

The City of North Plains

Agenda

**City Council - Regular Session Meeting
Monday, September 21, 2015 @ 7:00 PM
North Plains Senior Center
31450 NW Commercial Street**

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CONSENT AGENDA:
(The items on the Consent Agenda are normally considered in a single motion. Any item may be removed for separate consideration upon request by any member of the Council.)
 - A. Approval of regular session agenda
 - B. Approval of minutes of 09/08/2015 Council meeting 4 - 8
[090815 City Council Minutes](#)
5. PUBLIC COMMENT:
(Persons wishing to speak on matters not on the agenda may be recognized at this time. Speakers must complete a "Public Comment Registration form" on the information table and return it to the City Recorder. You are not required to give your address when speaking to the City Council, only your name. Presentations are limited to five minutes.)
6. PRESENTATION
7. STAFF REPORTS
Staff report will be provided by the Chief of Police. The Library Director normally presents her report at the first Council meeting of the month. However, due to scheduling conflict on October 5, Brodie will be presenting her monthly report on September 21, 2015.
 - A. [Library Director Report to City Council 2015 09-21 and 10-05](#) 9 - 11
8. PUBLIC HEARING:
 - A. None Scheduled
9. NEW BUSINESS:
 - A. Approve Resolution No.1904 and Resolution No. 1905 showing Council support for the renewal of Washington County Levies. Rob Drake will be present to answer any questions. 12 - 13
[Resolution No. 1904 Support of Council for WCCLS Levy](#)
[Resolution No. 1905 Support of Council for Public Safety Levy](#)
 - B. Discussion, review with Ricky Freeman and approval of Resolution No. 1906 14 - 19

approval of street closure for fund raising event for Emily Fuggetta

[Memo Resolution No. 1906 Street Closure Request](#)

[Resolution No. 1906 Street Closure and waiver of fees fundraising event.](#)

[Resolution No.1906 Application for Street Closure](#)

- C. Friends of the North Plains Public Library On-Line Sales-possible relocation to 31311 NW Commercial Street 20 - 24
[PROPOSAL FOR RELOCATION OF ONLINE BOOK SALES](#)
[Draft Agreement of ONLINE Book Sale Operation](#)
[Friends Bookstore Layout 8.5 x 11](#)
- D. Approve Resolution No. 1907 Authorizing the Mayor to enter into an Intergovernmental Agreement (IGA) between Washington County and the City of North Plains for design and construction of a trail adjacent to Glencoe Road and Highway 26, and to transfer jurisdiction of NW 307th Avenue to the City. 25 - 36
[IGA Memo Resolution No 1907 IGA WaCo Trails](#)
[IGA Resolution Number 1907 IGA WaCo and CNP North Plains Trail 307th Transfer](#)
[IGA North Plains Trail with WaCo 18aug15](#)
[IGA North Plains Trail Exhibit A page 1 of 2 307th Model Diagram](#)
[IGA North Plains Trail Exhibit A page 2 of 2 307th Model Diagram](#)
- E. Review of Street Fund-fund balance 37 - 39
[Memo Street Fund](#)
[Street Fund - fund balance review](#)
- F. Review FY 2014-15 Unaudited Budget to Actual Financial Report 40 - 59
[Memo FY2014-15 Unaudited Budget to Actual Financial Report](#)
[FY2014-15 Unaudited Budget to Actual Financial Report](#)
- G. FY 2015-16 Budget Update as of September 11, 2015 60 - 79
[Memo FY2015-16 Budget Update as of Sept 11, 2015](#)
[FY2015-16 Budget Update as of Sept 11, 2015](#)
- H. Review letter from City Auditor, Dennis Conner, CPA explaining responsibilities under Generally Accepted Auditing Standards 80 - 82
[Memo Auditor Letter](#)
[Auditor Letter](#)
- I. Review and discuss options for Marijuana facilities: Chris Crean, Beery, Elsner and Hammond, will be in attendance for discussion. 83 - 119
[Marijuana Dispensaries Memo](#)
[Marijuana Dispensaries LOC Local Government Regulation of Marijuana - August 2015 \(00484321xB8084\)](#)
10. UNFINISHED BUSINESS:
- A. None Scheduled
11. ORDINANCES:
- A. First Reading
None Scheduled
- B. Second Reading

None Scheduled

12. CITY MANAGER REPORT

13. COUNCIL REPORTS

A. Council reports will be provided by the Mayor and City Councilors on meetings attended and other items

B. Review October 2015 Council Calendar

120

[Calendar October 2015](#)

14. ADVICE/INFORMATION ITEMS:

A. North Plains Chili Cook-Off, Thursday, October 15 at 6:30 p.m. at Jessie Mays Community Hall.

15. ADJOURNMENT:

North Plains City Council meetings are accessible for disabled individuals. The City will also endeavor to provide services for persons with impaired hearing or vision and other services, if requested, at least 48 hours prior to the meeting. To obtain services, please call City Hall at [\(503\) 647-5555](tel:5036475555)

The following City Council Meetings are scheduled to be held at the North Plains Senior Center, 31450 NW Commercial Street, North Plains, Oregon.

The meetings will be held on the following dates at 7:00 p.m.:

Monday, October 5, 2015

Monday, October 19, 2015

Monday, November 2, 2015

**CITY OF NORTH PLAINS, CITY COUNCIL MEETING
MINUTES REGULAR SESSION**

North Plains Senior Center
31450 NW Commercial Street
Tuesday, September 08, 2015

1. **CALL TO ORDER:** Mayor Hatcher called the Regular Session of the City Council to order at 7:00 p.m.

2. **PLEDGE OF ALLEGIANCE:** Hatcher led the Council in the flag salute.

3. **ROLL CALL:** Mayor David Hatcher; Council President Teri Lenahan; Councilors: Sandi King, Charlynn Newton, Sherrie Simmons and Scott Whitehead. Robert Kindel, Jr. (arrived at 8:25 p.m.)

Staff present: Police Chief Bill Snyder; Library Director Debra Brodie, Public Works Director/Interim City Manager Blake Boyles; City Recorder Margaret Reh

4. **CONSENT AGENDA:**
 - A. Approval of 09/08/2015 regular session agenda
 - B. Approval of minutes of 08/03/2015 City Council meeting

Motion by Whitehead. Second by Lenahan to approve the Consent Agenda. Motion was approved unanimously.

5. **PUBLIC COMMENT:**

Carolyn Leavitt, 18407 NW Keller Road, addressed the Council regarding the Friends of the North Plains Public Library on-line book sales fundraising program. The Friends have been using the former library in the annex at Jessie Mays Community Hall for their on-line book sales. They have outgrown this area and are looking to relocate. The pending remodel of the Jessie Mays Community Hall is another reason they are looking for a new location. Leavitt, the President of the Friends of the North Plains Public Library, and the rest of the Friends group are inquiring regarding the possible relocation of the on-line sales operation to the yellow house the City owns at 31311 NW Commercial Street. Leavitt had discussed this possibility with City Manager Blake Boyles and would like to pursue this further. Council stated this would need to be addressed as an agenda item at the September 21 Council meeting. Council is not able to make decisions during the public comment period.

Ricky Freeman, 13203 NW Old Pumpkin Ridge Road, addressed the Council requesting a street closure for a fund raising event for North Plains' area resident, Emily Fuggetta. Emily was in a car/horse accident in which her horse was fatally injured and Emily's leg was amputated. Council informed Freeman that this would need to be an agenda item at the September 21 Council meeting as the Council is not able to make decision on this matter during the public comment period.

6. PRESENTATION

A. Recognition of Police Officer of the Year—Todd Duncan

Chief Snyder recognized Reserve Police Officer Todd Duncan as the 2015 North Plains Officer of the Year. Snyder informed the Council of the years of service Duncan had offered both to the Sheriff's department and in the military before becoming a reserve officer here in North Plains. Duncan will fill in to serve the community of North Plains wherever he is needed.

B. Swearing in of Officer Felicia M. Stevens

Chief Snyder introduced Reserve Police Officer Felicia Stevens to the City Council and then proceeded to swear her into service.

C. Proclamation for Muscular Dystrophy Association (MDA) and the "Fill the Boot" fundraiser by Washington County Fire District 2.

Trevor Herb, representative of Washington County Fire District 2 (WCFD2) at 31370 NW Commercial Street, and Wally David, representative from the Muscular Dystrophy Association, addressed the Council regarding the "Fill the Boot" fundraiser that will take place on Saturday, September 12, 2015.

Fire personnel will be stationed at the four way stop on the corner of Glencoe and Commercial Street in North Plains with their boots to raise money for the Muscular Dystrophy Association. This takes place the same weekend as the Warrior Dash at Horning's Hideout. Herb thanked the City for the support in this fundraiser. Public Works donates signs for the WCFD2 to use.

Motion by Lenahan. Second by Simmons to proclaim Saturday, September 12, 2015 as the MDA Fill-the-Boot day. Motion was unanimously approved.

7. STAFF REPORTS:

Chief of Police. Chief Bill Snyder reported on the Hood-to-Coast run. They raised \$10,000 for cancer research. Snyder stated the run went well.

Councilor Simmons inquired about the academy that Officer Shafer will be attending. Discussion ensued.

Library Director. Debra Brodie reported that the library is continuing to work on the strategic planning. Councilor Simmons is the Council representative on the committee.

Brodie reported on the Summer Reading Program. She stated they had a 57% completion rate for the children's program this year and the adult participation doubled this year.

Representative from the library attended the Back-to-School night at the North Plains Elementary School and may be attending the Curriculum Night to help get the word out about the programs the library has to offer for the students.

An art reception for photographer Sarah Stanze will be held on Saturday, October 3 beginning at 6:30 p.m.at the library. The Council is invited to attend.

8. PUBLIC HEARING:
None Scheduled

9. NEW BUSINESS:

A. Discussion of City Councilor / City Manager / Employee communication

Heather Martin, Beery, Elsner and Hammond addressed the issue of communication between the city councilors and city employees. Martin provide a handout for the Council which included Section 34 of the North Plains Charter Provisions outlining the office of the City Manager being the administrative head of the city government and is responsible for the proper administration of all city business. Also included was an excerpt from Chapter 1.10 of the North Plains Municipal Code Provisions which outlines the powers and duties of the City Administrator. Chapter 1.05 of the Procedural Rules for the City Council of North Plains states that the Councilors shall not direct the activities or workloads of city staff members. Individual requests from a Councilor for staff assistance shall be presented to the City Manager orally or in writing for approval.

B. Discussion of nuisance abatement costs and approval of proceeding with abatement of property at 10945 318th Avenue

Chief Snyder presented the staff report to Council. Council reviewed and discussed the costs associated with proceeding with an abatement issue on the property located at 10945 NW 318th Avenue in North Plains. The City previously worked with a property owner on an abatement issue that ended up taking three years to resolve. This case involved a great deal of time and costs until the City finally received magistrate granted authority to abate that property.

This new property abatement issue has the appearance that it could be a lengthy process. Chief Snyder is seeking direction from the Council for staff and police personnel to pursue this nuisance abatement at 10945 NW 318th Avenue.

Motion by Lenahan. Second by Simmons authorizing the police and staff to proceed with the nuisance abatement process for the property located at 10945 NW 318th Avenue in North Plains. Motion was unanimously approved.

C. CDBG Recognition-Teri Lenahan replacing Robert Kindel as primary representative.

The Washington County Office of Community Development: Policy Advisory Board administers the Community Development Block Grant Program (CDBG), and the HOME Investment Partnerships Program (HOME) for Washington County along with other

programs that benefit low and moderate income families. This committee reviews the county's Grant Program funds. Councilor Kindel has served in the capacity of primary representative for North Plains for over 30 years. Kindel will be stepping down to be the alternate for this committee. Councilor Teri Lenahan has offered to step into the primary representative role for the CDBG for the City of North Plains.

Motion by Whitehead. Second by King for Councilor Teri Lenahan to replace Councilor Kindel as the primary representative to the CDBG Board. The motion was unanimously approved.

D. Adopt Resolution No.1903 authorizing the Mayor to enter into an Intergovernmental Agreement between Washington County and the City of North Plains for Maintenance of Storm Sewer Structures and a Water Quality Swale on NW West Union Road and NW Jackson School Road

Boyles presented the staff report. Discussion ensued regarding the responsibilities of this agreement.

Motion by Simmons. Second by Lenahan to adopt Resolution No.1903 authorizing the Mayor to enter into an Intergovernmental Agreement between Washington County and the City of North Plains for Maintenance of Storm Sewer Structures and a Water Quality Swale on NW West Union Road and NW Jackson School Road. Motion was approved unanimously.

E. Review of July 2015 Check Register

Council reviewed the items on the July 2015 Check Register. The agenda report included a list of account numbers with the corresponding departments to help clarify questions Council may have while reviewing the check register. No questions were asked by the Council at this meeting.

10. **UNFINISHED BUSINESS:**

None presented

11. **ORDINANCES:**

FIRST READING:

None Scheduled

SECOND READING:

None Scheduled

12. **CITY MANAGER REPORT**

Blake Boyles updated the Council on the progress of the various land developments in the city and the approximate number of new households that will be added to the community when all is said and done. Discussion ensued.

The week of September 25 through October 3, the railroad and Washington County will be working on repairs at the railroad crossing on Glencoe.

13. COUNCIL REPORTS

Hatcher stated he received a thank you from the governor's office for the tour that Hatcher and Boyles conducted two weeks ago. Hatcher updated the Council on the tour in which nine representatives from various state agencies and non-profit groups toured the various developments in North Plains.

The City Recorder informed the Council that the new Agenda Management software program is about ready to launch. The September 21, 2015 will be the live date. Instructions will be e-mailed out to the group prior to that meeting.

Council asked that staff bring back the marijuana dispensary and the golf cart issues as agenda items again.

14. ADVICE/INFORMATION ITEMS:

- Thursday Marketplace-every Thursday this summer on Commercial Street from 5:00-8:00 p.m.

15. ADJOURNMENT:

Mayor Hatcher adjourned the regular session of the City Council at 9:02 p.m.

David Hatcher, Mayor

Margaret L. Reh, City Recorder

Date approved _____

City of North Plains - Library Department September 21 and October 5, 2015

TO: Acting City Manager Blake Boyles and City Council Members
FROM: Debbie Brodie, Library Director
SUBJECT: DEPARTMENT REPORT

Statistics for the Month of August, 2015:

The Library checked out **5,284** physical items – books, magazines, DVDs, and other media, while **294** e-books were checked out by North Plains card holders.

There were **3,447** people who came into the Library during open hours.

The Library's public computers were used for **499** hours, and there were **228** hours of wireless use.

In August, **51** people attended Storytimes, and **214** people attended Wacky Wednesday Summer Reading events.

Full statistics may be viewed at www.nplibrary.org under Library Board/Library Statistics.

New Quilt for Raffle. Many thanks to Westside Quilters Guild members for their generous donation of a new, colorful quilt for the Library to raffle as a fundraiser. Tickets are now on sale and will be sold throughout the coming year until the winning ticket is drawn at the annual Elephant Garlic Festival in August 2016. Each ticket is \$1, or 6 tickets will be issued for \$5. This year's beautiful quilt was created by Marcia Elliott and is titled, *Japanese Lanterns*. It will be continuously on display in the Library.

The winner of the 2015-2016 raffle quilt was Meredith Bach of North Plains.

Quilt Display. The quilt on display above the checkout desk throughout the month of **October** is a Pumpkin Quilt by Paula DiNovo of the West Side Quilters Guild. This quilt features pumpkins and maple leaves and is from the Thimbleberries series of patterns by Lynnette Jensen. Paula reports, "I was so attracted to the fall colors, but it took me six years after purchasing the pattern to get it done!"

Writers' Group. Share your writing projects and receive feedback from peers on **Thursday, October 1** at 6:30 p.m. New members are welcome to join. (This is not a teacher/trainer-led class.)

First Friday Flick. Join us at Jessie Mays Community Hall on **Friday, October 2** at 6 p.m. to watch the newest Disney movie version of the classic fairy tale of the maiden and the prince who seeks to find her after she leaves behind her glass slipper at the ball. This film is rated PG. Popcorn will be served.

Art Exhibit. The art exhibit in the Library's computer room through the month of **October** is photography by Portland resident Sarah Stanze. She finds inspiration in nature and is constantly amazed by the stunning diversity of the Oregon landscape. This is her first official show. Join us for a reception for the artist on **Saturday, October 3** from 6:30-8 p.m. Refreshments will be provided, courtesy of the Friends of the Library.

Storytimes. Children ages 0-6 are invited to participate every Wednesday at 11:30 a.m. in the children's section of the Library.

- **October 7** Storytime with Miss Marion: Cat and Mouse Game
- **October 14** Storytime with Ranger Lauren: Bedtime
- **October 21** Special Guest Storytime: Razor, the Pot-bellied Pig
- **October 28** Storytime with Teacher Barbara: Frogs and Toads

Lego Palooza. Drop in between 11 a.m. and 2 p.m. on **Friday, October 9**, a No-School Day, for LegoPalooza at the Jessie Mays Community Hall. Hang out and build with Legos or Duplos that we provide. (Please leave yours at home and ours there.) Kids, teens, and adults are welcome to participate.

Super Saturday. Magician Jeff McMahon will bring his Family Magic show to Jessie Mays Community Hall on **Saturday, October 10** at 1 p.m. One of the top magicians in the Pacific Northwest, Jeff always leaves his audiences amazed, laughing, and thoroughly entertained. All ages are welcome to attend.

Friends of the Library. There will be a general meeting of the Friends on **Monday, October 12** at the Library from 7 to 9 p.m. New members are welcome to attend.

Teen Read Week™. Teens, stop by the Library's computer room between **Saturday, October 17 and Saturday, October 24** to pick up a free book to keep as your own. Teen Read Week™ is a national adolescent literacy initiative created by the Young Adult Library Services Association (YALSA). It began in 1998 and is held annually during the third week of October. Its purpose is to encourage teens to be regular readers and library users.

Library Book Club. The Book Club will meet at the Library on **Wednesday, October 28** at 7 p.m. to discuss The Meaning of Human Existence by Edward O. Wilson. The Pulitzer Prize-winning biologist examines what makes human beings supremely different from all other species and posits that we, as a species, now know enough about the universe and ourselves that we can begin to approach questions about our place in the cosmos and the meaning of intelligent life in a systematic, testable way. New members are welcome to attend.

Celebration of Art and Creative Aging. The North Plains Public Library received a grant from Lifetime Arts, Inc. to host a skill-building workshop series for adults 55 and older in drawing, painting, and art journaling. Led by professional teaching artist, Valerie Sjodin, classes are currently being conducted and will culminate in a free, public celebration on the evening of **Friday, October 30** at the North Plains Public Library

beginning at 6 p.m. Finished art products will be showcased and the achievements of every participant will be highlighted. Refreshments will be provided, courtesy of the Friends of the Library.

Halloween Treats. Everyone is welcome to come by the Library between 2 and 5 p.m. on **Saturday, October 31** to receive a yummy treat! Wearing of costumes is encouraged!

Free Math and Science Tutoring. North Plains Public Library now has a Math and Science Tutor available to assist students every other Saturday. Math tutoring is available for students in elementary through college grade levels. Science tutoring is available for elementary and middle school grade levels. Please call the library at 503-647-5051 to make a reservation.

New Employee. Library Clerk Jeff Clark was recently hired for an average of 12.5 hours per week. His background is as a school teacher and kayaking instructor. He and his family own a farm outside of North Plains, and in years past, it is Jeff who has brought the baby goats to Special Guest Storytimes. He has also been hired as the Library's Maintenance Worker for an average of 3.0 hours per week. In this capacity, Jeff does special landscape projects in the summer time and special interior building maintenance and computer cleaning in the winter months.

RESOLUTION NUMBER 1904

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS,
OREGON, SUPPORTING THE RENEWAL OF THE WASHINGTON COUNTY
COOPERATIVE LIBRARY SERVICES LOCAL OPTION LEVY BALLOT
MEASURE 34-235**

WHEREAS, Washington County Cooperative Library Services (WCCLS) was created in May of 1976, to serve all the residents of Washington County. Washington County has grown from 196,000 in 1976 to roughly 600,000 in 39 years, and circulation in WCCLS libraries has increased over fifty percent in the same time period; and

WHEREAS, North Plains Public Library relies on the strong cooperation and sharing of materials between WCCLS member libraries, and centrally provided support services to serve the many patrons who visit our library each day, these include the shared library catalog, subscriptions to e-books and research databases, daily courier deliveries, early literacy resources and youth programming; and

WHEREAS, WCCLS currently provides 52% of the annual operating funding of the North Plains Public Library. The levy rate to renew this Cooperative Library Services Levy will be 22 cents per \$1,000 valuation. All citizens throughout Washington County benefit from the services provided by North Plains Public Library and the other eleven member libraries in the cooperative.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY
COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AS FOLLOWS:**

Section 1. That the City Council of the City of North Plains does hereby endorse its support and urges the passage of the Washington County Cooperative Library Services Replacement Levy, Measure 34-235 on the November 3, 2015 ballot.

Section 2. This Resolution shall become effective immediately upon adoption by the City Council.

CITY OF NORTH PLAINS, OREGON

BY: _____
David Hatcher, Mayor

ATTEST:

BY: _____
Margaret Reh, City Recorder

RESOLUTION NUMBER 1905

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, SUPPORTING THE RENEWAL OF THE WASHINGTON COUNTY PUBLIC SAFETY LOCAL OPTION LEVY BALLOT MEASURE 34-236

WHEREAS, Washington County is a vital and strategic partner for providing necessary public safety services and contracted law enforcement services to the City of North Plains; and

WHEREAS, Funds generated by the proposed levy will accomplish the following in Washington County:

- Emergency shelter for women and children who are victims of domestic violence and related victims assistance;
- A mental health response team of deputies and mental health professionals who help people in crisis get medical assistance instead of going to jail;
- Juvenile programs that reduce crime;
- Special enforcement teams (major crimes, SWAT, child abuse and child pornography, gangs and narcotics) serving all areas of the county;
- Jail and work release center operating at full capacity to minimize early offender release;
- Prosecution services; Parole and probation services; and

WHEREAS, these services are critical to the ability of the city and county to maintain safe communities. The levy rate to continue current services is a fixed rate of 42 cents per \$1,000 of assessed value, which is unchanged from the current rate.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AS FOLLOWS:

Section 1. That the City Council of the City of North Plains does hereby endorse its support and urges the passage of the Washington County Public Safety Levy, Measure 34-236 on the November 3, 2015 ballot.

Section 2. This Resolution shall become effective immediately upon adoption by the City Council.

CITY OF NORTH PLAINS, OREGON

BY: _____
David Hatcher, Mayor

ATTEST:

BY: _____
Margaret Reh, City Recorder



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: Mayor and City Council
From: Public Works Director and Interim City Manager Blake Boyles
Subject: Review and adoption of Resolution No. 1906 authorizing street closures and waiver of fee for said street closure for fundraiser for Emily Fuggetta.

Request: Ricky Freeman and a group of concerned citizens are requesting approval for the closing of 314th Avenue between Commercial Street and Kaybern Street from 2:00 p.m. to 8:00 p.m. on Saturday, September 26, 2015 for fundraising event for Emily Fuggetta. Our municipal code 5.20.151 Street Closure Permit Required states that any person wishing to use the right-of-way for a Block Party of Special Event must apply for and obtain a Street Closure Permit from the City. A copy of this application is attached.

Background: Ricky Freeman had addressed the City Council at the September 8, 2015 Council meeting during the public comment. Council stated this item needed to be added as an agenda item to discuss further and to make a decision.

Fiscal Impact: There is a \$210 fee associated with a street closure request. The applicant is requesting this fee to be waived.

Environmental Issues: None

Recommendation: Council to adopt Resolution No.1906 authorizing the closure of 314th Avenue for a fundraiser for Emily Fuggetta.

Sample Motion: I move to adopt Resolution No. 1906 authorizing street closures and waiver of fee for said street closure for fundraiser for Emily Fuggetta.

RESOLUTION NO. 1906

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON,
AUTHORIZING STREET CLOSURES AND WAIVER OF FEE FOR SAID STREET
CLOSURE FOR FUNDRAISING EVENT FOR EMILY FUGGETTA**

WHEREAS, area resident, Emily Fuggetta was in a car/horse accident, just outside of North Plains, in which her horse was fatally injured and Emily's leg was amputated; and

WHEREAS, a group of concerned citizens, "Friends of Emily", are requesting approval for street closure for a fundraising event for 314th Avenue between Commercial Street and Kaybern Street from 2:00 p.m. to 8:00 p.m. to raise funds for Emily; and

WHEREAS, the event name is "Hold Your Horses Benefit Auction"; and

WHEREAS, the application fee for the street closure permit of \$210.00 is being requested to be waived since this is a fundraising event; and

WHEREAS, the City Council of the City of North Plains supports this fundraising event for the good of the order.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF NORTH PLAINS, OREGON, AS FOLLOWS:**

Section 1. Approves the street closure requests for the Emily Fuggetta fundraiser and auction from 2:00 p.m. – 8:00 p.m. on Saturday, September 26, 2015.

Section 2. Approves the waiver of the \$210.00 fee for the street closure of 314th Avenue between Commercial Street and Kaybern Street

Section 3. This Resolution shall become effective immediately upon adoption by the City Council.

INTRODUCED AND ADOPTED this 21st day of September, 2015.

CITY OF NORTH PLAINS, OREGON

BY: _____
David Hatcher, Mayor

ATTEST:

BY: _____
Margaret L. Reh, City Recorder



City of North Plains

31360 NW Commercial St. North Plains, OR 97133

Ph. 503-647-5555 Fax 503-647-2031

Email: info@northplains.org

PERMIT FOR USE OF PUBLIC RIGHT-OF-WAY FOR AN EVENT

Event Information

Type of Event: Parade Race Festival Benefit Auction

Event Name: Hold Your HORSES Benefit Auction Date(s): 09/26/2015

Duration of Event: 2:00 PM - 8:00 PM

Event Sponsor: Friends of Emily

Contact Person: Ricky Freeman

Mailing Address: 13203 NW Old Pumpkin Ridge Road
Street
North Plains OR 97133
City State ZIP Code

Email Address: Ricky.Freeman@live.com Phone: 503-647-3347

Purpose of Event: Benefit

Attached is the Proposed Route or Location (please attach drawing or map):

Signature of Applicant:

Ricky Freeman - Friends of Emily

Liability Insurance Requirements

Before the City of North Plains can approve your use of Public Rights-of-Way for your event, you must submit to City personnel a certificate of insurance that means the City of North Plains, its elected officials, officers and employees as an additional insured. In the even such insurance is to be cancelled or altered, the insured shall give the City of North Plains notification at least ten (10) days prior to such cancellation.

Signatures for Approval

Approved	Conditions		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Police:	_____ Date
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Public Works:	_____ Date
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Administration:	_____ Date
		: Received by	_____ Fee: \$ _____ Receipt #

City Requirements and Conditions for Approval

1. Submittal of insurance certificate naming the City of North Plains, its officials, elected and appointed, and staff employees as additional insured for this event, in the amount of \$1,000,000.
2. Coordination of the events, routes, etc. with the North Plains Police Department at (503) 647-2604.
3. Additional conditions described on attachments.

We are Requesting that the fee be Waived for this Event.

*Thank you
Ricky Freeman*

312

AV

NW

318TH

NW

NW WASCOE ST.

COMMERCIAL ST.

NW 318TH AVE.

KAYBERN ST.

NW

AVE.

GOTTAGE ST.

311TH

W MAIN ST.

ST.

CLAXTAR

NW

NW

PROPOSAL FOR RELOCATION OF ONLINE BOOK SALES TO “YELLOW HOUSE”

The Friends of the North Plains Public Library (“Friends”) propose to the City of North Plains that they relocate the Online Book Sales fundraising project from the Jesse Mays Annex to the City owned property located at 31311 NW Commercial St. in North Plains (“Yellow House”).

Moving to this larger space will enable the Friends to keep more of its inventory available for sale, generating greater revenue to support the Library. The City in turn will regain access to the Annex space in anticipation of a future remodeling of the Jesse Mays Community Center.

The Friends will contribute volunteer resources and some funds in cooperation with the City to make improvements to the building, making it more suitable for use while increasing its property value for the City. We will also share in operation and maintenance of the property. Our proposal for responsibilities in this cooperative arrangement is laid out in the table below:

ACTIVITIES and SERVICES	FRIENDS' RESPONSIBILITY	CITY'S RESPONSIBILITY
Improvements		
Removal of current contents	X	X
Inspection of flooring strength	X	X
Repair of front door steps		X
Inspection of electrical system	X	X
Determine if security system needed		X
Cleaning and painting	X	
Lighting upgrade to high-efficiency LED	X	
Establish internet access (move from Jesse Mays, or link to library Wi-Fi)	X	X
Moving and setting up shelving units	X	
Moving all books, shelves, desks and computers from JM to new location	X	
Cleaning up and improving landscaping	X	X
Install drop container for donated books	X	X
Operations and Maintenance		
Inside janitorial Service	X	
Utilities and garbage service		X
Property and liability insurance		X
General Maintenance of House and Property. i.e. replacing broken windows, heating/ water and electrical, roofing or siding system failures.		X
Repair of property line fence if needed		X
Removal of down or dead trees and or tree limbs.		X

We believe this move will be in the best interest of all concerned. In keeping with past negotiations we would like to have a written contract clearly identifying expectations of the City and of the Friends. Thank you for your consideration!

ONLINE BOOK SALES OPERATIONS AGREEMENT

City of North Plains and Friends of the North Plains Public Library

This Operations Agreement (Agreement) is effective as of October ____, 2015 (Effective Date), between **The City of North Plains**, an Oregon municipal corporation (City), and **Friends of the North Plains Public Library**, an Oregon public benefit corporation (Friends) for the property at **31311 NW Commercial St., North Plains, OR 97133** (Property).

RECITALS

WHEREAS, City owns a property located at 31311 NW Commercial St., North Plains, OR 97133.

WHEREAS, Friends have been operating an Online Book Sale at the Jesse Mays Community Center Annex since November 2013

WHEREAS, Friends desire to move the Online Book Sale to larger quarters to increase inventory and revenue, and feel that 31311 NW Commercial would be a suitable location.

WHEREAS, Friends have volunteer resources and a certain amount of funds available to facilitate making improvements to the property and moving the Online Book Sale to the property, and vacating the Jesse Mays Community Center Annex.

WHEREAS, the purpose of this Agreement is to specify the goals, timelines and financial responsibilities of the parties.

AGREEMENT

A. TERM

The City will provide the right to use the entire Property (excluding the garage) with no rental charge for a period of 5 years, with the option to extend the contract for additional periods.

The initial term of this Agreement commences on the Effective Date and continues until October 1, 2019, unless earlier terminated as provided herein. The terms, covenants and conditions of this Agreement will be reviewed and modified as necessary at the time of extension. The Friends shall have the right to terminate this Agreement at any time during the Initial Term or an Extension Term upon thirty (30) days written notice to the City in the following events: a) the Online Book Sale program is terminated for any reason whatsoever; or b) the Friends administratively dissolves and fails to reestablish as a nonprofit corporation.

B. EQUIPMENT AND FURNISHINGS

During this Agreement, Friends own all furnishings, equipment, donated books and materials within the Property (excluding the garage). At the termination of this Agreement, all equipment, furnishings and books will remain the property of the Friends and will be removed by them.

C. GOALS

The City and Friends agree it is their goal to increase revenue and funding for the North Plains Public Library. Friends agree to continue financial support for the North Plains Public Library, increasing support as made possible by increased online book sale revenue during the 5 year period or subsequent agreed upon periods. The City will regain use of the Jesse Mays Community Center Annex space in anticipation of a future remodeling of the Center. The parties believe this Agreement serves the interests of the North Plains Community residents.

D. FINANCIAL RESPONSIBILITIES

The City and Friends agree to share in the costs of maintenance of the Property. The ongoing operational costs of the Property to be paid by the City include, but are not limited to, building maintenance, utilities, insurance, legal services, and Internet access. The ongoing operational costs of the Property to be paid by the Friends include, but are not limited to, office supplies, computer equipment, shelving, furniture, office machine maintenance, cleaning and miscellaneous services. The Friends agree to maintain the interior building of the Property following all City and State Codes and Ordinances.

Friends agree to continue financial support for the North Plains Public Library, increasing support as made possible by increased online book sale revenue.

Friends and the City will seek grants and other funds for the operation, maintenance, improvements and benefit of the Property. However, grants are limited and are often limited in use for a specific purpose.

E. PERSONNEL

Personnel working for the Online Book Sale will consist of volunteers and the Friends will provide Liability Insurance for all volunteers working at the Property.

F. MAINTENANCE; UTILITIES

The City is responsible for all maintenance, repairs, alterations, replacements, changes, additions and improvements to the Property. This includes the building, and landscaping. The City will pay all utilities for the Property and the utility accounts will be in the name of the City.

G. TAXES AND OTHER CHARGES

All taxes and other governmental charges related to the Property will be paid by the City.

H. INSURANCE

Friends will be responsible for maintaining liability insurance for its members and volunteers. The City will provide casualty insurance for replacement value of the house and furnishings.

I. INDEMNIFICATION

Each party agrees to indemnify, defend and hold harmless the other party, their officers, agents, and employees from every claim, action or liability, including without limitation all consequential costs, expenses, and damages arising from, or connected with, each party's operations or services, whether or not resulting from the negligence of the party, its agents, or its employees.

J. ASSIGNMENT

Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party.

K. NOTICES

Any notice or communication that either party desires or is required by this Agreement is deemed given if sent by United States registered or certified mail, postage prepaid, return-receipt requested, and addressed as follows:

If to City:

City Manager
31360 NW Commercial Street
North Plains, OR 97133

If to Friends:

Friends of North Plains Public Library
PO Box 525
31334 NW Commercial Street
North Plains, OR 97133

or such other addresses as may be designated by either party by written notice to the other. Every notice or communication is deemed given or served on actual receipt.

L. APPLICABLE LAW

This Agreement is governed by, and construed in accordance with the laws of Oregon.

M. AMENDMENT OF THIS AGREEMENT

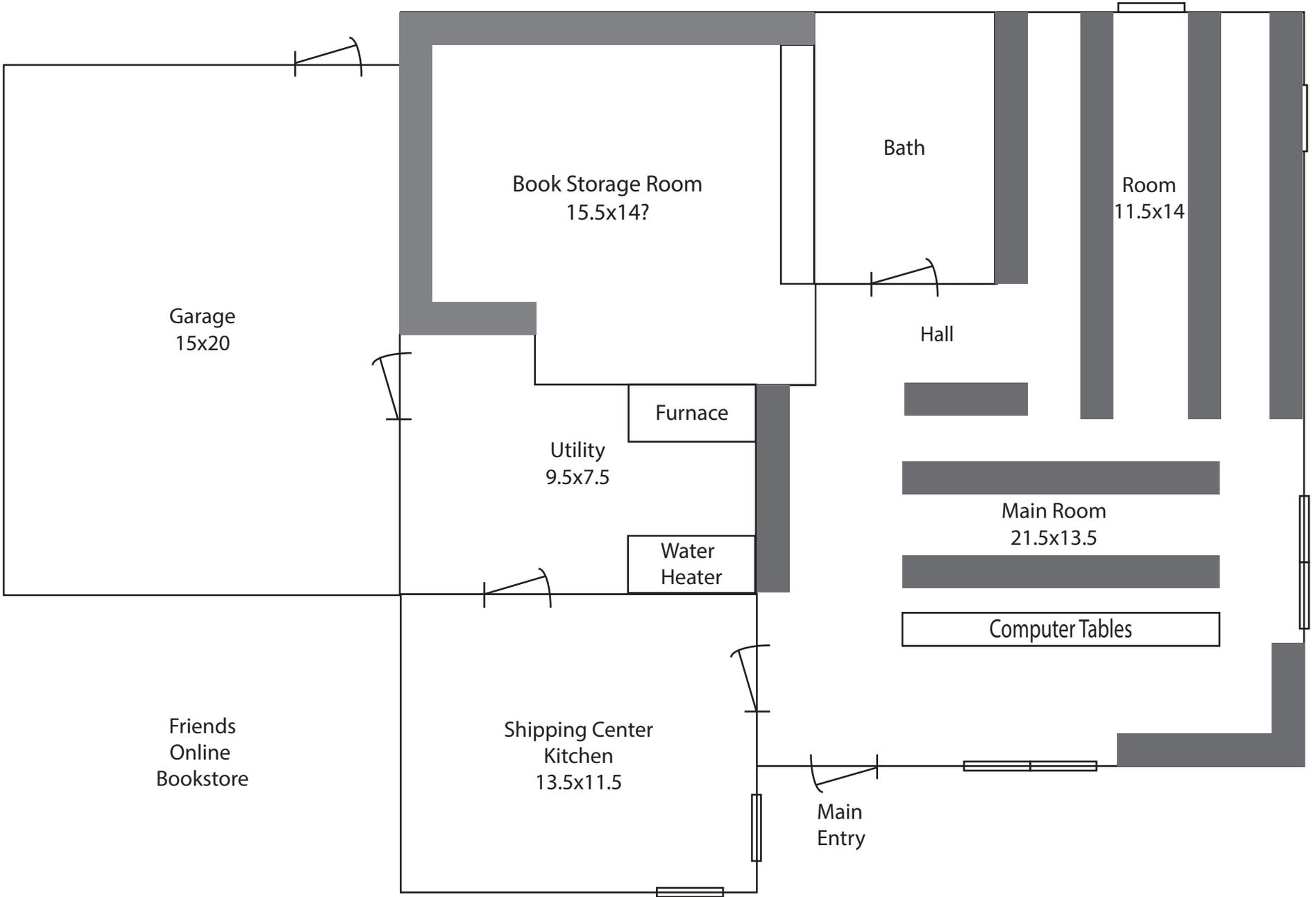
The parties agree to act at all times in the spirit of the Agreement and recognize that they will need to be flexible and willing to make periodic adjustments to keep with the intent of the Agreement. The parties will at least annually review this Agreement and revise its terms, timelines, or financial plans as appropriate. The parties agree to memorialize any modifications, adjustments or amendments of this Agreement in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below. CITY OF NORTH PLAINS

FRIENDS OF THE NORTH PLAINS PUBLIC LIBRARY

By: _____
Its: City Manager
Date: _____

By: _____
Its: President
Date: _____



Garage
15x20

Book Storage Room
15.5x14?

Utility
9.5x7.5

Furnace

Water
Heater

Shipping Center
Kitchen
13.5x11.5

Bath

Hall

Main Room
21.5x13.5

Computer Tables

Room
11.5x14

Main
Entry

Friends
Online
Bookstore



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21 2015
To: Mayor and City Council
From: Public Works Director and Interim City Manager Blake Boyles
Subject: Approval of Resolution No. 1904 Authorizing the Mayor to enter into an Intergovernmental Agreement (IGA) between Washington County and the City of North Plains for design and construction of a trail adjacent to Glencoe Road and Highway 26, and to transfer jurisdiction of NW 307th Avenue to the City

Request: Council to adopt Resolution No. 1904, an IGA between Washington County, Oregon and the City of North Plains for the transferring of ownership of NW 307th Ave from Highland Court and then south to the city limits at the Highway 26 right-of-way. This IGA also addresses the funding for the Ghost Creek Trail project. This project consists of the walk paths from the west side of Glencoe Road to the 307th Avenue viewing area which will also be constructed with the funding.

Fiscal Impact: The fiscal impact has already been adopted into the current budget.

Environmental Issues: None

Recommendation: Council approve Resolution No. 1904 authorizing the Mayor to enter into an Intergovernmental Agreement (IGA) between Washington County and the City of North Plains for design and construction of a trail adjacent to Glencoe Road and Highway 26, and to transfer jurisdiction of NW 307th Avenue to the City

RESOLUTION NO. 1904

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON COUNTY AND THE CITY OF NORTH PLAINS FOR THE DESIGN AND CONSTRUCTION OF A TRAIL ADJACENT TO GLENCOE ROAD AND HIGHWAY 26, AND TO TRANSFER JURISDICTION OF NW 307TH AVENUE TO THE CITY

WHEREAS, the City of North Plains has a project for the construction of a trail and sidewalk improvements along NW Glencoe Road, NW Highland Court and NW 307th Avenue; and

WHEREAS, the City desires to advance with this project and to commence with construction in 2016; and

WHEREAS, Washington County is holding funds for this project and is willing to advance funds to initiate design, permitting, and construction of this trail project; and

WHEREAS, Washington County and the City of North Plains also believe it is appropriate to transfer jurisdiction of NW 307th Avenue from Highland Court and then south to the city limits at the Highway 26 right-of-way, to the City in conjunction with work associated with this project; and

WHEREAS, Washington County and the City of North Plains believe it is in their respective and mutual interests to enter into a written agreement allocating responsibilities to complete this project and effect the transfer of NW 307th Avenue.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, AS FOLLOWS:

- Section 1.** The Mayor is authorized to execute an Intergovernmental Agreement between Washington County in the State of Oregon and City of North Plains, Oregon, for the design and construction of a trail adjacent to Glencoe Road and 307th Avenue.
- Section 2.** Jurisdiction of NW 307th Avenue will be transferred from Washington County to the City of North Plains (See Exhibit "A")
- Section 3.** This Resolution shall become effective immediately upon adoption by the City Council.

INTRODUCED AND ADOPTED this 21st day of September, 2015.

CITY OF NORTH PLAINS, OREGON

BY: _____
David Hatcher, Mayor

ATTEST:

BY: _____
Margaret L. Reh, City Recorder

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
Washington County and the City of North Plains**

**FOR DESIGN AND CONSTRUCTION OF A TRAIL ADJACENT TO
GLENCOE ROAD AND HWY 26**

THIS INTERGOVERNMENTAL AGREEMENT is entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "COUNTY"; and the City of North Plains, a municipal corporation, acting by and through its City Council, hereinafter referred to as "CITY."

RECITALS

1. ORS 190.010 et. seq. authorizes governmental bodies to enter into agreements for the performance of any or all functions and/or activities a party to the intergovernmental agreement has authority to perform.
2. CITY has a project for construction of trail and sidewalk improvements along NW Glencoe Road, NW Highland Court and NW 307th Avenue, hereinafter referred to as "PROJECT".
3. CITY desires to advance PROJECT development to commence to begin construction in 2016.
4. COUNTY is willing to and shall advance funds to initiate design, permitting, and construction of PROJECT.
5. COUNTY and CITY also believe it appropriate to transfer jurisdiction of certain COUNTY road to CITY in conjunction with work associated with PROJECT, hereinafter referred to as "TRANSFER".
6. COUNTY and CITY believe it is in their respective and mutual interests to enter into a written agreement allocating responsibilities to complete PROJECT and TRANSFER.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below, CITY AND COUNTY agree as follows:

1. CITY OBLIGATIONS

- 1.1 CITY shall commence project development, including preliminary engineering, permitting, right-of-way acquisition, and final engineering for PROJECT.
- 1.2 CITY shall assign a project manager responsible for PROJECT oversight during PROJECT's development, design, bidding and construction phases as well as coordinating such activities with COUNTY.

CITY shall be responsible for the following elements of the PROJECT:

- Project Management
 - Planning and Public Involvement
 - Preliminary Design Approval
 - Land Use Approval and Permitting
 - Environmental Permits
 - Right-of-Way Acquisition
 - Final Design Approval
 - Bidding and Contract Award
 - Construction and Contract Administration
 - Tracking cost and providing quarterly reports to COUNTY
- 1.3 CITY shall provide COUNTY at least fifteen (15) working days to review any preliminary design documents at the 30 percent, 50 percent and 90 percent plan points, and ten (10) working days to review plans and specifications at the 100 percent design point. Design issues remaining unresolved by COUNTY and CITY staff will be referred to the COUNTY and/or CITY Engineer for final resolution, consistent with jurisdictional responsibility. CITY agrees to incorporate COUNTY comments that do not significantly impact PROJECT costs and/or schedule.
 - 1.4 CITY shall provide all bid documents to COUNTY for its review and comment at least ten (10) working days prior to the PROJECT's advertising for bid date. CITY agrees to incorporate COUNTY comments that do not significantly impact PROJECT costs and/or schedule.
 - 1.5 CITY shall establish a unique set of project and task numbers to facilitate its maintenance of accurate cost accounting records, including quarterly reports thereof for transmission to COUNTY. Upon not less than ten (10) working day notice to CITY, COUNTY may inspect any PROJECT accounting records

and related documents including invoices to ascertain their reasonableness and propriety.

- 1.6 CITY shall ensure all construction contracts it enters into for PROJECT will include "Washington County, Oregon, its elected and appointed officials, officers, agents, employees and volunteers" as being additional named insureds and indemnification.
- 1.7 CITY shall require contractors provide worker's compensation coverage for all subject workers performing work in connection with the PROJECT.
- 1.8 CITY shall obtain COUNTY acceptance of all work impacting facilities in COUNTY ownership or jurisdiction upon the PROJECT's completion.
- 1.9 CITY shall keep the COUNTY informed of project progress and give the COUNTY reasonable notice of the bid opening, notice to proceed, and substantial completion of the PROJECT.
- 1.10 CITY shall complete the transfer of jurisdiction of NW 307th Avenue from COUNTY as shown on Exhibit "A" within one (1) year of the date of execution of this Agreement. Annexation of portions of the right-of-way shall be completed in order to transfer the entire road segment shown. CITY shall accept the road specified in Exhibit "A" in an "as is" condition.
- 1.11 CITY will not proceed to bidding and construction of PROJECT until such time CITY has satisfactorily completed the conditions listed in paragraph 1.10 above.
- 1.12 CITY shall perform action regarding compensation as set forth in Article 3 – Compensation.

2. COUNTY OBLIGATIONS

- 2.1 Upon execution of this Agreement, COUNTY shall designate a staff person to be its authorized project manager to coordinate the PROJECT on behalf the COUNTY with CITY.
- 2.2 COUNTY Project Manager shall coordinate with the CITY's project manager for preparation of the PROJECT's, and review all consultant prepared plans, bidding documents, itemized bid schedules and construction estimates prior to CITY bidding the PROJECT.
- 2.3 COUNTY shall prepare legal descriptions and exhibit maps needed to transfer jurisdiction of road indicated in Exhibit "A".
- 2.4 COUNTY shall provide timely review and comment on CITY design documents as provided in Term 1.3 and on CITY bid documents as provided in Term 1.4. Further, COUNTY shall timely respond to other PROJECT

information requests within ten (10) working days or as otherwise agreed to by CITY and COUNTY.

- 2.5 COUNTY shall perform action regarding compensation as set forth in Article 3 – Compensation.

3. COMPENSATION

- 3.1 COUNTY shall transfer \$75,000 for project development, permitting, and engineering associated with preparing a 30% set of plans for the PROJECT. The COUNTY shall transfer the aforementioned amount within thirty (30) days of the execution of this agreement.
- 3.2 COUNTY shall transfer \$225,000 for right-of-way acquisition and final plan preparation for the PROJECT. The COUNTY shall transfer the aforementioned amount within thirty (30) days of the date COUNTY approves the 30% plan set from the CITY.
- 3.3 COUNTY shall transfer \$700,000.00 to bid and construct the PROJECT. The COUNTY shall transfer the aforementioned amount within thirty (30) days of the CITY satisfying the conditions listed in Term 1.10 herein, and/or the date the COUNTY approves the 100% plan set from the CITY, whichever occurs last.
- 3.4 COUNTY shall under no circumstances transfer more than \$1,000,000.00 to the CITY for the PROJECT.
- 3.5 CITY will be responsible for any PROJECT costs greater than the amount shown in paragraph 3.4 above. Upon request to CITY the COUNTY may inspect the accounting records and related documents upon which an invoice is based.

4. GENERAL PROVISIONS

4.1 LAWS OF OREGON

CITY and COUNTY shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.

4.2 DEFAULT

Time is of essence in the performance of the Agreement; either CITY or COUNTY shall be deemed to be in default if it fails to comply with the temporal aspects of this Agreement. The non-defaulting party shall provide the other

with written notice of said default and afford the defaulting party not less than thirty (30) days within which to cure.

4.3 THIRD PARTY BENEFICIARY

This Agreement is for the benefit of the CITY and COUNTY only and as such are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third party unless third persons are expressly described as intended to be beneficiaries of its terms.

4.4 INDEMNIFICATION

CITY and COUNTY agree to indemnify and hold harmless the other's officers, employees, agents and insurers from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of activities performed (or their omission) or in any way resulting from the fault or wrongful act or omission of the indemnifying party or its officers, employees or agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement.

4.5 MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

4.6 DISPUTE RESOLUTION

The parties shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

Each party shall be responsible for its own costs and attorney fees for any claim, action suit or proceeding, including any appeal.

4.7 REMEDIES

Subject to the provisions in paragraph 4.6, either COUNTY or CITY may institute legal action to cure, correct or remedy any default, enforce any provision herein or enjoin any threatened or attempted violation of this

Agreement. All actions shall be initiated in Washington County Circuit Court and the parties, by signature of their authorized representatives below, consent to the jurisdiction of that court.

4.8 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, restrictions imposed on mandated by governmental entities other than the COUNTY or CITY, litigation or similar bases not within the reasonable control to the party seeking to be excused.

4.9 SEVERABILITY

If any one or more of the provisions contained in this Agreement is deemed invalid, illegal or unenforceable by a court of competent jurisdiction the validity, legality and enforceability of the remaining provisions thereof will not be affected or impaired in any way.

4.10 INTEGRATION

This Agreement is the entire agreement of the parties and supersedes any prior discussions or agreements regarding the PROJECT and funding transfer.

5. TERMS OF AGREEMENT

- 5.1 This Agreement shall be and is effective from the date of its execution until completion of the PROJECT, not exceeding five (5) years from said date.
- 5.2 Notwithstanding the temporal limitation in 5.1 above, this Agreement may be extended for periods of one (1) by mutual consent.
- 5.3 After execution of this Agreement, it may only be terminated by either party after written notice to the other of at least sixty (60) days party. COUNTY and CITY recognize there may be additional costs and expenses associated with the winding up of the PROJECT should this Agreement be terminated and agree to work in good faith to equitably share such additional costs and expenses.

DATED this 21st day of September, 2015.

CITY OF NORTH PLAINS, OREGON

WASHINGTON COUNTY, OREGON

MAYOR

CHAIR,
BOARD OF COUNTY
COMMISSIONERS

ATTEST:

CITY RECORDER

RECORDING SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Counsel

County Counsel

EXHIBIT "A"
PAGE 1 OF 2

NW 307TH AVENUE (ODOT FRONTAGE ROAD)
FROM NW HIGHLAND COURT TO SUNSET HIGHWAY

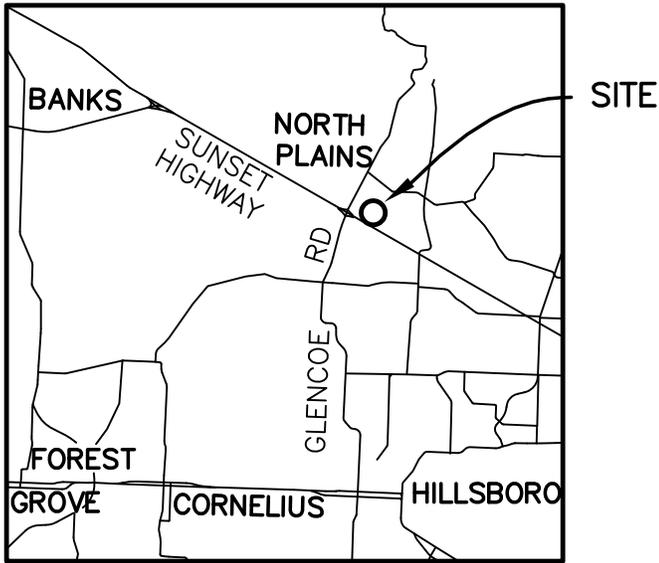
SEE EXHIBIT "A", PAGE 2 OF 2

All that portion of NW 307th Avenue (the frontage road) constructed by the Oregon Department of Transportation and transferred to Washington County in ODOT contract 3398. Said road being all that portion of NW 307th Avenue lying southerly of C.R. 2483T/J and being situated in the Northeast One-quarter of Section 12, T1N, R3W, W.M.

REQUESTED TRANSFER

NW 307TH AVENUE

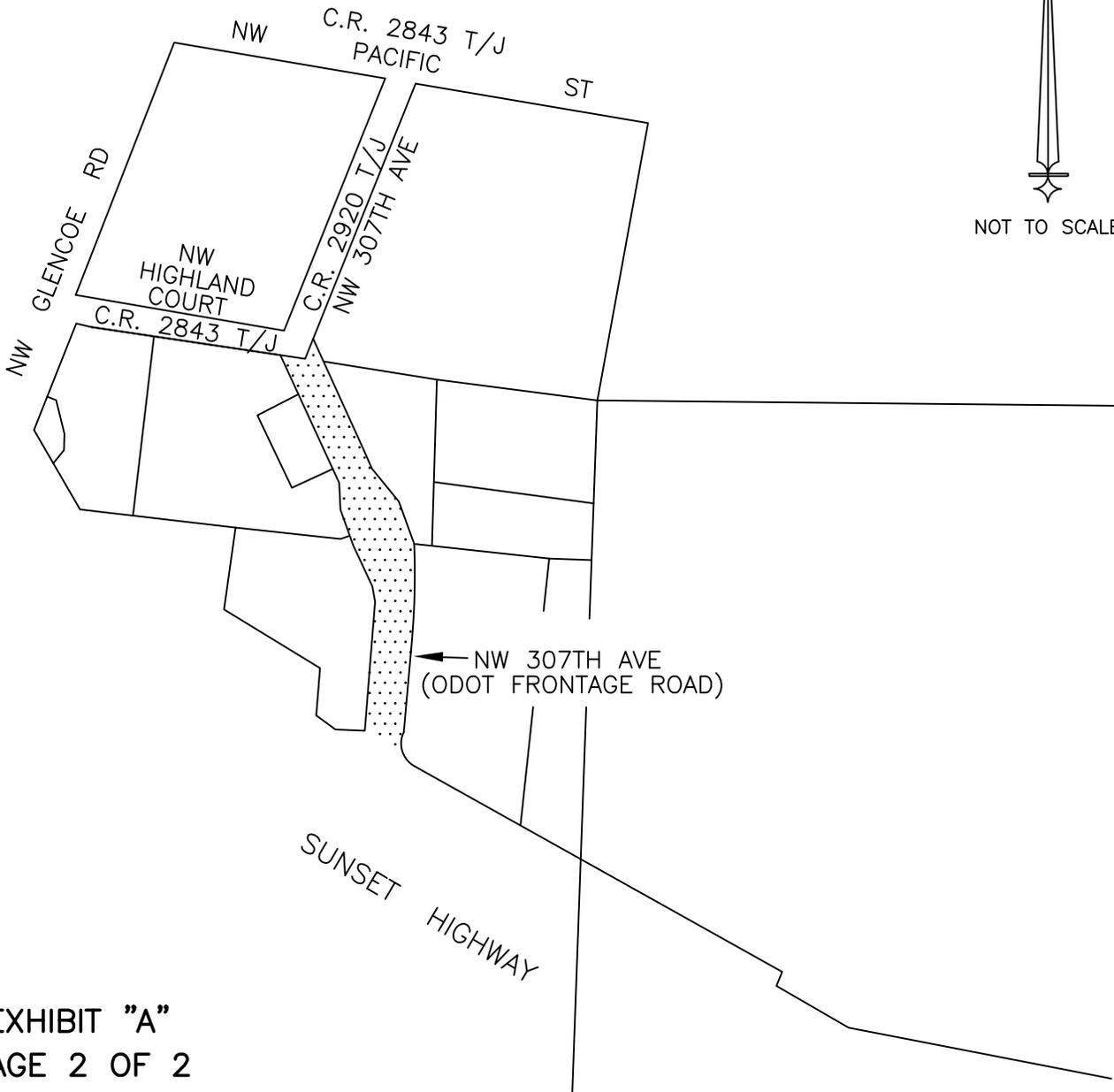
**THE PORTION OF ROAD
CONSTRUCTED AND TRANSFERRED
PER ODOT CONTRACT 3398**



VICINITY MAP



NOT TO SCALE





CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: City Council
From: Finance Director Rachael Lembo
Subject: Street Fund

Request: This item is informational only.

Background: The attached memo provides detail and history of the Street Fund accumulated fund balance.

Fiscal Impact: This item is for informational purposes only.

Sample Motion: This item is informational only.

Attachment – Street Fund - fund balance overview

City of North Plains
 Street Fund - fund balance overview
 as of September 3, 2015

The Street Fund is both an operating and a capital fund. Certain revenues are restricted to specific capital projects. Those revenues should be retained and segregated in Ending Fund Balance until eligible expenses are incurred. The remaining Ending Fund Balance is Unassigned.

Revenues restricted to specific capital projects:

Fee in Lieu - formerly collected fee in lieu of street improvements. Held for improvements on those streets which Fee In Lieu was paid for.

System Development Charges (SDCs) - fee charged on new development to pay for capacity increasing capital projects as identified in the Transportation System Plan.

Recology - portion of Recology tonnage fee collected by the General Fund held for maintenance on Highland Court.

<u>Date</u>	<u>Fee in Lieu</u> +	<u>SDCs</u> +	<u>Recology</u> +	<u>Unassigned</u>	=	<u>Ending Fund Balance</u>
6/30/2011	162,338	60,724	15,298	307,135		545,495
6/30/2012	162,454	61,166	38,256	319,088		580,964

The Claxtar St project, performed in 2013, cost nearly \$800k and was partially funded by a \$450k CDBG grant. The remaining \$350k was paid for by the Street Fund. At the time, the Street Fund did not have enough Unassigned in Ending Fund Balance, resulting in a negative Unassigned balance. Essentially, the restricted balances loaned money to the Unassigned balance.

<u>Date</u>	<u>Fee in Lieu</u> +	<u>SDC</u> +	<u>Recology</u>	<u>Unassigned</u>	=	<u>Ending Fund Balance</u>
6/30/2013	162,454	71,656	60,983	275,143		570,236
6/30/2014	141,154	84,347	10,000	(54,445)		181,056

In FY14-15, as a result of no street maintenance work, the negative Unassigned balance improved. However, in the current year, due to \$20k in street maintenance and a \$27k contingency, that balance is expected to increase.

<u>Date</u>	<u>Fee in Lieu</u> +	<u>SDC</u> +	<u>Recology</u>	<u>Unassigned</u>	=	<u>Ending Fund Balance</u>
6/30/2015	141,154	114,153	20,000	(49,024)		226,283
6/30/2016	141,654	152,933	30,000	(84,868)		239,719
6/30/2016- no contingency used				(57,868)		266,719

City of North Plains
 Street Fund - fund balance overview
 as of September 3, 2015

In addition, street light expenses will increase approximately \$12k this year due to new street lights for half the year and a change in options with PGE. This increase is not currently budgeted. The City used to be on Option B with PGE - the City owned and paid for electricity for the lights; PGE provided maintenance. Typically lights were installed by developers and then donated to the City. PGE removed that option and left two others for the City - Option A where lights are owned, maintained and electricity paid by PGE, with a monthly 'rental' fee paid by the City, and Option C where lights are owned, maintained and electricity costs paid by the City. The City initially elected Option A, but when the monthly fee estimate for new lights was provided (at a significantly higher cost than expected), the City renegotiated to Option C. However, the two developments already in process at the time, Sunset Ridge and McKay Fields, could not be moved off Option A.

<u>Date</u>	<u>Fee in Lieu +</u>	<u>SDC</u>	<u>+ Recology</u>	<u>Unassigned</u>	=	<u>Ending Fund Balance</u>
6/30/2016-	w/ new street lights			(95,868)		227,719
6/30/2016-	no contingency used			(68,868)		254,719

To resolve this the Street Fund needs to establish a plan to increase the Unassigned balance (ie repay the restricted balances). The clear issue this raises is that the Street Fund has limited revenue, **therefore management is currently reviewing the following options:**

- **Increase the Transportation Utility Fee**
- **Transfer from the General Fund**
- **Introduce a Street Light Fee**
- **Introduce a Gas Tax**



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: City Council
From: Finance Director Rachael Lembo
Subject: FY2014-15 Unaudited Budget to Actual Financial Report

Request: This item is informational only.

Background: Enclosed are the unaudited actuals for Fiscal Year 2014-2015. The fiscal year has been closed and all accounts reviewed, and the audit will begin in mid-October with our auditor, Dennis Conner, CPA.

Highlights from the 2014-15 fiscal year include:

- In the **General Fund** overall, 100% of revenues were received. Of course, some categories were slightly higher or lower. The revenues which exceeded budget include Franchise Fees, primarily due to higher payments from PGE and NW Natural, and Planning/Land Use fees due to active development and fee increases in May. Grants was significantly below budget due to the end of the ODOT grant project, however there were also personnel savings due to that change.
- General Fund expenditures were 96% of budget, plus a remaining unused contingency of \$54k. This led to a positive change in fund balance in the General Fund of almost \$13k. This is significant to note - the budgeted change in fund balance was (\$112k), and due to unused contingency and expenditure savings that potential deficit was avoided.
- Expenditure savings came from various areas:
 - The state unemployment tax rate decreased, resulting in savings in Personal Services in all departments with employees.
 - As noted above, the ODOT grant project was not as high as projected, which resulted in lower police officer costs.
 - The City Engineer was used less than expected, resulting in savings in the Public Works department.
- There were some expenditure categories that exceeded budget:
 - The Police department Materials and Services exceeded budget by \$1k due to repairs and maintenance, however the department as a whole was within budget.
 - The Library department Materials and Services exceeded budget by \$2k due to library materials, however the department as a whole was within budget.
 - The Planning department Materials and Services exceeded budget by \$400 due to higher than expected use of 3J. As this is the only category

within this department it will be required to be reported under Budget Compliance within the Financial Statements.

- **SDC revenue** was significant in the Street, Water, Transportation Development Tax and Parks Capital Funds, due to 51 new homes. The adopted budget assumed 50 homes. Revised SDC rates in May also increased this revenue stream.
- The **Street Fund** had slightly higher revenues and slightly lower expenditures compared to budget, resulting in a change in fund balance of \$45k.
- The **Water Fund** revenues received exceeded budget by \$90k. This is primarily due to water fees due to a warm spring. Total expenditures were 98% of budget.
- The **Transportation Development Tax Fund** incurred expenditures for TDT credits for work done on West Union by JT Roth. Credits are given for transportation expansion in excess of what the development requires. The total cost of the TDT credits will be approx. \$114k – the remainder will be incurred in FY2015-16. The costs are incurred when JT Roth submits site plans for land use approval which triggers the SDC fees; with these credits the developer doesn't have to pay the fee and the City records equal revenue and expense.
- The **Parks Capital Fund** began two projects: initial concepts for renovation of Jessie Mays and engineering costs for the walking trail.
- The **Traffic Impact Fee Fund** had no expenditures.
- The **Vehicle / Equipment Reserve Fund** incurred expenditures for a leaf vacuum, snow blade and two used vehicles from the City of Hillsboro. All were funded by previous reserves from Public Works, Street and Water Funds.

Fiscal Impact: This item is for informational purposes only.

Sample Motion: This item is informational only.

Attachment – FY2014-15 Unaudited Budget to Actual Financial Report

City of North Plains
FY14-15 Unaudited Budget to Actual Financial Report

FUND SUMMARY	General Fund	Street Fund	Water Fund	TDT Fund	Park Capital Fund	TIF Fund	Veh/Eqp Res Fund	Total All Funds
OPENING FUND BALANCE	842,549	181,056	1,042,737	396,267	442,729	289,210	39,560	3,234,108
REVENUES								
Licenses/Permits/Fees	409,056	55,487	415,043	389,271	217,834	-	-	1,486,691
Charges for Services	-	-	923,461	-	-	-	-	923,461
Property Taxes	385,891	-	-	-	-	-	-	385,891
Intergovernmental	151,974	122,058	-	-	-	-	-	274,032
Fines and Forfeitures	23,876	-	-	-	-	-	-	23,876
Grants	40,167	49,644	-	-	-	-	-	89,811
Interest	11,148	979	5,697	2,364	2,293	1,464	247	24,192
Sale of asset	6,200	-	-	-	-	-	-	6,200
Transfers In	495,070	10,000	-	-	-	-	15,312	520,382
TOTAL REVENUES	1,523,382	238,168	1,344,201	391,635	220,127	1,464	15,559	3,734,536
EXPENDITURES								
Personal Services	1,018,366	-	-	-	-	-	-	1,018,366
Materials and Services	468,029	29,225	230,640	-	-	-	-	727,894
Capital Outlay	-	49,644	34,332	32,144	22,990	-	8,500	147,610
Debt Service	-	-	134,332	-	-	-	-	134,332
Transfers and Special Payments	23,264	114,072	519,504	-	1,831	-	-	658,671
TOTAL EXPENDITURES	1,509,659	192,941	918,808	32,144	24,821	-	8,500	2,686,873
CHANGE IN FUND BALANCE	13,723	45,227	425,393	359,491	195,306	1,464	7,059	1,047,663
UNAPPROPRIATED ENDING FUND BALANCE	856,272	226,283	1,468,130	755,758	638,035	290,674	46,619	4,281,771

GENERAL FUND 110

Acct	Description	Final Budget	Unaudited Actuals	Variance	
OPENING FUND BALANCE		842,549	842,549		
REVENUES					
411000	PROPERTY TAXES	384,575	385,891	1,316	100%
418101	Water Franchise	44,500	46,173		
418102	CWS Franchise	25,000	27,297		
418103	CenturyLink Franchise	6,000	4,573		
418104	Comcast Franchise	6,000	6,212		
418105	Garbage Franchise	11,500	11,417		
418107	PGE Franchise	93,000	99,300		
418108	NW Natural Gas Franchise	33,000	40,313		
418109	Misc Franchise	750	4,070		
418110	MACC Franchise	14,000	15,615		
421000	Business Fees	6,500	6,808		
422000	Recology Fund	48,000	47,014		
440000	Miscellaneous Fees	11,221	6,524		
441419	Land Use Permit	30,000	35,138		
441420	Engineering Plan Review	10,000	21,726		
450455	Library Fines and Fees	11,000	9,622		
450465	Land Use Planning Fees	4,000	20,370		
462000	Rentals	7,000	6,884		
	LICENSES, PERMITS, FEES	361,471	409,056	47,585	113%
436000	Liquor Tax	26,000	29,024		
437000	Cigarette Tax	2,800	2,701		
438000	State Revenue Sharing	18,000	18,359		
439000	WCCLS	101,890	101,890		
	INTERGOVERNMENTAL	148,690	151,974	3,284	102%
450421	Police Citations	25,000	23,876		
	FINES AND FORFEITURES	25,000	23,876	(1,124)	96%
431000	Grants - General	8,000	8,000		
431001	Grants - Police	29,245	9,181		
431002	Grants - Library	1,000	1,000		
431003	Grants - Planning	1,000	-		
464000	Donations - General	-	-		
464100	Comm Events Rev	750	-		
464101	4th of July Rev	7,500	5,684		
464102	Concerts in the Park Rev	1,500	1,350		
464103	Music/Dance Event Rev	2,000	488		

GENERAL FUND 110

Acct	Description	Final Budget	Unaudited Actuals	Variance	
464106	Pumpkin Run Rev	2,006	2,226		
464114	BBQ Event Rev	802	802		
464116	Garlic Fest Rev	935	935		
464421	Donations - Police	-	-		
464455	Donations - Library	9,925	10,501		
GRANTS AND DONATIONS		64,663	40,167	(24,496)	62%
461000	Interest	16,340	11,148		
445000	Sale of Asset	-	6,200		
OTHER REVENUE		16,340	17,348	1,008	106%
820111	Transfers In - Street	116,511	113,244		
820210	Transfers In - Water	378,362	364,042		
820131	Transfers In - Parks Cap	8,000	1,831		
820132	Transfers In - TIF	4,000	-		
820113	Transfers In - URA	12,500	15,953		
TRANSFERS		519,373	495,070	(24,303)	95%
TOTAL REVENUES		1,520,112	1,523,382	3,270	100%
EXPENDITURES - BY DEPT					
110-419	General Government	545,890	534,202	(11,688)	
110-421	Police	378,513	350,934	(27,579)	
110-433	Public Works	351,522	328,693	(22,829)	
110-455	Library	211,253	207,255	(3,998)	
110-411	Culture and Recreation	31,744	30,946	(798)	
110-452	Parks	13,090	11,270	(1,820)	
110-465	Planning	46,000	46,359	359	
TOTAL EXPENDITURES		1,578,012	1,509,659	(68,353)	96%
NET CURRENT REVENUES AND EXPENDITURES		(57,900)	13,723	71,623	-24%
Cont	Contingency	54,000	-	(54,000)	
CHANGE IN FUND BALANCE		(111,900)	13,723	125,623	-12%
UNAPPROPRIATED					
ENDING FUND BALANCE		730,649	856,272		

GENERAL GOVERNMENT 110-419

Acct	Description	Final Budget	Unaudited Actuals	Variance	
110000	Salaries	231,302	231,428		
210000	Employee Benefits	32,998	32,650		
220000	Payroll Taxes	21,699	17,160		
230000	Retirement	33,331	33,345		
	PERSONAL SERVICES	319,329	314,583	(4,746)	99%
300000	Education and Training	4,000	2,476		
300010	BUG Connection	7,830	7,830		
300105	Donations	2,000	-		
310000	Utilities	15,300	15,385		
330000	Professional Services	2,000	2,909		
330100	Prof Srv - Attorney	45,000	44,050		
330101	Prof Srv - Audit	9,000	7,222		
330102	Prof Srv - Software	12,000	11,883		
330103	Prof Srv - IT	15,500	14,264		
330104	Prof Srv - Printing	6,000	6,419		
330105	Prof Srv - Payroll	5,200	5,492		
330106	Prof Srv - Janitorial	2,400	2,340		
330107	Prof Srv - Security	2,624	2,888		
330115	Prof Srv - HR	1,500	1,493		
340000	Repairs and Maintenance	2,500	1,869		
340100	R&M - Copier	10,500	11,426		
340101	R&M - HVAC	3,720	3,708		
350000	Agency Memberships	4,500	4,119		
500000	Employee Recognition	1,475	1,590		
540000	Advertising	600	658		
610000	Supplies	9,000	8,221		
621000	Insurance	34,412	34,394		
621002	Workers' Compensation	16,500	15,983		
	MATERIALS AND SERVICES	213,561	206,619	(6,942)	97%
810009	Transfers Out - Veh Res	3,000	3,000		
810111	Transfers Out- Street	10,000	10,000		
	TRANSFERS OUT	13,000	13,000	-	100%
GENERAL GOVERNMENT DEPT TOTAL		545,890	534,202	(11,688)	98%

POLICE 110-421

Acct	Description	Final Budget	Unaudited Actuals	Variance	
110000	Salaries	136,767	129,820		
120000	Hourly	29,722	30,255		
125000	Reserves	27,245	20,571		
210000	Employee Benefits	25,188	20,236		
220000	Payroll Taxes	19,072	13,921		
230000	Retirement	34,203	29,447		
	PERSONAL SERVICES	272,197	244,250	(27,947)	90%
300000	Education and Training	3,000	2,314		
330000	Professional Services	4,000	3,706		
330102	Prof Srv - Software	7,975	9,939		
330108	Prof Srv - Wireless	5,500	6,214		
330109	Prof Srv - Evid Storage	2,600	2,547		
330912	WA County Dispatch	12,500	12,420		
340000	Repairs and Maintenance	7,000	11,171		
350000	Agency Memberships	1,000	956		
370000	Rentals and Leases	21,041	21,040		
610000	Supplies	12,000	12,429		
610100	Uniforms	3,500	3,042		
610224	Fuel	13,000	12,295		
630000	Equipment (non-capital)	4,800	1,275		
	MATERIALS AND SERVICES	97,916	99,348	1,432	101%
820000	Court Pass Through	2,000	936		
	SPECIAL PAYMENTS	2,000	936	(1,064)	
810009	Transfers Out - Veh Res	6,400	6,400		
	TRANSFERS OUT	6,400	6,400	-	100%
POLICE DEPARTMENT TOTAL		378,513	350,934	(27,579)	93%

PUBLIC WORKS 110-433

Acct	Description	Final Budget	Unaudited Actuals	Variance	
110000	Salaries	213,559	214,755		
210000	Employee Benefits	30,763	26,439		
220000	Payroll Taxes	21,395	16,135		
230000	Retirement	45,057	41,003		
	PERSONAL SERVICES	310,774	298,332	(12,442)	96%
300000	Education and Training	1,500	929		
310000	Utilities	1,320	1,288		
330000	Professional Services	500	-		
330110	City Engineer Plan Review	10,000	5,211		
340000	Repairs and Maintenance	10,000	8,131		
610000	Supplies	5,500	5,569		
610090	Uniforms	600	214		
610224	Fuel	11,000	8,691		
	MATERIALS AND SERVICES	40,420	30,033	(10,387)	74%
810009	Transfers Out - Veh Res	328	328		
	TRANSFERS OUT	328	328	-	100%
PUBLIC WORKS DEPARTMENT TOTAL		351,522	328,693	(22,829)	94%

LIBRARY 110-455

Acct	Description	Final Budget	Unaudited Actuals	Variance	
110000	Salaries	134,465	132,962		
220000	Payroll Taxes	14,685	10,893		
230000	Retirement	15,084	14,252		
	PERSONAL SERVICES	164,234	158,107	(6,127)	96%
300000	Education and Training	800	503		
300100	Donations	-	100		
310000	Utilities	8,250	8,512		
330000	Professional Services	1,110	1,693		
330102	Prof Srv - Software	3,000	2,913		
330106	Prof Srv - Janitorial	2,100	2,100		
330107	Prof Srv - Security	860	1,043		
340000	Repairs and Maintenance	1,250	1,740		
340100	R&M - Copier	3,624	3,143		
340101	R&M - HVAC	500	-		
610000	Supplies	8,500	8,506		
640000	Library Materials	14,425	16,295		
	MATERIALS AND SERVICES	44,419	46,548	2,129	105%
810009	Transfers Out - Veh Res	2,600	2,600		
	TRANSFERS OUT	2,600	2,600	-	100%
LIBRARY DEPARTMENT TOTAL		211,253	207,255	(3,998)	98%

CULTURE AND RECREATION 110-411

Acct	Description	Final Budget	Unaudited Actuals	Variance	
110000	Salaries	2,525	2,525		
220000	Payroll Taxes	205	205		
230000	Retirement	364	364		
	PERSONAL SERVICES	3,094	3,094	0	100%
300101	4th of July	20,020	20,822		
300102	Concerts in the Park	1,832	1,832		
300103	Dances	2,000	344		
300106	Pumpkin Run	1,811	1,997		
300107	Chili Cookoff	634	634		
300108	National Night Out	699	699		
300110	Volunteer Recognition	-	527		
300111	Ice Cream Social	300	333		
300114	BBQ	-	1		
300116	Garlic Festival	133	133		
300117	Clean Up Day	871	228		
300118	City-wide Garage Sale	350	302		
	MATERIALS AND SERVICES	28,650	27,852	(798)	97%
CULTURE AND RECREATION DEPT TOTAL		31,744	30,946	(798)	97%

City of North Plains
 FY14-15 Unaudited Budget to Actual Financial Report

PARKS 110-452

Acct	Description	Final Budget	Unaudited Actuals	Variance	
310000	Utilities	5,640	5,046		
330000	Professional Services	600	-		
340000	Repairs and Maintenance	4,000	4,635		
610000	Supplies	2,850	1,589		
	MATERIALS AND SERVICES	13,090	11,270	(1,820)	86%
PARKS DEPARTMENT TOTAL		13,090	11,270	(1,820)	86%

City of North Plains
 FY14-15 Unaudited Budget to Actual Financial Report

PLANNING 110-465

Acct	Description	Final Budget	Unaudited Actuals	Variance	
330000	Professional Services	45,000	45,458		
360000	Advertising	1,000	901		
	MATERIALS AND SERVICES	46,000	46,359	359	101%
PLANNING DEPARTMENT TOTAL		46,000	46,359	359	101%

STREET FUND 111-433

Acct	Description	Final Budget	Unaudited Actuals	Variance	
	Street Fee in Lieu	141,154	141,154		
	Recology Fund	10,000	10,000		
	Unassigned	29,902	29,902		
OPENING FUND BALANCE		181,056	181,056		
REVENUES					
435003	TUF	25,200	25,681		
445000	SDCs	25,900	29,806		
	LICENSES, PERMITS, FEES	51,100	55,487	4,387	109%
435001	Gas Tax - State	115,000	114,597		
435002	Gas Tax - County	7,500	7,461		
	INTERGOVERNMENTAL	122,500	122,058	(442)	100%
431110	Grants	50,000	49,644		
461000	Interest	1,030	979		
	OTHER REVENUES	51,030	50,623	(407)	99%
820110	Transfers In - Gen Fund	10,000	10,000		
	TRANSFERS	10,000	10,000	-	100%
TOTAL REVENUES		234,630	238,168	3,538	102%
EXPENDITURES					
330000	Professional Services	2,000	1,376		
610000	Supplies	3,000	3,965		
640000	Street Lights	25,800	23,884		
	Materials and Services	30,800	29,225	(1,575)	95%
770103	Street Projects	50,000	49,644		
	Capital Outlay	50,000	49,644	(356)	99%
810009	Transfers Out - Veh Res	828	828		
810110	Transfers Out - Gen Fund	116,511	113,244		
	TRANSFERS	117,339	114,072	(3,267)	97%
TOTAL EXPENDITURES		198,139	192,941	(5,198)	97%

STREET FUND 111-433

Acct	Description	Final Budget	Unaudited Actuals	Variance
NET CURRENT REVENUES AND EXPENDITURES		36,491	45,227	8,736 124%
Cont	Contingency	9,786	-	(9,786)
CHANGE IN FUND BALANCE		26,705	45,227	18,522 169%
UNAPPROPRIATED				
ENDING FUND BALANCE		207,761	226,283	
	Street Fee in Lieu	141,154	141,154	
	Recology Fund	20,000	20,000	
	SDCs for Trans System Plan		114,153	
	Unassigned	46,607	(49,024)	

WATER FUND 210

Acct	Description	Final Budget	Unaudited Actuals	Variance	
	Committed to Capital Projects	194,419	194,419		
	Unassigned	848,318	848,318		
OPENING FUND BALANCE		1,042,737	1,042,737		
REVENUES					
444000	Charges, Fees, Fines	890,000	923,461		
445000	SDCs (Capital)	214,900	261,737		
446000	SDCs - Pass thru JWC	145,400	153,306		
461000	Interest	4,275	5,697		
440000	Miscellaneous	-	-		
TOTAL REVENUES		1,254,575	1,344,201	89,626	107%
EXPENDITURES					
310000	Utilities	9,090	8,963		
330000	Professional Services	2,000	1,866		
330104	Prof Srv- Printing	6,000	5,367		
330111	Prof Srv- Meter Reading	9,000	8,727		
330112	Prof Srv- Water Analysis	2,000	1,068		
330113	Prof Srv- Tank Cleaning	3,000	2,700		
330114	Prof Srv- Leak Detection	3,500	3,450		
340000	Repairs and Maintenance	10,000	3,087		
610000	Supplies	7,500	4,394		
610600	Water Purchase	134,000	136,195		
630000	New Water Service Materials	5,000	5,645		
650000	Franchise Fee -Water	44,500	46,173		
800000	Uncollectable Debt	-	3,005		
Materials and Services		235,590	230,640	(4,950)	98%
77000X	PW Projects- North Ave ext	34,332	34,332		
77000X	PW Projects- auto meter read	4,000	-		
Capital Outlay		38,332	34,332	(4,000)	90%
820000	SDC Pass Thru JWC	145,400	153,306		
SPECIAL PAYMENTS		145,400	153,306	7,906	105%
500500	Debt Service - 2005 Bond	134,332	134,332		
DEBT SERVICE		134,332	134,332	-	100%
810009	Transfers Out - Veh Res	2,156	2,156		
810110	Transfers Out - Gen Fund	378,362	364,042		
TRANSFERS		380,518	366,198	(14,320)	
TOTAL EXPENDITURES		934,172	918,808	(15,364)	98%

WATER FUND 210

Acct	Description	Final Budget	Unaudited Actuals	Variance
NET CURRENT REVENUES AND EXPENDITURES		320,403	425,393	104,990 133%
Cont	Contingency	416,959	-	(416,959)
CHANGE IN FUND BALANCE		(96,556)	425,393	521,949 -441%
UNAPPROPRIATED				
ENDING FUND BALANCE		946,181	1,468,130	
	Committed to Capital Projects	-	421,824	
	Unassigned	946,181	1,046,306	

TRANSP. DEVELOPMENT TAX FUND 130

Acct	Description	Final Budget	Unaudited Actuals	Variance	
OPENING FUND BALANCE		396,267	396,267		
REVENUES					
415100	TDT	333,250	389,271		
461000	Interest	1,795	2,364		
TOTAL REVENUES		335,045	391,635	56,590	117%
EXPENDITURES					
770000	Capital Projects	66,650	32,144		
	Capital Outlay	66,650	32,144	(34,506)	48%
TOTAL EXPENDITURES		66,650	32,144	(34,506)	48%
NET CURRENT REVENUES AND EXPENDITURES		268,395	359,491	91,096	134%
Cont	Contingency	33,421	-	(33,421)	
CHANGE IN FUND BALANCE		234,974	359,491	124,517	153%
UNAPPROPRIATED					
ENDING FUND BALANCE		631,241	755,758		

PARKS CAPITAL FUND 131

Acct	Description	Final Budget	Unaudited Actuals	Variance	
OPENING FUND BALANCE		442,729	442,729		
REVENUES					
445000	SDCs	195,500	217,834		
461000	Interest	2,580	2,293		
TOTAL REVENUES		198,080	220,127	22,047	111%
EXPENDITURES					
770001	PW Projects - trails	-	3,579		
770000	PW Projects - Jessie Mays	100,000	19,411		
	Capital Outlay	100,000	22,990	(77,010)	23%
810110	Transfers Out - Gen Fund	8,000	1,831		
	TRANSFERS	8,000	1,831	(6,169)	23%
TOTAL EXPENDITURES		108,000	24,821	(83,179)	23%
NET CURRENT REVENUES AND EXPENDITURES		90,080	195,306	105,226	217%
Cont	Contingency	532,809	-	(532,809)	
CHANGE IN FUND BALANCE		(442,729)	195,306	638,035	-44%
UNAPPROPRIATED					
ENDING FUND BALANCE		-	638,035		

TRAFFIC IMPACT FEE FUND 132

Acct	Description	Final Budget	Unaudited Actuals	Variance	
OPENING FUND BALANCE		289,210	289,210		
REVENUES					
461000	Interest	1,400	1,464		
TOTAL REVENUES		1,400	1,464	64	105%
EXPENDITURES					
770000	PW Projects - West Union ped Capital Outlay	50,000	-	(50,000)	0%
810110	Transfers Out - GF TRANSFERS	4,000	-	(4,000)	0%
TOTAL EXPENDITURES		54,000	-	(54,000)	0%
NET CURRENT REVENUES AND EXPENDITURES		(52,600)	1,464	54,064	-3%
Cont	Contingency	236,610	-	(236,610)	
CHANGE IN FUND BALANCE		(289,210)	1,464	290,674	-1%
UNAPPROPRIATED					
ENDING FUND BALANCE		-	290,674		

VEHICLE AND EQUIPMENT RESERVE FUND 009

Acct	Description	Final Budget	Unaudited Actuals	Variance	
	Police	5,200	5,200		
	Public Works	32,760	32,760		
	Library	1,600	1,600		
OPENING FUND BALANCE		39,560	39,560		
REVENUES					
820110	Transfers In - GF/Gen Govt	3,000	3,000		
820110	Transfers In - GF/Police	6,400	6,400		
820110	Transfers In - GF/Public Works	328	328		
820110	Transfers In - GF/Library	2,600	2,600		
820111	Transfers In - Street/Gen Govt	500	500		
820111	Transfers In - Street/Public Works	328	328		
820210	Transfers In - Water/Gen Govt	1,500	1,500		
820210	Transfers In - Water/Public Works	656	656		
TRANSFERS		15,312	15,312	(0)	100%
461000	Interest	195	247		
TOTAL REVENUES		15,507	15,559	52	100%
EXPENDITURES					
770200	Vehicles/Equipment	8,500	8,500		
Capital Outlay		8,500	8,500	-	100%
TOTAL EXPENDITURES		8,500	8,500	-	100%
NET CURRENT REVENUES AND EXPENDITURES		7,007	7,059	52	101%
Cont	Contingency	-	-	-	
CHANGE IN FUND BALANCE		7,007	7,059	52	101%
UNAPPROPRIATED					
ENDING FUND BALANCE		46,567	46,619		
	Police	11,600	11,600		
	Public Works	25,767	25,819		
	Library	4,200	4,200		
	General Government	5,000	5,000		



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: City Council
From: Finance Director Rachael Lembo
Subject: FY2015-16 Budget Update as of September 11, 2015

Request: This item is informational only.

Background: Enclosed are the budget to actual financial reports for FY2015-16 through September 11, 2015. A year-end estimate column has been included to show changes that have arisen since budget adoption. These changes do not yet require a budget adjustment, however they will be included in the first supplement budget or resolution of budget transfers, which usually occurs in February.

General Fund Revenues

The General Fund opens the year with \$47.6k more in Opening Fund Balance than originally projected. This is a result of the previous fiscal year ending with a positive change in fund balance. This amount can be allocated to cover additional expenses or offset revenue shortfalls, via Council action. If not allocated it remains as part of fund balance.

General Fund property tax revenues are low but that is normal as most collections are made in November and December. Franchise fees and intergovernmental revenues are coming in as expected; most are paid monthly or quarterly though some are paid annually in the spring (notably PGE).

Citation revenue is at 33% with only two months of revenue received. This can fluctuate month to month however, and does not necessarily indicate higher revenues by year end. Grants and donations are at 87% due to the MACC grant, \$14,811, and Fourth of July revenues, \$5,633. Unbudgeted revenues include a portion of the MACC grant, which will be used for web filtering, an unbudgeted expense, and sale of two vehicles.

General Fund Expenses

Unexpected changes in personal services include sending the part-time officer to the academy for four months of training at 40 hours a week. This position is budgeted for 25 hours a week, and the additional 15 hours for that period were not in the original budget. The estimated additional cost is approx. \$8.5k. In addition some extra hours were spent on Public Works summer help, with an estimated additional cost of \$2.7k (some of which is allocated to Parks, Street and Water).

Unexpected changes in materials and services include additional IT costs in General Government. Most of this, \$6,811, is funded by a MACC grant. The remainder, \$1,650, is to utilize a software the City of Hillsboro uses for retention and search-ability of emails. This was not a part of our original contract with the City of Hillsboro, but is necessary to allow for easy searches of email for internal or external purposes.

Janitorial services were added back for City Hall, using the same contractor as the Library. There were some savings, net \$2,275, in insurance costs this year.

Small amounts of budget were moved between line items in various departments, but this does not have an effect on the overall budget for the department.

Total unexpected expenses in General Fund is \$16,409, of which \$6,811 is covered by a grant. This leaves approx. \$10k. As we continue through the beginning of this year the Finance Manager and department heads will review and analyze expenses, looking for savings to cover these areas of increase.

Street Fund

The Street Fund begins the year with \$15k more in Opening Fund Balance than originally projected. However, as discussed earlier, there is a negative balance in the 'unassigned' category. Revenues are on target. Street light expense is expected to increase significantly, \$12k, as discussed earlier. There were savings on street projects done with summer.

Water Fund

The Water Fund has \$191k more in Opening Fund Balance than originally projected. Revenues are projected up \$30k due to high usage this summer and fees for new meters, though this is slightly offset by new meter supplies expense and water purchase costs.

Transportation Development Tax and **Parks Capital Funds** have received SDC revenue this year from 21 land use approvals. The budgeted number is 60. The TDT Fund has incurred some expense in the form of TDT credits granted to JT Roth last fiscal year which were not all used last year. The total remaining credits expected to be used in this year is approx. \$82k.

There are no transactions in the **Traffic Impact Fee Fund**, and the only transactions in the **Vehicle / Equipment Reserve Fund** are the budgeted transfers in.

There are a few new accounts this year, either for additional clarification (Hourly added to departments with part time staff) or for expenses not applicable in the previous year (Prof Svc – Value Replacement in Water Fund).

Fiscal Impact: This item is for informational purposes only.
Attachment – FY2015-16 Budget Update as of Sept 11, 2015

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

GENERAL FUND SUMMARY		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted	Year End	Budget to	Estimate	Actuals as of	
		Budget	Estimate	\$	%	09/11/15	
RESOURCES							
	Opening Fund Balance	808,634	856,272	47,638	6%	856,272	106%
	Property Taxes	391,882	391,882	-	0%	2,487	1%
	Licenses, Permits, Fees	345,649	345,649	-	0%	56,023	16%
	Intergovernmental	165,797	165,797	(0)	0%	41,373	25%
	Fines and Forfeitures	18,000	18,000	-	0%	5,885	33%
	Grants and Donations	28,200	35,011	6,811	24%	24,645	87%
	Other Revenue	25,715	30,410	4,695	18%	4,695	18%
	Current Revenues	975,243	986,749	11,506	1%	135,108	14%
TOTAL RESOURCES		1,783,877	1,843,021	59,144	3%	991,380	56%
REQUIREMENTS							
	General Government	200,059	207,218	7,160	4%	66,033	33%
	Police	330,124	338,611	8,487	3%	71,171	22%
	Public Works	15,571	15,734	163	1%	3,469	22%
	Library	215,000	215,001	1	0%	39,717	18%
	Culture and Recreation	23,810	23,810	-	0%	18,008	76%
	Parks	69,970	70,568	598	1%	13,359	19%
	Planning	51,000	51,000	-	0%	10,839	21%
	Operating Departments	905,534	921,943	16,409	2%	222,594	25%
	Contingency	100,000	100,000	-	0%	-	0%
	Ending Fund Balance	778,343	821,078	42,735	5%	768,785	99%
TOTAL REQUIREMENTS		1,783,877	1,843,021	59,144	3%	991,380	56%
CHANGE IN FUND BALANCE		(30,292)	(35,194)	(4,903)		(87,487)	289%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

GENERAL FUND REV 110		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	%
				\$	%	09/11/15	
411000	Property Taxes	391,882	391,882	-	0%	2,487	1%
418102	CWS Franchise	28,662	28,662			5,457	
418103	CenturyLink Franchise	5,000	5,000			40	
418104	Comcast Franchise	6,358	6,358			1,078	
418105	Garbage Franchise	12,048	12,048			-	
418107	PGE Franchise	101,886	101,886			7,584	
418108	NW Natural Gas Franchise	35,649	35,649			10,722	
418109	Misc Franchise	4,100	4,100			161	
418110	MACC Franchise	15,847	15,847			-	
421000	Business Fees	6,800	6,800			-	
422000	Recology Fund	48,600	48,600			13,196	
440000	Miscellaneous Fees	6,000	6,000			2,765	
441419	Land Use Permits	40,700	40,700			12,149	
441420	Engineering Plan Review	6,500	6,500			-	
450455	Library Fines and Fees	10,000	10,000			1,803	
450465	Land Use Planning Fees	11,500	11,500			-	
462000	Rentals	6,000	6,000			1,068	
	LICENSES, PERMITS, FEES	345,649	345,649	-	0%	56,023	16%
436000	Liquor Tax	30,960	30,960			2,319	
437000	Cigarette Tax	2,800	2,800			459	
438000	State Revenue Sharing	19,600	19,600			4,485	
439000	WCCLS	112,437	112,437			34,110	
	INTERGOVERNMENTAL	165,797	165,797	-	0%	41,373	25%
450421	Police Citations	18,000	18,000			5,885	
	FINES AND FORFEITURES	18,000	18,000	-	0%	5,885	33%

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

GENERAL FUND REV 110		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	%
				\$	%	09/11/15	
431000	Grants - General	8,000	14,811	6,811		14,811	
431001	Grants - Police	-	-			565	
431002	Grants - Library	1,200	1,200			-	
431003	Grants - Planning	1,000	1,000			-	
464000	Donations - General	-	-			-	
464100	Comm Events Rev	-	-			-	
464101	4th of July Rev	7,500	7,500			5,633	
464102	Concerts in the Park Rev	1,500	1,500			-	
464116	Garlic Fest Rev	1,000	1,000			-	
464421	Donations - Police	-	-			-	
464455	Donations - Library	8,000	8,000			3,636	
	GRANTS AND DONATIONS	28,200	35,011	6,811	24%	24,645	87%
461000	Interest	9,244	9,244			-	
445000	Sale of asset	-	4,695	4,695		4,695	
820113	Transfers In - URA loan	16,471	16,471			-	
	OTHER REVENUE	25,715	30,410	4,695	18%	4,695	18%
TOTAL REVENUES		975,243	986,749	11,506	1%	135,108	14%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

GENERAL GOVERNMENT 110-419		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate \$	%	Actuals as of 09/11/15	%
110000	Salaries	129,834	129,834			24,968	
120000	Hourly	61,304	61,304			10,382	
210000	Employee Benefits	29,554	29,554			5,084	
220000	Payroll Taxes	16,837	16,837			2,649	
230000	Retirement	31,259	31,259			5,610	
	Subtotal	268,788	268,788	-	0%	48,693	18%
810001	Allocated to other funds	(158,585)	(158,585)			(28,729)	
	PERSONAL SERVICES	110,203	110,203	-	0%	19,964	18%
	<i>FTE 1.7</i>						
300000	Education and Training	3,000	3,000			594	
300010	BUG Connection	7,830	7,830			3,461	
300105	Donations	1,500	1,500			-	
310000	Utilities	15,540	15,540			1,197	
330000	Professional Services	2,000	2,000			116	
330100	Prof Srv - Attorney	23,400	23,400			3,819	
330101	Prof Srv - Audit	9,000	9,000			-	
330102	Prof Srv - Software	14,900	14,900			14,519	
330103	Prof Srv - IT	13,000	21,461	8,461		-	
330104	Prof Srv - Printing	6,000	6,000			1,445	
330105	Prof Srv - Payroll	5,590	5,590			182	
330106	Prof Srv - Janitorial	-	1,475	1,475		395	
330107	Prof Srv - Security	2,755	2,755			1,412	
330115	Prof Srv - HR	1,000	1,000			-	
340000	Repairs and Maintenance	1,500	1,500			-	
340100	R&M - Copier	12,271	12,271			-	
340101	R&M - HVAC	1,916	1,916			637	
350000	Agency Memberships	3,800	3,800			2,117	
500000	Employee Recognition	1,475	1,475			-	
540000	Advertising	300	300			-	
610000	Supplies	7,500	7,500			779	
621000	Insurance	37,500	35,000	(2,500)		34,084	
621002	Workers' Compensation	18,000	18,225	225		18,225	
	Subtotal	189,777	197,438	7,661	4%	82,980	44%
810003	Allocated to other funds	(111,969)	(112,470)	(501)		(48,958)	
	MATERIALS AND SERVICES	77,809	84,968	7,159	9%	34,022	44%
810009	Transfers Out - Veh Res	2,047	2,047			2,047	
810111	Transfers Out - Street	10,000	10,000			10,000	
	TRANSFERS OUT	12,047	12,047	-	0%	12,047	100%
GENERAL GOVERNMENT DEPT TOTAL		200,059	207,218	7,160	4%	66,033	33%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

POLICE 110-421		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to	Estimate	Actuals as of	
				\$	%	09/11/15	%
110000	Salaries	135,767	135,767			25,719	
120000	Hourly	32,199	38,886	6,687		6,193	
125000	Reserves	1,981	1,981			1,870	
210000	Employee Benefits	22,294	22,294			2,389	
220000	Payroll Taxes	14,669	15,192	523		2,602	
230000	Retirement	33,734	35,010	1,277		3,485	
	PERSONAL SERVICES	240,644	249,131	8,487	4%	42,258	18%
	<i>FTE 2.7</i>						
300000	Education and Training	3,000	3,000			-	
330000	Professional Services	2,000	3,000	1,000		2,223	
330102	Prof Srv - Software	3,775	3,775			2,196	
330108	Prof Srv - Wireless	5,500	5,500			384	
330109	Prof Srv - Evid Storage	2,600	2,600			-	
330912	WA County Dispatch	12,794	12,794			6,398	
340000	Repairs and Main - Vehicles	6,000	6,000			738	
340102	Repairs and Main - Equip	1,000	1,000			-	
350000	Agency Memberships	1,000	1,000			325	
370000	Rentals and Leases	21,041	21,041			9,583	
610000	Supplies	11,000	11,000			245	
610100	Uniforms	2,500	2,500			2,032	
610224	Fuel	12,000	11,000	(1,000)		-	
630000	Equipment (non-capital)	-	-			-	
	MATERIALS AND SERVICES	84,210	84,210	-	0%	24,125	29%
820000	Court Pass Through	600	600			117	
	SPECIAL PAYMENTS	600	600	-	0%	117	20%
810009	Transfers Out - Equip Res	4,671	4,671			4,671	
	TRANSFERS OUT	4,671	4,671	-	0%	4,671	100%
	POLICE DEPARTMENT TOTAL	330,124	338,611	8,487	3%	71,171	22%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

PUBLIC WORKS 110-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to	Estimate	Actuals as of	
				\$	%	09/11/15	%
110000	Salaries	153,212	153,212			29,957	
120000	Hourly	6,078	8,600	2,522		5,895	
210000	Employee Benefits	23,117	23,117			3,362	
220000	Payroll Taxes	13,926	14,124	197		2,743	
230000	Retirement	31,991	31,991			6,525	
	Subtotal	228,324	231,044	2,720	1%	48,481	
810002	Allocated to other funds/depts	(214,624)	(217,181)	(2,557)		(45,572)	
	PERSONAL SERVICES	13,699	13,863	163	1%	2,909	21%
	<i>FTE 0.2</i>						
300000	Education and Training	300	300			62	
310000	Utilities	1,320	1,320			-	
330000	Professional Services	500	500			-	
330110	City Engineer Plan Review	5,000	5,000			4,399	
340000	Repairs and Maintenance	8,000	8,000			2,516	
610000	Supplies	4,500	4,500			-	
610090	Uniforms	600	600			-	
610224	Fuel	10,000	10,000			1,387	
	Subtotal	30,220	30,220	-	0%	8,364	
810004	Allocated to other funds	(28,407)	(28,407)			(7,862)	
	MATERIALS AND SERVICES	1,813	1,813	-	0%	502	28%
810009	Transfers Out - Veh Res	58	58			58	
	TRANSFERS OUT	58	58	-	0%	58	99%
PUBLIC WORKS DEPARTMENT TOTAL		15,571	15,734	163	1%	3,469	22%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

LIBRARY 110-455		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
110000	Hourly	129,040	129,555	515		27,156	
210000	Employee Benefits	7,582	6,950	(632)		-	
220000	Payroll Taxes	14,805	14,845	40		2,203	
230000	Retirement	14,088	14,165	77		2,695	
	PERSONAL SERVICES	165,515	165,515	1	0%	32,054	19%
	<i>FTE 3.7</i>						
300000	Education and Training	600	600			-	
300100	Donations	250	250			-	
310000	Utilities	8,200	8,200			89	
330000	Professional Services	1,130	1,130			403	
330102	Prof Srv - Software	1,850	1,850			-	
330106	Prof Srv - Janitorial	5,760	5,760			1,475	
330107	Prof Srv - Security	850	850			-	
340000	Repairs and Maintenance	1,200	1,200			-	
340100	R&M - Copier	4,000	4,000			-	
340101	R&M - HVAC	1,916	1,916			-	
610000	Supplies	6,204	6,204			1,094	
640000	Library Materials	14,933	14,933			2,008	
	MATERIALS AND SERVICES	46,893	46,893	-	0%	5,069	11%
810009	Transfers Out - Veh/Equip Res	2,593	2,593			2,593	
	TRANSFERS OUT	2,593	2,593	-	0%	2,593	100%
LIBRARY DEPARTMENT TOTAL		215,000	215,001	1	0%	39,717	18%

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

CULTURE AND RECREATION 110-411		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
300101	4th of July	20,000	20,000			16,030	
300102	Concerts in the Park	1,500	1,735	235		1,735	
300107	Chili Cookoff	500	500			-	
300108	National Night Out	500	265	(235)		243	
300110	Volunteer Recognition	600	600			-	
300111	Ice Cream Social	200	200			-	
300116	Garlic Festival	-	-			-	
300117	Clean Up Day	250	250			-	
300118	City-wide Garage Sale	260	260			-	
	MATERIALS AND SERVICES	23,810	23,810	-	0%	18,008	76%
CULTURE AND RECREATION DEPT TOTAL		23,810	23,810	-	0%	18,008	76%

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

PARKS 110-452		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
810002	Public Works Allocation	50,231	50,830			10,666	
	Personel Services	50,231	50,830	598	1%	10,666	21%
	<i>FTE 0.8</i>						
310000	Utilities	5,640	5,640			49	
330000	Professional Services	600	600			-	
340000	Repairs and Maintenance	4,000	4,000			804	
610000	Supplies	2,850	2,850			-	
810004	Public Works Allocation	6,648	6,648			1,840	
	MATERIALS AND SERVICES	19,738	19,738	-	0%	2,693	14%
PARKS DEPARTMENT TOTAL		69,970	70,568	598	1%	13,359	19%

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

PLANNING 110-465		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to	Estimate	Actuals as of	
				\$	%	09/11/15	%
330000	Professional Services	50,000	50,000			10,704	
360000	Advertising	1,000	1,000			135	
	MATERIALS AND SERVICES	51,000	51,000	-	0%	10,839	21%
PLANNING DEPARTMENT TOTAL		51,000	51,000	-	0%	10,839	21%

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

STREET FUND 111-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
	Street Fee in Lieu	141,154	141,154			141,154	
	Recology Fund	20,000	20,000			20,000	
	SDCs for Trans System Plan		114,153			114,153	
	Unassigned	49,781	(49,024)			(49,024)	
OPENING FUND BALANCE		210,935	226,283	15,348	7%	226,283	107%
REVENUES							
435003	TUF	25,680	25,680			4,355	
445000	SDCs	38,280	38,280			13,398	
	LICENSES, PERMITS, FEES	63,960	63,960	-	0%	17,753	28%
435001	Gas Tax - State	116,390	116,390			19,568	
435002	Gas Tax - County	7,500	7,500			1,269	
	INTERGOVERNMENTAL	123,890	123,890	-	0%	20,836	17%
431110	Grants	-	-			-	
461000	Interest	1,000	1,000			-	
	OTHER REVENUES	1,000	1,000	-	0%	-	0%
820110	Transfers In - Gen Fund	10,000	10,000			10,000	
	TRANSFERS	10,000	10,000	-	0%	10,000	100%
TOTAL REVENUES		198,850	198,850	-	0%	48,590	24%
EXPENDITURES							
810001	General Government Allocation	26,879	26,879		0%	4,869	
810002	Public Works Allocation	52,514	53,140	626	1%	11,151	
	Personal Services	79,393	80,019	626	1%	16,020	20%
	<i>FTE 1.2</i>						
330000	Professional Services	2,000	2,000		0%	-	
610000	Supplies	3,000	3,000		0%	-	
640000	Street Lights	27,060	39,060	12,000	44%	21	
810003	General Government Allocation	18,978	19,063	85	0%	8,298	
810004	Public Works Allocation	6,951	6,951		0%	1,924	
	Materials and Services	57,988	70,073	12,085	21%	10,243	18%
770103	Street Projects- Wascoe/Cottag	20,000	16,840	(3,160)		16,840	
	Capital Outlay	20,000	16,840	(3,160)		16,840	84%
810009	Transfers Out - Veh Res	547	547		0%	547	
	Transfers	547	547	-	0%	547	100%
TOTAL EXPENDITURES		157,929	167,480	9,551	6%	43,650	28%
NET CURRENT REVENUES AND EXPENDITURE		40,921	31,370	(9,551)	-23%	4,940	12%
	Contingency	27,000	27,000			-	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

STREET FUND 111-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
CHANGE IN FUND BALANCE		13,921	4,370	(9,551)	-69%	4,940	35%
UNAPPROPRIATED							
ENDING FUND BALANCE		224,856	230,653	5,798		231,223	103%
	Street Fee in Lieu	141,154	141,154	-		141,154	
	Recology Fund	30,000	30,000	-		30,000	
	SDCs for Trans System Plan		152,433	152,433		127,551	
	Unassigned	53,702	(92,934)	(146,635)		(67,482)	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

WATER FUND 210-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted	Year End	Budget to Estimate		Actuals as of	
		Budget	Estimate	\$	%	09/11/15	%
	Committed to Capital Projects	267,835	421,824			267,835	
	Unassigned	1,009,257	1,046,306			1,009,257	
OPENING FUND BALANCE		1,277,092	1,468,130	191,038	15%	1,277,092	100%
REVENUES							
444000	Charges, Fees, Fines	910,000	940,000	30,000		212,143	
445000	SDCs (Capital)	296,160	296,160			103,656	
446000	SDCs - Pass thru JWC	180,360	180,360			63,126	
461000	Interest	5,445	5,445			-	
440000	Miscellaneous	-	-			-	
TOTAL REVENUES		1,391,965	1,421,965	30,000	2%	378,925	27%
EXPENDITURES							
810001	General Government Allocation	131,706	131,706			23,859	
810002	Public Works Allocation	111,879	113,211	1,333		23,756	
	Personal Services	243,585	244,917	1,333	1%	47,615	20%
	<i>FTE 3.7</i>						
300000	Education and Training	1,200	1,200			-	
310000	Utilities	9,090	9,090			-	
330000	Professional Services	2,000	2,000			-	
330104	Prof Srv- Printing	6,000	6,000			1,536	
330111	Prof Srv- Meter Reading	9,000	9,000			1,514	
330112	Prof Srv- Water Analysis	2,250	2,250			58	
330116	Prof Srv- Valve Replacement	4,500	4,500			-	
340000	Repairs and Maintenance	10,000	10,000			2,150	
350000	Agency Memberships	775	775			-	
610000	Supplies	7,500	7,500			-	
610600	Water Purchase	136,000	140,000	4,000		-	
630000	New Water Service Materials	5,000	10,000	5,000		8,180	
800000	Bad debt (sent to collections)	2,000	2,000			-	
810003	General Government Allocation	92,991	93,407	416		40,660	
810004	Public Works Allocation	14,808	14,808			4,098	
	Materials and Services	303,114	312,530	9,417	3%	58,196	19%
770000	PW Projects	51,000	51,000			-	
	Capital Outlay	51,000	51,000	-	0%	-	0%
820000	SDC Pass Thru JWC	180,360	180,360			-	
	Special Payments	180,360	180,360	-	0%	-	0%
500500	Debt Service - 2005 Bond	134,332	134,332			-	
	Debt Service	134,332	134,332	-	0%	-	0%
810009	Transfers Out - Veh Res	2,549	2,549			2,549	
	Transfers	2,549	2,549	-	0%	2,549	100%
TOTAL EXPENDITURES		914,939	925,689	10,749	1%	108,360	12%
NET CURRENT REVENUES AND EXPENDITURE		477,026	496,276	19,251	4%	270,564	57%
	Contingency	500,000	500,000			-	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

WATER FUND 210-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
	CHANGE IN FUND BALANCE	(22,974)	(3,724)	19,251	-84%	270,564	-1178%
	UNAPPROPRIATED						
	ENDING FUND BALANCE	1,254,118	1,464,406	210,288		1,547,657	123%
	Committed to Capital Projects	12,995	166,984	153,989		371,491	
	Unassigned	1,241,123	1,297,422	56,300		1,176,166	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

TRANSP. DEVELOPMENT TAX FUND 130-4:		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of 09/11/15	%
				\$	%		
OPENING FUND BALANCE		516,183	755,758	239,575	46%	755,758	146%
REVENUES							
415100	TDT	486,780	486,780			170,373	
461000	Interest	3,000	3,000			-	
TOTAL REVENUES		489,780	489,780	-	0%	170,373	35%
EXPENDITURES							
770000	Capital Projects	-	82,239			32,452	
	Capital Outlay	-	82,239	82,239		32,452	
TOTAL EXPENDITURES		-	82,239	82,239		32,452	
NET CURRENT REVENUES AND EXPENDITURE		489,780	407,541	(82,239)	-17%	137,921	28%
	Contingency	1,005,963	1,005,963	-		-	
CHANGE IN FUND BALANCE		(516,183)	(598,422)	(82,239)	16%	137,921	-27%
UNAPPROPRIATED							
ENDING FUND BALANCE		-	157,336	157,336		893,679	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

PARKS CAPITAL FUND 131-452		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate \$	%	Actuals as of 09/11/15	%
OPENING FUND BALANCE		491,089	638,035	146,946	30%	638,035	130%
REVENUES							
431000	Grant	200,000	200,000			-	
445000	SDCs	274,080	274,080			95,928	
461000	Interest	2,500	2,500			-	
TOTAL REVENUES		476,580	476,580	-	0%	95,928	20%
EXPENDITURES							
770000	Jessie Mays	100,000	100,000			-	
770001	Walking Trail	200,000	200,000			-	
	Capital Outlay	300,000	300,000	-	0%	-	0%
TOTAL EXPENDITURES		300,000	300,000	-	0%	-	0%
NET CURRENT REVENUES AND EXPENDITURE		176,580	176,580	-	0%	95,928	54%
	Contingency	667,669	667,669			-	
CHANGE IN FUND BALANCE		(491,089)	(491,089)	-	0%	95,928	-20%
UNAPPROPRIATED							
ENDING FUND BALANCE		-	146,946			733,963	

City of North Plains
 FY2015-16 Budget Update as of Sept 11, 2015

TRAFFIC IMPACT FEE FUND 132-433		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted Budget	Year End Estimate	Budget to Estimate		Actuals as of	
				\$	%	09/11/15	%
	OPENING FUND BALANCE	290,610	290,674	64	0%	290,674	100%
	REVENUES						
461000	Interest	1,445	1,445			-	
	TOTAL REVENUES	1,445	1,445	-	0%	-	0%
	EXPENDITURES						
770000	PW Projects - West Union ped Capital Outlay	150,000	150,000	-		-	
	TOTAL EXPENDITURES	150,000	150,000	-	0%	-	0%
	NET CURRENT REVENUES AND EXPENDITURE	(148,555)	(148,555)	-	0%	-	0%
	Contingency	142,055	142,119	64		-	
	CHANGE IN FUND BALANCE	(290,610)	(290,674)	(64)	0%	-	0%
	UNAPPROPRIATED ENDING FUND BALANCE	-	-			290,674	

City of North Plains
FY2015-16 Budget Update as of Sept 11, 2015

VEHICLE AND EQUIPMENT RESERVE FUND		FY2015-16	FY2015-16	VARIANCE		FY2015-16	
Acct	Description	Adopted	Year End	Budget to Estimate		Actuals as of	
		Budget	Estimate	\$	%	09/11/15	%
	Police	11,659	11,600			11,600	
	Public Works	26,131	25,819			25,819	
	Library	4,221	4,200			4,200	
	General Government	5,026	5,000			5,000	
OPENING FUND BALANCE		47,037	46,619	(418)	-1%	46,619	99%
REVENUES							
820110	Transfers In - GF/Gen Govt	2,047	2,047			2,047	
820110	Transfers In - GF/Police	4,671	4,671			4,671	
820110	Transfers In - GF/Public Works	58	58			58	
820110	Transfers In - GF/Library	2,593	2,593			2,593	
820111	Transfers In - Street/Gen Govt	499	499			499	
820111	Transfers In - Street/Public Wc	48	48			48	
820210	Transfers In - Water/Gen Govt	2,447	2,447			2,447	
820210	Transfers In - Water/Public W	102	102			102	
	TRANSFERS	12,466	12,466	-	0%	12,465	100%
461000	Interest	235	235	-	0%	-	
TOTAL REVENUES		12,701	12,701	-	0%	12,465	98%
EXPENDITURES							
770300	Public Works Equipment	13,175	13,175	-	0%	-	
	Capital Outlay	13,175	13,175	-	0%	-	0%
TOTAL EXPENDITURES		13,175	13,175	-	0%	-	0%
NET CURRENT REVENUES AND EXPENDITURE		(474)	(474)	-		12,465	-2629%
	(Contingency	10,000	10,000	-		-	
CHANGE IN FUND BALANCE		(10,474)	(10,474)	-		12,465	-119%
UNAPPROPRIATED							
ENDING FUND BALANCE		36,563	36,145	(418)		59,084	162%
	Police	16,390	16,331				
	Public Works	3,223	2,912				
	Library	6,873	6,851				
	General Government	10,077	10,052				



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: City Council
From: Finance Director Rachael Lembo
Subject: Auditor Letter

Request: This item is informational only.

Background: The City's auditor, Dennis Conner, CPA, has provided a letter to the City Council which explains the auditor's responsibilities under Generally Accepted Auditing Standards. This is a standard letter provided every year, however it is a good reminder of the steps and scope of the audit.

Fiscal Impact: This item is for informational purposes only.

Sample Motion: This item is informational only.

Attachment – Auditor Letter

DENNIS R. CONNER
 CERTIFIED PUBLIC ACCOUNTANT
 365 SOUTH NEHALEM STREET
 Clatskanie, Oregon 97016

July 15, 2015
 Mayor, City Council and City Manager
 City of North Plains
 North Plains, OR

This is a communication with those charged with governance during planning stages of the audit. I am engaged to audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of North Plains for the year ended June 30, 2015. Professional standards require that I provide you with the following information related to my audit. I would also appreciate the opportunity to meet with you to discuss this information further since a two-way dialogue can provide valuable information for the audit process.

My Responsibility under U.S. Generally Accepted Auditing Standards

As stated in my engagement letter dated July 1, 2014, my responsibility, as described by professional standards, is to express opinions about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. My audit of the financial statements does not relieve you or management of your responsibilities.

- 1) My responsibility is to plan and perform the audit to obtain reasonable, but not absolute, assurance that the financial statements are free of material misstatement.
- 2) As part of my audit, I will consider the internal control of the City. Such considerations will be solely for the purpose of determining my audit procedures and not to provide any assurance concerning such internal control.
- 3) I am responsible for communicating significant matters related to the audit that are, in my professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, I am not required to design procedures specifically to identify such matters
- 4) I am also responsible for evaluating the City's internal control over financial reporting, and its compliance with the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules OAR 162-10-240 to 162-10-320.

Generally accepted accounting principles provide for certain required supplementary information (RSI) to supplement the basic financial statements. My responsibility with respect to the RSI, which supplement(s) the basic financial statements, is to apply certain limited procedures in accordance with generally accepted auditing standards. However, the RSI will not be audited and, because the limited procedures do not provide me with sufficient evidence to express an opinion or provide any assurance, I will not express an opinion or provide any assurance on the RSI.

I have been engaged to report on the budgetary comparison schedules and other financial schedules listed in the table of contents, which accompany the financial statements, but are not RSI. My responsibility for this supplementary information, as described by professional standards, is to evaluate the presentation of the supplementary information in relation to the financial statements as a whole and to report on whether the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.

I have not been engaged to report on the management discussion and analysis, which accompanies the financial statements. My responsibility with respect to this other information in documents containing the audited financial statements and auditor's report does not extend beyond the financial information identified in the report. I have no responsibility for determining whether this other information is properly stated. This other information will not be audited and I will not express an opinion or provide any assurance on it.

Planned Scope, Timing of the Audit, and Other

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, my audit will involve judgment about the number of transactions to be examined and the areas to be tested.

My audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Material misstatements may result from:

- (1) Errors,
- (2) Fraudulent financial reporting,
- (3) Misappropriation of assets, or
- (4) Violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

I will generally communicate my significant findings at the conclusion of the audit. However, some matters could be communicated sooner, particularly if significant difficulties are encountered during the audit where assistance is needed to overcome the difficulties or if the difficulties may lead to a modified opinion. I will also communicate any internal control related matters that are required to be communicated under professional standards.

This information is intended solely for the use of the Mayor, City Council and City Manager of the City of North Plains and is not intended to be, and should not be, used by anyone other than these specified parties.

Very truly yours,

A handwritten signature in black ink that reads "Dennis R. Conner". The signature is written in a cursive, flowing style.

Dennis R. Conner
Certified Public Accountant



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: September 21, 2015
To: Mayor and City Council
From: Public Works Director and Interim City Manager Blake Boyles
Subject: Marijuana Dispensaries within the City of North Plains

Request: Council had requested this item be added to the agenda for further discussion and action. Chris Crean, Beery, Elsner and Hammond will present informational materials at the September 21, 2015 meeting to assist in the discussions.

Fiscal Impact: There is no fiscal impact with this item.

Environmental Issues: None

Recommendation: This item is informational only. Council will need to decide what action to take regarding marijuana dispensaries in the City of North Plains.



LEAGUE OF OREGON CITIES

**LOCAL GOVERNMENT
REGULATION OF
MARIJUANA IN
OREGON**

**REVISED
AUGUST 2015**



Published by the League of
Oregon Cities

Table of Contents

Introduction and A Word of Caution	1
Home Rule in Oregon	2
Federal Law	3
An Overview of Oregon’s Marijuana Laws	4
Oregon Medical Marijuana Act	4
Recreational Marijuana	5
Taxation of Recreational Marijuana	5
Early Sales of Recreational Marijuana	6
Local Government Options for Regulation of Marijuana	6
Registration and Licenses	7
Oregon’s Seven Regulated Marijuana Activities	7
State Restrictions on the Location of Medical and Recreational Marijuana Activities	7
Medical Grow Sites and Recreational Producers	8
Medical Processing Sites and Recreational Processors	8
Medical Marijuana Dispensaries	8
Recreational Wholesalers and Retailers	9
Local Tax	9
Ban on Early Sales	10
Ban on State-Registered and Licensed Activities	10
Business License Ordinance	11
Development Code	12
Land Use Code	12
Time, Place and Manner Regulations	13
Appendix A: Early Sales Opt Out	15
Appendix B: Council Opt Out	18
Appendix C: Opt Out by Voter Referral	22
Appendix D: Local Tax by Voter Referral	29

Introduction and A Word of Caution

The League of Oregon Cities (League) has prepared this guide to assist cities in evaluating local needs and concerns regarding medical and recreational marijuana, so that city councils can find solutions that are in the best interests of their community. The League does not take a position on which choices a city council should make. The League's mission is to protect the home rule authority of cities to make local decisions and to assist city councils in implementing the decisions they make, whatever those decisions might be.

The League published the first edition of this guide in the spring of 2015. Its original focus was medical marijuana. In November 2014, Oregon voters adopted Measure 91, legalizing the growing, distribution, possession and use of marijuana in certain amounts for non-medical personal use. In 2015, the state Legislature made comprehensive reforms to Measure 91 and addressed issues of local control. Specifically, the Legislature adopted the following bills:

- HB 3400 (Or Laws 2015, ch 614), the omnibus bill that amends the Oregon Medical Marijuana Act (OMMA) and the Control and Regulation of Marijuana Act (also known as Measure 91, which the voters passed in November 2014 legalizing recreational marijuana use in Oregon);
- HB 2041 (Or Laws 2015, ch 699), which revises the state tax structure for recreational marijuana;
- SB 460 (Or Laws 2015, ch 784), which authorizes early sales of recreational marijuana by medical marijuana dispensaries; and
- SB 844 (awaiting governor's signature), which creates a marijuana task force, provides for expungement of certain offenses, adds a new qualifying debilitating medical condition, and allows certain hospice and residential facilities to be designated as an additional caregiver.

The law with regard to local government regulation of marijuana is complex because it involves the interplay of state and federal law, and the law continues to evolve. At press time, there were several court cases pending regarding the legal authority of local governments to regulate, up to and including prohibiting, the operation of medical marijuana facilities. The League will continue to update its members as the law in this area changes.

This guide is not a substitute for legal advice. City councils considering taxing, regulating or prohibiting marijuana facilities should not rely solely on this guide or the resources contained within it. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach. Legal counsel can also assist a city in preparing an ordinance that is consistent with existing ordinances and with a city's charter, and advise on what process is needed to adopt the ordinance.

With those changes, the League has prepared this second edition of the guide, adding sections relating to the regulation of recreational marijuana. This guide begins by providing an overview of the source of local government authority—Oregon’s constitutional home rule provisions. The guide then provides a brief explanation of the status of marijuana under federal law, as well as a summary of Oregon’s marijuana laws, before turning to a discussion of local control and options available for local governments. The guide concludes with sample ordinances to use as a starting point if a city decides it wants to tax, regulate or prohibit marijuana facilities.

The sample ordinance provisions included in this guide are intended to be a starting point, not an ending point, for any jurisdiction considering taxing, regulating or prohibiting marijuana facilities.

Home Rule in Oregon

Any discussion of a city’s options for regulating anything that is also regulated by state law must begin with a discussion of the home rule provisions of the Oregon Constitution from which cities derive their legal authority. Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt local ordinances without having to obtain permission from the state.

The concept of home rule stands in contrast to a corollary principle known as Dillon’s Rule, which holds that municipal governments may engage only in activities expressly allowed by the state because municipal governments derive their authority and existence from the state.¹ Under Dillon’s Rule, if there is a reasonable doubt about whether a power has been conferred to a local government, then the power has not been conferred. Although many states follow Dillon’s Rule, Oregon does not.

Instead, a city government in Oregon derives its home rule authority through the adoption of a home rule charter by the voters of that community pursuant to Article XI, section 2, of the Oregon Constitution, which was added in 1906 by the people’s initiative. Article XI, section 2, provides, in part, that:

“The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation of any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon.”

A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. According to the League’s records, all of Oregon’s 242 incorporated cities have adopted home rule charters.

¹ See John F. Dillon, 1 *The Law of Municipal Corporations* § 9b, 93 (2d ed 1873).

The leading court case interpreting Oregon's home rule amendment is *La Grande/Astoria v. PERB*, 281 Or 137, 148-49, 576 P2d 1204, *aff'd on reh'g*, 284 Or 173, 586 P2d 765 (1978). In that case, the Oregon Supreme Court said that home rule municipalities have authority to enact substantive policies, even in an area also regulated by state statute, as long as the local enactment is not "incompatible" with state law, "either because both cannot operate concurrently or because the Legislature meant its law to be exclusive." In addition, the court said that where there is a local enactment and state enactment on the same subject, the courts should attempt to harmonize state statutes and local regulations whenever possible.²

In a subsequent case, the Oregon Supreme Court directed courts to presume that the state did not intend to displace a local ordinance in the absence of an apparent and unambiguous intent to do so.³ Along the same lines, a local ordinance can operate concurrently with state law even if the local ordinance imposes greater or different requirements than the state law.⁴

Where the Legislature's intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As such, the Oregon Supreme Court has concluded that generally a negative inference that can be drawn from a statute is insufficient to preempt a local government's home rule authority.⁵ For example, where legislation "authorizes" a local government to regulate in a particular manner, a court will not read into that legislation that the specific action authorized is to the exclusion of other regulatory alternatives, unless the Legislature makes it clear that the authorized regulatory form is to be the exclusive means of regulating.

Federal Law

Marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA). Schedule I substances are those for which the federal government has made the following findings:

² Criminal enactments are treated differently. Local criminal ordinances are presumed invalid, and that presumption cannot be overcome if the local enactment prohibits what state criminal law allows or allows what state criminal law prohibits. See *City of Portland v. Dollarhide*, 300 Or 490, 501, 714 P2d 220 (1986). Consequently, the Oregon Supreme Court's case law is clear that a local government may not recriminalize conduct for which state law provides criminal immunity. See *City of Portland v. Jackson*, 316 Or 143, 147-48, 850 P2d 1093 (1993) (explaining how to determine whether a state law permits what an ordinance prohibits, including where the Legislature expressly permits specified conduct).

³ See, e.g., *State ex rel Haley v. City of Troutdale*, 281 Or 203, 210-11, 576 P2d 1238 (1978) (finding no manifest legislative intent to preempt local provisions that supplemented the state building code with more stringent restrictions).

⁴ See *Rogue Valley Sewer Services v. City of Phoenix*, 357 Or 437, 454-55, ___ P3d ___ (2015); see also *Thunderbird Mobile Club v. City of Wilsonville*, 234 Or App 457, 474, 228 P3d 650, *rev den*, 348 Or 524 (2010) ("A local ordinance is not incompatible with state law simply because it imposes greater requirements than does the state, nor because the ordinance and state law deal with different aspects of the same subject." (internal quotations omitted)).

⁵ *Rogue Valley Sewer Services*, 357 Or at 453-55 (concluding that explicit authorization for cities to regulate certain utilities did not, by negative implication, create a broad preemption of the field of utility regulation); *Gunderson, LLC v. City of Portland*, 352 Or 648, 662, 290 P3d 803 (2012) (explaining that even if a preemption based on a negative inference is plausible, if it is not the only inference that is plausible, it is "insufficient to constitute the unambiguous expression of preemptive intention" required under home rule cases).

- The drug or other substance has a high potential for abuse;
- The drug or other substance has no currently accepted medical use in treatment in the United States; and
- There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Oregon's laws on medical and recreational marijuana do not, and cannot, provide immunity from federal prosecution. Consequently, state law does not protect marijuana plants from being seized or people from being prosecuted if the federal government chooses to take action under the CSA against those using marijuana in compliance with state law. Similarly, cities cannot provide immunity from federal prosecution.

An Overview of Oregon's Marijuana Laws

Oregon Medical Marijuana Act

Oregon has had a medical marijuana program since 1998, when voters approved Ballot Measure 67, the Oregon Medical Marijuana Act (OMMA) (codified at ORS 475.300 – ORS 475.346). Since that time, the Legislature has amended the OMMA on a number of occasions. Generally, under the OMMA, a person suffering from a qualifying debilitating health condition must get a written statement from a physician that the medical use of marijuana may mitigate the symptoms or effects of that condition. The person may then obtain a medical marijuana card from the Oregon Health Authority, which is the agency charged with regulating medical marijuana. The patient may designate a caregiver and a grower if the patient decides not to grow his or her own marijuana, each of whom may also get a medical marijuana card. Patients, caregivers and growers with medical marijuana cards, who act in compliance with the OMMA, are immune from state criminal prosecution for any criminal offense in which possession, delivery or manufacture of marijuana is an element. Those without medical marijuana cards may also claim immunity from state criminal prosecution if they are in compliance with the OMMA and, within 12 months prior to the arrest at issue, had received a diagnosis of a debilitating medical condition for which a physician had advised medical marijuana could mitigate the symptoms or effects.

The OMMA also provides protection from state criminal prosecution for medical marijuana processors and medical marijuana dispensaries acting in compliance with the law. Although the OMMA did not originally envision dispensaries, in 2013 the Legislature created a system for state-registered facilities to lawfully transfer marijuana between growers and patients or caregivers. In its original form, the dispensary system failed to address many local government concerns, some of which the Legislature addressed in HB 3400 (2015).

HB 3400 amends the OMMA in a number of ways, including limiting the number of plants at a medical marijuana grow site; allowing medical marijuana growers to possess the amount of usable marijuana harvested from their mature plants, within certain limits; allowing medical marijuana growers to apply for a recreational grow license; changing the amount which a patient

may reimburse his or her grower; adding a new registration category for medical marijuana processors; adding testing, labeling, inspection and reporting requirements; and changing and adding limitations on where dispensaries and processors can locate.

Recreational Marijuana

In November 2014, Oregon voters approved Ballot Measure 91, which decriminalized the personal growing and use of certain amounts of recreational marijuana by persons 21 years of age or older. Measure 91 also designated the Oregon Liquor Control Commission (OLCC) as the agency charged with licensing and regulating the growing, processing and sale of recreational marijuana. In particular, the OLCC was directed to administer a license program for producers, processors, wholesalers and retailers, and under that program, a person may hold more than one type of license.

HB 3400 preserves the general structure of Measure 91, but also makes important changes, including: allowing for personal making, processing or storing of up to 16 ounces of homemade marijuana concentrates; adding a requirement that those who work for recreational marijuana retailers hold a handlers permit; directing the OLCC to develop and maintain a seed-to-sale tracking system; directing the OLCC to adopt restrictions on the size of recreational marijuana grows; adding testing, labeling, inspection and reporting requirements for licensees; and changing and adding certain land use standards as they relate to marijuana.

Taxation of Recreational Marijuana

Originally under Measure 91, the state tax on recreational marijuana would have been imposed on growers at a rate of \$35 per ounce of marijuana flowers, \$10 per ounce of marijuana leaves, and \$5 per immature marijuana plant. Under HB 2041 (2015), the Legislature revised the state tax structure to impose a 17 percent tax on the retail sale of marijuana, to be collected by marijuana retailers. Early sales of recreational marijuana from medical marijuana dispensaries, discussed below, will be taxed at a higher rate. Starting January 4, 2016, early sales of recreational marijuana from medical marijuana dispensaries will be taxed at a rate of 25 percent.

As was the case under Measure 91, 10 percent of the state tax will be transferred to cities to “assist local law enforcement in performing its duties” under Measure 91.⁶ That 10 percent will be distributed using different metrics before and after July 1, 2017. Before July 1, 2017, tax revenues will be distributed proportionately to all Oregon cities based on their population. After July 1, 2017, those revenues will be distributed proportionately based on the number of licenses issued for premises located in each city. Fifty percent of revenues will be distributed based on the number of production, processor and wholesale licenses issued in the city, and the other 50 percent will be distributed based on the number of retail licenses issued in the city. However,

⁶ The remaining tax revenues will be distributed as follows: 40 percent to the Common School Fund; 20 percent to the Mental Health Alcoholism and Drug Services Account; 15 percent to the State Police Account; and 10 percent to counties.

under HB 2041, if a city adopts an ordinance prohibiting the establishment of any registered or licensed marijuana activities, the city will not be eligible to receive state marijuana tax revenues.

HB 3400 preempts local governments from imposing more than a 3 percent tax on the production, processing or sale of recreational marijuana by a retail licensee.

Early Sales of Recreational Marijuana

As of July 1, 2015, people 21 years of age and older may possess limited amounts of recreational marijuana under state law. However, the OLCC does not expect to issue licenses for the retail sale of recreational marijuana until sometime in 2016. To allow the OLCC time to implement its licensing system, while also providing an avenue for people to purchase recreational marijuana in compliance with state law, the Legislature authorized medical marijuana dispensaries to sell limited quantities of recreational marijuana.

In particular, starting October 1, 2015, medical marijuana dispensaries will be able to sell the following to a person who is 21 or older and presents proof of age:

- One quarter of one ounce of dried marijuana leaves and flowers per person per day;
- Four marijuana plants that are not flowering; and
- Marijuana seeds.

Sales of recreational marijuana from medical dispensaries currently are set to end on December 31, 2016. At that time, recreational retail facilities likely will be operating. In the meantime, cities can opt out of early sales by ordinance.

Local Government Options for Regulation of Marijuana

Any city wanting to regulate or prohibit marijuana activities should work closely with its legal counsel to survey existing state law and local code, develop a means to implement and enforce any new ordinances, and then craft the necessary amendments to the city's code to accomplish the council's intent.

As set out in HB 3400 and under their home rule authority, cities have a number of options for regulating marijuana activities. Whether to regulate is a local choice. What follows is an overview of the options available to cities. However, before embarking on any form of regulation, cities should begin by examining the seven types of marijuana activities authorized by state statute and the restrictions state law (including administrative regulations adopted by the OLCC and OHA) places on each type of activity to determine whether a gap exists between what state law allows and what the community desires to further restrict.

Registration and Licenses

Under HB 3400, there are seven marijuana activities that require registration or a license from the state. This guide focuses on regulation of those activities. Although some cities may be interested in regulating individual conduct involving personal growing, possession, and use of marijuana, those regulations are beyond the scope of this guide.

Oregon’s Seven Regulated Marijuana Activities

Marijuana Type	Grow	Make Products	Wholesale	Transfer to User
Medical <i>OHA Registration</i>	Marijuana Grow Site: Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers <i>Register under ORS 475.304</i>	Marijuana Processing Site: Location for compounding or converting marijuana into medical products, concentrates or extracts <i>Register under section 85 of HB 3400</i>	None	Medical Marijuana Dispensary: Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers <i>Register under ORS 475.314</i>
Recreational <i>OLCC License</i>	Producers: Manufacture, plant, cultivate, grow, harvest <i>Obtain license under section 12 of HB 3400</i>	Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling <i>Obtain license under section 14 of HB 3400</i>	Wholesalers: Purchase marijuana items for resale to a person other than a consumer <i>Obtain license under section 15 of HB 3400</i>	Retailers: Sell marijuana items to a consumer <i>Obtain license under section 16 of HB 3400</i> *Certain employees must obtain an OLCC handlers permit under section 19 of HB 3400

State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory “floor.” In other words, although the courts generally have upheld a city’s authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So, for

example, where state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

For those cities interested in prohibiting any of the marijuana activities listed above, it is important to examine the state restrictions because, particularly in smaller communities, those restrictions effectively may preclude a person from becoming registered with or licensed by the state to engage in marijuana activities.

Medical Grow Sites and Recreational Producers

HB 3400 does not restrict where medical marijuana grow sites or recreational marijuana producers can locate. However, it does place more stringent limitations on the number of plants that a medical marijuana grower can grow in residential zones and directs the OLCC to adopt rules restricting the size of recreational marijuana grow canopies.

Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain existing grow sites. If all growers at a site had registered with the state by January 1, 2015, the grow site is limited to the number of plants that were at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower's registration is suspended or revoked.

Medical Processing Sites and Recreational Processors

Processors that make marijuana extracts may not be located in an area zoned for residential use.

Medical Marijuana Dispensaries

Prior to HB 3400, state law provided that dispensaries had to be located in areas zoned for commercial, industrial, mixed use or agricultural land. Some dispensary owners argued that, as a result, local governments had to allow dispensaries to locate in those zones. The Legislature has now revised that provision to remove the list of allowable zones and replace it with a restriction: dispensaries may not be located in residential zones.

Prior to HB 3400, dispensaries could not locate within 1,000 feet of a public or private elementary, secondary or career school attended primarily by minors. The Legislature has now revised that restriction so that a dispensary may not locate within 1,000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in

ORS 339.030(1)(a).⁷ As a practical matter, that means that dispensaries cannot locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing dispensary, the dispensary may remain where it is unless the OHA revokes its registration.

In addition, the Legislature retained the requirement that dispensaries may not be located at the same address as a grow site and may not be located within 1,000 feet of another dispensary.

Recreational Wholesalers and Retailers

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license.

Local Tax

The OMMA was silent on local authority to tax, meaning that local governments retained their home rule authority to tax medical marijuana. Measure 91, on the other hand, attempted to preempt local government authority to tax recreational marijuana, though there were significant questions regarding the effect and scope of that purported preemption.

Under HB 3400, the Legislature has vested authority to “impose a tax or fee on the production, processing or sale of marijuana items” solely in the Legislative Assembly, except as provided by law. The Legislature has also provided that a city may not “adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items,” except as provided by law. HB 3400 goes on to provide that cities may adopt an ordinance, which must be referred to the voters, imposing a tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. The ordinance must be referred to the voters in a statewide general election, meaning an election in November of an even-numbered year. However, if a city has adopted an ordinance

⁷ ORS 339.020 provides, “Except as provided in ORS 339.030:

- (1) Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term.
- (2) If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school.”

ORS 339.030(1)(a) provides, “In the following cases, children may not be required to attend public full-time schools: (a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.”

prohibiting the establishment of any recreational marijuana licensees or any medical marijuana registrants in the city, the city may not impose a local tax under this provision of the legislation.

Although HB 3400 provides that cities may impose a tax on sales by retail licensees, it remains unclear whether a city can tax medical marijuana. In particular, cities should consult their attorney on whether the authority to impose a tax or fee on “the production, processing or sale of marijuana items,” vested solely in the Legislature except as provided in HB 3400, includes the authority to tax medical marijuana.

For those cities that enacted taxes on medical or recreational marijuana prior to the Legislature’s adoption of HB 3400, the status of those taxes remains an open question. Arguably, cities that had “adopt[ed] or enact[ed]” taxes prior to the effective date of HB 3400 are grandfathered in under the law. However, the issue is not free from doubt, and cities that decide to collect on pre-HB 3400 taxes should be prepared to defend their ability to do so against legal challenge. Consequently, cities that plan to continue to collect taxes imposed prior to the passage of HB 3400 should work closely with their city attorney to discuss the implications and risks of that approach.

Ban on Early Sales

Starting October 1, 2015, medical marijuana dispensaries may begin selling limited quantities of recreational marijuana. Cities may adopt an ordinance prohibiting those early sales without referring the ordinance to voters and likely without tax implications. Although a city adopting an ordinance “prohibiting the establishment” of certain marijuana activities is not eligible to receive state marijuana tax revenues, an ordinance prohibiting early sales would merely limit the activities at an existing medical marijuana dispensary. As a result, cities would likely remain eligible to receive state tax revenues.

However, cities likely cannot impose a local tax on early sales. Under HB 3400, cities may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items, except as provided in that legislation. HB 3400 further stipulates that cities may refer an ordinance to voters imposing a tax of up to 3 percent on sales by a person that holds a retail license issued by the OLCC. Because early sales of recreational marijuana will be made by medical marijuana dispensaries, and not by a retail licensee, a city likely is preempted from imposing a tax on early sales of recreational marijuana. However, cities interested in imposing a local tax on early sales should consult their city attorney.

Ban on State-Registered and Licensed Activities

Under HB 3400, cities may prohibit within the city the operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and medical marijuana dispensaries. HB 3400 is silent on whether a city can ban medical marijuana growers from operating in the city. However, HB 3400 does not indicate that the bill’s process for banning marijuana activities is the exclusive means to do so. Cities considering banning

medical marijuana grow sites should talk to their city attorney about whether they can do so under either home rule, federal preemption or both legal theories.

The method for imposing the ban under HB 3400 will depend on when the city imposes the ban and whether the city is located in a county that voted against Measure 91 by 55 percent or more.

Before December 24, 2015, cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) can enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. After that time, and for cities not located in those counties, the city council may adopt an ordinance banning any of the six activities listed above, but that ordinance must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year. Medical marijuana dispensaries and medical marijuana processors that have registered with the state by the time their city adopts a prohibition ordinance are not subject to the ban if they have successfully completed a city or county land use application process.

Under either procedure, as soon as the city council adopts the ordinance, it must submit it to the Oregon Health Authority (OHA) for medical bans and the Oregon Liquor Control Commission (OLCC) for recreational bans, and those agencies will stop registering and licensing the banned facilities. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election occurs.

For cities using the referral process, it is also important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

In determining whether to prohibit any of the marijuana activities registered or licensed by the state, cities may want to consider the tax implications. Cities that enact a prohibition on any marijuana activity likely will not be eligible to receive state marijuana tax revenues or impose a local tax, even if the city bans only certain activities and allows others.

It is also important to note that HB 3400 does not provide an avenue for cities to ban the personal use and growing of marijuana. As a result, cities interested in enacting such a ban should consult with their city attorney to discuss whether the city can do so under either home rule, federal preemption or both legal theories.

Business License Ordinance

Although HB 3400 provides an avenue for cities to ban certain marijuana activities, nothing in the legislation makes that the exclusive means for prohibiting marijuana activities. As a result, some cities may not need to go through the procedures outlined in HB 3400 to ban marijuana

activities because they may already have laws in place that create an effective ban. However, cities relying on other avenues to ban should be prepared to defend their authority to do so.

A number of cities have imposed a ban through a local business license ordinance that provides that it is unlawful for any person to operate a business within the city without a business license, and further provides that the city will not issue a business license to any person operating a business that violates local, state or federal law. Indeed, cities that have a business license ordinance in place should review their existing codes to determine if such wording already exists. Additionally, whether adopting a new business license program or amending an existing one to provide that the city will not issue a business license to any person operating a business that violates local, state or federal law, a city should work with its legal counsel to ensure that its business license ordinance includes an enforcement mechanism to address a situation in which a person is operating a business without a business license.

In addition, cities that decide to enforce a business license ordinance instead of adopting a ban under HB 3400 should consult their city attorney regarding *City of Cave Junction v. State of Oregon* (Josephine County Circuit Court Case #14CV0588; Court of Appeals Case #A158118) and *Providing All Patients Access v. City of Cave Junction* (Josephine County Circuit Court Case #14CV1246, Court of Appeals Case #A160044). At issue in those cases is whether the city of Cave Junction may enforce its business license ordinance, which prohibits issuance of a business license to a business operating in violation of local, state or federal law, to effectively prohibit medical marijuana dispensaries from operating. Two trial courts in Oregon have upheld the city's business license ordinance against challenges that it has been preempted by the OMMA (prior to its amendment by HB 3400). Both of those cases currently are on appeal before the Oregon Court of Appeals.

Development Code

Cities that desire to impose a prohibition on marijuana operations could also include in their development codes a provision stating that the city will not issue a development permit to any person operating a business that violates local, state or federal law. If not already defined, or if defined narrowly, the city will want to amend its code to provide that a development permit includes any permit needed to develop, improve or occupy land including, but not limited to, public works permits, building permits or occupancy permits.

Land Use Code

As noted above, state law places restrictions on where certain marijuana activities can locate, including prohibiting certain processors, dispensaries and retail establishments from locating in residential zones. In addition, under HB 3400, a land use compatibility statement is required as part of the OLCC's licensing process for all recreational licensees. In particular, before issuing a producer, processor, wholesaler or retailer license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days begins varies.

If the land use is allowed as an outright permitted use, the city has 21 days from receipt of the request; if the land use is a conditional use, the city has 21 days from the final local permit approval. The city's response to the OLCC is not a land use decision. In addition to those state requirements, cities can impose their own more stringent land use requirements and restrictions.

Moreover, cities that desire to prohibit marijuana facilities altogether might also do so through amendments to their land use codes. Before considering this option, cities should work with their legal counsel to first determine if the wording of their zoning codes already prohibits marijuana operations, and if not, to identify the appropriate land use procedures and the amount of time it would take to comply with them. If the wording in a city's zoning codes does not prohibit marijuana operations, the city has different options. One option is to add wording such as "an allowed use is one that does not violate local, state or federal law" to the city's zoning code. Cities that adopt a prohibition that references federal law would then rely on existing mechanisms in their ordinances for addressing zoning violations.⁸

Time, Place and Manner Regulations

HB 3400 provides that local governments may impose reasonable regulations on the time, place and manner of operation of marijuana facilities. The League believes that, under the home rule provisions of the Oregon Constitution, local governments do not need legislative authorization to impose time, place and manner restrictions, and that the Legislature's decision to expressly confirm local authority to impose certain restrictions does not foreclose cities from imposing other restrictions not described in state law.

HB 3400 provides that cities may regulate marijuana facilities by imposing reasonable restrictions on:

- The hours of operation of recreational marijuana retailers and medical marijuana grow sites, processing sites and dispensaries;
- The location of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between recreational marijuana retailers;
- The manner of operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and dispensaries; and

⁸ Under existing law, the League believes it is clear that a city may enforce civil regulations of general applicability (such as zoning codes, business licenses and the like) through the imposition of civil penalties. Although a city likely cannot directly recriminalize conduct allowed under state criminal law, it is a different legal question whether a city may impose criminal penalties for violating a requirement of general applicability when the conduct at issue is otherwise immune from prosecution under state law (i.e. whether a city may impose criminal penalties for operation of a medical marijuana dispensary in violation of a city's land use code). *Cf. State v. Babson*, 355 Or 383, 326 P3d 559 (2014) (explaining that generally applicable, facially neutral law, such as a rule prohibiting use of public property during certain hours, may be valid even if it burdens expressive conduct otherwise protected under Article I, section 8, of the Oregon Constitution). Consequently, a city should work closely with its city attorney before imposing criminal penalties against a person operating a medical marijuana facility in violation of a local civil code, such as a zoning, business license or development code.

- The public's access to the premises of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries.

The law also provides that time, place and manner regulations imposed on recreational licenses must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

Although the law does not provide for regulation of the hours of operation for recreational producers, processors or wholesalers, or for regulation of the manner of operation of medical marijuana grow sites, the League believes that cities could regulate those aspects of operation under their home rule authority. However, a city considering regulating those activities should consult with their legal counsel on the risks of litigation and the likelihood of prevailing.

What regulations a city ultimately adopts will depend on community wants and needs, as well as on the rules adopted by the OHA and the OLCC. HB 3400 authorizes, and in some cases requires, those agencies to adopt rules implementing the law, and those rules may address many of the issues concerning local governments. As a result, although cities may want to begin considering the types of regulations that they want to impose, cities should be aware that local needs may change with experience and as new administrative rules go into effect.

Appendix A

Early Sales Opt Out

APPENDIX A

Early Sales Opt Out

As of July 1, 2015, people aged 21 and older may possess certain amounts of recreational marijuana under Oregon law. However, the Oregon Liquor Control Commission, which is the state agency charged with licensing the retail sale of recreational marijuana, does not expect to begin licensing retail stores until sometime in 2016. To address the gap between the date when people can possess recreational marijuana under Oregon law and the date when people will be able to purchase recreational marijuana from a retail store, the Legislature enacted Senate Bill 460, which allows for limited sales of recreational marijuana from medical marijuana dispensaries starting October 1, 2015. Under SB 460, cities can adopt an ordinance prohibiting those limited recreational sales. Although not required by the statute, the League recommends the city submit its early sales opt out ordinance to Oregon Health Authority so that they may aid in any enforcement of the ban.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON THE SALE OF RECREATIONAL MARIJUANA BY MEDICAL MARIJUANA DISPENSARIES, AND DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act created a system for the transfer of medical marijuana between growers and patients and caregivers through medical marijuana dispensaries;

Whereas, the voters adopted Measure 91 in November 2014, which provides criminal immunity for people aged 21 or older who possess certain amounts of marijuana and directs the Oregon Liquor Control Commission to license the retail sale of marijuana;

Whereas, the Oregon Liquor Control Commission has not yet licensed the retail sale of recreational marijuana;

Whereas, the Legislature enacted Senate Bill 460 (2015) to allow medical marijuana dispensaries to sell limited marijuana retail product starting October 1, 2015;

Whereas, Senate Bill 460 (2015) provides that a city may adopt ordinances prohibiting the sale of limited marijuana retail product from medical marijuana dispensaries;

Whereas, the City Council wants to prohibit the sale of marijuana retail products from medical marijuana dispensaries in the city to protect and benefit the public health, safety and welfare of existing and future residents and businesses in the city;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS
AS FOLLOWS:

BAN DECLARED. The City of {Name} hereby prohibits the sale of limited marijuana retail product in any area subject to the jurisdiction of City of {Name} as described in section 2 of Senate Bill 460 (2015).

DURATION OF BAN. The ban imposed by this ordinance will be effective until December 31, 2016, or until the Legislature ends sales of limited marijuana retail product by medical marijuana dispensaries, whichever comes later.

ENFORCEMENT. {Cities need to think about how to enforce a ban, with mechanisms such as revocation or suspension of a business license, revocation of a marijuana activities registration, injunction, or civil penalty. Cities that consider imposing a criminal penalty should work closely with their city attorney to assess their ability to do so under SB 460 and HB 3400.}

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on {date/passage}.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix B

Council Opt Out

APPENDIX B

Council Opt Out

Note: This option is available only for certain cities and only until December 24, 2015.

Under HB 3400, cities may prohibit within the city the establishment of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and medical marijuana dispensaries. Medical marijuana dispensaries are grandfathered and are able to operate despite a ban if they: (1) have applied to be registered by July 1, 2015 or were registered prior to the date on which the ordinance is adopted, and (2) successfully completed the land use application process (if applicable). Medical marijuana processors are grandfathered and are able to operate despite a ban if they: (1) were registered under ORS 475.300 to 475.346 and were processing usable marijuana on or before July 1, 2015 or (2) are registered under section 85 of HB 3400 prior to the date on which the ordinance is adopted by the governing body, and (3) have successfully completed a local land use application process (if applicable).

HB 3400 is silent on whether a city can ban medical marijuana growers from operating, consequently, this model does not address the banning of medical marijuana growers. Cities interested in banning medical marijuana growers should consult with their city attorney about whether they could do so under the city's home rule authority and/or federal legal theories.

Cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) can enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. However, the city council must do so prior to December 24, 2015. After that date a ban can only be effectuated using the referral process set out in Appendix C.

After adopting a prohibition ordinance, the council must submit the ordinance to the Oregon Health Authority (if banning medical marijuana businesses) and/or the Oregon Liquor Control Commission (if banning recreational marijuana businesses) and those agencies will then stop registering and licensing the prohibited businesses. Each agency has a form for submitting the ordinances.

Cities that adopt an ordinance prohibiting the establishment of medical or recreational marijuana businesses are not eligible to receive a distribution of state marijuana tax revenues or to impose a local tax under section 34a of HB 3400.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON {MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS} AND DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries;

Whereas, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana;

Whereas, section 133 of HB 3400 provides that a qualifying city may prohibit, within its jurisdiction, the establishment of certain state-registered and state-licensed marijuana businesses by adopting an ordinance within 180 days of the effective date of HB 3400;⁹

Whereas, {City} is a “qualifying city” as defined in section 133 of House Bill 3400 (2015) because {City} is located in a county in which not less than 55 percent of the votes cast in the county on Measure 91 in November 2014 were against the measure;

Whereas, the City Council wants to prohibit the operation of {type of marijuana activity} in the city to protect and benefit the public health, safety and welfare of existing and future residents and businesses;

Whereas, the City Council believes that the public benefits from prohibiting the operation of {type of marijuana activity} in the city outweigh the benefit the city would receive from state or local tax revenues;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

⁹ Those counties include the following: Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As provided in section 133 of House Bill 3400 (2015), the City of {Name} hereby prohibits the establishment of the following in the area subject to the jurisdiction of the city {select desired options from the list below}:

- (a) Marijuana processing sites;
- (b) Medical marijuana dispensaries;
- (c) Marijuana producers;
- (d) Marijuana processors;
- (e) Marijuana wholesalers;
- (f) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 133, section 136, or section 137 of House Bill 3400 (2015).

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on {date/passage}.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix C

Opt Out by Voter Referral

APPENDIX C

Opt Out by Voter Referral

Cities that are not in a county that voted no on Measure 91 by 55 percent or more, or cities that desire to ban certain marijuana activities after December 24, 2015, may do so only by referral at a statewide general election, meaning an election in November of an even-numbered year. Cities should consult the Secretary of State's referral manual and work with the city recorder or similar official to determine the procedures necessary to refer an ordinance to the voters.

Once adopted, the city must submit the ordinance to the Oregon Health Authority (if banning medical marijuana businesses) and/or the Oregon Liquor Control Commission (if banning recreational marijuana businesses), and those agencies will then stop registering and licensing the prohibited businesses until the next statewide general election. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election. Each agency has a form for submitting the ordinances.

Medical marijuana dispensaries are grandfathered and are able to operate despite a ban if they: (1) have applied to be registered by July 1, 2015 or were registered prior to the date on which the ordinance is adopted by the city council, and (2) successfully completed the land use application process (if applicable). Medical marijuana processors are grandfathered and are able to operate despite a ban if they: (1) were registered under ORS 475.300 to 475.346 and were processing usable marijuana on or before July 1, 2015 or (2) are registered under section 85 of HB 3400 prior to the date on which the ordinance is adopted by the governing body, and (3) have successfully completed a local land use application process (if applicable).

Cities that adopt an ordinance prohibiting the establishment of medical or recreational marijuana businesses are not eligible to receive a distribution of state marijuana tax revenues or to impose a local tax under section 34a of HB 3400.

In addition, it is important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State's manual *Restrictions on Political Campaigning by Public Employees* and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON {MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS}; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries;

Whereas, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana;

Whereas, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city;

Whereas, the city council wants to refer the question of whether to prohibit {recreational marijuana producers, processors, wholesalers, and/or retailers, as well as medical marijuana processors and/or medical marijuana dispensaries} to the voters of {City};

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of {Name} hereby prohibits the establishment {and operation}¹⁰ of the following in the area subject to the jurisdiction of the city {select desired options from the list below}:

- (a) Marijuana processing sites;

¹⁰ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

- (b) Medical marijuana dispensaries;
- (c) Marijuana producers;
- (d) Marijuana processors;
- (e) Marijuana wholesalers;
- (f) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 134, section 136, or section 137 of House Bill 3400 (2015).

REFERRAL. This ordinance shall be referred to the electors of the city of {name} at the next statewide general election on {date – Tuesday, November 8, 2016 is the next statewide general election}.

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on {date/passage}.

A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF {NAME} THE QUESTION OF BANNING {MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS} WITHIN THE CITY¹¹

Whereas, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city;

Whereas, the CITY OF {NAME} city council adopted Ordinance {number}, which prohibits the establishment of {list of marijuana activities} in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF {NAME} RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the CITY OF {NAME} a measure prohibiting the establishment of certain marijuana activities in the area subject to the jurisdiction of the city, a copy of which is attached hereto as “Exhibit 1,” and incorporated herein by reference.¹²

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the CITY OF {NAME} on {date – November 8, 2016 for the next general election}. As required by ORS

¹¹ Some cities approve the ballot title, question, summary, and explanatory statement by adopting an ordinance, rather than by adopting a separate resolution.

¹² Exhibit 1 should include the question and summary.

254.465, the measure election shall be conducted by mail by the County Clerk of {county name} County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The CITY OF {NAME} authorizes the {City Manager, City Administrator, City Recorder, or other appropriate city official} or the {City Manager, City Administrator, City Recorder, or other appropriate city official} 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.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the {city elections officer} within the times set forth by law.¹³

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.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as “Exhibit 2,” and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The {city elections officer} shall deliver the Notice of Measure Election to the county clerk for {name of county} County for inclusion on the ballot for the {date} election.¹⁴

EFFECTIVE DATE. This resolution is effective upon adoption.

As noted, the ballot title, question, summary, and explanatory statement may be approved by the council through ordinance or resolution.

BALLOT TITLE

A caption which reasonably identifies the subject of the measure
10 word limit under ORS 250.035(1)(a)

Prohibits certain marijuana registrants {and/or} licensees in {city}

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure

¹³ Alternatively, the council may prepare the ballot title and attach it to the resolution for approval. In that case, this section might say, “The ballot title for the measure set forth as Exhibit {number} to this resolution is hereby adopted.” A city’s local rules may dictate who will prepare the ballot title.

¹⁴ The Notice of Measure Election is a form provided by the Oregon Secretary of State where cities provide the ballot title, question, summary, and explanatory statement. The form can be found on the Secretary of State’s website at www.sos.oregon.gov.

20 word limit under ORS 250.035(1)(b)

Shall {city} prohibit {medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers} in {city}?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect

175 word limit under ORS 250.035(1)(c)

**Note: This summary may need to be modified depending on which activities a city proposes to ban and whether it will grandfather in existing retail activities. By law, certain medical marijuana businesses can continue operating.*

State law allows operation of registered medical marijuana processors, medical marijuana dispensaries and licensed recreational marijuana producers, processors, wholesalers, and retailers. State law provides that a city council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment {and operation}¹⁵ of {medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers} within the area subject to the jurisdiction of the city {provided that state law allows for continued operation of medical marijuana processors and medical marijuana dispensaries already registered – or in some cases, that have applied to be registered – and that have successfully completed a local land use application process}.

If this measure is approved, the city will be ineligible to receive distributions of state marijuana tax revenues and will be unable to impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

500 word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would prohibit the establishment {and operation}¹⁶ of certain marijuana activities within the city.

The Oregon Medical Marijuana Act, as amended by the Legislature in 2015, provides that the Oregon Health Authority will register medical marijuana processors and medical marijuana

¹⁵ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

¹⁶ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

dispensaries. Medical marijuana processors compound or convert marijuana into concentrates, extracts, edible products, and other products intended for human consumption and use. Medical marijuana dispensaries facilitate the transfer of marijuana and marijuana products between patients, caregivers, processors, and growers. Measure 91, approved by Oregon voters in 2014 and by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license recreational marijuana producers (those who manufacture, plant, cultivate, grow or harvest marijuana), processors, wholesalers, and retailers.

A city council may adopt an ordinance prohibiting the establishment of any of those entities within the city, but the council must refer the ordinance to the voters at a statewide general election. The CITY OF {NAME} city council has adopted an ordinance prohibiting the establishment of {list of marijuana activities to be banned} within the city and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit {medical marijuana processors, medical marijuana dispensaries, and/or recreational marijuana producers, processors, wholesalers, and/or retailers} within the city. Medical marijuana processors and medical marijuana dispensaries that were registered with the state before the city council adopted the ordinance, and medical marijuana dispensaries that had applied to be registered on or before July 1, 2015, can continue operating in the city even if this measure is approved, if those entities have successfully completed a local land use application process.

Approval of this measure has revenue impacts. Currently, ten percent of state marijuana tax revenues will be distributed to cities to assist local law enforcement in performing their duties under Measure 91. If approved, this measure would make the city ineligible to receive distributions of state marijuana tax revenues.

Currently, under the 2015 legislation, a city may impose up to a three percent tax on the sale of marijuana items by a marijuana retailer in the city. However, a city that adopts an ordinance prohibiting the establishment of medical marijuana processors, medical marijuana dispensaries, or recreational marijuana producers, processors, wholesalers, or retailers may not impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. Approval of this measure would therefore prevent a city from imposing a local tax on those activities.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance. The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix D

Local Tax by Voter Referral

APPENDIX D

Local Tax by Voter Referral

Under HB 3400, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year.¹⁷

However, sections 133 and 134 of HB 3400, which provide a mechanism for prohibiting the establishment of certain marijuana businesses, state that a city that adopts a prohibition under those sections may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if a city refers a local tax ordinance to the voters at the same election that it refers a prohibition ordinance to the voters, the city will want to consult its attorney regarding the effect of those two ordinances. The sample below includes wording for cities that put both ordinances on that same ballot. However, a city planning to refer both measures to the ballot should work closely with its city attorney on preparing those ordinances and referral documents.

As with any revenue raising measure, it's important that the budget committee approve any proposed taxes as part of its approval of the budget. See the Department of Revenue "Tax Election Ballot Measures" manual for more information.

In addition, it is important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State's manual *Restrictions on Political Campaigning by Public Employees* and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

AN ORDINANCE OF THE CITY OF {NAME} IMPOSING A {UP TO THREE} PERCENT TAX {OR FEE} ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE¹⁸

Whereas, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

¹⁷ Cities that imposed marijuana taxes prior to the effective date of HB 3400 (2015) should talk to their city attorney about the status of those taxes.

¹⁸ No emergency clause is included in this ordinance because a city may not include an emergency clause in an ordinance regarding taxation. See *Advance Resorts v. City of Wheeler*, 141 Or App 166, 178, 917 P2d 61, *rev den*, 324 Or 322 (1996) (holding that a city may not include an emergency clause in an ordinance regarding taxation).

Whereas, the city council wants to impose a tax {or fee} on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who sells marijuana items to a consumer in this state.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in section 34a of House Bill 3400 (2015), the City of {Name} hereby imposes a tax {or fee} of {up to three} percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

COLLECTION. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.¹⁹

REFERRAL. This ordinance shall be referred to the electors of {city} at the next statewide general election on {date – Tuesday, November 8, 2016 is the next statewide general election}.

A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF {NAME} THE QUESTION OF IMPOSING A {UP TO THREE} PERCENT TAX {OR FEE} ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY²⁰

Whereas, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

Whereas, the city of {name} city council adopted Ordinance {number}, which imposes a tax of {up to three} percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF {NAME} RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the city of {name} a measure imposing a {up to three} percent tax on the sale of marijuana items

¹⁹ Cities may want to include information about where, how, and when the tax must be remitted.

²⁰ Some cities approve the ballot title, question, summary, and explanatory statement by adopting an ordinance, rather than by adopting a separate resolution.

by a marijuana retailer in the area subject to the jurisdiction of the city, a copy of which is attached hereto as “Exhibit 1,” and incorporated herein by reference.²¹

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the city of {name} on {date – November 8, 2016 for the next general election}. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of {county name} County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The city of {name} authorizes the City Manager, or the City Manager’s 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.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the {city elections officer} within the times set forth by law.²²

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.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as “Exhibit 2,” and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The {city elections officer} shall deliver the Notice of Measure Election to the county clerk for {name of county} County for inclusion on the ballot for the {date} election.²³

EFFECTIVE DATE. This resolution is effective upon adoption.

BALLOT TITLE

A caption which reasonably identifies the subject of the measure
10 word limit under ORS 250.035(1)(a)

Imposes city tax on marijuana retailer’s sale of marijuana items

²¹ Exhibit 1 should include the question and summary.

²² Alternatively, the council may prepare the ballot title and attach it to the resolution for approval. In that case, this section might say, “The ballot title for the measure set forth as Exhibit {number} to this resolution is hereby adopted.” A city’s local rules may dictate who will prepare the ballot title.

²³ The Notice of Measure Election is a form provided by the Oregon Secretary of State where cities provide the ballot title, question, summary, and explanatory statement. The form can be found on the Secretary of State’s website at www.sos.oregon.gov.

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure

20 word limit under ORS 250.035(1)(b)

Shall City of {name} impose a {up to three percent} tax on the sale in the City of {city} of marijuana items by a marijuana retailer?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect

175 word limit under ORS 250.035(1)(c)

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer.

Approval of this measure would impose a {up to three} percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

{Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. This measure would become operative only if the measure proposing to prohibit the establishment of any of those marijuana entities does not pass by a majority of votes.}²⁴

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

500 word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would impose a {up to three} percent tax on the sale of marijuana items by a marijuana retailer within the city. If approved, the revenues from this tax are estimated to be \$_____. There are no restrictions on how the city may use the revenues generated by this tax. {However, this measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails.}

²⁴ Cities that desire to provide voters with the most options may wish to put both a measure banning certain activities and a tax measure before the voters at the same time. Cities that elect to do so should include this wording explaining the effect of the vote.

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of {name} city council has adopted an ordinance imposing a {up to three} percent tax on the sale of marijuana items by a retail licensee in the city, and, as a result, has referred this measure to the voters.

{However, this measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails. Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if the voters pass a prohibition ordinance, this tax measure will not become operative, even if it also receives a majority of votes.}

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

October 2015 Council Calendar

Meeting	Primary	Alternate	Note	Date
First Friday Flick-Movie Night			6:00 at Jessie Mays Community Hall	10/02
City Council			7:00 p.m. at North Plains Senior Center	10/05
Washington County Office of Community Development Policy Advisory Board	Lenahan	Kindel	2 nd Thursday @ 7 p.m.	10/08
Washington County Coordinating Committee (WCCC)	Hatcher	Boyles	2 nd Monday @ 12 noon	10/12
Planning Commission	Hatcher		2 nd Wednesday @ 7 p.m.	10/14
North Plains Chili Cook-Off			Jessie Mays Community Hall @ 6:30 p.m.	10/15
City Council			7:00 p.m. at North Plains Senior Center	10/19
Library Board	Whitehead (ask Debbie)		3 rd Wednesday @ 7:00	10/21
Metro Policy Advisory Committee (MPAC)	Hatcher	Lenahan	4 th Wednesday @ 5 p.m.	10/28
Parks Board			4 th Wednesday @ 6 p.m. at City Hall	10/28
Metropolitan Area Communications Commission (MACC)	Whitehead	Newton		