All of the same questions as we had with the other
7 programs that you have.

8 A. Okay. So it's Sister Cora, she is a member of the
9 Oregon State Bar, and she works with people who need
10 legal help, and those -- those people get referred
11 to the church by various different means, and -- and
12 she works with them to the best of her ability.

13 Q. And is she paid for that activity? Is it volunteer?

14 A. No, she's paid.

15 Q. And how many hours -- how many hours a week does she
16 get paid for this legal-service activity?

17 A. 19 or 20 hours a week.

18 Q. Is this in addition to her work for the advocacy
19 team, or is this part of -- in your mind, is this
20 part of the advocacy team work?

21 A. That is -- her role on the advocacy team is to
22 provide legal aid.

23 Q. Okay. And the legal aid she provides is 19 to 20
24 hours a week?

25 A. That's what she's paid for, yes.

1 Q. Okay. And she does this work out of St. Timothy's
2 Church building?

3 **A. Yes.**

4 Q. And what kinds of legal services is she providing?
5 Is it just referrals to other lawyers, or is she
6 also actually providing legal representation?

7 **MS. SONDAG: Objection. Calls for a legal**
8 **conclusion.**

9 **BY MS. VAN METER:**

10 Q. Go ahead and answer.

11 **A. So I -- so she does things like expungements, she**
12 **does things like help people navigate the Social**
13 **Security Administration, she helps people with --**
14 **perhaps answers questions for, like, tenant-**
15 **landlord-type issues, and then she refers -- if it's**
16 **something that she can't -- if she doesn't know the**
17 **answer, she refers them to a different organization.**

18 Q. And she's licensed with the state bar?

19 **A. She is.**

20 Q. Do you know if her license is active or like an
21 inactive pro bono status?

22 **A. It is active.**

23 Q. Does she separately -- does she work anywhere other
24 than St. Timothy's?

25 **A. Not that I'm aware of.**

1 **A. Yes.**

2 Q. And how often is that?

3 **A. Once a month.**

4 Q. And when you say "primary care provider," is it a
5 doctor or a nurse practitioner?

6 **A. Nurse practitioner.**

7 Q. And that's one full day per month?

8 **A. I -- I wouldn't say full day, no.**

9 Q. Okay. What -- what day -- is there a set schedule
10 for it?

11 **A. I think -- I think it's about 8:30 to 2:00.**

12 Q. Okay. And is there a set day per month, like first
13 Monday or anything like that?

14 **A. No.**

15 Q. Okay. Is it just based on a nurse's availability?

16 **A. The nurse practitioner's availability, yes.**

17 Q. And what is the nurse's name?

18 **A. Her name is Karla.**

19 Q. And what's the last name?

20 **A. Reinholt [sic].**

21 Q. Can you spell that for our court reporter, if you
22 know?

23 **A. Well, Karla is with a K, I can tell you that, and**
24 **Reinhart.**

25 Q. Maybe R-E-I-N-H-A-R-T?

1 **A. I'm not sure.**

2 Q. Okay.

3 **A. I call her Karla.**

4 Q. Sure. Do you also operate a day program at
5 St. Timothy's?

6 **A. I think what you're referring to is our Monday,**
7 **Wednesday, Friday office hours in the mornings from**
8 **in 9:00 to 12:00. Is that what you're referring to?**

9 Q. I don't know. There's a reference in the complaint
10 that was filed that started the lawsuit here. It
11 says, "St. Timothy's has long operated a day program
12 on Mondays, Wednesdays, and Fridays during which it
13 offers community members use of shower facilities
14 and assistance with applications for social
15 services." So what is that day program?

16 **A. Yeah, so that's 9:00 to 12:00.**

17 Q. Three days a week?

18 **A. Yes.**

19 Q. And what do you do at this day program?

20 **A. We make the showers available, we provide coffee,**
21 **access to the Internet, oftentimes our community**
22 **members charge their phones, and -- and then -- and**
23 **that's when they interact with our advocacy team.**

24 Q. Are those the set times that your advocacy team is
25 there also, or are they there additional times?

1 **A. Those are set times, and occasionally they might be**
2 **here on additional times as well, but that's not --**
3 **that's not advertised or -- that would be on a --**
4 **what would you want to call that? That would be on**
5 **an individual basis --**

6 Q. Okay.

7 **A. -- occasion.**

8 Q. Okay. The Internet access, is that just part of the
9 day program where you give -- people who come into
10 the day program have access to the Internet if they
11 have devices for it?

12 **A. So let me -- let me -- people access the Internet**
13 **when they're here, yes.**

14 Q. Okay.

15 **A. If they have a device for it, yes.**

16 Q. Okay. So do -- so you don't provide devices. Is
17 that accurate?

18 **A. If there was a reason why we needed to have someone**
19 **have access to a laptop, we would do our best to**
20 **provide that access.**

21 Q. Okay. So in the complaint, the document that
22 started the lawsuit, there's a reference to Internet
23 access. Is that -- the Internet access, is that
24 just during those days and hours of the day program,
25 or are there other times when Internet access is

1 maybe -- or maybe there would be an occasion where
2 someone would linger for 15 minutes afterwards. And
3 I'm talking about community members now. I'm not
4 talking -- I'm talking about when the doors lock.

5 Q. Sure.

6 A. And -- and then it would be Sunday from 3:00 to
7 4:00, but of course on Sunday -- the Episcopal
8 Church has a slogan that says "All are welcome," so
9 certainly if someone came to a worship service, I
10 would have no way of knowing if they were accessing
11 the Internet during the worship service.

12 Q. That was my next question, is in addition to the day
13 program hours and the mealtime hours and the meal,
14 I'm assuming there are regular services at
15 St. Timothy's?

16 A. Yeah. So Wednesday 12:00 to about 12:45, like we
17 did today, people could come in to worship with us.
18 And then Sundays from 10:00 to 11:30, people could
19 come in and worship with us. And if they -- and
20 then on Monday, you know, people -- we would be open
21 to the public for the feeding ministry on Mondays
22 from 12:00 to 1:00, and then also on Tuesdays from
23 12:00 to 1:00.

24 Q. Okay.

25 A. That -- so those are the times when the community at



City of Brookings

PUBLIC WORKS/DEVELOPMENT SERVICES DEPARTMENT
 898 Elk Drive, Brookings, OR 97415
 (541) 469-1159, Fax (541) 469-3650, TTY (800) 735-1232
abar@brookings.or.us

April 14, 2023

St. Timothy's Episcopal Church
 C/O Bernie Lindley
 401 Fir Street
 Brookings OR 97415

Re: Operating a Benevolent Meal Service without a Conditional Use Permit

Dear Mr. Lindley,

The City of Brookings is providing this letter to inform you that St. Timothy's Church, located at 401 Fir Street, Brookings, OR 97415, is operating a Benevolent Meal Service without a conditional use permit in addition to a variety of other social services, including an outreach clinic, a day program and an advocacy program in violation of 17.01.040 Compliance with code provisions in the Brookings Municipal Code (BMC). To avoid enforcement and potential civil penalties, St. Timothy's Church must cease the operation of social services that are not allowed in an R-1-6 zone, and the operation of a Benevolent Meal Service without a conditional use permit.

St. Timothy's Church operates in the R-1-6 Single-Family Residential District under a de facto conditional use permit. The BMC allows religious institutions in the Single-Family Residential District to operate a Benevolent Meal Service with a conditional use permit per BMC 17.124.050. The BMC does not allow the operation of social services in an R-1-6 Single-Family Residential District either outright or with a conditional use permit.

BMC 17.160.020 designates any violations of the Land Development Code as public nuisances that may be abated and removed under BMC 8.15.090. Failure to correct the violation could result in civil penalties of up to \$720.00 per day that the violation exists, per BMC 1.05.010.

If St. Timothy's Church does not correct the violations described above within 10 days, the City may initiate enforcement proceedings under BMC 17.160.020 and 8.15.090. To correct the violation, St. Timothy's Church must cease the operation of social services that are not allowed in an R-1-6 zone, and apply for a conditional use permit to operate a Benevolent Meal Service per BMC 17.124.050.

Please feel free to reach out if you'd like to discuss St. Timothy's options for achieving compliance with the BMC.

Sincerely,

Anthony Baron
 Public Works & Development Services Director

CC: Janell Howard – City Manager, City of Brookings

NOTICE TO ABATE

Date: 4/14/2023

TO: St. Timothy's Episcopal Church c/o Bernie Lindley
401 Fir Street
Brookings, OR 97415

Pursuant to Ordinance No. 06-O-572 of the Brookings Municipal Code, a violation exists at the following location(s) which are indicated to be in your ownership or control or you are the person causing the violation:

Street Address: 401 Fir Street	Map Number and Tax Lot: 41-13-05BC Tax Lot 7300
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The nature of the violation is as follows:

BROOKINGS MUNICIPAL CODE (BMC)

17.01.040 Compliance with code provisions.

No buildings or other structures shall be constructed, improved, or altered, enlarged or moved, nor shall any use or occupancy of premises within the city be commenced or changed, nor shall any condition of or upon real property be caused or maintained, after the effective date of this code except in conformity with conditions prescribed for each of the several zones established hereunder. It shall be unlawful for any person, firm or corporation to erect, construct, establish, move into, alter, enlarge or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this code contrary to the provisions of this code. Where this code imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this code shall control. This code shall apply to all actions which have not reached the following steps:

- A. Site review: final approval by city staff or the planning commission;*
- B. Partitioning and subdivision: approval of preliminary (tentative) plat;*
- C. Planned unit developments: final approval by the planning commission;*
- D. Signs: final permit approval;*
- E. Variances and conditional use permits: approval by the planning commission;*
- F. Zone change: ordinance enactment. [Ord. 89-O-446 § 1.]*

St. Timothy's Church, located at 401 Fir Street, Brookings, OR 97415, is operating a Benevolent Meal Service without a conditional use permit in addition to a variety of other social services, including an outreach clinic, a day program and an advocacy program in violation of 17.01.040 Compliance with code provisions in the Brookings Municipal Code (BMC).

17.160.020 Violations.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this code and any use of any land, building or premises established, conducted, operated or maintained contrary to provisions of this code shall be and the same is hereby declared a violation and a public nuisance. These public nuisances may be abated and removed pursuant to BMC 8.15.090, General abatement procedure. It is provided, however, nothing in this section requires the city to exhaust these administrative remedies prior to seeking equitable relief or damages in circuit court. [Ord. 07-O-584 § 2; Ord. 89-O-446 § 1.]

1.05.010 General penalty.

A. Violations. Every offense is a violation which may be punished by a fine up to \$720.00; provided, that where Oregon statutes impose a lesser penalty for the same offense, then the lesser penalty shall apply. Each day or part of a day for which a violation is committed or persists is a separate offense.

B. Administrative Enforcement. Where a chapter of this code provides that enforcement shall be through an administrative process, the provisions for administrative procedures shall apply rather than this section.

C. Equitable and Other Remedies Preserved. Nothing in this section prohibits the city seeking equitable relief or damages in addition to judicial or administrative enforcement of its ordinances. [Ord. 09-O-644 § 2; Ord. 07-O-592 § 2; Ord. 06-O-572 § 2.]

You are hereby directed to abate this violation by applying for a Conditional Use Permit within ten (10) days from the date of receipt of this notice. Failure to abate the violation may warrant issuance of a citation and imposition of a civil penalty of up to \$720.00. Each day's violation constitutes a separate offense. In addition, the City may abate the violation and the cost of the abatement will be charged to you.

You may dispute the existence of a violation and request a hearing by giving a written statement to the City Manager at 898 Elk Drive, Brookings, OR 97415 within ten (10) days from the date of receipt of this notice.

An error in the name or address of the person responsible shall not make this notice void, and in such case the posted notice shall be considered to be sufficient notice.

If you have any questions, please call 541-469-1159.



**Anthony Baron,
Public Work & Development Services Director**

April 24, 2023

VIA EMAIL AT LZIEMER@BROOKINGS.OR.US
WITH A COPY TO JANELL HOWARD,
JHOWARD@BROOKINGS.OR.US

Planning Commission
Attn: Lauri Ziemer
City of Brookings
898 Elk Drive,
Brookings, OR 97415

**Re: Request for Appeal of Notice to Abate issued to St. Timothy's Episcopal Church
April 14, 2023.**

Dear Planning Commission Members:

This office represents St. Timothy's Episcopal Church ("St. Tim's") in the above referenced matter. St Tim's operates a church use ("Church") at the subject property at 401 Fir Street ("Property"). St. Tim's received a Notice to Abate issued by the City of Brookings (the "City") on April 14, 2023, directing the Church to file a conditional use permit application to abate the Benevolent Meal Service violation and stop providing "a variety of other social services" (the "Notice"). **On behalf of St. Tim's, we seek a public hearing to obtain an interpretation of the Brookings Municipal Code ("BMC" or "Code") regarding the alleged violation from the Planning Commission.¹**

Relief Requested

St. Tim's requests the following relief from the Planning Commission:

Determine that St. Tim's activities at the Property described as "social services" in the Notice do not violate BMC for one or both of the following reasons:

(1) The activities described as "social services" in the Notice are typical functions conducted by Churches and Schools and are considered part of a Church or School use where they occur. As applied here, the "social services" uses at St. Tim's Church are properly classified as part of its Church use rather than a separate, stand-alone use.

¹ The City has agreed to extend the deadline for submitting objections to the Notice of Abatement as it relates to St. Tim's provision of meal services. St. Tim's reserve its rights to submit such objections at the appropriate time, if needed.

(2) The activities described as “social services” in the Notice are part of St. Tim’s legal non-conforming use of the Property and are allowed to continue.

Authority for Planning Commission Review

Pursuant to BMC 8.15.090.D.3, when a responsible party receives a notice of abatement “where the potential violation is a matter of ambiguity,” related to BMC Title 17, “the code enforcement officer determination of violation may be appealed to the planning commission pursuant to Chapter 17.156 BMC.”² The BMC does not require the recipient of a notice of abatement to first pursue review by the City Manager in BMC Title 17 cases before seeking Planning Commission Review. The Notice is a code enforcement officer determination and raises a matter of ambiguity because the Code does not define the terms social services, outreach clinic, day program, or advocacy program, and does not classify these activities as within a particular use category. These uses are typically conducted as facets of other listed uses (such as churches and schools) and should be classified as a part of those uses when they occur. Furthermore, “social services” have been an integral part of the Church use since it began operating in the 1940’s. The Notice does not account for the legal nonconforming use status of the Church.

The Planning Commission has the power to hear and decide appeals from administrative interpretations. BMC 17.156.010. When declaring the meaning and intent of the BMC, the Planning Commission interprets provisions to carry out efficient designation and classification of property, buildings, and land development. *Id.* In addition, it interprets provisions to carry out “the expressed purpose of the zoning district involved.” *Id.*

Legal Argument

A. “Social Services,” including outreach programs, day programs, and advocacy programs, are typical functions conducted by Churches and Schools and are properly considered part of a Church or School use where they occur.

BMC 17.01.040 requires that all uses and activities comply with the relevant aspects of the BMC (but, as noted below, exempts legal nonconforming uses from land use regulations). The Notice states that St. Tim’s is providing a variety of other “social services, including an outreach clinic, a day program and an advocacy program in violation of 17.01.040 BMC.” The BMC does not define “social services,” outreach clinic, day programs or advocacy programs or define these activities as uses allowed or disallowed within any zoning district. In addition, there is no defined term in the BMC that “social services” could fit into.³

² To ensure the Church preserves its rights to object to the Notice, the Church is simultaneously filing an Objection under BMC 8.15.090.D.3 with the City Manager.

³ For example, the Code defines “club” as “an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not groups organized primarily to render a service carried as a business for profit.” BMC 17.08.030. While churches may be considered a club under this definition, the BMC

The Notice also concludes that there is no option for St. Tim's to apply for a conditional use permit to allow these "social services" at the Property. The City seems to reach this result by concluding that, if a use is not specifically listed within the allowed or conditional uses under a certain zoning district, that the use is prohibited and could not be included as part of a listed use. Since "social services," "outreach clinic," "day program" and "advocacy program" are not uses specifically listed as allowed or conditional within *any* zoning district in the City, the City appears to conclude that these activities are prohibited City-wide even when they are provided as an integral part of an allowed or conditional use.

From the Notice, we glean that the City's conception of "social services" includes any service provided to the needy, including provision of food, advice or referrals, and inviting those in need to an establishment for advice or to have fellowship with others.

The BMC does not define "church" or provide any information regarding the characteristics of this use, but does list "churches" as a use allowed conditionally within the R-1-6 zone. A dictionary definition of "church" is "a building for Christian religious activities." It is reasonable to rely on this dictionary definition since "church" is not defined in the BMC.

"Social services," including outreach programs, day programs, and advocacy programs, are Christian religious activities and typically considered church functions where they occur as part of a church use.⁴ In fact, the "social services" the City seems to be concerned about have long been typical parts of church use. Alms—the giving of money and food to the hungry—dates to biblical times. *See* Deuteronomy 15:8 ("but you shall freely open your hand to him and shall generously lend him sufficient for his need in whatever he lacks"); Proverbs 19:17 ("one who is

does not further clarify the types of activities that would constitute "social services." The Code defines "clinic" as a medical service use, which we do not believe the City intended to refer to by listing "outreach clinic."

⁴ *See*, Jackie Rehwald, *New Church in North Springfield Partners with Gathering Friends to Serve Poor, Homeless* (July 21, 2019), <https://www.news-leader.com/story/news/local/ozarks/2019/07/21/new-church-north-springfield-focuses-those-poverty-homeless/1760513001/> (Church in Springfield working to serve the "practical needs" of the poor and homeless including lowering barriers to food and clothing, "offering a safe place for foster kids and their biological parents to visit with each other, serving dinner and fellowship to those living in the neighborhood and creating a welcoming place for homeless folks who might need a drink of water or to rest on a couch for a little while"); Nancy West-Brake, *Local Church Seeks Donations for Coat Drive* (Dec. 3, 2012); Neighborhood Christian Legal Clinic, *Home*, <https://www.nclegalclinic.org/> (last visited Apr. 23, 2023) (providing legal services from the Trinity Outreach Center); Catholic Charities, *Catholic Charity assistance near you.*, https://www.needhelppayingbills.com/html/catholic_charities_financial_a.html (last visited Apr. 23, 2023) (list of nationwide network of churches that provide emergency housing, financial assistance, clothing, rental assistance, medical needs, free holiday assistance, counselling, immigration programs, and employment services); Fame Church LA, *FAME Legal Clinic*, <https://www.famechurchla.org/free-legal-clinic/> (last visited Apr. 23, 2023); *Madison Avenue Christian Church Continues Its Community Ministry During Crisis, Including Meals*, Northern Kentucky Tribune (Apr. 7, 2020), <https://www.nkytribune.com/2020/04/madison-avenue-christian-church-continues-its-community-ministry-during-crisis-including-meals/>.

gracious to a poor man lends to the lord and he will repay him for his good deed”). Many churches in Brookings participate in these same activities as part of their church use.⁵

Other conditional uses in residential zones, such as schools, often provide social services, including outreach programs, day programs, and advocacy programs and these activities are considered part of the school use when they occur.⁶ For example, the Brookings-Harbor School district opened the Coast Community Health Center in November 2022, which seeks to provide health care to all students who need it free of cost, including well child checks, immunizations, follow-up visits and more.⁷

Typical elements of a use should be treated as part of that use for purposes of BMC regulations even when each detail of the use is not specified by the BMC to avoid unreasonable results. This is especially true when the BMC does not provide a definition of a use or any guidance on the characteristics of that use. Typical elements of a church include providing service to the needy, including providing advice or referrals, and inviting those in need to an establishment for advice or to have fellowship with others. We urge the Planning Commission to determine that the “social service” related activities occurring at St. Tim’s listed in the Notice are part of its church use, which is authorized at the Property.

B. St. Tim’s Operation of the Church at the Property is a Legal Nonconforming Use Which Includes “Social Services.”

1. The Church is a legal nonconforming use because it predates the 1989 Land Development Code.

The Notice alleges that St. Tim’s is violating BMC 17.01.040, because the Church conducts “a variety of other social services, including Outreach Clinic, Day Program, and Advocacy Program.” From the wording of the Notice, it appears the City intended this to be a non-exclusive list and is alleging that any “social service” use, which is not defined by the Code is prohibited at the Property.

BMC 17.01.040 only applies to buildings, structures, use and occupancy *established after the effective date of the Code*. If a building’s use was in place before the Code was enacted, then those provisions do not apply because it is a nonconforming use. BMC 17.01.030. BMC 17.120 governs nonconforming uses and allows nonconforming uses to continue, subject to that section’s regulations.

⁵ Brookings Nazarene, *Community Care*, <https://www.brookingsnaz.org/community-care> (last visited Apr. 21, 2023); Trinity Lutheran Church, *Outreach*, <https://tlcbrookings.org/outreach> (last visited Apr. 21, 2023)

⁶ See also, Beaverton School District, *Clothes for Kids*, <https://www.beaverton.k12.or.us/departments/communications-community-involvement/volunteer/clothes-for-kids> (last visited Apr. 23, 2023); Mills Street Elementary, *Counseling*, <https://www.lisd.net/Page/16818> (Apr. 23, 2023);

⁷ *School Based Health Center – Coast Community Health*, Brookings-Harbor School District, <https://www.brookings.k12.or.us/apps/pages/sbhc> (last visited Apr. 21, 2023); Reynolds High School, *College and Career Center*, <https://www.reynolds.k12.or.us/rhs/college-and-career-center-0> (last visited Apr. 23, 2023).

As the Notice seems to admit (stating that St. Tim's "operates under a de facto conditional use permit"), St. Tim's has existed at 401 Fir Street for more than 30 years before the Land Development Code was adopted in 1989, and is a legal nonconforming use governed under BMC 17.120.

The BMC defines "use" as the "purpose for which land and/or a structure is designed, arranged, or intended, or for which it is occupied or maintained." BMC 17.08.210. The "use" of the Church at the Property therefore includes the entirety of the operations occurring at the Property. Even if some elements of the Church use would not be allowed under the current BMC, which St. Tim's disputes, the nonconforming use protections apply to all of the Church operations that predate the Code, including any "social services" conducted as part of the Church operations, so long as those uses have been maintained over time. St. Tim's has continuously conducted "social services," as the City appears to envision that term, since its establishment and has the right to continue these uses under BMC 17.120.

2. The Church's legal nonconforming use includes "social services," including an outreach program, day program and advocacy program.

As we discuss above, the Code does not define "social services," "outreach clinic," "day program," or "advocacy program." The Notice also seems to require St. Tim's to cease its conduct of "a variety of other social services" which are not specified. From the Notice, we glean that the City's conception of "social services" includes any service provided to the needy, including provision of food, advice or referrals, and inviting those in need to an establishment for advice or to have fellowship with others.

Since its establishment at the Property, St. Tim's has offered services or alms to the needy in furtherance of Christian beliefs to feed the hungry, respect the dignity of every human being, and build community. St. Tim's use of the Property as a Church within the Episcopalian faith *necessarily* includes elements of service to the poor. These elements include opening the Church as a sanctuary for prayer, providing advice on a variety of topics, providing opportunities for fellowship with others, and providing information to the community. These core religious functions, in some form, have continuously been part of the Church use at the Property since its inception and have not ceased for any two-year period. Therefore, the Church maintains the legal right to continue these uses as part of its Church operations. BMC 17.120.

Thank you for your review of these important issues.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Allison J. Reynolds', written in a cursive style.

Allison J. Reynolds

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

In the matter of Planning Commission File No. APP-1-23; an Appeal of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church)))))	Final ORDER, Findings of Fact, and Conclusions of Law
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ORDER denying an Appeal of a Notice of Abatement issued April 14, 2023 to St. Timothy's Episcopal Church; Assessor's Map 4113-05BC, Tax Lot 07300; zoned R-1-6 (Single Family Residential).

WHEREAS:

1. The Planning Commission duly accepted the appeal filed in accordance with the Brookings Municipal Code (BMC), pursuant to Chapter 8.15.090 - General abatement procedure; Chapter 17.156 - Appeal to Planning Commission; Chapter 17.01 Section 17.01.040 – Compliance with Code Provisions; Chapter 17.20.040.B. - Conditional uses. (in SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT); and Chapter 17.120.010 - Continuation of a nonconforming use; and
2. The Brookings Planning Commission duly set this matter upon the agenda of a public meeting and considered the above described appeal with the public hearing a matter of record of the Planning Commission meetings of June 27, 2023 and August 1, 2023; and
3. At the public meeting on said appeal, evidence and testimony was presented by the Appellant, those in favor of the appeal, and those opposed to the appeal; and recommendations were received from and presented by staff in the form of a Staff Report, dated June 15, 2023 and oral presentation of same; and
4. At the conclusion of the 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 **DENIED** the appeal and directed staff to prepare a Final Order, Findings of Fact, and Conclusions of Law to that effect.

THEREFORE, LET IT BE HEREBY ORDERED that the appeal is DENIED. This denial is supported by the following findings and conclusions:

CRITERIA, FINDINGS, AND CONCLUSIONS

BMC 17.156.010 provides:

In the event of an ambiguity in this title affecting enforcement, the Planning Commission shall have the power to hear and decide appeals from administrative interpretations and to declare the meaning and intent, and interpret the provisions of this code. In thus resolving ambiguities, being considered in this appeal, the Planning Commission shall so interpret this code as to carry out BMC [17.01.020](#) and the expressed purpose of the zoning district involved.

The express purpose of the R-1-6 residential Zone, as stated in BMC 17.20.010 is:

To promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the district, the R-1 district is intended to provide for single-family residential homes at urban standards.

BMC 17.20.040.B allows churches in the R-1-6 as a conditional use. BMC Chapter 17.136 governs the process for obtaining a conditional use permit.

St. Timothy's Church existed and was operating prior to 1989, when the Brookings Land Development Ordinance was adopted. Therefore, the Church was considered to be a legal non-conforming use at that time.

BMC 17.120.010 (Continuation of a nonconforming use) provides that a lawfully preexisting use of a structure or site, which does not conform to the regulations for the district in which it is located, shall be deemed to be a lawful, nonconforming use, and may be continued, subject to regulations regarding maintaining, moving, altering, or enlarging the nonconforming structure. The BMC does not contain any provisions regarding altering or increasing the activities occurring on or within the property or the nonconforming structure.

In 1999, the church applied for a minor change to its CUP to "accommodate" its "growing congregation." See Pages 19-35 of the June 27, 2023 Planning Commission Agenda Packet. The 1999 minor amendment to the CUP was for a 392 square foot addition to the chapel area to add approximately 20 additional seats, as well as an additional 8 parking spaces.

There was no evidence submitted to the record during the 1999 minor amendment process which sheds any light on what activities were being held at the church at that time. It is clear from the 1999 record that approved minor amendment to the CUP dealt strictly with the physical expansion of the church's chapel area and the addition of parking spaces, both of which were needed to accommodate a growing congregation. No mention of any types of "alms" or "social services" can be found in the 1999 minor amendment record.

In its April 24, 2023, appeal letter, the Church asserts that it has continuously conducted "social services" since its establishment (prior to adoption of the Brookings Land Development Ordinance in 1989), but provides no evidence to support that assertion.

In two letters submitted to the record as part of the abatement appeal, Reverend Bernie Lindley, the pastor of St. Timothy's Church, asserts that "alms" have been provided at the Church since its inception. His letters state that originally, these alms took the form of financial assistance to people for things such as rent, utilities, bus tickets, and gasoline. Rev. Lindley states that in the 2000's a shift occurred in what types of alms visitors needed, and that the Church began providing clothing, personal hygiene items, and car repair assistance for those in need. See June 27, 2023 Lindley letter (Pages 7-11 of "Supplemental Planning Commission Packet") and July 3, 2023 Lindley letter (Pages 5-7 of Supplemental Planning Commission Packet II).

According to Rev. Lindley's June 27, 2023 letter, the Advocacy Program includes assistance to visitors in obtaining birth certificates and identification cards, enrolling in health insurance, connecting to therapy and treatment, applying for jobs and housing, and providing referrals to service providers. In addition,

the Advocacy Program includes assistance to visitors from a licensed attorney who offers counseling and advice to individuals with questions about issues such as citations, court fines, records expungement, SSI, food stamp benefits and who need referrals to attorneys with various skills.

In an April 12, 2023 deposition, Rev. Lindley stated that the "Advocacy Program" began in "approximately" 2018. This statement provides evidence that the Advocacy Program began many years *after* the church was established. This shows that the nonconforming use and/or unpermitted conditional use was altered and/or expanded in 2018, and the Church should have requested a modification to its conditional use permit for these uses. See excerpt of Lindley deposition, Attachment D to June 15, 2027 Planning Commission Staff Agenda Report.

In determining whether a nonconforming use has been established, and the extent of the nonconforming use, a factual determination is needed regarding what uses were in place at the Church in 1989 (when the Land Development Ordinance was adopted). The Church has the burden of proving both that the use existed in 1989, and what the level of use was at that time. See *Lane County v. Bessett*, 46 Or App 319, (1980); *Tylka v. Clackamas County*, 28 Or LUBA 417 (1994); *Fraley v. Deschutes County*, 32 Or LUBA 27, aff'd, 145 Or App 484 (1996); *Smith v. Lane County*, 21 Or LUBA 228 (1991).

A similarly analysis governs the determination of whether the type and scope of activities permitted by the 1999 minor change to the conditional use permit have been changed or expanded – the Church has the burden of proving both that the use existed in 1999, and what the level of use was at that time.

The Church has not met its burden of proving that the types and scope of the "social services" it is providing currently have been continuously provided since 1989 (when the City adopted its Land Development Code and at which point the church became a legal nonconforming use) and/or since 1999 (when the Church applied for and was granted a minor change to its conditional use).

Therefore, the Planning Commission determines that the abatement notice issued by the City on April 14, 2023 was properly issued. The Church is required to abate the types and level/scope of "social service" activities that it is currently providing and apply for an amendment to its conditional use permit to conduct such activities at the Church location.

Dated this 5th day of September, 2023

ATTEST:



Skip Watwood, Chair
Brookings Planning Commission



Anthony Baron, PWDS Director

**LOCAL
GOVERNMENT
LAW GROUP**
An Oregon Professional Corporation

Memo

To: Brookings City Council

From: Lori Cooper, Attorney

Date: December 7, 2023

Re: Rebuttal to St. Timothy's Church Final Legal Argument before the City Council in Support of Appeal of the April 14, 2023, Notice to Abate

This memo contains a rebuttal to St. Timothy's Church's Final Legal Argument which was submitted to the record on November 13, 2023.

Evidence

St. Timothy's argues that the City Council should not consider the impacts which have occurred in the neighborhood since St. Timothy's began offering social services. Despite urging this, St. Timothy's attorney goes on to discuss that the City's abatement action is not "narrowly tailored" to the protect a "compelling government interest."

It is impossible to analyze whether the City's action in citing St. Timothy's for violating the City's zoning code is "narrowly tailored" without consideration of the impacts being caused by St. Timothy's use of its property.

In this case, the "compelling government interest" is the City's duty to enforce its land development code, in particular the duty to limit particular uses to certain land use zones. In this case, the City's interest is limiting the uses which are allowed in the single family residential zone. The purpose of residential zones is to provide for the quiet enjoyment of residences, free from excessive noise, pollution, traffic, and other similar types of impacts. Protecting public safety and public health are also "compelling government interests".

The impacts caused by St. Timothy's provision of social services therefore must be considered in order to determine whether the City's abatement notice is the least restrictive means to protect the compelling government interest of preserving the attributes of a residentially zoned neighborhood.

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Argument

A. “Church” use

The City Council is entitled to deference when interpreting the Brookings Municipal Code (BMC). An interpretation that the social services that St. Timothy’s is offering at its church building are not allowed uses in a residential zone is a plausible interpretation of the BMC.

St. Timothy’s is arguing that the social services it provides are considered religious services, and must be allowed as a “church” use under its conditional use permit.

The BMC states that undefined terms “shall be interpreted as they are commonly defined in everyday usage.” BMC 17.08.001. St. Timothy’s claims that by not allowing unfettered use of its church to provide social services, the City is too narrowly interpreting the BMC.

To support this contention, St. Timothy’s points to evidence in the record that it claims shows that other churches in the region and nationally provide service ministries similar to the social services which St. Timothy’s provides. However, a close examination of the record shows that this is not an accurate contention.

Many of the churches that St. Timothy’s points to in order to support its contention do not provide the same types of social services that St. Timothy’s provides, and many of the churches that do provide somewhat similar services are not located in residential zones.

In addition, there is a lack of evidence in the record which shows the intensity, frequency, and scope of services provided by these other churches, or whether these churches have obtained conditional use permits, and if so, what conditions have been placed on these uses to mitigate impacts.

For example, the majority of the entries on a spreadsheet - 141 out of 170 entries - submitted by St. Timothy’s as evidence that social services like theirs should be considered a “typical” church use merely show that a “dental van” provides services at these churches, with no information regarding how often and how long the dental van is at the church. See 10.30.2023 Supp. Evidence, at 5-18. This is not substantial evidence to support St. Timothy’s claim that social services like they are offering are “typical” church uses.

St. Timothy’s has submitted evidence of other churches conducting activities such as food pantries, youth video tournaments, Alcoholics Anonymous meetings, and parent support group meetings. St. Timothy’s claims that these types of activities are “typical” church activities, and are similar to the social services St. Timothy’s provides, therefore, St. Timothy’s provision of social services can also be considered “typical” church uses.

An argument can be made that these other churches’ activities can be considered “typical” church uses, but churches tend to host these types of activities once or twice a week, or maybe even less often. However, these details are not included in the record, so there is simply not adequate evidence to support a finding that these other churches’ activities are the same as St. Timothy’s social services and that therefore St. Timothy’s social services are a “typical” church use.

In addition, there is no evidence in the record as to the impacts of the activities at these other churches, and whether conditions to mitigate any such impacts have been enacted via a conditional use permit or other type of permit. Therefore, there is not substantial evidence in the record to support St. Timothy's arguments.

Context

St. Timothy's claims that since other uses with a public or community service component, such as hospitals and schools, are conditionally allowed in residential zones, the City must allow St. Timothy's to offer social services without any restrictions.

However, St. Timothy's admits that, unlike their church, these other uses have obtained conditional use permits which contain restrictions on these uses to make them more compatible with the land use zone that they are in. In the St. Timothy's case, there is not substantial evidence in the record that the church has ever indicated to the City that it would be providing social services at the church. To the extent that St. Timothy's claims that the City did know that typical church uses would be occurring at the church, St. Timothy's never indicated what the extent and scope of these social services would be.

Due to this omission, unlike other conditional uses, the City and the public have never had an opportunity to be notified of what activities would be taking place at the church, and what the scope and extent of these activities would be. Therefore, the City and the public were never given the opportunity to discuss potential impacts of the activities taking place at the church and to apply conditions to mitigate these impacts.

For these reasons, St. Timothy's argument that the City must allow social services to be provided at the church because similar services are allowed at other institutions such as schools and hospitals is not persuasive.

History of Interpretation

St. Timothy's complains that the City allows activities at other churches in the city, such as a music program at the Seventh Day Adventist church, yet the City is now enforcing the BMC against St. Timothy's for similar types of service activities.

First, there is no evidence in the record which shows what the conditional use permits for the other churches in the City do or do not allow, so this comparison cannot be accurately made. Secondly, there is no evidence in the record which shows the level and intensity of activities at other churches in the city, what the impacts of these activities are, and/or whether there have been complaints or police calls due to these impacts.

Therefore, the conclusion that the City has been inconsistent in its interpretation of the BMC is unsupported by substantial evidence in the record.

1999 Modification to CUP

St. Timothy's claims that in 1999, when it applied for and was granted a modification to its CUP, was conducting many of the same social services it is currently conducting.

The record simply contains no objective evidence that this is true. The only evidence in the record supporting this contention is a July 3, 2023, letter submitted to the City by Father Lindley. See 10.23.2023 Agenda Packet at 209 - 210.

However, Father Lindley's sworn testimony in a deposition contradicts his claims that St. Timothy's has been continuously conducting the same social services, at the same scope and level of intensity, that they are offering today. Father Lindley stated in his deposition that the church has been offering its "day program" only since approximately 2018. See 10.23.2023 Agenda Packet at 40.

These social services were not mentioned in the church's 1999 application for a modification to its CUP, and are not mentioned anywhere in the record of that 1999 Planning Commission approval. See 10.23.2023 Agenda Packet at 21- 37. Surely, if the church was providing these types of social services in 1999, this would have been mentioned or noted during the CUP modification process. Yet, there is no indication anywhere in that 1999 record that any types of social services were being provided by the church.

And there is no other evidence being offered today (besides Father Lindley's July 3, 2023, letter), that those social services had been provided at the church before 2018.

St. Timothy's now accuses the City of attempting to redefine "church" to restrict St. Timothy's use, and claims that the City has treated this use (including provision of social services) as valid for decades, and that therefore, the City's interpretation of the BMC that social services are not allowed in residential zones is not a valid interpretation.

This is an implausible conclusion, since, as discussed above, it is based on inaccurate and non-credible claims that are not supported (and in fact, *contradicted by*) evidence in the record.

State Law

St. Timothy's states that ORS 227.500 (applicable to cities) and ORS 215.441 (applicable to counties) require local governments to allow "the reasonable use of the real property for activities customarily associated with the practices of the religious activity", therefore the City must interpret the BMC to allow activities customarily associated with religious activity as part of a "church" use.

Again, as it does throughout its legal memo, St. Timothy's claims that the record is "replete" with evidence that the social services activities being provided by the church are the types of activities which many churches "customarily" engage in.

And again, as discussed above, the documents on which the church relies to support this assertion fall far short of support, and actually show that most churches do **not** provide social services activities. Those churches that do provide services which are perhaps remotely akin to what St. Tim's provides are not similarly situated to St. Tim's – they are in commercial or industrial zones, not residential zones, and the scope and frequency of the services they provide do not approach the scope and frequency of what St. Timothy's provides.

In addition, St. Timothy's completely ignores that the state statutes cited contain important qualifying language – that local governments must allow only “reasonable” use of the property for activities customarily associated with religious activities.

Even if the social services activities are found to be “customarily associated with religious activities” (which the City does not concede), the record does not contain substantial evidence that the scope and frequency of the social services being provided by St. Timothy's are “reasonable.”

As previously discussed, there is not substantial evidence in the record showing that services provided by other churches (again, the City does not concede that the services are similar) are provided to as many people, or as frequently, as St. Timothy's does. Therefore, there is no evidence in the record which sheds light on whether the services and activities provided by other churches can be considered “reasonable use” of those properties.

St. Timothy's cites an Oregon Court of Appeals case, *Tarr v. Multnomah County*, to support its arguments that the City must allow St. Tim's social services activities. However, this case can be distinguished from the St. Timothy's matter in several ways.

Tarr dealt with a land use application to build a mosque – the case did not deal with any particular uses of the mosque many years after it had been built and had obtained a conditional use permit, unlike the St. Timothy's situation, where there is no dispute that the church was a previously existing, legal use prior to the City adopting its zoning map and land use code. In the *Tarr* case, neighbors disputed the right of the mosque to even be built on the property, due to perceived possible adverse impacts to the surrounding area such as traffic, noise, etc.

In addition, the land use standard at issue in *Tarr* was a “compatibility” standard, a county land use rule that specified that for the mosque use to be approved, the use needed to be “consistent with the character of the area.” That is not the type of standard at issue in the St. Timothy's case. In the St. Timothy's case, the standard at issue is the types of uses allowed under the church's conditional use permit.

In *Tarr*, the court ruled that the state law governing reasonable use of real property for religious activity (ORS 215.441) overruled local approval standards that were making it difficult for proposed places of worship to obtain approval based on neighbor concerns about the impacts on the neighborhood.

That is *not* the same issue presented in the St. Timothy's case. If St. Timothy's was first applying to build a church in a residential neighborhood today, then the state law cited in St. Timothy's legal argument would be directly applicable, and the City could not deny the application based on a “compatibility” standard.

But because the social services which are at issue with St. Timothy's were added many years after the original church uses were approved (when the church use was “grandfathered” in as a legal nonconforming use when the City adopted its land use rules in 1989), and many years after the church applied for and was granted a modification to its “de facto” conditional use permit in 1999, the *Tarr* case does not apply in the way that St. Timothy's is arguing it does.

Federal Law

St. Timothy's cites to a 9th Circuit case, *Harbor Missionary Church Corp. v. City of Buenaventura*, for the proposition that federal law (the "Religious Land Use and Institutionalized Person Act", or "RLUIPA") recognizes that requiring a church to move its ministry to the poor to another location is a substantial burden on a church's practice of its religion.

The *Harbor Missionary* case did rule that requiring a church to move its ministry to the poor to another location is a substantial burden on a church's practice of its religion, but it based that holding on specific evidence which was in the record in that case.

The court relied on evidence in the record that the church would have had to sell its property and raise an estimated \$1.4 million to relocate, an expense that the City of Buenaventura did not dispute. The court then concluded that the substantial cost associated with relocating the site of the church demonstrated that the City's denial of a conditional use permit substantially burdened the Church's religious exercise.

In the St. Timothy's case, there is no evidence in the record that St. Timothy's has no other alternatives to providing social services at the church location, or that the costs of locating the services would constitute a substantial burden on St. Timothy's exercise of its religion. There are many other locations in the City of Brookings where St. Timothy's could provide social services without even having to obtain a conditional use permit (commercial and industrial zones).

Another distinguishing characteristic between the *Harbor Missionary* case and the situation in Brookings is that St. Timothy's has done very little to ameliorate the impacts to the neighborhood of its social services program, whereas the church in the 9th Circuit case conducted neighborhood patrols, provided on-site security, and provided a public hotline which the public could call to report problems caused by those using the church's services. These efforts by the *Harbor Missionary* church likely influenced the 9th Circuit's finding that the City of Buenaventura denial of a conditional use permit substantially burdened the church's exercise of religion.

For the reasons discussed above, the *Harbor Missionary* case is not dispositive.

Conclusion

There is not substantial evidence in the record that a "church" use under the BMC necessarily includes "social services" like the social services which it currently provides.

In addition, there is not substantial evidence in the record that St. Timothy's has continually provided social services, or if it did, not at the same scope, intensity, and frequency, as part of its de facto conditional use and since it obtained the modification to its CUP in 1999.


CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 8, 2024

Originating Dept: Finance & Admin

Signature (submitted by)


City Manager Approval

Subject:

Amendment No. 2 to ODOT Cooperative Improvement Agreement, US101, Parkview Drive to Lucky Lane

Recommended Motion:

Motion to authorize the City Manager to execute Amendment No. 2 to Cooperative Improvement Agreement with the State of Oregon, Department of Transportation for US101, Parkview Drive to Lucky Lane.

Financial Impact:

Total estimated City match of \$622,400 from the Streets SDC Fund and Streets SRF Fund.

Background/Discussion:

In 2017, the State awarded the City of Brookings a grant under the Statewide Transportation Improvement Program (STIP) for the 2019-2021 grant cycle. The Oregon Transportation Commission and ODOT develop the STIP in coordination with a wide range of stakeholders and the public.

The State has the authority to enter into cooperative agreements with cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

We have worked with ODOT to draft the attached Cooperative Improvement Agreement for the design and construction of US101, Parkview Drive to Lucky Lane project, as well as designing and constructing other specific roadway improvements. The Project includes construction of a six foot (6') wide shoulder bike lane and six foot (6') wide sidewalks along the east side of US101 between Parkview Drive and Easy Street and replacement of deteriorated and

substandard sidewalk infill and construction or replacement/repair of a shoulder, bike lane, and sidewalks between mile point 356.40 and mile point 356.69 on US101.

The original total estimated project cost was \$2,807,000; of which \$359,200 was the estimated City portion. In 2020, Amendment No. 1 increased the total estimated project cost to \$3,237,000; of which \$392,400 was the estimated City portion. This project was delayed due to COVID and ODOT budget issues.

The draft Amendment No. 2 increases the total project cost to \$5,976,432; of which \$622,400 is the City's estimated portion.

Attachment(s):

- a. Draft Amendment No. 2 to Cooperative Improvement Agreement No. 32908
- b. Cooperative Improvement Agreement No. 32908
- c. Amendment No. 1 to Cooperative Improvement Agreement No. 32908

**AMENDMENT NUMBER 02
COOPERATIVE IMPROVEMENT AGREEMENT
US101: Parkview Dr – Lucky Ln (Brookings)**

This is Amendment No. 02 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and **City of Brookings**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on April 25, 2019 and Amendment Number 1 on March 10, 2020.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to adjust scope and increase cost.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.
2. **Amendment to Agreement.**

a. **TERMS OF AGREEMENT, Paragraph 2, Page 2, which reads:**

2. The Project will be financed at an estimated cost of \$3,237,000 in state, federal and Agency funds. The estimate of \$392,400 for Agency’s Portion of the Project is subject to change. Agency shall be responsible for any costs beyond the estimate of Agency’s Portion of the Project. The estimate of \$2,844,600 for State’s Portion of the project is subject to change. State shall be responsible for any nonparticipating costs and State’s Portion of the Project cost beyond the estimate.

Shall be deleted in its entirety and replaced with the following:

2. The Project will be financed at an estimated cost of \$5,976,432 in state, federal and Agency funds. The estimate of \$622,400 for Agency’s Portion of the Project is subject to change. Agency shall be responsible for any costs beyond the estimate of Agency’s Portion of the Project. The estimate of \$2,192,000 for State’s Portion of the project is subject to change. State shall be responsible for any nonparticipating costs and State’s Portion of the Project cost beyond the estimate.

b. **AGENCY OBLIGATIONS, Paragraph 1, Page 2, which reads:**

1. Agency shall fund all costs for the six foot (6’) wide shoulder bike lane and six foot (6’) wide sidewalks along the east side of US 101 between Parkview and Easy Street portion of the Project.

Shall be deleted in its entirety and replaced with the following:

2. Agency shall provide the federal match of twenty percent (20%) and ~~be~~ responsible for all overruns for the six foot (6') wide shoulder bike lane and six foot (6') wide sidewalks, and associated work, along the east side of US 101 between Parkview and Easy Street, except the RRFB located at Ransome Ave. portion of the Project.

c. **AGENCY OBLIGATIONS, Paragraph 2, Page 2, which reads:**

2. Agency shall upon a subsequent letter or request from State, prior to commencement of the preliminary engineering, right of way acquisition, utility and construction phases, provide an advance deposit or an irrevocable letter of credit with State for its estimated share. Agency's Portion of the project shall be \$392,400 in four (4) equal payments, said amount being equal to the estimated total cost of work performed by State at Agency's request under State Obligations, paragraph1. Agency's construction phase deposit shall be received prior to award of the construction contract.

Shall be deleted in its entirety and replaced with the following:

2. Agency shall upon a subsequent letter or request from State, prior to commencement of the preliminary engineering, right of way acquisition, utility and construction phases, provide an advance deposit or an irrevocable letter of credit with State for its estimated share. Agency's Portion of the project shall be \$622,400 in three (3) payments \$219,100 which was paid before November 30, 2023, \$200,000 due within thirty (30) days of Plans, Specifications and Estimate (PS&E) and the remainder due July 15, 2024. The \$622,400 is the said amount being equal to the estimated total cost of work performed by State at Agency's request under State Obligations, paragraph1. Agency's construction phase deposit shall be received prior to award of the construction contract.
3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.
5. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2024-2027 Statewide Transportation Improvement Program (STIP), (Key #20261) that was adopted by the Oregon Transportation Commission on July 13, 2023 (or subsequently by amendment to the STIP).

CITY OF BROOKINGS, by and through
its elected officials

By _____

Title _____

Date _____

**LEGAL REVIEW APPROVAL (If
required in Agency's process)**

By _____

Agency Counsel

Date _____

Agency Contact:

Janell Howard
City Manager
898 Elk Drive
Brookings, OR 97415
541-469-1101
jhoward@brookings.or.us

State Contact:

Stephanie Bentea
Project Leader
3500 NW Stewart Parkway
Roseburg, OR 97470
541-957-3542
Stephanie.l.bentea@odo.oregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By _____

Delivery & Operations Division
Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Region 3 Manager

Date _____

By _____

State Traffic-Roadway Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____

Assistant Attorney General

Date: _____

**COOPERATIVE IMPROVEMENT AGREEMENT
US101: Parkview Dr – Lucky Ln (Brookings)**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the CITY OF BROOKINGS, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. Oregon Coast Highway No. 9 (US101) is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Parkview Drive, Ransom Street, Heather Lane, Easy Street, Arnold Lane and Lucky Lane are parts of the city street system under the jurisdiction and control of Agency.
2. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. By the authority granted in ORS 810.080 State has the authority to establish marked pedestrian crosswalks on its highway facilities.
4. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to fund the design and construction of State's US101: Parkview Dr – Lucky Ln (Brookings) project, as well as agree to State or its contractor designing and constructing said roadway improvements, hereinafter referred to as "Project". The Project includes construction of a six foot (6') wide shoulder bike lane and six foot (6') wide sidewalks along the east side of US101 between Parkview Drive and Easy Street, hereinafter referred to as "Agency's Portion" and replacement of deteriorated and substandard sidewalk infill and construction or replacement/repair of a shoulder bike lane and sidewalks between mile point 356.40 and mile point 356.69 on US101, hereinafter referred to as "State's Portion". The location of the Project is approximately as shown on the sketch maps attached hereto, marked Exhibit A, and by this reference made a part hereof.

Key No. 20261
03-02-15

2. The Project will be financed at an estimated cost of \$2,807,000 in state, federal and Agency funds. The estimate of \$359,200 for Agency's Portion of the Project is subject to change. Agency shall be responsible for any costs beyond the estimate of Agency's Portion of the Project. The estimate of \$2,447,800 for State's Portion of the Project is subject to change. State shall be responsible for any nonparticipating costs and State's Portion of the Project costs beyond the estimate.
3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.

AGENCY OBLIGATIONS

1. Agency shall fund all costs for the six foot (6') wide shoulder bike lane and six foot (6') wide sidewalks along the east side of US 101 between Parkview Drive and Easy Street portion of the Project.
2. Agency shall upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit in the amount of \$359,200 for Agency's Portion of the Project, said amount being equal to the estimated total cost for the work performed by State at Agency's request under State Obligations paragraph 1. Agency agrees to make additional deposits as needed upon request from State. Depending upon the timing of portions of the Project to which the advance deposit contributes, it may be requested by State prior to Preliminary Engineering, purchase of right of way, or approximately 4-6 weeks prior to Project bid opening.
3. Upon completion of the Project and receipt from State of an itemized statement of the actual total cost of State's participation of Agency's Portion of the Project, Agency shall pay any amount which, when added to Agency's advance deposit, will equal 100 percent of actual total State costs for Agency's Portion of the Project. Any portion of said advance deposit which is in excess of the State's total costs will be refunded or released to Agency.
4. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.
5. Agency shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.

6. Agency, by execution of Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within the Agency limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Agreement.
7. Agency grants State and/or its contractor the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. Agency's Project Manager for this Project is Janell Howard, City Manager, 898 Elk Drive, Brookings, OR 97415, 541-469-1101, jhoward@brookings.or.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. State shall design and construct a six foot (6') wide shoulder bike lane and six foot (6') wide sidewalks along the east side of US 101 between Parkview Drive and Easy Street, as requested by Agency.
2. State shall, upon execution of the agreement, forward to Agency a letter of request for an advance deposit or irrevocable letter of credit in the amount of \$359,200 for payment of Agency's Portion of the Project. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Agency's Portion of the Project.
3. Upon completion of the Project, State shall either send to Agency a bill for the amount which, when added to Agency's advance deposit, will equal 100 percent of the total state costs for Agency's Portion of the Project or State will refund to Agency any portion of said advance deposit which is in excess of the total State costs for Agency's Portion of the Project.
4. State, or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the highway Project; identify and obtain all required permits; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project.

5. State shall cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the Project in order to conform the utilities and other facilities with the plans and the ultimate requirements for the portions of the Project which are on US 101.
6. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
7. State's Project Manager for this Project is Stephanie Bentea, Project Leader, 3500 NW Stewart Parkway, Roseburg, OR 97415, 541-957-3542, Stephanie.I.bentea@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. State and Agency agree to enter into a jurisdictional agreement to exchange maintenance and operational responsibilities of sidewalks on US101 between Chetco River Bridge and Parkview Drive once the Project is completed.
2. Americans with Disabilities Act Compliance:
 - a. The Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>; and

- b. State shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. State shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.
- c. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- 3. Maintenance obligations in this section shall survive termination of this Agreement.
- 4. This Agreement may be terminated by mutual written consent of both Parties.
- 5. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.

- c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
6. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
7. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
8. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
9. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on

the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

10. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
12. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2018-2021 Statewide Transportation Improvement Program, (Key #20261) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).

Agency/State
Agreement No. 32908

CITY OF BROOKINGS, by and through its
elected officials

By Janell Howard

Title City Manager

Date 4-9-2019

By _____

Title _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____

Agency Counsel

Date _____

Agency Contact:

Janell Howard
City Manager
898 Elk Drive
Brookings, OR 97415
541-469-1101
jhoward@brookings.or.us

State Contact:

Stephanie Bentea
Project Leader
3500 NW Stewart Parkway
Roseburg, OR 97470
541-957-3542
Stephanie.I.bentea@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By Kathleen SE
Highway Division Administrator

Date 04-28-2019

APPROVAL RECOMMENDED

By [Signature]
Region 3 Manager

Date 4-24-19

By _____
Ped/Bike Program Manager

Date 4/24/2019

By [Signature]
State Traffic-Roadway Engineer

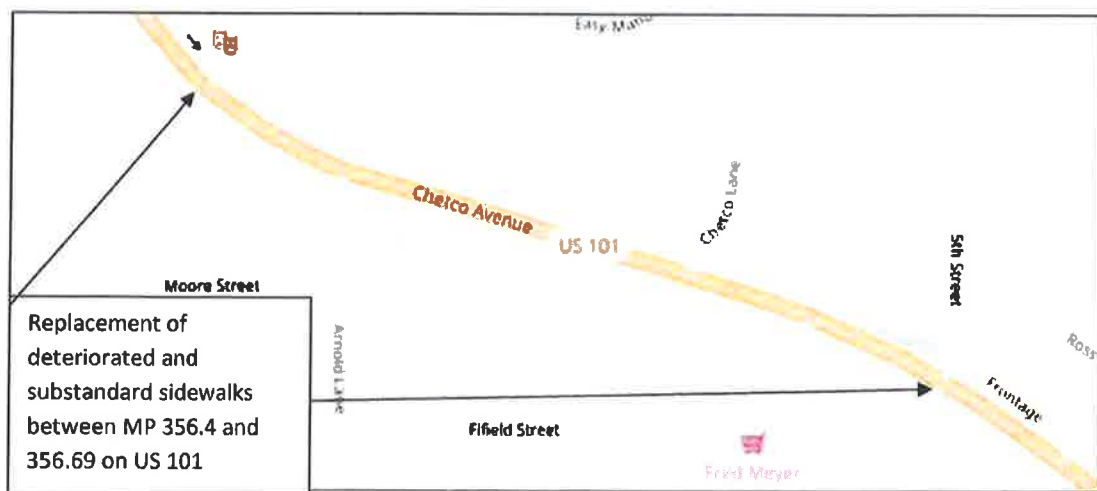
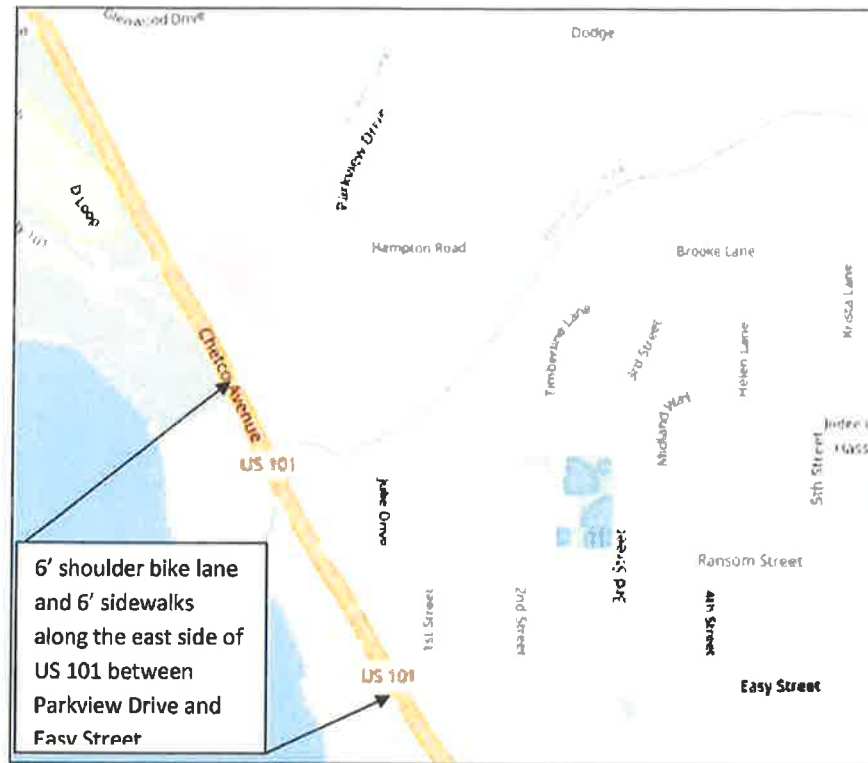
Date 4-12-19

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Bonnie Heltsch via E-mail
Assistant Attorney General

Date 02/22/19

EXHIBIT A – Project Location Map



**AMENDMENT NUMBER 01
COOPERATIVE IMPROVEMENT AGREEMENT
US101: Parkview Dr – Lucky Ln (Brookings)**

This is Amendment No. 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "State," and the **City of Brookings**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into on April 25, 2019.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to change obligations and update language.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

a. **TERMS OF AGREEMENT, Paragraph 2, Page 2, which reads:**

2. The Project will be financed at an estimated cost of \$2,807,000 in state, federal and Agency funds. The estimate of \$359,200 for Agency's Portion of the Project is subject to change. Agency shall be responsible for any costs beyond the estimate of Agency's Portion of the Project. The estimate of \$2,447,800 for State's Portion of the Project is subject to change. State shall be responsible for any nonparticipating costs and State's Portion of the Project cost beyond the estimate.

Shall be deleted in its entirety and replaced with the following:

2. The Project will be financed at an estimated cost of \$3,237,000 in state, federal and Agency funds. The estimate of \$392,400 for Agency's Portion of the Project is subject to change. Agency shall be responsible for any costs beyond the estimate of Agency's Portion of the Project. The estimate of \$2,844,600 for State's Portion of the project is subject to change. State shall be responsible for any nonparticipating costs and State's Portion of the Project cost beyond the estimate.

b. **AGENCY OBLIGATIONS, Paragraph 2, Page 2, which reads:**

2. Agency shall upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit in the amount of \$359,200 for Agency's Portion of the Project, said amount being equal to the estimated total cost for the work performed by State at Agency's request under State Obligations paragraph 1. Agency agrees to make additional deposits as needed upon request from State. Depending upon the timing of portions of the Project to which the advance deposit contributes, it may be requested by State prior to Preliminary

Engineering, purchase of right of way, or approximately 4-6 weeks prior to Project bid opening.

Shall be deleted in its entirety and replaced with the following:

2. Agency shall upon a subsequent letter or request from State, prior to commencement of the preliminary engineering, right of way acquisition, utility and construction phases, provide an advance deposit or an irrevocable letter of credit with State for its estimated share. Agency's Portion of the project shall be \$392,400 in four (4) equal payments, said amount being equal to the estimated total cost of work performed by State at Agency's request under State Obligations, paragraph 1. Agency's construction phase deposit shall be received prior to award of the construction contract.

c. GENERAL PROVISIONS, Paragraph 2, Page 4, which reads:

2. Americans with Disabilities Act Compliance:

a. The Parties shall:

- i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
- ii. Follow ODOT's processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
- iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>; and

- b. State shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and

include accessibility features equal to or better than the features present in the existing pedestrian facility. State shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.

- c. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.

Shall be deleted in its entirety and replaced with the following:

- 2. Americans with Disabilities Act Compliance:
 - a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary

pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;

- iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>;
and

- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Agency/State
Agreement No. 32908

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2018-2021 Statewide Transportation Improvement Program, (Key #20261) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).

**CITY OF BROOKINGS, by and through
its elected officials**

By Janell Howard
Title City Manager
Date 2-14-2020

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Agency Counsel
Date _____

Agency Contact:

Janell Howard
City Manager
898 Elk Drive
Brookings, OR 97415
541-469-1101
jhoward@brookings.or.us

State Contact:

Stephanie Bentea
Project Leader
3500 NW Stewart Parkway
Roseburg, OR 97470
541-957-3542
Stephanie.I.bentea@odot.state.or.us

**STATE OF OREGON, by and through
its Department of Transportation**

By W. Healy
Highway Division Manager
Date 3/10/20

APPROVAL RECOMMENDED

By Frank Kozz
Region 3 Manager
Date 3-6-20

By _____
Pec/Bike Program Manager
Date 3/3/20

By W. Healy
State Traffic-Roadway Manager
Date 2/20/20

**APPROVED AS TO LEGAL
SUFFICIENCY**


By Bonnie Heltsch Via-Email
Assistant Attorney General
Date: 10/4/19

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 8, 2024

Originating Dept: PW/DS


Signature (submitted by)


City Manager Approval

Subject:

Utility Relocation for ODOT Sidewalk Project

Recommended Motion:

Authorize the City Manager to enter into an agreement with McLennan Excavation in the amount of \$62,703 for utility relocation.

Financial Impact:

\$62,703 from Water and Wastewater System Replacement Funds (SRF)

Background/Discussion:

Oregon Department of Transportation (ODOT) intends to install new sidewalks from Lucky Lane to Parkview Drive beginning early summer of 2024. The ODOT project includes infill sidewalks from Lucky Lane to Parkview Drive on the North/East side of Chetco Avenue as well as infill sidewalk reconfiguration on the South side of Chetco Avenue from 1025 Chetco Avenue to 1123 Chetco Avenue (Rancho Viejo to Shell Fuel Station).

The total project is now estimated at \$5,976,432 in state, federal and city funds. The estimated share for the City is \$622,400.

The City of Brookings is required to relocate any city utilities (water, storm and sanitary sewer utilities) within ODOT right of way that are in conflict with any ODOT project. The cost to relocate the utilities are the responsibility of the owner of the utilities. The city is required to have the utilities relocated prior to ODOT awarding the bid for the sidewalk project which is scheduled to occur at the end of February 2024.

Staff received bids from two local excavation contractors with experience in water and sewer infrastructure projects in the City of Brookings. The bid results are as follows:

Bidders	Bid
McLennan Excavation Inc.	\$62,702.08
Tidewater Contractors Inc.	\$99,795.21

Staff is recommending awarding the city utility relocation project to McLennan Excavation in the amount of \$62,702.08 for the relocation of conflicting city utilities in ODOT right of way in preparation for North 101 Sidewalk Project.

Attachments:


- a. McLennan Excavation Inc. Bid
- b. Tidewater Contractors Inc. Bid



McLennan Excavation Inc.
 98109 North Bank Chetco River Road
 Brookings, OR 97415
 541-412-0106
casey@pipeandrock.com
 Oregon License #195758
 California License #982104

By Church				
1	8" C900	LF	130	\$ 88.85 \$ 11,550.50
2	8" 45 MJ	EA	2	\$ 642.06 \$ 1,284.12
3	8" mega lugs PVC	EA	6	\$ 294.98 \$ 1,769.88
4	8" x 2" brass saddle	EA	1	\$ 945.03 \$ 945.03
5	2" square nut valve	EA	1	\$ 1,454.25 \$ 1,454.25
6	2" PVC compression	EA	1	\$ 900.39 \$ 900.39
7	2" sch 80 PVC	LF	15	\$ 164.23 \$ 2,463.46
12	8" foster adapter	EA	1	\$ 968.90 \$ 968.90
13	1 8" transition coupler	EA	1	\$ 1,662.15 \$ 1,662.15
14	Asphalt 3"	SF	126	\$ 10.00 \$ 1,260.00
			Church total	\$ 24,258.68
Ransom				
15	6" C900	LF	130	\$ 88.85 \$ 11,550.10
16	6" 45 MJ	EA	2	\$ 554.67 \$ 1,109.34
17	6" 22.5 MJ	EA	1	\$ 577.24 \$ 577.24
18	6" mega lugs	EA	6	\$ 448.83 \$ 2,692.95
19	6" transition coupler	EA	2	\$ 1,131.89 \$ 2,263.77
20	Move manhole cone and lid per Tony	LS	1	\$ 12,000.00 \$ 12,000.00
21	Asphalt 3"	SF	225	\$ 10.00 \$ 2,250.00
			Ransom total	\$ 32,443.40
Easy and Heather Lane				
24	Rotate lid at Heather Lane	EA	1	\$ 6,000.00 \$ 6,000.00
			Easy total	\$ 6,000.00
			Total	\$ 62,702.08

Respectfully Submitted this 4th day of January 2024.

By: 
 Casey M. McLennan, President
 McLennan Excavation Inc.

----- Forwarded message -----

From: George Fitzhugh <fitzhughg@twcontractors.com>

Date: Thu, Jan 4, 2024 at 1:44 PM

Subject: RE: Utility Relocation - Manholes

To: Tony Baron <abaroon@brookings.or.us>

CC: Scott Darger <dargers@twcontractors.com>, Cassie Fitzhugh <cfitzhugh@twcontractors.com>

Tony,

See below.

		Unit of Measure		Total	
mobilization	\$ 7,500.00	LS	1	\$ 7,500.00	
waterline	\$ 80,715.21	LS	1	\$ 80,715.21	
traffic control setup	\$ 5,000.00	LS	1	\$ 5,000.00	
flagging	\$ 80.00	HR	1	\$ 80.00	Unknown Qty, Each Flagger will be \$80 per hour
manhole minor adjust	\$ 1,500.00	EA	1	\$ 1,500.00	
manhole major adjust	\$ 5,000.00	EA	1	\$ 5,000.00	
				\$ 99,795.21	

1. No manhole testing included.
2. Flaggers will be utilized for manhole adjusts and possibly during waterline installation at Ransom. Quantity is unknown.
3. Standard water testing procedures included.
4. Ransom Street will need to be closed at 101, Homestead and just above work area on Ransom for all waterline work.
5. Waterline mainline to be shutdown by the City when required.
6. Waterline mainline will need to be shutdown for at least one day for each relocation section.
7. No new water valves are included.
8. No new hydrants are included.
9. No new blowoffs are included.
10. No permits included.
11. City responsible for public and agency notifications.
12. Estimated completion, end of February.

Thank you -

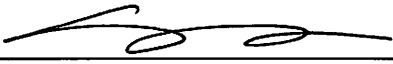
George Fitzhugh

Tidewater Contractors, Inc.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 8, 2024


Signature (submitted by)

Originating Dept: PW/DS


City Manager Approval

Subject:

Transfer of County Orphan Parcels to the City

Recommended Motion:

Motion to authorize City Manager to execute documents to accept the dedication of real property from Curry County as described in County Order No. 23342 and the attached map.

Financial Impact:

No immediate cost.

Background/Discussion:

Curry County has agreed to the transfer of several properties (orphan parcels) to the City of Brookings at the end of Glenwood Drive and Seacrest Lane, as well as in the Dawson Road area. The properties include roadways and utility easements as well as one tax lot as described in Order No. 23342 (attached).

The City initially approached the County to request an easement through tax lot 1200 in order to tie in a storm drain for Seacrest Estates Subdivision Phase 3 to an existing storm drain at the end of Lot 200. This connection eliminated the disruption of existing water infrastructure near the existing Seacrest Reservoir. The County responded with a verbal request to have city council consider the transfer of all the properties, highlighted in the attached map, to the City.

Options for the City once transferred include a transfer of the roadways back to the subdivisions for which they were created as private roads. This option would require the homeowner association of those subdivisions to accept the transfer from the city. A second option would be the city keep them as public roads. Both options include the city retaining lot 1200 for stormwater enhancements.

Curry County authorized the donation of this certain real property by Order No. 23342 on December 6, 2023. Council discussed accepting the orphan parcels at the January 2, 2024 Workshop, and consensus was to bring to Council meeting for approval. Staff recommends Council accept the properties from Curry County per Order No. 23342. The County has agreed to waive the costs of recording for the change in ownership.

Attachments:

- a. Curry County Order No. 23342, authorizing donation of property
- b. Map of parcels

**BEFORE THE BOARD OF CURRY COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Order Authorizing)
the Donation of Certain Real Property to)
the City of Brookings)
)

ORDER NO. 23342

WHEREAS, the County currently owns certain parcels of land in the Brookings area, as follows:

Seacrest / Glenwood Subdivision

Curry County Tax Account R27393
Curry County Tax Account R22531
Curry County Tax Account R27438
Curry County Tax Account R27448
Curry County Tax Account R27443
Curry County Tax Account R11797
Curry County Tax Account R34053
Curry County Tax Account R37813

Dawson Road Area

Curry County Tax Account R24756
Curry County Tax Account R26207

WHEREAS, upon discussion with the City of Brookings, the City is willing to accept ownership of the parcels; and

WHEREAS, transfer of the parcels to the City will allow them to return to County Tax Rolls.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the above-referenced properties shall be transferred to the City of Brookings via Quitclaim Deed.

DATED this 6th day of December, 2023.

BOARD OF CURRY COUNTY COMMISSIONERS

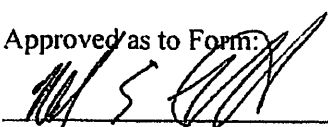


John Herzog, Chair



Brad Alcorn, Vice Chair

Approved as to Form:



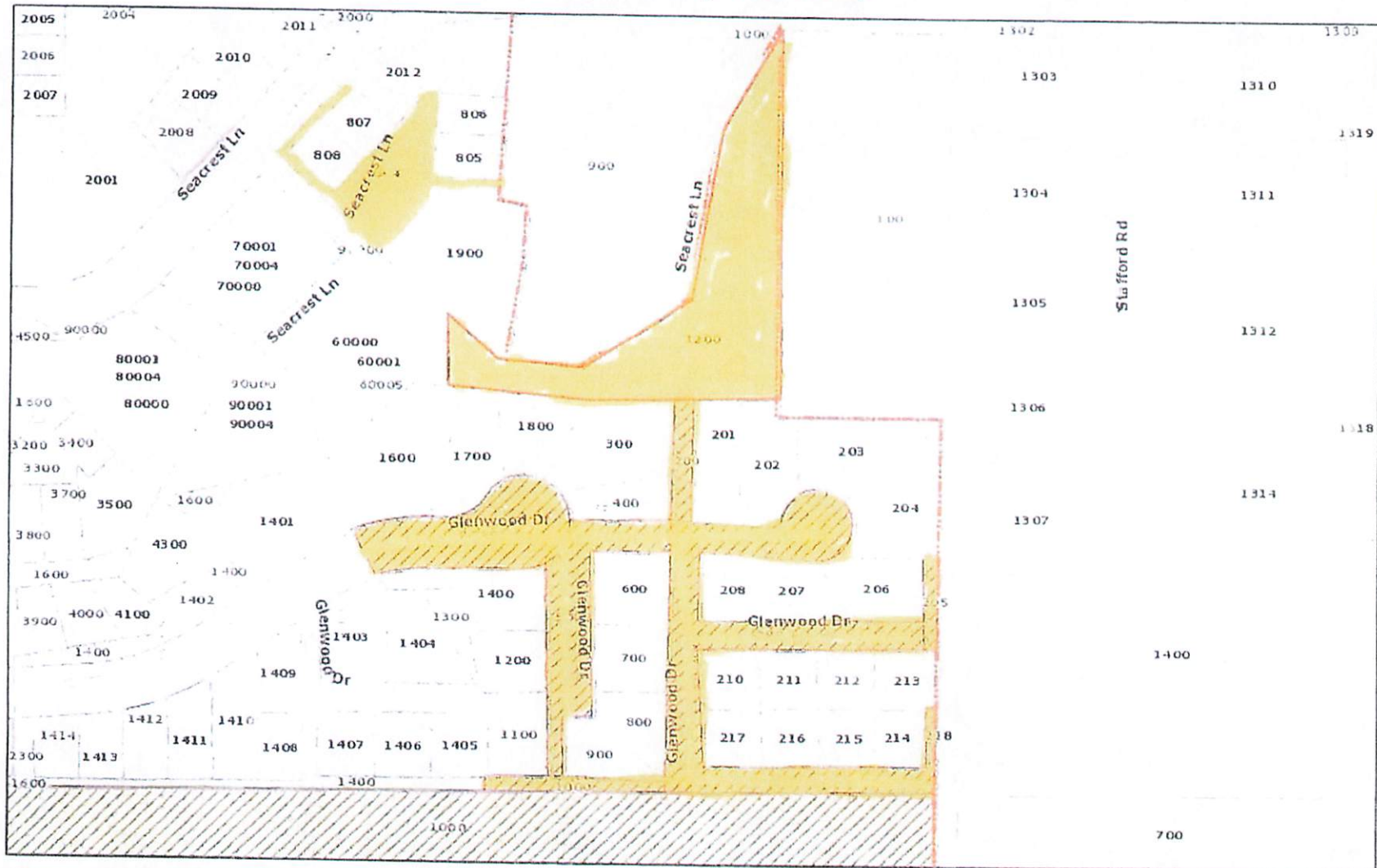
Michael E. Fitzgerald, OSB #950738
County Legal Counsel



Jay Trest, Commissioner

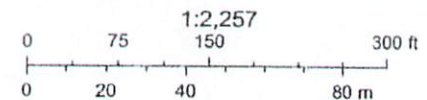
CJ2023-375 376
Curry County Clerk, Shelley Denney
Filed Date 12 19 23
Time 10:45 AM - 1P
Deputy S. Lindsey Harris

Curry County Web Map



10/12/2021, 4:37:56 PM

- | | | | |
|--------------|----------------------|---------------|-----------------------|
| Override 1 | Public Owned Parcels | Federal | Parcels |
| Highways (1) | Local Govt | Parcel Labels | Urban Growth Boundary |
| All Roads | State | City Limits | Counties |



Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, USGS, EPA, USDA

Created by LCOG for Curry County

The information on this map was derived from digital databases from the Curry County regional geographic information system by LCOG. Care was taken in the creation of this map, but is provided "as-is" Curry County and LCOG cannot accept any responsibility for

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 8, 2024

Originating Dept: Finance & Admin

Signature (submitted by)


City Manager Approval

Subject:

Appoint City Representative to the Border Coast Regional Airport Authority Board.

Recommended Motion:

Motion to adopt Resolution 24-R-1252, appointing Councilor Clayton Malmberg as the City Representative to the Border Coast Regional Airport Authority and appointing City Manager Janell Howard as alternate.

Financial Impact:

No change.

Background/Discussion:

The City is a member of the Border Coast Regional Airport Authority (BCRAA), which manages the Del Norte County Regional Airport. The City has a representative on the BCRAA Board of Directors. The previous board member was Ed Schreiber and the alternate is City Manager Janell Howard.

This resolution would appoint Councilor Clayton Malmberg as the City's primary representative and leave City Manager Janell Howard as the City's alternate representative.

BCRAA regular board meetings are currently held on the first Thursday of the month at 2:00 pm at the Del Norte County Board of Supervisors Chambers in Crescent City.

Also attached is the current Council Committee/Liaison List, updated most recently at the January 2nd Workshop, including this appointment to the BCRAA Board.

Attachment:

- a) Resolution 24-R-1252 BCRAA Representative appointment
- b) Council Committee/Liaison List

**CITY OF BROOKINGS
STATE OF OREGON**

RESOLUTION 24-R-1252

A RESOLUTION OF THE CITY OF BROOKINGS APPOINTING A BROOKINGS REPRESENTATIVE TO A FOUR-YEAR TERM ON THE BORDER COAST REGIONAL AIRPORT AUTHORITY BOARD OF COMMISSIONERS AND APPOINTING AN ALTERNATE.

WHEREAS, the City of Brookings (City), by authority of the Border Coast Regional Airport Authority (BCRAA) Joint Powers Agreement, holds a position on the BCRAA's Board of Commissioners; and

WHEREAS, the term of the City's present appointments to the BCRAA's Board of Commissioners has expired;

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Brookings, Curry County, Oregon, that Clayton Malmberg is hereby appointed to serve a four-year term ending January 8, 2023, on the Border Coast Regional Airport Authority Board of Commissioners, and that City Manager Janell Howard is hereby reappointed to serve as alternate, effective immediately.

Passed by the City Council January 8, 2024; effective the same date.

Attest:

Mayor Isaac Hodges

City Recorder Janell K. Howard

Council Committee Liaison List as of 1/2/2024

Organization	Member	Liaison	Appointee	Alternate	When	Where
Brookings/Harbor School District 17C		X	Hodges		Monthly/3rd Wed, 5:30PM	K-School library
Curry County BOC		X	Hodges		1st Wed and 2nd Thurs, 6:00PM	Courthouse Annex, GB
Curry County Recycling		X	Baron	Howard	3rd Tues, 1st month of each quarter, 10AM-12PM	Curry County Commissioners Hearing Room
Harbor Sanitary District	X		Martin	Howard	No set dates/times	City Hall or HSD Office
Household Hazardous Waste (HHW) Steering Committee	X		Baron	Howard	As Needed	Coos County (can be attended via phone)
League of Oregon Cities Voting Delegate	X			Attendee	Annual	LOC Conference
Parks and Recreation Commission		X	Ziemer	Baron	Bi-monthly/3rd Thurs, 7PM	Council Chambers
Planning Commission		X	Baron	Ziemer	Monthly/1st Tues, 7PM	Council Chambers
Port of Brookings Harbor		X	Martin		Monthly/3rd Tues, 7PM	Port Office
Sudden Oak Death Task Force	X		Baron	Ziemer	As Needed	Varies/Statewide
Border Coast Regional Airport	X		Malmberg	Howard	Monthly, 1st Thurs, 2PM	Crescent City
South West Area Commission Transportation (SWACT)	X		Howard	Baron	Bi-monthly, Fri, 10AM	Coquille (virtual)
Façade Improvement Review Committee	X		Fulton		As Needed	City Hall

Report Criteria:

Report type: Summary

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
12/23	12/07/2023	90972	5876	Advanced Reporting LLC	20-00-2005	75.00
12/23	12/07/2023	90973	4734	Aramark Uniform Services	10-00-2005	150.00
12/23	12/07/2023	90974	4939	Bi - Mart Corporation	10-00-2005	68.92
12/23	12/07/2023	90975	313	Brookings Vol Firefighters	10-00-2005	2,250.00
12/23	12/07/2023	90976	715	Budge McHugh Supply	25-00-2005	5,031.07
12/23	12/07/2023	90977	5567	CAL/OR Insurance Agency	30-00-2005	683.33
12/23	12/07/2023	90978	5070	Canon Solutions America	10-00-2005	67.68
12/23	12/07/2023	90979	588	Cardinal Services Inc	10-00-2005	988.00
12/23	12/07/2023	90980	6146	CCD Business Development Corp	52-00-2005	4,500.00
12/23	12/07/2023	90981	3015	Charter Communications	30-00-2005	749.96
12/23	12/07/2023	90982	5822	Chaves Consulting Inc	49-00-2005	370.20
12/23	12/07/2023	90983	3834	Clean Sweep Janitorial Service	10-00-2005	1,860.00
12/23	12/07/2023	90984	5827	Coastal Investments LLC	10-00-2005	960.00
12/23	12/07/2023	90985	1357	Curry County Elections	10-00-2005	20,828.67
12/23	12/07/2023	90986	1620	Curry County Community Development	10-00-2005	330.00
12/23	12/07/2023	90987	6078	Curry County Reporter	10-00-2005	90.00
12/23	12/07/2023	90988	259	Da-Tone Rock Products	20-00-2005	209.40
12/23	12/07/2023	90989	317	DCBS - Fiscal Services	10-00-2005	963.48
12/23	12/07/2023	90990	1	Lidia Raven	20-00-2005	103.80
12/23	12/07/2023	90991	1	James Sabin	20-00-2005	197.65
12/23	12/07/2023	90992	4714	Dept of Consumer & Business Services	25-00-2005	44.80
12/23	12/07/2023	90993	2640	Dyer Partnership, The	51-00-2005	33,971.52
12/23	12/07/2023	90994	5804	Early Management Team Inc	50-00-2005	2,000.00
12/23	12/07/2023	90995	2067	Enviro-Clean Equipment	25-00-2005	946.91
12/23	12/07/2023	90996	5432	First Community Credit Union	25-00-2005	4,662.00
12/23	12/07/2023	90997	6097	GP Energy	10-00-2005	2,715.29
12/23	12/07/2023	90998	6030	Hartwick Automotive LLC	10-00-2005	948.08
12/23	12/07/2023	90999	3978	KLB Enterprises	15-00-2005	1,321.45
12/23	12/07/2023	91000	328	Les Schwab Tire Center	15-00-2005	2,029.76
12/23	12/07/2023	91001	4741	M & J Glazebrook Construction	53-00-2005	14,748.88
12/23	12/07/2023	91002	4269	Gary Milliman	10-00-2005	325.00
12/23	12/07/2023	91003	4443	Napa Auto Parts-Golder's	15-00-2005	190.64
12/23	12/07/2023	91004	4487	Net Assets Corporation	10-00-2005	150.00
12/23	12/07/2023	91005	3159	NorthCoast Health Screening	25-00-2005	180.00
12/23	12/07/2023	91006	4781	OHA Cashier	20-00-2005	200.00
12/23	12/07/2023	91007	3561	Oil Can Henry's	10-00-2005	361.00
12/23	12/07/2023	91008	5008	Online Information Services	10-00-2005	120.76
12/23	12/07/2023	91009	6043	Oregon Dept of Agriculture	20-00-2005	50.00
12/23	12/07/2023	91010	252	Paramount Pest Control	10-00-2005	140.00
12/23	12/07/2023	91011	4	Maggie Heilweck	10-00-2005	258.00
12/23	12/07/2023	91012	4	Jay Sorensen	10-00-2005	258.00
12/23	12/07/2023	91013	322	Postmaster	25-00-2005	1,075.00
12/23	12/07/2023	91014	207	Quill Corporation	10-00-2005	163.88
12/23	12/07/2023	91015	570	State of Oregon	10-00-2005	40.00
12/23	12/07/2023	91016	4542	Umpqua Bank	45-00-2005	5,322.00
12/23	12/07/2023	91017	432	USA BlueBook	15-00-2005	560.39
12/23	12/07/2023	91018	2122	Cardmember Service	10-00-2005	11,322.20
12/23	12/07/2023	91019	5071	Wes' Towing	10-00-2005	87.00
12/23	12/14/2023	91020	5908	Amazon Capital Services	10-00-2005	75.72
12/23	12/14/2023	91021	6121	AutoZone Inc	10-00-2005	10.43
12/23	12/14/2023	91022	6178	Brookings Police Association	10-00-2005	120.00
12/23	12/14/2023	91023	193	Central Equipment Co, Inc	10-00-2005	197.61
12/23	12/14/2023	91024	5909	CMI Software Corp	30-00-2005	24,989.00

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
12/23	12/14/2023	91025	5939	Country Media Inc	10-00-2005	60.23
12/23	12/14/2023	91026	4714	Dept of Consumer & Business Services	10-00-2005	179.20
12/23	12/14/2023	91027	5951	Executech Utah LLC	49-00-2005	30.55
12/23	12/14/2023	91028	153	Ferrellgas	15-00-2005	488.40
12/23	12/14/2023	91029	4872	G. W., Inc.	61-00-2005	1,032.00
12/23	12/14/2023	91030	5004	Galls LLC	10-00-2005	8.28
12/23	12/14/2023	91031	139	Harbor Logging Supply	10-00-2005	20.00
12/23	12/14/2023	91032	6030	Hartwick Automotive LLC	10-00-2005	90.32
12/23	12/14/2023	91033	5754	iFocus Consulting Inc	49-00-2005	2,575.00
12/23	12/14/2023	91034	5858	Jacobs Engineering Group Inc	25-00-2005	132,129.50
12/23	12/14/2023	91035	5858	Jacobs Engineering Group Inc	53-00-2005	60,161.84
12/23	12/14/2023	91036	6065	Local Government Law Group PC	10-00-2005	11,941.00
12/23	12/14/2023	91037	6246	Denise McDonald	10-00-2005	55.00
12/23	12/14/2023	91038	6237	Miller Nash LLP	10-00-2005	22,885.90
12/23	12/14/2023	91039	4269	Gary Milliman	10-00-2005	100.00
12/23	12/14/2023	91040	5789	Moss Adams LLP	10-00-2005	7,500.00
12/23	12/14/2023	91041	3159	NorthCoast Health Screening	25-00-2005	45.00
12/23	12/14/2023	91042	6202	Oregon Water Resources Dept	20-00-2005	150.84
12/23	12/14/2023	91043	4	Donna Gladden	10-00-2005	258.00
12/23	12/14/2023	91044	5101	Pitney Bowes Reserve Acct	10-00-2005	500.00
12/23	12/14/2023	91045	3369	Schwabe Williamson & Wyatt PC	20-00-2005	1,484.00
12/23	12/14/2023	91046	6208	Summit Water Resources LLC	20-00-2005	288.75
12/23	12/14/2023	91047	797	Town & Country Animal Clinic	61-00-2005	622.25
12/23	12/14/2023	91048	861	Village Express Mail Center	10-00-2005	38.28
12/23	12/14/2023	91049	169	Waste Connections Inc	10-00-2005	1,978.32
12/23	12/14/2023	91050	5992	Ziply Fiber	30-00-2005	191.30
12/23	12/21/2023	91051	5908	Amazon Capital Services	10-00-2005	104.76
12/23	12/21/2023	91052	6247	Beynon Sports Surfaces Inc	50-00-2005	36,043.00
12/23	12/21/2023	91053	4767	Brookings Harbor Chamber of Commere	10-00-2005	389.00
12/23	12/21/2023	91054	5567	CAL/OR Insurance Agency	25-00-2005	10,116.22
12/23	12/21/2023	91055	5070	Canon Solutions America	10-00-2005	431.63
12/23	12/21/2023	91056	5842	Century West Engineering Corp	33-00-2005	1,397.00
12/23	12/21/2023	91057	173	Curry Equipment	15-00-2005	557.95
12/23	12/21/2023	91058	259	Da-Tone Rock Products	25-00-2005	41.44
12/23	12/21/2023	91059	1	Paragon Property Mgmt	20-00-2005	90.00
12/23	12/21/2023	91060	1	Christina Richendollar	20-00-2005	184.32
12/23	12/21/2023	91061	5078	Geotechnical Resources, Inc	52-00-2005	5,572.50
12/23	12/21/2023	91062	6097	GP Energy	10-00-2005	2,531.81
12/23	12/21/2023	91063	6221	Kittelson & Associates Inc	75-00-2005	3,810.00
12/23	12/21/2023	91064	1561	Pacific Coast Hearing Center	25-00-2005	125.00
12/23	12/21/2023	91065	5703	PacWest Machinery	15-00-2005	107.80
12/23	12/21/2023	91066	207	Quill Corporation	10-00-2005	304.48
12/23	12/21/2023	91067	5992	Ziply Fiber	25-00-2005	1,163.97
12/23	12/28/2023	91068	5908	Amazon Capital Services	10-00-2005	311.00
12/23	12/28/2023	91069	2364	C & S Fire-Safe Services LLC	10-00-2005	90.00
12/23	12/28/2023	91070	588	Cardinal Services Inc	10-00-2005	1,099.15
12/23	12/28/2023	91071	6031	Cascade Home Center	20-00-2005	1,029.63
12/23	12/28/2023	91072	4746	Curry County Treasurer	10-00-2005	253.25
12/23	12/28/2023	91073	5344	Dooley Enterprises, Inc	10-00-2005	1,613.44
12/23	12/28/2023	91074	2640	Dyer Partnership, The	52-00-2005	36,790.51
12/23	12/28/2023	91075	6030	Hartwick Automotive LLC	10-00-2005	75.39
12/23	12/28/2023	91076	4171	In-Motion Graphics	10-00-2005	100.00
12/23	12/28/2023	91077	6169	National Testing Network Inc	10-00-2005	500.00
12/23	12/28/2023	91078	3789	Oak Street Health Care Center	25-00-2005	150.00
12/23	12/28/2023	91079	5155	Oregon Department of Revenue	10-00-2005	1,143.75
12/23	12/28/2023	91080	252	Paramount Pest Control	10-00-2005	70.00

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GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
12/23	12/28/2023	91081	6074	Michael Pereda	10-00-2005	1,763.50
12/23	12/28/2023	91082	6074	Michael Pereda	10-00-2005	1,263.00
12/23	12/28/2023	91083	866	Pitney Bowes Global Financial , LLC	10-00-2005	165.54
12/23	12/28/2023	91084	267	SeaWestern Fire Fighting Equip	10-00-2005	72.13
12/23	12/28/2023	91085	444	Secretary of State	10-00-2005	350.00
12/23	12/28/2023	91086	444	Secretary of State	75-00-2005	250.00
12/23	12/28/2023	91087	5176	Shasta Forest Products, Inc	10-00-2005	3,198.85
12/23	12/28/2023	91088	570	State of Oregon	10-00-2005	40.00
12/23	12/28/2023	91089	2863	Verizon Wireless	10-00-2005	714.66
12/23	12/28/2023	91090	5992	Ziply Fiber	10-00-2005	212.95
Grand Totals:						<u>509,104.07</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Report Criteria:

Report type: Summary