

**MINUTES**  
**January 9, 2012, 6:30PM**  
**CITY COUNCIL CHAMBERS, CITY HALL**  
**29592 ELLENSBURG AVE**  
**GOLD BEACH OR 97444**

**Call to order:            Time: 6:30PM**

- 1.     The pledge of allegiance**
- 2.     Roll Call:**

	Present	Absent
Mayor James Wernicke	X	
Council Position #1 Jeff Crook	X	
Council Position #2 Larry Brennan	X	
Council Position #3 Brice Gregory	X	
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
City Administrator Jodi Fritts	X	
Student Liaison Lyndsey Dixon	X	

- 3.     Special Orders of Business:**  
       Mayor's Award of Appreciation of Service to the Community  
       Volunteer recognition: Candace Perryman

Prior to the awards PW Superintendent, Will Newdall, gave the council an update on the wastewater treatment plant project. Things have been progressing well with the good weather. The excavation of the SBR is almost complete and then steel tying will begin. A report from the on-site engineer is attached to minutes with the CA Report.

The Mayor's Award of Appreciation of Service to the Community was to be presented to Catherine Powers from the Animal Shelter but she had not arrived yet. The Mayor will hold the award for later.

The Mayor then presented a volunteer recognition award to former Planning Commissioner, Candace Perryman, for 23 years of service to the City. The Council and audience gave Perryman a standing ovation.

- 4.     Consent Calendar**  
       Promotions Committee Minutes December 1, 2012

The Council reviewed the Promo minutes. Councilor Tamie Kaufman asked if it was necessary for the Council to approve them since they did not attend the Promo meetings. CA Fritts said it was more of an info item and the Committee should be approving their minutes at their meetings.

- 5.     Citizens Comments**  
       As presented to the Mayor at the beginning of the meeting

Gold Beach City Council Minutes  
 January 9, 2012

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There were no citizens comments presented to the Mayor.

**6. Public Hearing**

a. Determination of Transient Room Tax due by Brent Thompson

The Mayor opened the public hearing at 6:40PM. CA Fritts explained the purpose of the hearing was to make the determination on the tax owed by Thompson. The Council had denied Thompson's appeal of the Tax Administrator's Delinquent Notice in October. Fritts said Lauren Sommers, our attorney, had advised us to use the figures provided by Thompson in October as a basis for the tax determination. She told the Council that two motions were needed: the first for the amount of tax owed, and the second if the council determined Thompson owed the penalties.

Mr. Frank Roberts, attorney for Thompson, presented brief testimony on why his client felt he was not subject to the tax. The Mayor advised Roberts that the Council had already decided Thompson was subject to the tax. Roberts requested that the Council take the attorney's advice and levy the tax owed on Thompson's figures. He also asked that penalties not be assessed since he felt his client had acted in good faith when he had not previously paid the tax because, according to Thompson, he was told by a city employee he was not subject to the tax.

The Mayor closed the public hearing at 6:55PM and the Council began to deliberate.

**MOTION: Councilor Tamie Kaufman made a motion to assess tax in the amount of \$703.98 based on the information Thompson provided at the October hearing. Councilor Larry Brennan seconded the motion.**

**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook		X	
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory		X	
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 3 to 2</b>			

**MOTION: Councilor Tamie Kaufman made a motion to assess the penalties per Section 4.240 1) 10% for 70.40, 2) 15% for 116.16 and 3) 25% for 222.64 for a total penalty of: \$409.20. The motion died for a lack of second.**

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The Mayor asked for discussion regarding the penalties. Did the Council want to impose penalties? Brief discussion regarding the penalties. Consensus was that some form of penalty should be assessed but probably not the fraud section 3).

**MOTION: Councilor Tamie Kaufman made a motion to assess the penalties per Section 4.240 1) 10% for 70.40, 2) 15% for 116.16 for a total penalty of: \$186.56. Councilor Doug Brand seconded the motion.**

**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory		X	
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 4 to 1</b>			

Mr. Roberts asked CA Fritts if he would be given written notice of the determination. Fritts said she would send a letter to Roberts and Thompson.

**7. Citizen Requested Agenda Items**  
None submitted

The Mayor noted that Catherine Powers had arrived. He presented Powers with the Mayor's Award of Appreciation of Service to the Community. He said Powers had done so much with the County Animal Shelter and has been advocate for homeless dogs above and beyond the call. Powers accepted the award and the audience gave her a standing ovation.

**8. Public Contracts and Purchasing**  
None

There were no public contracts or purchasing items.

**9. Ordinances & Resolutions**

- a. Resolution R1112-22 Dangerous Building Determination
- b. Resolution R1112-07 Workers' Compensation for volunteers

a. Resolution R1112-22 Dangerous Building Determination  
CA Fritts explained Resolution R1112-22 was the resolution regarding the Dangerous Building hearing that was held last month. The Council had determined the building did not meet the code definition of dangerous. The code requires a determination by resolution.

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**MOTION: Councilor Tamie Kaufman made a motion to approve Resolution R1112-22. Councilor Doug Brand seconded the motion.**

**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook			X
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES</b>			

- b. Resolution R1112-07 Workers' Compensation for volunteers  
Resolution R1112-07 was regarding Workers' Compensation coverage for city volunteers. There had been questions when the resolution initially came before the Council in September. CA Fritts explained the revised resolution was clearer about the purpose and intent of the coverage. She had consulted with other small cities and CIS Insurance and this resolution is a combined version of another city and the CIS model resolution. Brief discussion on the coverage.

**MOTION: Councilor Larry Brennan made a motion to approve Resolution R1112-07. Councilor Brice Gregory seconded the motion.**

**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>			

**10. Miscellaneous Items (including policy discussions and determinations)**

- a. Update from PW Super Will Newdall on WWTP (*may move up agenda between Special Orders of Business and Consent Calendar*)
- b. Request from Urban Renewal Agency for possible supplemental budget
- c. Discuss possible update to City Code to more clearly define violation/penalty process

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- d. Discuss possible "Dog Park" area at Buffington Park
- a. Update from PW Super Will Newdall on WWTP (*may move up agenda between Special Orders of Business and Consent Calendar*)  
PW Super Newdall gave his update at the beginning of the meeting.

b. Request from Urban Renewal Agency for possible supplemental budget  
The Councilor Doug Brand, on behalf of the Urban Renewal Agency made a request for a possible supplemental budget so that the URA could fund a feasibility study. Brand presented a completed LB-30 that the URA had completed after their budgeted process. He gave a brief report on why the report was necessary and how the URA felt it was important to start the district during a down time. Other cities that had begun their districts during the down economy of the 1980's are doing quite well now. They felt that by getting in on the basement that it would be an investment in the City's future. Discussion about the feasibility study and the budget.

Councilor Kaufman asked if the URA had completed and presented the requested Intergovernmental Agreement yet? Brand said they had completed the IGA but that it had not been presented. He said he would provide a copy of the IGA to CA Fritts. Fritts said she would like to have legal counsel review it before the next council meeting. Fritts said she would need to research whether the budget request could legally be added as a supplemental budget since it was not in the current year budget at all. She said it may have to wait until July for the new fiscal year. Plan will be to have Fritts review the IGA and get guidance on the budget issue and report back at the February meeting.

c. Discuss possible update to City Code to more clearly define violation/penalty process  
CA Fritts explained that the Nuisance code conflicted with other sections of the City Code regarding violations and enforcement. She said the code section for the Municipal Court more clearly defines a citation and enforcement process. She suggested adopting this section throughout the code for consistency. Discussion on consistency and enforcement. Fritts also said the Mayor had brought up concerns regarding parking enforcement. Currently there is no section in the code addressing parking of vehicle that block a vision clearance area for intersections. He had found the section in the nuisance code which addresses vegetation blocking the vision area and thought this could apply to parking as well. Fritts recommended adding the language from the noxious growths section of the nuisance code into the traffic code.

**MOTION: Councilor Larry Brennan made a motion to revise the nuisance and offense code enforcement section to conform to the language in the municipal court rules and procedures. Councilor Tamie Kaufman seconded the motion.**

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**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>			

d. Discuss possible "Dog Park" area at Buffington Park  
CA Fritts presented a citizen request to develop a Dog Park at Buffington Park. Fritts said the request was for a park 60' X 90'. She had talked with PW Super Newdall and they had decided there just was not that much available space at Buffington for an area that size. She said they could accommodate a 30' X 50' area between the softball outfield and the other park trailer.

Discussion about dog parks in general. Councilor Kaufman felt it was a good idea in principal but that she would like more citizen input. She also felt the dog park would be more appropriate at South Beach Park since a lot of dog owners take their dogs to the beach. Councilor Gregory felt a dog park at Buffington Park was not appropriate at all. The Mayor voiced concerns about the segregation of small dogs from large dogs. He had seen dog parks where dog fights were a problem. Councilor Crook was concerned about raptor attacks on small dogs at Buffington. There has been a problem lately with predators and small animals in the surrounding area. Consensus was that we need more input before proceeding. The press was asked to put something in the papers soliciting citizen comments.

**11. City Administrator's Report**  
To be presented at meeting

CA Fritts presented the report which is attached to these minutes.

**12. Mayor and Council Member Comments**  
a. Mayor James Wernicke

The Mayor said the CA and the PD Chief were doing a good job and the transition has gone well.

- b. Councilors
- 1) Jeff Crook: Councilor Crook seconded the Mayor
  - 2) Larry Brennan
  - 3) Brice Gregory

Councilors Brennan and Gregory had no comments this meeting.

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- 4) Doug Brand: Councilor Brand thanked all the fairgrounds volunteers and said the New Year's Eve dance went really well and was a lot of fun.
- 5) Tamie Kaufman: Councilor Kaufman said the annual Chamber Banquet was scheduled for January 21<sup>th</sup>.
- c. Student Liaison, Lyndsey Dixon: Lyndsey said the Winter Ball was this weekend.

**13. Citizens Comments**

As presented to the Mayor at the beginning of the meeting

There were no citizen comments

**14. Executive Session**

None scheduled

No executive session was held

The next regularly scheduled meeting of the Gold Beach City Council is Monday, February 13, 2012 at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon

**MOTION: Councilor Jeff Crook made a motion to adjourn. Councilor Larry Brennan seconded the motion.**

**Mayor Wernicke called for discussion or debate, hearing none, he called the vote.**

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>			

**15. Adjourn Time: 8:26PM**

**Approved by the City Council, February 13, 2012**

  
 \_\_\_\_\_  
 Candy Cronberger, City Recorder

Gold Beach City Council Minutes  
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**AGENDA**  
**January 9, 2012, 6:30PM**  
**CITY COUNCIL CHAMBERS, CITY HALL**  
**29592 ELLENSBURG AVE**  
**GOLD BEACH OR 97444**

Call to order:            Time: \_\_\_\_\_

1.     **The pledge of allegiance**

2.     **Roll Call:**

	Present	Absent
Mayor James Wernicke		
Council Position #1 Jeff Crook		
Council Position #2 Larry Brennan		
Council Position #3 Brice Gregory		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison Lyndsey Dixon		

3.     **Special Orders of Business:**

Mayor's Award of Appreciation of Service to the Community  
 Volunteer recognition: Candace Perryman

4.     **Consent Calendar**

Promotions Committee Minutes December 1, 2012

5.     **Citizens Comments**

As presented to the Mayor at the beginning of the meeting

6.     **Public Hearing**

a.     Determination of Transient Room Tax due by Brent Thompson

7.     **Citizen Requested Agenda Items**

None submitted

8.     **Public Contracts and Purchasing**

None

Gold Beach City Council Agenda  
 January 9, 2012

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9. **Ordinances & Resolutions**
  - a. Resolution R1112-22 Dangerous Building Determination
  - b. Resolution R1112-07 Workers' Compensation for volunteers
  
10. **Miscellaneous Items (including policy discussions and determinations)**
  - a. Update from PW Super Will Newdall on WWTP *(may move up agenda between Special Orders of Business and Consent Calendar)*
  - b. Request from Urban Renewal Agency for possible supplemental budget
  - c. Discuss possible update to City Code to more clearly define violation/penalty process
  - d. Discuss possible "Dog Park" area at Buffington Park
  
11. **City Administrator's Report**  
To be presented at meeting
  
12. **Mayor and Council Member Comments**
  - a. Mayor James Wernicke
  - b. Councilors
    - 1) Jeff Crook
    - 2) Larry Brennan
    - 3) Brice Gregory
    - 4) Doug Brand
    - 5) Tamie Kaufman
  - c. Student Liaison, Lyndsey Dixon
  
13. **Citizens Comments**  
As presented to the Mayor at the beginning of the meeting
  
14. **Executive Session**  
None scheduled

The next regularly scheduled meeting of the Gold Beach City Council is Monday, February 13, 2012 at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon

15. **Adjourn Time:** \_\_\_\_\_

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

Gold Beach City Council Agenda  
January 9, 2012

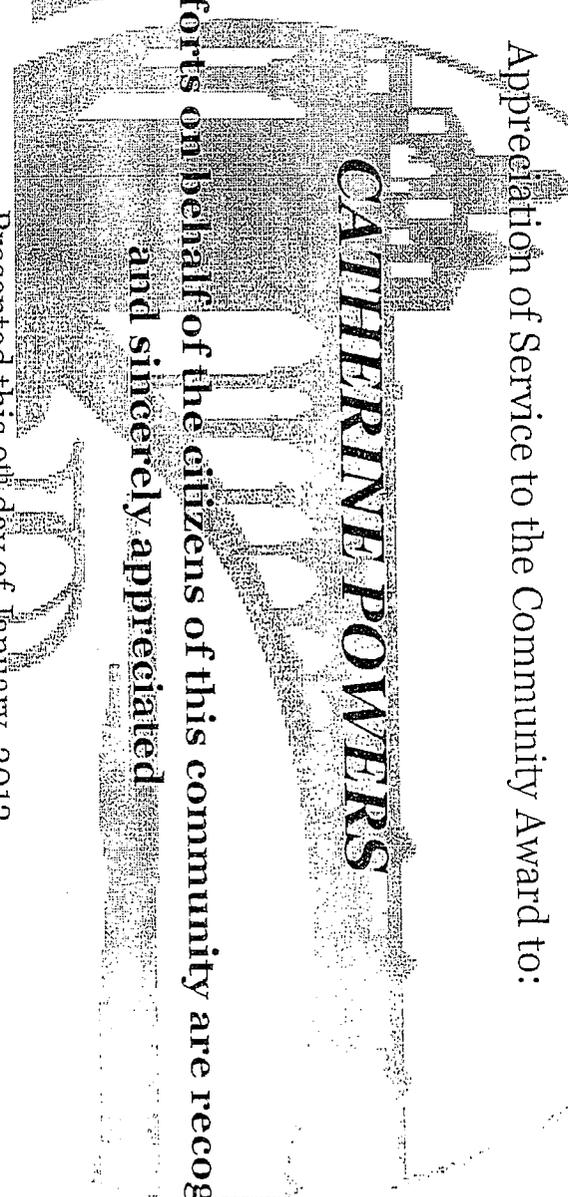
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# **SPECIAL ORDERS OF BUSINESS**

**MAYOR'S AWARD IN APPRECIATION OF SERVICE TO THE  
COMMUNITY**

I, Mayor James H. Wernicke wish to present this

Appreciation of Service to the Community Award to:



**CATHERINE POWERS**

Your many efforts on behalf of the citizens of this community are recognized  
and sincerely appreciated

Presented this 9<sup>th</sup> day of January, 2012

**James H. Wernicke, Mayor**

**John Beson**

# OUTSTANDING VOLUNTEER SERVICE RECOGNITION

The City of Gold Beach wishes to present this Outstanding Volunteer Service Recognition to:

**CANDACE PERRYMAN**

**For 23 years of service to the City and its citizens as a Planning Commission member.**

Volunteerism is an essential, valued, and often thankless job in our small community. Commission and committee volunteers provide needed and required assistance to the City, but their contribution is not nearly as visible or exciting as public safety volunteers. Rather, volunteering as a committee or commission member sometimes invites irascibility rather than appreciation. It takes a special person to contribute to their community, knowing their efforts may not, and probably won't be acknowledged. Please accept our sincere thanks for your many years of service to the City. Your experience and knowledge will be impossible to replace.

Presented this 9<sup>th</sup> day of January, 2012

Jeff Crook, Council Position #1

Bree Gregory, Council Position #3

Tamie Kaufman, Council Position #5

Gary Brennan, Council Position #2

Doug Brand, Council Position #4

James H. Wernicke, Mayor

# CONSENT CALENDAR

**GOLD BEACH PROMOTIONS COMMITTEE  
 PLANNING MEETING December 1, 2011  
 GOLD BEACH CITY COUNCIL CHAMBERS**

Call to Order Time 3:32 PM

Roll Call		Present	Absent
Chairperson	Amy Gaddis	X	
	Carolyn Trigueiro	X	
	Bob Manners	X	
	Larry Hammer	X	
	Deb Way	X	
Promo Director	Jeff Ferguson	X	

In audience: Karen Richmond (Malt Shop/Sheriff John's Classic Car Museum) and Kachina Starr (Turtle Rock Resort)

No Comments from floor.

**Minutes** from November 17 Meeting reviewed .Bob Manners moved to approve, Larry Hammer seconded the motion.

**Promotions Planning/Budget:**

Bob requested a review of the budget cuts that had been proposed during earlier meetings. Amy would like to keep new event support in mind when planning cuts to budget. Jeff indicated he would like to be conservative and not plan on the full revenue of \$4000 mentioned previously for promotions for other businesses at the Sportsmen Shows, targeting maybe \$2000 additional funds toward budget.

A discussion was had about funding requests for new events and funding for current events. Larry indicated funding first-time events could be risky. Jeff indicated he would like to have research done on the event promoters before a decision could be made. Larry felt working in conjunction with the area Chambers would be important, as most Chambers and Visitor Centers are one and the same. Jeff shared that Port Orford is looking to partner with other groups for promotional events.

The question of whether to support an event if the profit dollars go out of town was brought up by Bob. There would need to be a review of expenditures and how the event could profit the GB businesses; need to consider impact on lodging establishments, restaurants, shops, etc.

- Event Support adjustment to revised budget:
- \$1000 support for Wine, Art & Music Festival
- \$1000 support for the Brewfest
- \$1000 support for the WaveBash
- \$1500 support for the 4<sup>th</sup> of July event
- \$2000 support for the Salmon Derbies
- \$1000 support for Hospice Sale
- \$500 support for the Writer's Conference
- \$4000 for the Glass Ball/Geocache program
- \$3000 miscellaneous
- \$1000 support for the Football Camp

Budget Review/ Cuts proposed in previous meetings:

<u>Category</u>	<u>Original Budget Amount</u>	<u>Proposed Amount</u>	<u>Amount Cut</u>
Direct Marketing	\$19,500	\$15,000 -	\$ 4,500
Printed Materials	\$18,000	same	\$ 0
Ambient	\$17,500	\$12,500	\$ 5,000
Trade Show/Fair	\$19,600	\$11,100	\$ 8,500
Fuel	\$ 2,200	same	\$ 0
Magazines	\$8,000	same	\$ 0
Professional Services	\$10,000	same	\$ 0
Radio	\$ 4,000	\$ 3,000	\$ 1,000
Print Media	\$ 10,000	\$ 7,000	\$ 3,000
Outdoor Ads	\$ 8,400	same	\$ 0
Internet	\$10,000	same	\$ 0
Association Dues	\$ 3,000	same	\$ 0
TV Promo	\$22,000	\$14,000	\$ 8,000
Totals:	\$152,200	\$122,200	\$30,000

The question of categorizing expenses was raised while writing checks at Visitor Center, as there is no software currently to automatically accomplish this. Amy feels that Sue has enough to do, and there is a need to coordinate with the city to have these categories for expense reports. Bob sees "in-house" as an efficient system. Larry said that the city-generated budget is difficult to read, but has the same information that we need, but in different format.

The City approved this year's budget, so up to Promotions to spend within the revised budget.

**Marketing Plan:** There is a need to "flesh-out" the plan, but all agreed that a huge portion was accomplished with the form provided by Larry. Need to consolidate into one report: priorities and attributes (what is most important- fishing, jetboats, beach, Nature's Adventure Center) at front end, and then break down the Nature Adventure Center idea (horses, hiking, birding, etc) to establish overall long-term goal for promotions. This would be a living plan to be flexible with economy, budget available, etc. Events are important to promote, but promoting the area has been most successful in many towns. We need to focus on what GB really has to "sell." (Storm watching & whale watching among these)

**Radio Advertising Glass Ball/Geocache:** Jefferson Public Radio was discussed as a good target market for this program (Rogue Valley). Advertising in JPR magazine is free with a 2-month lead. Larry said specific advertising for the Brewfest was hard to track, but he felt that JPR gave excellent advertising for this event. Discussion of advertising with KEKA in Trinity area was discussed because it had good results last year. It was decided to stay with JPR to focus funding and not dilute the advertising impact, also to coordinate with other advertising in larger market Rogue Valley.

Kachina suggested "branding" an event with "annual" or a name, including a tag line for better recognition.

**Gold Beach Brochure:** Matthew Smith is working on magnets for the Sportsmen Shows. Initial designs were reviewed for brochure. The committee felt this was an overall good brochure design, but potentially need to readjust the order of the pages to focus on the important draws to Gold Beach. (Beach, jetboats, fishing). Jeff currently working on events, activities, and day trips north and south of GB (redwoods, gaming, dunes, golf within day trip area).

Bob asked where the OCVA (Oregon Coast Visitor Association) leads come from. Jeff answered that OCVA is part of the Travel Oregon advertising membership group, and also does it's own advertising. Since we are members, we get heir leads free; \$600/year membership with OCVA.

**Comments from floor:**

Karen Richmond presented a couple of ideas. She has been asked many times why she moved to Gold Beach, and felt this may be a good marketing tool to use. She also presented a flyer presenting stickers advertising Gold Beach as a way to market GB and provide a consistent "brand" for the city logo. Amy mentioned that this idea has been presented before, and maybe a good time to revisit this idea.

Amy had a question from a fishing club member as to why GB is not represented at the Long Beach (California) Sportsmen's Show. This is an expensive proposition (approx \$5000) but this show has huge attendance. Possibly partner with Curry Sportfishing? Amy has spoken with 2 fishing guides already.

Jeff noted there are only 3 wild and scenic rivers that have mouths that meet the sea, and they are all in Curry County (Rogue, Elk, Chetco).

Carolyn mentioned that Gold Beach was part of a weekend itinerary in a new book published by the New York Times (*36 Hours: 150 Weekends in the United States and Canada*). Several Gold Beach businesses/attractions were highlighted.

Next meeting scheduled for January 19, 2012, 3:30 PM at City Council Chambers.

Meeting adjourned at 5:29PM

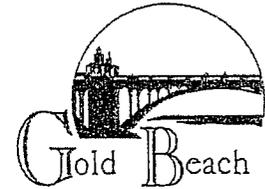
Larry's Matrix:

After 2012	2011-2012	Marketing and Promotional Expenses
M	D	Direct Marketing
		-Event Support
D	M	Printed Materials
		- Brochures, Event posters
D	M	Ambient
		-Brochure Distribution
D	D	Trade Shows
		- Not order budgeted bags this year
D	M/D	Magazines
		-Visitor Guide, OCVA, Sunset, SOVA
D	D	Professional Services
M/U	M	Radio
D	M/D	Print Media
		-Newspapers
D (Zero)	M/D	Outdoor Ads
		-Billboard ends in March
M	D	Internet
U	M	-Website
		-ENews (zero cost)
M/U	Zero	-Ads
M	M	Association Dues
M	D	TV Advertising

Key: U= Up  
M= middle, keep the same  
D= down, reduce financial support

# **PUBLIC HEARING**

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. **6 a.**

Council Hearing Date: January 9, 2012

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Department: Administration

Contact/Title: Jodi Fritts, CA

Email: [jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

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**TITLE: Determination of Transient Room Tax due by Brent Thompson**

**SUMMARY AND BACKGROUND:**

At the October 10, 2011, hearing the Council denied Mr. Thompson's appeal of the Tax Administrator's assessment of delinquent Transient Room Tax. The Council requested that Mr. Thompson provide copies of his quarterly state room tax reports in order to more accurately determine that amount Mr. Thompson owed in back taxes. Mr. Thompson provided copies of a hand written ledger and copies of what appeared to be altered copies of the state reports.

A decision was to have been made at the November and then the December Council meetings regarding the tax due. Both decisions were postponed: first because Mr. Thompson retained legal counsel and then because his counsel was not available. The Council decided at the December meeting that a decision would be rendered--regardless at the January meeting.

Our legal counsel has advised us of the following:

- The decision before you is a quasi-judicial one (semi-court like) and the decision you make should be made on the record (evidence) before you. The hearing has been closed to new testimony but you may consider anything in the record in your deliberations. You may speak to one another and staff provided no new evidence is introduced.
- We cannot impose a tax amount higher than what was put in the initial notice to Thompson (\$967.54) otherwise we will have to withdraw that notice and reissue a new notice with another opportunity to appeal.
- Ms. Sommers suggests we accept Thompson's handwritten ledger (which shows more income than the altered DOR reports) and impose the tax based on his records (\$11733 total income: \$703.98 would be 6%)

Discussion of the penalty to impose should be made and decided by majority vote of the council. A copy of the entire section of the code is included with this report. The penalty section is 4.240.

**FINANCIAL IMPACT:**

None initially, however, since Mr. Thompson has appealed the matter, and now retained an attorney, the City's legal costs have begun and continue to accrue.

**DOCUMENTS ATTACHED:**

- A copy of the code related to the Transient Room Tax
- A copy of the handwritten ledger from Mr. Thompson
- A copy of the Tax Administrator's tax assessment sent to Thompson with the initial Notice of Delinquent Transient Room Tax

**REQUESTED MOTION/ACTION:**

**TWO MOTIONS:**

- 1) **A motion determining the amount of past due transient tax owed by Thompson.**
- 2) **A motion determining the amount of penalty owed by Thompson.**

**COPY OF REPORT SENT TO:**

Council, Legal Counsel, violation file

licensee, of any violation of any state law or any law or code which might justify a forfeiture of such bond.

All indemnity company bonds must be written by a surety company, licensed to do business within the State of Oregon upon its regular indemnity bond form with the particular provisions provided therein as required within this code. The City Attorney must approve all such indemnity bond forms.

### Transient Room Tax and Community Promotion Code

#### 4.200 Title.

This portion of the Gold Beach Code shall be known as the Transient Room Tax and Community Promotion Fund Code of the City of Gold Beach.

#### 4.205 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction and interpretations of this code.

(1) "Lodging establishment" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty-days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity sorority, public or private club, provided such occupancy is for less than a thirty-day period.

(2) "City Council" means the City Council of the City of Gold Beach, Oregon.

(3) "Occupancy" means the use or possession, or right to the use or possession for lodging or sleeping purposes of any rooms or rooms in a lodging establishment.

(4) "Operator" means the person who is the proprietor of the lodging establishment in any capacity. Where the operator provides services through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this code and shall have the same duties and liabilities as the principal. Compliance with the provisions of this code by either the principal or the managing agent shall be considered to be compliance to both.

(5) "Person" means any individual, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(6) "Cash accounting" means the operator does not enter the rent due from a transient on the business records until the rent is paid.

(7) "Accrual accounting" means the operator enters the rent due from a transient on the business records when the rent is earned, whether or not it is paid.

(8) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a lodging establishment, valued in money, goods, credits, property or other consideration valued in money without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.

(9) "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this code shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of transient room tax under this code shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration charge for rent when the space is rented separately and not included in a package plan.

(10) "Tax" means the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which is required to report his collections.

(11) "Tax Administrator" means the City Administrator of the City of Gold Beach, Oregon.

(12) "Transient" means any individual who exercised occupancy or is entitled to occupancy in a lodging establishment for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the lodging establishment shall not be included in determining the thirty-day period if the transient is not charged rent for that day. Any individual so occupying space in a lodging establishment shall be deemed to be a transient until the period of thirty-days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this code may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

(13) "Transient Lodging Tax Review and Promotional Expenditure Committee" means a committee composed of five (5) members; two members appointed by the Council of the City of Gold Beach from applications received from the Gold Beach Chamber of Commerce membership and two members appointed by the Council of the City of Gold

Beach from applications received from lodging establishment operators contributing to this fund and one member appointed by the Council of the City of Gold Beach from applicants received from the community at large that are directly involved with the tourist industry. Chamber Board Members are ineligible to serve on the Committee. The powers and duties of the committee are set forth in Section 4.280 of this code.

(14) "Community Promotion and Advertisement" means any activity that promotes tourism in a manner consistent with state law (ORS 320.300).

#### 4.210 Tax Imposed.

For the privilege of occupancy in any lodging establishment, on or after the 1<sup>st</sup> day of June 1982, each transient shall pay six percent (6%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the operator to the City. The transient shall pay the tax to the operator of the lodging establishment at the time the rent is paid. The operator shall record the tax when rent is collected if the operator keeps records on a cash accounting basis and when earned if the operator keeps records on an accrual accounting basis. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the operator with each installment. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishings of rooms, space or accommodations by the operator.

#### 4.215 Rules for Collection of Tax by Operator.

(1) Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this code, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectables.

(3) The Tax Administrator shall enforce provisions of this code. The City Council shall have the power to adopt by resolution, rules and regulations not inconsistent with this code as may be necessary to aid the Tax Administrator in enforcing this code.

(4) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

(5) In instances where credit is extended to the transient for charges for the rental of the unit through the use of a credit card or other similar transaction whereby the amount paid to the operator is discounted by contract between the operator and the issuer of the credit

card, the amount of such discount shall be excluded from the definition of "Rent" and no tax shall be imposed on the amount so discounted.

#### 4.220 Operator's Duties.

Each operator shall collect the tax imposed by this code at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a lodging establishment shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this code.

#### 4.225 Exemptions.

No tax imposed under this code shall be imposed upon any of the following:

- (1) Any occupant for more than thirty successive calendar days with respect to any rent imposed for the period commencing after the first thirty-days of such successive occupancy.
- (2) Any occupant whose rent is of value less than two dollars per day.
- (3) Any person who rents a private home, vacation cabin, condominium, or like facility from any owner, where the owner who rents such facilities does this as an incidence to his own personal use thereof and is not engaged in a commercial operation of renting such condominiums or vacation cabin or private home
- (4) Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home, or home for the aged people, or to a public institution owned and operated by a unit of the government.
- (5) Any person who rents a recreational vehicle space, mobile home space, or a motor home space, in any recreational park, mobile home park or motor home court or campground.

#### 4.230 Registration of Operator; Certificate of Authority.

Any person engaging or about to engage in business as an operator of a lodging establishment in this City shall register with the Tax Administrator. Operators starting a new business must register within fifteen days after commencing business. The privilege of registration after commencing business shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration sets forth the name under which the operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate collection of the tax as the Tax Administrators may require. The operator shall sign the registration. Within ten calendar days after registration, the Tax Administrator shall issue, without charge to each lodging

establishment registrant a certificate of authority to collect the tax. Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

- (1) The name of the lodging establishment.
- (2) Address of the lodging establishment.
- (3) The date upon which the certificate was issued.

(4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Code of the City of Gold Beach, by registration with the Tax Administrator for the purpose of collecting from transients the lodging tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a lodging establishment without strictly complying with all local applicable laws including, but not limited to, those requiring a permit from any board, commission, department or office of the City of Gold Beach. This certificate does not constitute a permit".

#### 4.235 Due Date: Return and Payment

(1) The tax imposed by this code shall be paid by the transient to the operator at the time that rent is paid. All such taxes collected by any operator are due and payable to the Tax Administrator monthly on the first day of the following month for the preceding month; such taxes shall be considered delinquent after 8:00 A.M. on the tenth day of the month in which they are due.

(2) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amount and the amount of rents exempt, if any.

(3) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator by personal delivery or mail. If the return is mailed, the date and time it is received in the business office shall be considered the date of delivery for determining delinquencies.

(4) For good cause the Tax Administrator may extend the time for making any return or payment of tax. This extension shall not exceed one month and no further

extension shall be granted, except by majority decision of the City Council. Any operator to whom an extension is granted shall pay interest at the rate of one and one-half percent per month on the amount of tax due without pro-ratio for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this code.

#### 4.240 Penalties and Interest.

(1) Original delinquency. Any operator who has not been granted an extension of time for remittance of the tax due and who fails to remit any tax imposed by this code prior to delinquency, shall pay ten percent of the amount of the tax due in addition to the amount of the tax.

(2) Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of thirty-days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

(3) Fraud. If the Tax Administrator determines that the non-payment of any remittance due under this code is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.

(4) Penalties merged with tax. Every penalty imposed and such interest as it accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(5) Petition for waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the Tax Administrator for a waiver and refund of the penalty or any portion thereof. The Tax Administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

#### 4.245 Deficiency Determinations: Fraud or Evasion.

(1) Deficiency determinations. Deficiency determinations. If the Tax Administrator determines that the returns are correct he or she may compute and determine the amount required to be paid upon the facts contained in the return or returns or upon the basis of any information within or that may come into the Tax Administrator's possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 4.240.

(a) In making a determination the Tax Administrator may offset overpayments that have been previously made for a period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in a manner set forth in Section 4.240.

(b) The Tax Administrator shall give to the operator or occupant a written notice of his or her determination. The notice may be served personally or by mail. If by mail the notice shall be addressed to the operator at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this code, it shall be served by mailing such notice by certified mail, postage prepaid, return receipt requested.

(c) Except in case of fraud or intent to evade this code or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

(2) Any determination shall become due and payable immediately upon receipt of notice and shall become final twenty days after the Tax Administrator has given notice thereof provided, however, the operator may petition the Tax Administrator for re-determination and refund pursuant to Section 4.250 if the petition is filed before the determination becomes final as provided in this subsection.

(3) Fraud, refusal to collect, evasion. If any operator shall fail or refused to collect said tax or to make, within the time provided in this code, any report or remittance of said tax or any portion thereof required by this code, or makes a fraudulent return or otherwise willfully attempts to evade this code, the Tax Administrator shall proceed in such a manner as may be deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this code from any operator who has filed or refused to collect the same, and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided by this code. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of notice. The determination shall become final twenty days after the mailing of the notice provided however that the operator has a right to appeal to the City Council any decision of the Tax Administrator made pursuant to this section. The operator's right to appeal is pursuant to Section 4.285 herein. In the event of an appeal, the decision of the City Council will be final at the time it is rendered.

(4) Operator delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delays, or if any determination will be jeopardized by delay, the Tax Administrator shall thereupon make a determination of the tax owed. The amount so determined as herein

provided shall be immediately due and payable. The operator shall immediately pay such determination to the Tax Administrator after notice has been served. The operator may petition after payment has been made, for redemption and refund of such determination if the petition is filed within twenty days from the date of notice served by the Tax Administrator.

#### 4.250 Re-determinations.

(1) Any person against whom a determination is made under Section 4.245 or any person directly interested in the determination may petition for a re-determination and redemption and refund within the time required in Section 4.245 (2). If a petition for re-determination and refund is not filed within the time required in Section 4.245 (2), the determination becomes final at the expiration of the allowable time.

(2) If a petition for re-determination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination. If the person has so requested in his or her petition, the Tax Administrator shall grant the person an oral hearing and shall give the person twenty days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

(3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing. If an increase is determined such increase shall be payable immediately after the hearing.

(4) No petition for re-determination or redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

#### 4.255 Security for Collection of Tax.

(1) The Tax Administrator, whenever it is deemed necessary to insure compliance with this code, may require the operator subject thereto to provide the City with a security in the form of cash, bond or other security as determined by the Tax Administrator. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator's estimated average monthly liability for the period of the return, determined in such a manner as the Tax Administrator deems proper, or five thousand dollars, whichever amount is less. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided. The operator has a right to appeal to the City Council any decision of the Tax Administrator made pursuant to this section. The operator's right to appeal is pursuant to Section 4.285 herein.

(2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring any action in the courts of this state, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.

4.260        Lien.

The tax imposed by this code together with the interest and penalties herein provided and the filing fees paid to the County Clerk of Curry County, Oregon and advertising costs which may be incurred when same becomes delinquent as set forth in this code shall be and until paid remain a lien from the date of its recording with the Curry County Clerk of Curry County, Oregon. Said lien shall be superior to all subsequent recorded liens on all tangible personal property used in the lodging establishment of an operator within Gold Beach and may be foreclosed on and sold as may be necessary to discharge said lien if the lien has been recorded with the County Clerk of Curry County, Oregon. The Tax Administrator or designee may issue notice of the lien whenever the operator is in default in the payment of said tax. Interest and penalty shall be recorded with the County Clerk of Curry County, Oregon and a copy sent to the delinquent operator. Any personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing same at public auction after ten days notice, which means one publication in a newspaper published in the City of Gold Beach, Oregon. Any lien for taxes shown on the records of the proper county official shall, upon payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the City. The operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is hereby released and the record of lien is satisfied.

4.265        Refunds.

(1)        Refunds by the City to the operator. Refunds by the City to the operator. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this code, it may be refunded, provided a verified claim in writing stating the specific reason upon which the claim is founded is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected or paid and the balance may be refunded to such operator, executors or assigns.

(2)        Refunds by City to transient. Whenever the tax required by this code has been collected by an operator and deposited by the operator with the Tax Administrator and it later is determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient provided a verified claim is founded and filed with the Tax Administrator within three years from the date of payment.

(3)        Refunds by operator to tenant. Whenever the tax required by this code has been collected by the operator and it is later determined that the tenant occupies the lodging establishment for a period exceeding thirty-days (30) without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a

transient. The operator shall account for such collection and refund to the Tax Administrator. The operator shall be entitled to a corresponding refund under this section if the tax was remitted prior to the refund or credit to the tenant.

(4) No interest shall be paid by the Tax Administrator on any refunds made under this section.

#### 4.270 Purpose of and Distribution Formula for Transient Room Tax Receipts.

It is the intent and purpose of this code to raise revenues for funding of a program of community advertising and promotion, and the disbursement formula therefore is as follows:

(1) Each operator liable for collection and remittance of the Transient Room Tax as imposed by this code, shall withhold five percent (5%) of the net tax collected to cover the operator's expense in collection and remittance of said tax.

(2) Whenever the tax required by this code has been collected by the operator and it is later determined that the tenant occupies the lodging establishment for a period exceeding thirty-days (30) without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the Tax Administrator. The operator shall be entitled to a corresponding refund under this section if the tax was remitted prior to the refund or credit to the tenant.

(3) There is hereby created a special fund of the City of Gold Beach to be known as "The Community Advertising and Promotion Fund" into which the Tax Administrator shall deposit seventy-five percent (75%) of the net tax collected under this code. Said fund shall be completely separate and apart from any other special or general funds of the City of Gold Beach

#### 4.275 Record Keeping and Inspection.

(1) Records required for operators. Every operator shall keep guest records of room sales and accounting books and records of the room sales. Operators shall retain all such records for a period of three years and six months.

(2) Examination of records; investigations. The Tax Administrator or designee may examine during normal business hours records relating to room sales of any operator liable for the tax. The Tax Administrator may investigate the business of the operator to verify the accuracy of any return made or, if the operator makes no return, to ascertain and determine the amount required to be paid

(3) Confidential character of information obtained. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this code to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any

person required to obtain a Transient Occupancy Registration Certificate or pay a transient occupancy tax, or other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided that nothing in this section shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another City of Gold Beach Official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this code, or collecting taxes imposed hereunder, or collecting city business license fees.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when the public interest would suffer thereby.

(c) The disclosure of the names and address of any persons to whom Transient Occupancy Registration Certificates has been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the City.

4.280

Term. Powers and Duties of the Transient Lodging Tax Review and Expenditure Committee.

(1) The two members of said committee from applications received from the Gold Beach Chamber of Commerce shall have terms of four years each. Position number one shall be appointed on the even years and position number three shall be appointed on the odd years with the terms beginning on the first day of January. The two members of the committee from applications received from lodging establishment operators contributing to this fund shall have terms of four years each. Position number four shall be appointed on the even years and position number five shall be appointed on the odd years. Position number two of the committee shall be appointed on the even years from applications received from the community at large that are directly involved with the tourist industry. This position will be titled "member at large".

(2) Should any member resign or be removed as provided herein, the City Council shall appoint a replacement and said new member shall serve the remainder of the unexpired term.

(3) Any committee member may be removed from the committee for cause by majority vote of committee members and approval of the City Council.

(4) A quorum of three members of the committee will be necessary to conduct business of the committee. The committee shall pick a Chair and Secretary who serve at the pleasure of the committee. The committee shall keep a record of its meetings and procedures. All minutes, records and files pertaining to actions of the committee shall be kept at City Hall. The committee shall hold monthly meetings at the Gold Beach City Hall. All committee meetings shall be open to the public. Committee members shall attend all regularly scheduled meetings. The City Council may remove any committee member who misses in excess of two meetings per fiscal year. Committee members shall not receive any compensation for their services on the committee.

(5) The committee shall formulate a long-range strategy and plan for community promotion and advertising for the greater Gold Beach area including, but not limited to, a comprehensive media campaign for such promotion. The Committee may retain services of an advertising agency to provide professional expertise. The Committee shall formulate a fiscal year budget from July 1 to June 30 each year for such expenditures.

(6) Through the City's budget development and adoption process, the City Council will set funding levels for expenditures from the Community Advertising and Promotion Fund. The Tax Administrator will approve all specific line-item expenditures from the Fund prior to expenses being incurred. Any expenditure decisions made by the committee in violation of this section shall be null and void and not the responsibility of the City.

#### 4.285 Appeals to City Council.

Any person aggrieved by any decision of the Tax Administrator may appeal to the City Council by filing notice of appeal with the Tax Administrator within twenty days (20) of the serving or the mailing of the notice of the decision given by the Tax Administrator. The Tax Administrator shall transmit said notice of appeal, together with any files of said appealed matter to the Council, who shall fix a time and place for hearing such appeal from the decision of the Tax Administrator. The Council shall give the appellant not less than twenty days (20) written notice of a time and place of said hearing of said appealed matter. Action by the Council on appeals shall be decided by a majority of the members of the Council present at the meeting where such appeal is considered. All decisions of the City Council in regards to appeals are final and binding.

#### 4.286 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this code, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this code or any part thereof.

#### 4.290 Violations.

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail to refuse to furnish a supplemental return or other data required to make, render, sign or verify any report shall make any false or fraudulent report, with the intent to defeat or evade the determination of any amount due required by this code.

4.295            Penalties.

Any person willfully violating any of the provisions of this code shall be guilty of a misdemeanor and may be punishable by a fine of not more than five hundred dollars (\$500.00). The maximum fine may be amended from time to time by resolution of the Gold Beach City Council.

Gold Beach Sign Code

4.300            Title.

This portion of the Gold Beach Code shall be known and cited as the City of Gold Beach Sign Code.

4.305            Purposes.

This code has been enacted for the following purposes:

- (1) To provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the quality of materials, construction, location, electrification and maintenance of all signs and sign structures not located within a building. The regulations of this Sign Code are not intended to permit any violations of the provisions of any other lawful code or ordinance of the City.
- (2) To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised.
- (3) To allow and promote positive conditions for meeting sign users' needs while at the same time avoiding nuisances to nearby properties.
- (4) To reflect and support the desired character and development patterns of the City.
- (5) To allow for a variety in number and type of signs in commercial and industrial zones while preventing signs from dominating the visual appearance of the area.
- (6) To ensure that the constitutionally guaranteed right of free speech is protected.

Byronwood House

29509 CROOK ST

2008 Vacation Rentals 1 AUG FRI

AVG PERKINS

795

TOTAL FOR 2008 AFTER 1 AUG 2008

\$ 795

2009 Vacation Rentals

4 JUNE GOLD BEACH FOOTBALL CAMP

1700

5 JUNE

AVG ERIN MINSTER DEPOSIT FOR WEDDING  
SHE OCCUPIED GUESTHOUSE

300

4-25-13 NOV EYNDIXIE OPLEY (RESIDENT OF  
GUEST HOUSE)

500

TOTAL FOR 2009

\$ 2800

2010 Vacation Rentals

5 JUNE } GOLD BEACH FOOTBALL CAMP

2043

5 JUNE }

900

4 AVG LOCALS JEFF & SARA DAVIS

900

7-5-12 AVG FIRST HOUSE RESIDENT ERIN MINSTER

900

21 TOTAL FOR 2010 ALL PAYMENTS REC'D  
IN 3RD QTR

\$ 3843

2011 Vacation Rentals

6-18-22 JUNE } GOLD BEACH FOOTBALL CAMP

\$ 1985

5-25-29 JUNE }

1100

7-18-24 JULY FRIENDS - JOI & JEFF RILEY

275

2-30 JULY 4 AVG TRACY & BEN BURRIS (CANCELLED)

935

4-7-10 AVG JOSHUA HILL

21 TOTAL FOR 2011 ALL PAYMENTS REC'D  
IN 3RD QTR

\$ 4295

TOTAL REVENUE FOR PERIOD

\$ 11733

6% TAX

\$ 703.98

3 YEARS FROM DISCOVERY- AUGUST 2008 TO AUGUST 2011

FY 08-09		FY 09-10		FY 10-11	
AUG	\$ 104.88	AUG	\$ 81.23	AUG	\$ -
SEPT	\$ 41.04	SEPT	\$ -	SEPT	\$ 17.10
OCT	\$ 27.36	OCT	\$ -	OCT	\$ -
NOV	\$ 71.25	NOV	\$ 49.88	NOV	\$ 42.75
DEC	\$ 11.40	DEC	\$ 38.48	DEC	\$ -
JAN	\$ -	JAN	\$ -	JAN	\$ -
FEB	\$ -	FEB	\$ -	FEB	\$ 14.25
MARCH	\$ -	MARCH	\$ -	MARCH	\$ 55.80
APRIL	\$ -	APRIL	\$ 78.12	APRIL	\$ -
MAY	\$ 42.75	MAY	\$ 108.82	MAY	\$ -
JUNE	\$ -	JUNE	\$ -	JUNE	\$ 41.85
JULY	\$ 51.30	JULY	\$ 16.74	JULY	\$ 72.54
<b>TOTAL</b>	<b>\$ 349.98</b>	<b>TOTAL</b>	<b>\$ 373.27</b>	<b>TOTAL</b>	<b>\$ 244.29</b>

TOTAL TAX ESTIMATED \* \$ 967.54

PENALTY FOR NON COLLECTION: \$ 241.89  
(25% OF PAST DUE TAX)

**TOTAL DUE \$ 1,209.43**

\* Pursuant to City Code Section 4.245(3), tax was estimated based on the tax reported and paid by a similarly sized vacation rental.

# **ORDINANCES & RESOLUTIONS**

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. **9 a.**

Council Hearing Date: January 9, 2012

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Department: Administration

Contact/Title: Jodi Fritts, CA  
Email: [jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

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**TITLE: Mateer Road Dangerous Building Resolution**

**SUMMARY AND BACKGROUND:**

A hearing was held last month to determine whether a vacant building located at 28312 Mateer Road in Hunter Creek was a Dangerous Building as defined by City Code. A hearing was held and the determination was made that the structure did not meet the definition of Dangerous Building. A determination by resolution is required.

**FINANCIAL IMPACT:**

None at this time.

**DOCUMENTS ATTACHED:**

- Resolution R1112-22: A resolution regarding the dangerous building determination of a structure located at 28312 Mateer Road

**REQUESTED MOTION/ACTION:**

**A motion to approve/deny Resolution R1112-22 determining the building is not a Dangerous Building per Code.**

**COPY OF REPORT SENT TO:**

Council, Police Chief, and Fire Chief

**RESOLUTION R1112-22**

**A RESOLUTION REGARDING THE DANGEROUS BUILDING  
DETERMINATION OF A STRUCTURE LOCATED AT 28312 MATEER ROAD**

**WHEREAS**, a Dangerous Building Hearing was held on December 12, 2011 pursuant City Code Section 5.370; and

**WHEREAS**, notice was given of the hearing to the owner(s) of the property located at 28312 Mateer Road, Tax Assessor Map 3714-18B tax lot 2000, according to the above referenced code section; and

**WHEREAS**, the hearing was conducted according to the procedures outlined in the Code, and evidence was taken in the form of exhibits, and oral and written testimony; and

**WHEREAS**, at the conclusion of the public hearing, the Council found that the building located at 28312 Mateer Road did not meet the definition of Dangerous Building as defined in Section 5.350(1) and therefore could not be deemed "dangerous".

**NOW, THEREFORE, BE IT** resolved the City Council of the City of Gold Beach finds that the building located at 28312 Mateer Road is not a Dangerous Building as defined by City Code.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 9<sup>th</sup> DAY OF JANUARY 2012.

APPROVED BY:

\_\_\_\_\_  
James H. Wernicke, Mayor

ATTEST:

\_\_\_\_\_  
Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. **9 b.**

Council Hearing Date: January 9, 2012

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Department: Administration

Contact/Title: Jodi Fritts, CA  
Email: [jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

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**TITLE: Workers' Compensation Resolution**

**SUMMARY AND BACKGROUND:**

This matter originally came before the Council in August. Questions had been asked at that time about the amount of assumed wage for some of the listed volunteers. I researched other entities and spoke with CIS, our insurance carrier, about the formula. The resolution before the Council is a template that CIS provides for cities to adopt. After emailing several other cities, they all use some form of the CIS template. I believe this updated resolution should resolve most of the questions about the previous one.

**FINANCIAL IMPACT:**

We currently budget and pay WC insurance on all of our volunteers.

**DOCUMENTS ATTACHED:**

- Resolution R1112-07: A resolution extending the City of Gold Beach Workers' Compensation coverage to volunteers of the City

**REQUESTED MOTION/ACTION:**

**A motion to approve/deny Resolution R1112-07**

**COPY OF REPORT SENT TO:**

Council

**RESOLUTION R1112-07**

**A RESOLUTION EXTENDING THE CITY OF GOLD BEACH'S WORKERS'  
COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF  
GOLD BEACH**

**WHEREAS**, the City of Gold Beach elects the following for fiscal year 2011-2012:

Pursuant to ORS 656.031, Workers' Compensation Coverage will be provided to the classes of volunteer workers listed in this resolution and noted on the CIS payroll schedule.

1. An assumed monthly wage of \$2,500 will be used for public safety volunteers; and
2. An aggregate assumed annual wage of \$2,500 will be used per volunteer board, commission and/or council for the performance of administrative duties; and
3. An assumed monthly wage of \$800 per month will be used for public officials for the performance of manual labor above and beyond the administrative duties covered by paragraph 2 above.
4. Non-public safety volunteers will keep track of their hours with the assistance of the Administrative Office and have their assumed payroll reported in the correct class code for the type of work being performed using Oregon minimum wage; and
5. A roster of active volunteers will be kept monthly for reporting purposes. It is acknowledged that City/County Insurance Services may request copies of these rosters during the year-end audit; and
6. Unanticipated volunteer projects or exposure not addressed herein will be added onto the City of Gold Beach coverage agreement (1) by endorsement, (2) with advance notice to CIS, and (3) allowing two weeks for processing. It is hereby acknowledged that coverage of this type cannot be backdated.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Gold Beach, Oregon does hereby extend workers' compensation insurance coverage as indicated above.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 9<sup>TH</sup> DAY OF JANUARY 2012.

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James H. Wernicke, Mayor

ATTEST

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Candy Cronberger, City Recorder

RESOLUTION R1112-07

# MISC ITEMS

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. 10 c.  
Council Hearing Date: January 9, 2012

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Department: Administration

Contact/Title: Jodi Fritts, CA  
Email: jfritts@goldbeachoregon.gov

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**TITLE: Possible Revision to City Code for enforcement**

**SUMMARY AND BACKGROUND:**

The Nuisance & Offense Code section of the City Code covers the following: Dog Control, Discarded Vehicles, Nuisance Code, Dangerous Buildings, Offense Code and Parks. Each section has its own penalty and violation section which makes enforcement cumbersome and difficult. Currently the way the Code sections are written there is no ability to easily cite someone into Muni Court for violations.

The Courts section of the Administrative Code provides a more comprehensive and clear process for citation. It would be worthwhile to have the Nuisance & Offense Code sections revised to include the procedures listed in the Court section. This would make enforcement uniform throughout the Code and would provide clearer direction to enforcement staff—either Admin or PD.

**FINANCIAL IMPACT:**

We would need to have legal counsel review any proposed Code changes.

**DOCUMENTS ATTACHED:**

- The Nuisance & Offense Code are not attached due to their length, but they are available on request. Attached is the Court code section for issuance of citations for your review.

**REQUESTED MOTION/ACTION:**

**Direction to staff by motion on whether to proceed/or not with revising the Nuisance & Offense Code enforcement sections**

**COPY OF REPORT SENT TO:**

Council, Police Chief

employment or agency; or

(ii) The conduct constituting the violation is knowingly tolerated by the officers, employees or agents or the organization.

(iii) A person is liable for conduct constituting a violation which he or she performs or causes to be performed in the name of or in behalf of a corporation, firm, partnership, association, or joint stock company to the same extent as if such conduct were performed in his or her individual capacity.

(10) Classification of Offenses; Penalties.

(a) Unless otherwise provided by law or ordinance, all violations of city ordinances are classified as infractions.

(b) If provided for in the ordinance defining the violation, the court may order restitution in addition to any penalty or fine. The court may order community service in lieu of a penalty or fine if the defendant demonstrates a manifest and documented inability to pay.

(c) The amounts for fines and penalties shall be set and from time to time adjusted by resolution of the City Council. At the time any such fine and penalty amounts are so adjusted, previous fines and penalties will be automatically repealed whether previously set by ordinance or resolution.

1.315 Court Rules and Procedure.

*Begins here \**

(1) Citation; Complaint; Summons.

(a) A citation substantially conforming to the requirements of this section may be used for citing violations of city code and ordinance.

(b) A citation shall contain the following:

(i) Complaint.

(ii) Department record.

(iii) Summons

(c) A summons shall contain the following information:

(i) The name of the court; the name of the person or persons cited; the date on which the citation was issued; the name of the complainant; and the time at which the person cited is to appear in court.

(ii) A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so and the date and place the violation is alleged to have occurred.

(iii) A notice to the person or persons cited that a complaint will be filed with the court based on the violation.

(iv) The maximum amount of penalty or bail, if any, fixed for the violation, and a statement notifying the person that a money judgment may be entered up to the maximum amount of the penalty or the cost of nuisance abatement, along with other costs allowed by law if the defendant fails to appear.

(d) A complaint shall contain the following information:

(i) The name of the court; the name of the city in whose name action is being brought; and the name of the defendant or defendants.

(ii) A statement or designation of the violation in such a manner as can be readily understood by a person making a reasonable effort to do so and the time and place of the alleged violation.

(iii) A verification that the complainant swears or affirms that he or she has reasonable grounds to believe, and does believe, that the person or persons cited have violated a provision of the code.

(e) The citation may also contain additional information as may be appropriate for administrative departments of the city, including an indication of whether a written warning was previously issued.

(2) Persons Authorized to Issue Citations; Complaints by Private Citizens.

(b) A citation may be issued by the Codes Enforcement Officer, Public Safety Officer or Fire Department Official if he or she has reasonable grounds to believe that the person or persons to be charged are in actual violation of a provision, other than a criminal provision, of the code. A citation may be issued by the Public Safety Officer if the officer has probable cause to believe that the person to be charged with the violation is in violation of a criminal provision of the code.

(c) Any person may seek to have the city issue a citation for violation of the code by filing a complaint with the Codes Enforcement Officer, Public Safety Officer, or Fire Department Official if such violation is a violation of a criminal provision of the code, alleging under oath and upon personal knowledge material facts which, if proven, would constitute a violation, provided that such person can testify at trial to material facts in the case.

(d) Any person who, in connection with the issuance of a citation or the filing of a complaint under this subsection, knowingly certifies falsely to matters set forth therein shall be subject to a penalty upon conviction of \$1,000.00

(3) Delivery and Filing of the Summons and Complaint.

The Codes Enforcement Officer, Public Safety Officer or Fire Department Official, as the case may be, shall cause summons to be served on the person cited and shall file the complaint along with proof of service of the summons with the court.

(4) Right to Counsel.

(a) A defendant may be represented by counsel at any trial for a violation, but defense counsel shall not be provided at public expense.

(b) At the defendant's first appearance in municipal court, the defendant shall be informed by the court of his or her right to have counsel before pleading to the violation and shall be asked if he or she wishes to obtain counsel before pleading.

(c) At any trial for an infraction, the city attorney may aid the Codes Enforcement Officer, Public Safety Officer or Fire Department Official in preparing evidence and obtaining witnesses, but shall not appear unless the defendant retains counsel. The court shall give the city attorney timely notice if defense counsel is to appear at trial.

(5) First Appearance; Return of Summons.

The defendant shall:

(a) Either appear in court at the time indicated in the summons; or

(b) Prior to such time, deliver to the court the summons together with the amount of the penalty or bail, if any, set forth in the summons, along with a request for a hearing or a written statement in explanation or mitigation; or

(c) Prior to such time, deliver the summons together with a waiver of hearing and plea of guilty, along with the penalty or bail set forth in the summons.

(6) Effect of Defendant's Written Statement in Explanation or Mitigation.

(a) If the defendant submits a written statement in explanation or mitigation and does not request a hearing, the statement shall constitute a waiver of hearing, a consent to judgment by the court and assessment of penalty, if, based on the written statement and testimony or written statements of other witnesses, if any, the court finds the defendant violated the provision of the Code with which the defendant has been charged.

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**



Agenda Item No. **10 d.**  
Council Hearing Date: January 9, 2012

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Department: Parks

Contact/Title: Jodi Fritts, CA  
Email: [jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

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**TITLE: Possible Dog Park at Buffington Park**

**SUMMARY AND BACKGROUND:**

We were approached last month by a citizen's group on whether we could establish a "Dog Park" at Buffington Park. They had information about a Dog Park in Harbor at McVay State Park Wayside and one at the City of Bandon. They are proposing a 90' x 60' (5400 sq ft) park.

I discussed the proposal with PW Superintendent, Will Newdall. We both felt that we didn't have room for a 90' x 60' area but that we could accommodate a 30' x 50' (1500 sq ft) area behind the former park host trailer. It is quite a bit smaller than the initial proposal, but the way the park is laid out we don't have a lot of open space like McVay Wayside.

**FINANCIAL IMPACT:**

We would need to discuss the proposal with the citizens to determine their expectations.

**DOCUMENTS ATTACHED:**

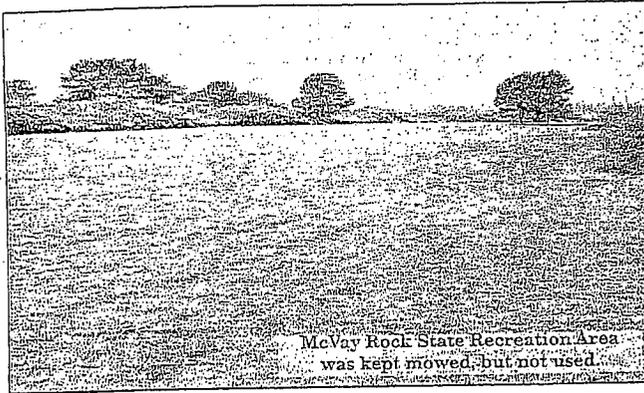
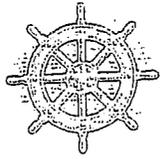
- Copy of the Pilot article about McVay Wayside.
- Copy of GIS Map outlining proposed area

**REQUESTED MOTION/ACTION:**

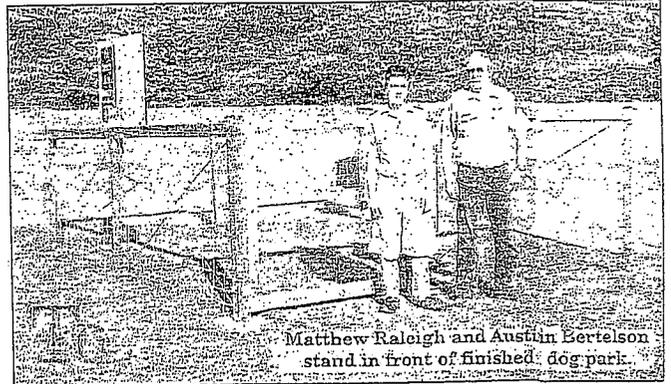
**Direction to staff by motion on whether to proceed/or not with Dog Park proposal**

**COPY OF REPORT SENT TO:**

Council, Public Works

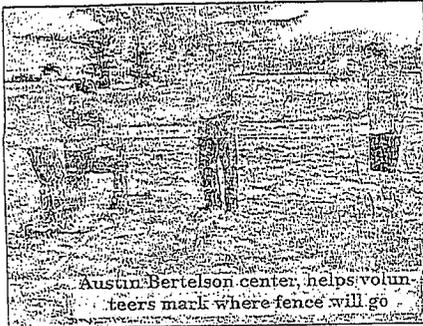


McVay Rock State Recreation Area was kept mowed, but not used.



Matthew Raleigh and Austin Bertelson stand in front of finished dog park.

# An empty field A dog park



Austin Bertelson center helps volunteers mark where fence will go.

A lot of people have talked about building a dog park, but it took a 16-year-old Boy Scout to actually get it done - with a little help from his friends.

Matthew Raleigh, a sophomore at Brookings-Harbor High School, needed a project to complete the requirements for becoming an Eagle Scout.

OPRD Park Ranger Austin Bertelson needed some willing volunteers to install a pet exercise area at McVay Rock State Recreation Area.

"Bertelson approached me," Matthew's dad, Bruce Raleigh said, "since I'm the Scoutmaster for Troop 251. He said he'd like to have it done and had approval from the parks department."

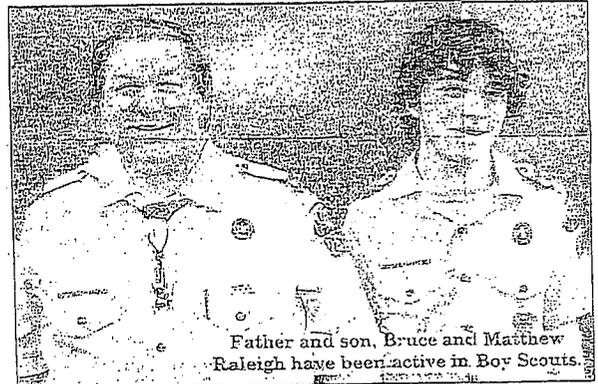
Raleigh ran the idea past his son, and Matthew said it sounded like a good project to help meet his Eagle requirements.

Plans were drawn with the help of Bertelson, who assisted with every phase of the project. The state parks department provided the materials and Matthew gathered a crew of adult and youth volunteers.

"They were people in my scout troop and from church," Matthew said.

He attends The Church of Jesus Christ of Latter-day Saints in Brookings, which sponsors his scout troop.

Last summer, in three days of hard labor, a work crew of about 14 turned the dog park idea into a 100-foot-wide



Father and son, Bruce and Matthew Raleigh have been active in Boy Scouts.

by 300-foot-long fenced reality.

Bruce Raleigh said he is proud of his son.

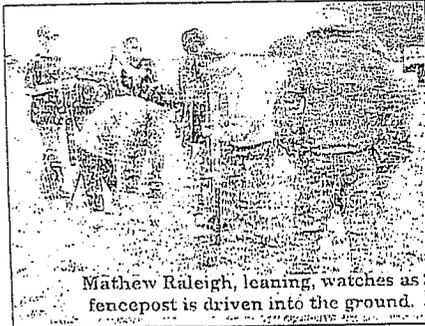
"When we were doing the actual building, we adults stepped back and Matthew directed the volunteers - adult as well as youth," he said.

"Having been an Eagle Scout myself," he added, "I know how much hard work and perseverance it takes to achieve that."

Raleigh said Matthew is following in the family tradition. Matthew's three older brothers, Jonathan, 25,

Eric, 23, and Justin, 21, are Eagle Scouts. Chances are, his little brother, Brandon, 2 L2, will be one, too, someday, Raleigh said.

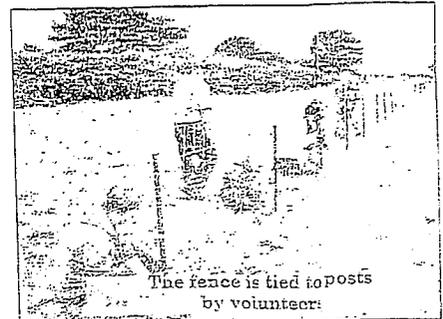
Besides Bertelson and Bruce and Matthew Raleigh, volunteers who helped build the dog park include adults: Glen Perazzo, Nanette Scaggs and Bonnie Raleigh, and youth: Daniel Fletcher, Matthias Fletcher, Clay Evans, Eric Perazzo, Ryan Perazzo, Hannah Perazzo, Dylan Hiller, Easton Scaggs, Ben Bowers and Harrison Farr.



Matthew Raleigh, leaning, watches as fencepost is driven into the ground.



Volunteers roll out fence after posts have been set.



The fence is tied to posts by volunteers.



Matthew Raleigh prepares to saw wooden post.

Pilot story by Evelyn Cook - Project photos submitted by Matthew Raleigh