

City of Brookings

MEETING AGENDA

CITY COUNCIL

Monday, July 22, 2024, 7:00 PM

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

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Ceremonies/Appointments/Announcements

1. Introduction of City Manager Tim Rundel
2. Yard of the Month Awards
Commercial: Fiona Bean, 505 Hemlock Street
Residential: 113 Alderwood Lane, owners Beverly & Ron Crivelli

E. Scheduled Public Appearances

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

1. Nick Rail – Partnership for Performing Arts - Crescent City

F. 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)

G. Consent Calendar

1. Approve Council minutes for July 8, 2024 [Pg. 1]
2. Receive monthly financial report for June 2024 [Pg. 3]

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

1. Ballot Measure Prohibiting Psilocybin Manufacture and Service Centers [Pg. 9]
 - a. Resolution 24-R-1266 dated July 22nd, 2024 [Pg. 11]
 - b. Exhibit A: Ballot Title, Question, and Summary [Pg. 13]
 - c. Exhibit B: Explanatory Statement [Pg. 14]
 - d. Memorandum from City Attorney dated June 11, 2024 [Pg. 15]

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, and at Brookings City Hall. Return completed Public Comment forms to the City Recorder before the 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. You can view City Council meetings LIVE on television on Charter PEG Channel 181, or stream on the City's YouTube Channel <https://www.youtube.com/@cityofbrookingsoregon8039>.

City of Brookings
CITY COUNCIL MEETING MINUTES
City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, July 8, 2024

Call to Order

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

Roll Call

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

Council Absent: Councilor Kristi Fulton

Staff present: Police Chief/Interim City Manager Kelby McCrae, Public Works and Development Services Director Tony Baron, and Deputy City Recorder Brooklyn Osterhage

Media Present: 1

Others Present: approximately 10 audience members

Oral Requests and Communications from the Audience

1. Cheryl Kelmar, 914 Marina Heights – spoke about an outdoor light statute
2. Amanda Whittemore, 1033 Chetco Avenue – updated Council on the Wild Rivers Film Festival and thanked the City for putting up their lamp pole banners

Consent Calendar

1. Approve Council minutes for June 24, 2024
2. Accept Planning Commission minutes for May 7, 2024

Councilor Malmberg moved, Mayor Hodges seconded, and Council voted unanimously, with Councilor Martin abstaining, to approve the Consent Calendar.

Staff Reports

1. Appeal Fee Refund Request – Continuance

Reminder of Staff Report provided by Mayor Hodges

Comments from the Audience

Bruce Nishioka, 509 Hemlock Street – requested a continuance on his request for a refund of appeal fees as he had not received documents from a recent public records request.

Mayor Hodges and Councilors Pereda and Malmberg agreed that this is not the correct time to discuss the fee schedule and stated applicant knew the cost to appeal when he filed it.

Mayor Hodges moved, Councilor Malmberg seconded, and Council voted, with Councilor Martin voting against, to deny Bruce Nishioka's refund request of appeal fees.

Councilor Martin stated he voted against the motion as he wanted to see the results of the Public Records Request and have the City Attorney review matter further.

2. 2024-25 Miscellaneous Fence Projects

Staff Report provided by Tony Baron

Council discussed desire to have the fences look appealing. Councilor Malmberg suggested utilizing Change Orders in order to ensure an appealing look to the fences.

Councilor Martin moved, Councilor Malmberg seconded, and Council voted unanimously to authorize the City Manager to enter into an agreement with Mountain View Fence in the amount of \$143,370 for miscellaneous fence projects and for staff to update the Council with a possible Change Order for the black powder coating fence for City Hall or other aesthetic options that could be brought forward.

Informational Non-Action Items

Interim City Manager, Chief McCrae provided update on new City Manager, Tim Rundel, stating his start date and first City Council meeting will be July 22, 2024.

Remarks from Mayor and Councilors

Councilor Malmberg recognized the LoveYour4th group and appreciated City Staff partnering with them.

Councilor Martin thanked Brookings Police and Fire Departments, the Port, volunteers and City Staff for putting on a great Independence Day event and for keeping the community safe. He advised about a DEQ investigation into a complaint regarding boat use of a public accessed gravel river bar. He stated that he thinks the river bar should remain a public river access point for the community and is opposed to changes or restrictions to that access.

Mayor Hodges congratulated the younger community members of the baseball and softball teams going to state tournaments. He recently attended the National Archery Competition recently where two of the four members of the Oregon 4H team were from Curry County. He is looking forward to welcoming the new City Manager.

Adjournment

Mayor Isaac Hodges adjourned the meeting at 7:41 PM.

Respectfully submitted:

ATTESTED:

this 22nd day of July, 2024:

Isaac Hodges, Mayor

Brooklyn Osterhage, Deputy City Recorder

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	4,026,050.00	166,699.32	4,449,845.85	(423,795.85)	110.5
LICENSES AND PERMITS	297,000.00	14,581.28	301,671.70	(4,671.70)	101.6
INTERGOVERNMENTAL	294,500.00	10,811.85	184,023.29	110,476.71	62.5
CHARGES FOR SERVICES	1,109,500.00	45,738.23	403,604.82	705,895.18	36.4
OTHER REVENUE	140,500.00	6,230.64	363,113.71	(222,613.71)	258.4
TRANSFERS IN	686,105.00	.00	.00	686,105.00	.0
	<u>6,553,655.00</u>	<u>244,061.32</u>	<u>5,702,259.37</u>	<u>851,395.63</u>	<u>87.0</u>
<u>EXPENDITURES</u>					
JUDICIAL:					
PERSONAL SERVICES	38,235.00	3,436.48	41,299.11	(3,064.11)	108.0
MATERIAL AND SERVICES	12,850.00	325.00	4,846.30	8,003.70	37.7
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>51,085.00</u>	<u>3,761.48</u>	<u>46,145.41</u>	<u>4,939.59</u>	<u>90.3</u>
FINANCE AND ADMINISTRATION:					
PERSONAL SERVICES	423,568.00	25,153.83	481,496.78	(57,928.78)	113.7
MATERIAL AND SERVICES	228,800.00	19,688.87	298,022.71	(69,222.71)	130.3
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	<u>652,368.00</u>	<u>44,842.70</u>	<u>779,519.49</u>	<u>(127,151.49)</u>	<u>119.5</u>
POLICE:					
PERSONAL SERVICES	3,314,004.00	278,708.01	3,213,347.36	100,656.64	97.0
MATERIAL AND SERVICES	231,000.00	15,770.37	217,663.84	13,336.16	94.2
CAPITAL OUTLAY	.00	.00	417,006.51	(417,006.51)	.0
DEBT SERVICE	109,426.00	.00	14,306.95	95,119.05	13.1
TRANSFERS OUT	.00	.00	.00	.00	.0
	<u>3,654,430.00</u>	<u>294,478.38</u>	<u>3,862,324.66</u>	<u>(207,894.66)</u>	<u>105.7</u>
FIRE:					
PERSONAL SERVICES	249,661.00	19,894.05	247,986.99	1,674.01	99.3
MATERIAL AND SERVICES	107,500.00	16,097.63	110,583.29	(3,083.29)	102.9
CAPITAL OUTLAY	.00	.00	.00	.00	.0
DEBT SERVICE	30,580.00	.00	30,579.01	.99	100.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	<u>387,741.00</u>	<u>35,991.68</u>	<u>389,149.29</u>	<u>(1,408.29)</u>	<u>100.4</u>

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

GENERAL FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
PLANNING AND BUILDING:					
PERSONAL SERVICES	240,456.00	16,060.77	192,705.01	47,750.99	80.1
MATERIAL AND SERVICES	93,700.00	3,330.38	41,268.47	52,431.53	44.0
CAPITAL OUTLAY	.00	.00	.00	.00	.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	334,156.00	19,391.15	233,973.48	100,182.52	70.0
PARKS & RECREATION:					
PERSONAL SERVICES	287,161.00	18,649.22	261,339.53	25,821.47	91.0
MATERIAL AND SERVICES	137,900.00	13,941.29	105,738.73	32,161.27	76.7
CAPITAL OUTLAY	.00	.00	.00	.00	.0
DEBT SERVICE	9,981.00	.00	9,980.00	1.00	100.0
TRANSFERS OUT	.00	.00	.00	.00	.0
	435,042.00	32,590.51	377,058.26	57,983.74	86.7
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	13.65	87,811.86	(21,111.86)	131.7
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	168,822.00	13.65	153,162.16	15,659.84	90.7
NON-DEPARTMENTAL:					
MATERIAL AND SERVICES	175,600.00	8,794.05	117,758.15	57,841.85	67.1
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	8,794.05	117,758.15	1,462,252.85	7.5
	8,163,655.00	439,863.60	5,959,090.90	2,204,564.10	73.0
	(1,610,000.00)	(195,802.28)	(256,831.53)	(1,353,168.47)	(16.0)

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

STREET FUND

	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
INTERGOVERNMENTAL	500,000.00	49,494.28	501,593.46	(1,593.46)	100.3
OTHER REVENUE	22,000.00	.00	33,081.37	(11,081.37)	150.4
TRANSFER IN	100,000.00	.00	.00	100,000.00	.0
	622,000.00	49,494.28	534,674.83	87,325.17	86.0

EXPENDITURES

EXPENDITURES:

PERSONAL SERVICES	244,962.00	17,264.06	249,732.88	(4,770.88)	102.0
MATERIAL AND SERVICES	319,700.00	13,725.20	228,159.68	91,540.32	71.4
CAPITAL OUTLAY	15,000.00	.00	.00	15,000.00	.0
DEBT SERVICE	4,409.00	367.40	4,408.70	.30	100.0
TRANSFERS OUT	234,087.00	.00	.00	234,087.00	.0
CONTINGENCIES AND RESERVES	118,842.00	.00	.00	118,842.00	.0
	937,000.00	31,356.66	482,301.26	454,698.74	51.5
	937,000.00	31,356.66	482,301.26	454,698.74	51.5
	(315,000.00)	18,137.62	52,373.57	(367,373.57)	16.6

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

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	(159.44)	1,807,511.25	231,488.75	88.7
OTHER INCOME	48,000.00	.00	103,705.38	(55,705.38)	216.1
TRANSFERS IN	.00	.00	.00	.00	.0
	2,087,000.00	(159.44)	1,911,216.63	175,783.37	91.6
<u>EXPENDITURES</u>					
WATER DISTRIBUTION:					
PERSONAL SERVICES	432,204.00	30,875.35	420,764.77	11,439.23	97.4
MATERIAL AND SERVICES	183,800.00	11,956.81	204,519.37	(20,719.37)	111.3
CAPITAL OUTLAY	50,000.00	14,616.40	30,993.45	19,006.55	62.0
DEBT SERVICE	28,154.00	2,147.39	28,153.20	.80	100.0
TRANSFERS OUT	24,000.00	.00	.00	24,000.00	.0
	718,158.00	59,595.95	684,430.79	33,727.21	95.3
WATER TREATMENT:					
PERSONAL SERVICES	30,042.00	1,571.02	35,215.18	(5,173.18)	117.2
MATERIAL AND SERVICES	574,515.00	45,021.95	535,652.31	38,862.69	93.2
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
	1,533,842.00	46,592.97	573,251.98	960,590.02	37.4
DEPARTMENT 24:					
CAPITAL OUTLAY	.00	.00	.00	.00	.0
	.00	.00	.00	.00	.0
	2,252,000.00	106,188.92	1,257,682.77	994,317.23	55.9
	(165,000.00)	(106,348.36)	653,533.86	(818,533.86)	396.1

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

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	450.00	3,182,619.16	383,680.84	89.2
OTHER REVENUE	15,000.00	670.92	89,950.87	(74,950.87)	599.7
TRANSFER IN	.00	.00	.00	.00	.0
	3,576,800.00	1,120.92	3,272,570.03	304,229.97	91.5

EXPENDITURES

WASTEWATER COLLECTION:

PERSONAL SERVICES	675,298.00	50,052.97	624,463.52	50,834.48	92.5
MATERIAL AND SERVICES	290,500.00	2,328.02	123,024.04	167,475.96	42.4
CAPITAL OUTLAY	15,000.00	1,401.00	5,103.88	9,896.12	34.0
DEBT SERVICE	28,154.00	2,147.21	28,151.08	2.92	100.0
TRANSFERS OUT	226,533.00	.00	.00	226,533.00	.0
	1,235,485.00	55,929.20	780,742.52	454,742.48	63.2

WASTEWATER TREATMENT:

PERSONAL SERVICES	45,461.00	2,356.65	52,823.25	(7,362.25)	116.2
MATERIAL AND SERVICES	1,219,029.00	87,342.27	1,025,971.16	193,057.84	84.2
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	89,698.92	1,081,178.90	1,694,636.10	39.0
	4,011,300.00	145,628.12	1,861,921.42	2,149,378.58	46.4
	(434,500.00)	(144,507.20)	1,410,648.61	(1,845,148.61)	324.7

CITY OF BROOKINGS
FUND SUMMARY
FOR THE 12 MONTHS ENDING JUNE 30, 2024

URBAN RENEWAL AGENCY FUND

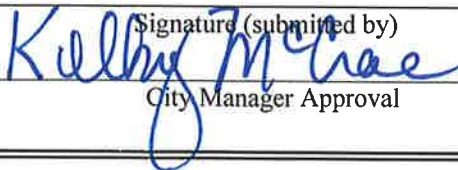
	BUDGET	PERIOD ACTUAL	YTD ACTUAL	REMAINING BUDGET	PCNT
<u>REVENUE</u>					
TAXES	724,170.00	17,879.44	774,885.45	(50,715.45)	107.0
INTERGOVERNMENTAL	.00	.00	.00	.00	.0
OTHER REVENUE	2,000.00	.00	61,198.02	(59,198.02)	3059.9
TRANSFERS IN	.00	.00	.00	.00	.0
	<u>726,170.00</u>	<u>17,879.44</u>	<u>836,083.47</u>	<u>(109,913.47)</u>	<u>115.1</u>
<u>EXPENDITURES</u>					
GENERAL:					
PERSONAL SERVICES	.00	.00	.00	.00	.0
MATERIAL AND SERVICES	185,256.00	1,947.50	35,832.41	149,423.59	19.3
CAPITAL OUTLAY	1,460,914.00	41,453.47	338,229.02	1,122,684.98	23.2
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>43,400.97</u>	<u>374,061.43</u>	<u>1,272,108.57</u>	<u>22.7</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>43,400.97</u>	<u>374,061.43</u>	<u>1,272,108.57</u>	<u>22.7</u>
	<u>(920,000.00)</u>	<u>(25,521.53)</u>	<u>462,022.04</u>	<u>(1,382,022.04)</u>	<u>50.2</u>

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: July 22, 2024

Originating Dept: City Manager

Signature (submitted by)

City Manager Approval

Subject:

Ballot Measure Prohibiting Psilocybin Manufacture and Service Centers

Recommended Motion:

Motion to adopt Resolution 24-R-1266 placing a measure on the November 5, 2024 election ballot prohibiting psilocybin manufacture and service centers in the City of Brookings.

Background/Discussion:

Measure 109 was approved by Oregon voters in 2020 and allows for the use, delivery, and manufacture of psilocybin through Oregon Health Authority licensed psilocybin product manufacturers and service center operators. Psilocybin is a psychedelic drug, sometimes referred to as “magic mushrooms”, and remains prohibited under federal law.

This measure preempts the ability of the City Council, acting on its own, to prohibit the manufacture or sale of psilocybin, but does allow the City Council to regulate time, place, and manner regulations through land use. Measure 109 also authorizes the voters within a City to prohibit the manufacture and use, either temporarily (two years) or permanently.

The City Council has three options for addressing this matter (see attached memorandum from city attorney):

1. Adopt an ordinance that:
 - a. Puts a measure before voters that, if approved, would permanently prohibit the manufacture, use and/or both the manufacture and use; or,
 - b. Puts a measure before voters that, if approved, would prohibit the manufacture, use and/or both the manufacture and use (i.e. service centers) for two years.
2. Adopt an ordinance putting a measure before voters that, if approved, would regulate the time, place and manner of manufacture and/or use. Under this option the manufacture and/or use would be allowed subject to the City’s building, zoning and development codes, plus time (i.e. hours of operation), place (i.e. specific zones or distances from other uses, or the same use) and manner (i.e. only at a facility licensed by the State of Oregon).
3. Do nothing. Psilocybin facilities would be permitted where allowed according to current City zoning and codes.

These alternatives were discussed at the City Council workshop on June 17, 2024, and Councilors indicated that they would consider placing a Measure on the ballot at the July 22, 2024, City Council meeting to prohibit psilocybin manufacture and service centers. There is no cost to the City for placing a Measure on the November ballot.

Attachment(s):

- a. Resolution 24-R-1266 dated July 22, 2024
- b. Exhibit A: Ballot Title, Question, and Summary
- c. Exhibit B: Explanatory Statement
- d. Memorandum from City Attorney dated June 11, 2024

**CITY OF BROOKINGS
STATE OF OREGON**

RESOLUTION 24-R-1266

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF BROOKINGS THE QUESTION OF BANNING PSILOCYBIN MANUFACTURING AND SERVICE CENTERS WITHIN THE CITY OF BROOKINGS.

WHEREAS, In November 2020, Oregon voters approved Measure 109, which directed the Oregon Health Authority to license and regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services; and

WHEREAS, Section 128 allows the City of Brookings the option to prohibit the establishment of psilocybin manufacturers and/or psilocybin service centers licensed under Measure 109 from operating in the area subject to the jurisdiction of the City; and

WHEREAS, The City finds it would be in the public interest to refer the question of banning psilocybin manufacturers and service centers within City limits to the electors.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Brookings, Curry County, Oregon, as follows:

- 1. MEASURE:** A measure election is hereby called for the purpose of submitting to the electors of the City of Brookings a measure prohibiting the sale and establishment of certain psilocybin activities in the area subject to the jurisdiction of the City, a copy of which is attached hereto as "Exhibit A", and incorporated herein by reference.
- 2. ELECTION CONDUCTED BY MAIL:** The measure election shall be held in the City of Brookings on November 5, 2024. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Curry County, according to the procedures adopted by the Oregon Secretary of State.
- 3. DELEGATION:** The City of Brookings authorizes the City Recorder or their designee, to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.
- 4. BALLOT TITLE:** The ballot title for the measure set forth as "Exhibit A" to this resolution is hereby adopted.

- 5. NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL:** Upon receiving the ballot title for this measure, the City Elections Officer shall publish in the next available edition of a newspaper of general circulation in the City a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.
- 6. FILING WITH COUNTY ELECTIONS OFFICE:** The City Elections Officer shall deliver the Notice of Measure Election to the Curry County Elections Office and the ballot title for inclusion on the primary election ballot to be held on Tuesday, November 5, 2024.
- 7. EXPLANATORY STATEMENT:** The explanatory statement for the measure, which is attached hereto as "Exhibit B", and incorporated herein by reference, is hereby approved.
- 8. EFFECTIVE DATE OF THIS RESOLUTION:** This Resolution shall become effective immediately upon its adoption.

BE IT FURTHER RESOLVED that

Passed by the City Council _____, 2024.

Attest:

Mayor Isaac Hodges

Deputy City Recorder Brooklyn Osterhage

EXHIBIT A

BALLOT TITLE:

PROHIBITS PSILOCYBIN PRODUCT MANUFACTURING AND SERVICE CENTERS IN BROOKINGS

QUESTION:

SHALL CITY OF BROOKINGS PROHIBIT PSILOCYBIN PRODUCT MANUFACTURERS AND PSILOCYBIN SERVICE CENTER OPERATORS FROM DOING BUSINESS WITHIN CITY LIMITS?

SUMMARY:

State law allows the establishment of licensed psilocybin product manufacturers and service center operators. State law provides that a city council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of these licensed activities within city limits. Approval of this measure would prohibit the establishment and operation of psilocybin product manufacturers that hold a license issued under ORS 475A.290 and psilocybin service center operators that hold a license issued under ORS 475A.305 within the area subject to the jurisdiction of the City of Brookings.

EXHIBIT B

EXPLANATORY STATEMENT

Approval of this measure would prohibit the establishment and operation of certain psilocybin product manufacturers and service center operators licensed by the Oregon Health Authority. Psilocybin mushrooms are wild or cultivated mushrooms that contain psilocybin, a naturally occurring psychoactive and hallucinogenic compound.

Measure 109, approved by Oregon voters in November 2020, provides that the Oregon Health Authority shall license and regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services.

Under Measure 109, cities and counties may place referendums on local ballots to prohibit psilocybin-product manufacturers and/ or psilocybin service centers within their jurisdictions. The City Council of Brookings has adopted a resolution referring this measure to ban such uses in Brookings city limits to the voters.

If approved, this measure would prohibit licensed psilocybin product manufacturers and service center operators from operating within the City.

The authority to impose a tax or fee on the manufacturing or sale of psilocybin products, or the provision of psilocybin services in Oregon is vested solely in the Legislative Assembly. Additionally, Measure 109 prohibits a city from adopting or enacting an ordinance imposing a tax or fee on psilocybin manufacturing or the provision of psilocybin services. Consequently, approval of this measure should not have any revenue impacts on the City.

Memo

To: Brookings City Council
From: Lori Cooper, Attorney
Date: June 11, 2024
Re: Measure 109 and Local Options

In November of 2022, after approval by City voters, the City of Brookings adopted a temporary prohibition on psilocybin related businesses to allow time for the City to adopt time, place, and manner regulations and to review the City's development code.

The current ban on psilocybin labs and facilities is set to sunset in December of 2024. If the City wishes to move forward with a permanent ban or extend the temporary ban for two more years instead of adopting time, place, and manner regulations, it must refer the question to the voters in the November 2024 general election. The following deadlines apply to the November election:

August 16, 2024 - Last day for City to file referral text or prepared ballot title in order to complete challenge period by deadline to file notice of measure election.

September 5, 2024 - Last day for City to file the notice of measure election and any required explanatory statement.

September 9, 2024 - Last day for measure arguments to be filed for inclusion in voters' pamphlet.

Options

The purpose of this memorandum is to provide the City of Brookings with possible options related to the prohibition, allowance, and regulation of psilocybin after passage of Measure 109 (2020) - now codified in ORS Chapter 475A.

Measure 109, passed by Oregon voters in 2020, allows the manufacture and use of psilocybin (a naturally occurring psychedelic compound produced by fungi) within the state. Oregon is the first state in the United States to allow the use and manufacture of psilocybin. The measure was drafted by the same authors of the cannabis bills, so you'll notice some similarities. Measure 109 effectively permits the use and manufacture of psilocybin in all cities and counties in

Oregon. The following options are presented for Council's consideration and not listed in any specific or preferred order.

OPTION 1: As authorized by ORS 475A.718, the City Council could consider adopting an ordinance to be referred to the voters that would prohibit or allow any one or more of the following:

- o Licensed psilocybin product manufacturers
- o Licensed psilocybin service center operators
- o Any combination of the two

As mentioned above, Measure 109 allows psilocybin in all Oregon cities and counties. To opt out completely or partially (for instance, a city may choose to allow manufacturing but prohibit service centers), the City will need to refer an ordinance to the voters at the next general election. To do so, the Council would need to pass a resolution directing the issue to be put on the ballot. The resolution would contain the ballot measure and would also include as Exhibit A the ordinance that would become effective after the election if supported by the majority of voters. As things stand now, the option to opt out is available at every general election. In other words, if Council decides to do nothing this time and later psilocybin becomes an issue, then Council could refer an ordinance to the voters at the next approaching general election.

OPTION 2: As authorized by ORS 475A.530, adopt time, place, and manner regulations.

If Council does not want to completely prohibit the use, then Council may want to consider adopting time, place, and manner regulations of the use. These regulations do not need to go to the voters and are very similar to the time, place, and manner regulations for cannabis. Under this option, psilocybin would be allowed subject to the City's existing zoning, building, and development codes plus time, place, and manner regulations.

As a slight alternative, Council could decide to allow one of the uses (centers or manufacture) and put that ordinance before the voters and also adopt time, place, and manner regulations for the psilocybin use the City (and voters) choose to allow.

OPTION 3: Take no action.

The City is not required to do anything if it chooses not to. Under this option, the temporary ban enacted by the voters in 2002 would expire, and psilocybin facilities would be allowed and located wherever the use is compatible with the zoning district and other applicable code that is already in place.

This third option is the "wait and see approach." Even if Council chooses to do nothing, it might be a good idea to review the City's existing zoning districts to determine where these uses might be permitted. To do this, you probably need to know what is envisioned for "psilocybin product manufacturers" and "psilocybin service centers." The relevant definitions in statute (ORS 475A.220) are as follows:

"Manufacture" means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion or processing of a psilocybin product, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of

extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.

"Psilocybin products" means:

- (A) Psilocybin-producing fungi; and
- (B) Mixtures or substances containing a detectable amount of psilocybin.

"Psilocybin products" does not include psilocybin services.

"Psilocybin service center" means an establishment:

- (a) At which administration sessions are held; and
- (b) At which other psilocybin services may be provided.

"Psilocybin services" means services provided to a client before, during, and after the client's consumption of a psilocybin product, including:

- (a) A preparation session;
- (b) An administration session; and
- (c) An integration session.

"Integration session" means a meeting between a client and a psilocybin service facilitator that may occur after the client completes an administration session.

"Administration session" means a session held at a psilocybin service center at which a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.

"Preparation session" means a meeting between a client and a psilocybin service facilitator that must occur before the client participates in an administration session.

After Measure 109 passed in 2020, the Oregon Psilocybin Advisory Board was formed and tasked with developing recommendations to the Oregon Health Authority for program development. Some administrative rules have been adopted, and the rulemaking process is ongoing. Here is the state website for the program development:

<https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Pages/Oregon-Psilocybin-Services.aspx>

Additional Notes

ORS 475A.527 provides that local governments are prohibited from requiring a license for the manufacturing or sale of psilocybin products, or for the provision of psilocybin services.

ORS 475A.534 provides that local governments are prohibited from adopting or enacting an ordinance imposing a fee or tax on the manufacturing, sale, or provision of psilocybin services.

Like cannabis, OHA will require a land use compatibility statement from local jurisdictions (ORS 475A.270).

Please let me know if I can help answer any additional questions or help draft documents based on Council's decision regarding next steps.