

**ROSEBURG CITY COUNCIL AGENDA – APRIL 8, 2024**  
**City Council Chambers, City Hall**  
**900 SE Douglas Avenue, Roseburg, Oregon 97470**



**Public Online Access:**

City website at <https://www.cityofroseburg.org/your-government/mayor-council/council-videos>

Facebook Live at [www.Facebook.com/CityofRoseburg](http://www.Facebook.com/CityofRoseburg)

*Comments on Agenda Items and Audience Participation can be provided in person or electronically via Zoom. See Audience Participation Information for instructions on how to participate in meetings.*

**7:00 p.m. Regular Meeting**

**1. Call to Order – Mayor Larry Rich**

**2. Pledge of Allegiance**

**Roll Call**

Tom Michalek

Andrea Zielinski

Kylee Rummel

David Mohr

Ellen Porter

Ruth Smith

Patrice Sipos

Shelley Briggs Loosley

**3. Mayor Reports**

A. Recognition of City Volunteers and Volunteer Recognition Month Proclamation

B. Oregon Arbor Month Proclamation

**Commission Reports/Council Ward Reports**

**Audience Participation – In Person or via Zoom/See Information on the Reverse**

**Consent Agenda**

\$ March 25, 2024 Regular Meeting Minutes

**Ordinances**

\$ Ordinance No. 3600 – An Ordinance Amending Chapter 2.18 “Economic Development Commission” of the Roseburg Municipal Code and Ordinance No. 3601 – An Ordinance Repealing Section 2.32.060 of the Roseburg Municipal Code, First Reading

% Ordinance No. 3602 – An Ordinance Granting a Telecommunications Franchise Agreement to Patriot Mobile LLC, First Reading

**Resolutions**

\$ Resolution No. 2024-09 – A Resolution Supporting the Construction of the Roseburg Veterans’ Home and Requesting Federal Funding

**Department Items**

\$ Inmate Housing Intergovernmental Agreement Extension

% Intergovernmental Agreement – Douglas County Communications Services and Radio Usage Agreement

**Items from Mayor, City Council and City Manager**

**Adjourn**

**Executive Session ORS 192.660(2)**

**Informational**

A. City Manager Activity Report

## **AUDIENCE PARTICIPATION INFORMATION**

*The Roseburg City Council welcomes and encourages citizen participation at all of our regular meetings, with the exception of Executive Sessions, which, by state law, are closed to the public. To allow Council to deal with business on the agenda in a timely fashion, we ask that anyone wishing to address the Council follow these simple guidelines:*

**Comments may be provided in one of three ways:**

- **IN PERSON during the meeting in the Council Chambers, Roseburg City Hall, 900 SE Douglas Ave.**
    - Each speaker must provide their name, address, phone number and topic on the Audience Participation Sign-In Sheet.
  - **VIA EMAIL by sending an email by 12:00 p.m. the day of the meeting to [info@cityofroseburg.org](mailto:info@cityofroseburg.org).**
    - These will be provided to the Council but will not be read out loud during the meeting. Please include your name, address and phone number within the email.
  - **VIRTUALLY during the meeting. Contact the City Recorder by phone (541) 492-6866 or email ([info@cityofroseburg.org](mailto:info@cityofroseburg.org)) by 12:00 p.m. the day of the meeting to get a link to the meeting.**
    - Each speaker must provide their name, address, phone number and topic in the email. Speakers will need to log or call in prior to the start of the meeting using the link or phone number provided. When accessing the meeting through the ZOOM link, click “Join Webinar” to join the meeting as an attendee. All attendees will be held in a “waiting room” until called on to speak. It is helpful if the speaker can provide a summary of their comments via email to ensure technology/sound challenges do not limit Council’s understanding.
- Anyone wishing to speak regarding an item on the agenda may do so when Council addresses that item.
  - Anyone wishing to speak regarding an item on the Consent Agenda, or on a matter not on the evening’s agenda, may do so under “Audience Participation.”
1. Speakers will be called by the Mayor in the order in which they signed up. The Mayor will generally call in-person speakers prior to calling speakers participating via Zoom. Each virtual speaker will be transferred from the “waiting room” into the meeting to provide comments, then moved back to the “waiting room” upon completion of their comments.
  2. Persons addressing the Council in person or virtually must state their name and city of residence for the record.

**TIME LIMITATIONS - A total of 30 minutes shall be allocated for the “Audience Participation” portion of the meeting.** With the exception of public hearings, each speaker will be allotted a total of 6 minutes, unless the number of speakers will exceed the maximum time. In this case, the Mayor may choose to decrease the allotted time for each speaker in order to hear from a wider audience. All testimony given shall be new and not have been previously presented to Council.

***Audience Participation is a time for the Mayor and Council to receive input from the public. The Council may respond to audience comments after “Audience Participation” has been closed or during “Items from Mayor, Councilors or City Manager” after completion of the Council’s business agenda. The Council reserves the right to delay any action requested until they are fully informed on the matter.***

### **ORDER AND DECORUM**

Councilors and citizens shall maintain order and decorum at Council meetings. Any audience member may be directed to leave the meeting if they use unreasonably loud, disruptive, or threatening language, make loud or disruptive noise, engage in violent or distracting action, willfully damage furnishings, refuse to obey the rules of conduct, or refuse to obey an order of the Mayor or majority of Council. No signs, posters or placards are allowed in the meeting room.

All speakers and audience members should treat everyone with respect and maintain a welcoming environment. Please avoid actions that could be distracting such as cheering, booing, or applause. Please turn cell phones to silent and enter and exit the Council Chambers quietly if the meeting is in progress and take any conversations outside the Chambers.

*The City Council meetings are on Facebook Live and available to view on the City website the next day at:*  
<https://www.cityofroseburg.org/your-government/mayor-council/council-videos>

*The full agenda packet is available on the City’s website at:*  
<https://www.cityofroseburg.org/your-government/mayor-council/council-agendas>



# ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY

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## RECOGNITION OF CITY VOLUNTEERS

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**Meeting Date:** April 8, 2024  
**Department:** Parks & Recreation  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

**Agenda Section:** Mayor Reports  
**Staff Contact:** Velorie Ligon, Program Manager  
**Contact Telephone Number:** 541-492-6730

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### ISSUE STATEMENT AND SUMMARY

In conjunction with "Volunteer Recognition Month," the City wishes to honor publicly those volunteers who have devoted their time and efforts for the betterment of the Roseburg community. These efforts range from commission service to Volunteers in Police Service to individuals and groups that plant flowers and trees in our parks or help as part of the 'Adopt-A-Trail' program – all providing invaluable and greatly appreciated contributions.

The following volunteers will be acknowledged in an advertisement with local news media:

### COUNCIL/COMMISSION MEMBERS

#### ***City Council***

Larry Rich, Mayor  
Andrea Zielinski  
Brian Prawitz  
David Mohr  
Ellen Porter  
Kylee Rummel  
Patrice Sipos  
Ruth Smith  
Shelley Briggs Loosley  
Tom Michalek

#### ***Airport Commission***

Frank Inman  
David Morrison  
Clint Newell  
Robb Paul  
Steve Skenzick  
Daniel Sprague

#### ***Parks & Recreation***

Kyle Bailey  
Ryan Finlay  
Robert Grubbs  
Marsha LaVerne  
Tobiah Mogavero  
Diana Wales

#### ***Budget Committee***

Mike Baker  
Stephen Krimez  
Kelly Peter  
Bob Scott  
Jerry Smead  
Bryan Sykes  
Knut Torvik  
Jeffrey Weller

#### ***Planning Commission***

Matthew Brady  
Emily Brandt  
Andrew Blondell  
Janelle James  
Matthew Keller  
Jarrett Nielsen  
Daniel Onchuck  
Shelby Osborn  
Jaime Yraguen

#### ***Library***

Mandy Elder  
Francesca Guyer  
Shirley Lindell  
Theresa Lundy  
Kelly Peter  
Juliet Rutter  
Marcy Tassano

#### ***Public Works***

Fred Dayton Jr  
Ken Hoffine  
Patrick Lewandowski  
Stuart Liebowitz  
Brandon Pearsall  
John Seward  
Tim Swenson  
Roger Whitcomb

#### ***Historic Resources***

Marilyn Aller  
James De Lap  
Bentley Gilbert  
Stephanie Giles  
Lisa Gogal  
Nicholas Lehrbach

***Economic Development***

Don Baglien  
 Mickey Beach  
 Leah Jones  
 Misty Ross  
 Michael Widmer  
 Paul Zegers

***Homeless Commission***

Chris Boice  
 KC Bolton  
 Dr. Gregory Brigham  
 Brent Eichman  
 Michelle Moore  
 Shaun Pritchard

**CITY BEAUTIFICATION/PARKS ASSISTANCE**

Tom & Elaine Brady	Toni Marchwick
Stephanie Brady	Tommy Smith
Stacey Crowe	Marion White
Frank & Bonnie Frabbiele	Debra Willingham
Ron Greenley	Jeff & Shirley Woodcock
Jennifer Kormendi	

**MOVIES IN THE PARK**

Kyle Bailey	Jason Hink
Mike & Janice Baker	Randy Ligon
Joe David	

**ORGANIZATIONAL AND COMMUNITY SUPPORT**

Connections Case Management	Thundering Water
Friends of the Roseburg Public Library	Tracker Foundation
Friends of Umpqua Valley Police K9 Programs	Umpqua Kennel Club
Girl Scouts of Oregon & SW Washington	Umpqua Valley Arts Association
Redbarn Dispensary	Umpqua Valley Audubon Society
Redeemer's Fellowship Students	Umpqua Valley Beekeepers Association
RHS Tennis Team	Umpqua Valley Cal Ripken Babe Ruth
Roseburg BLM, HRDC	Umpqua Valley Tennis Center
Roseburg Dream Center	Umpqua Watersheds
Small Planet Solutions	US Bank
Thrive Umpqua	

**LIBRARY SUPPORT**

Linda Bahr	Gaylene Lyda	Joan Seitz
Steve Bahr	Lynn Mathweg	Pat Sherman
Janice Bryan	Celeste Minnis	Lori Stevenson
Patricia Duerfeldt	Marchae Modglin	Helen Thiessen
Dianne Holborow	Louise Peterson	Susan Uravich
Robin Kladke		

**ATTACHMENTS**

Attachment #1 – Volunteer Recognition Month Proclamation

# PROCLAMATION

CITY OF ROSEBURG, OREGON

## VOLUNTEER RECOGNITION MONTH

**WHEREAS:** the utilization of volunteer services has become crucial in providing needed services to our community; and

**WHEREAS:** our citizens have graciously donated time and talent toward quality programs and services in all aspects of municipal operations; and

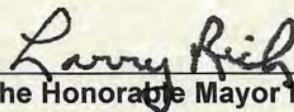
**WHEREAS:** the City of Roseburg wishes to recognize these individuals and organizations for their continued cooperation and to encourage the voluntary participation of others in this valuable service; and

**WHEREAS:** the City of Roseburg wishes to recognize these individuals and organizations for their dedicated efforts toward developing a sense of community spirit through their service;

**NOW, THEREFORE,** I, Larry Rich, Mayor of the City of Roseburg, Oregon, do hereby proclaim the month of April 2024 as

## VOLUNTEER RECOGNITION MONTH

**DATED** this 8th day of April, 2024.

  
The Honorable Mayor Larry Rich



# PROCLAMATION

## CITY OF ROSEBURG, OREGON

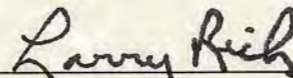
### OREGON ARBOR MONTH

- WHEREAS:** In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and
- WHEREAS:** This special day, called Arbor Day, was first observed with the planting of more than one million trees in Nebraska; and
- WHEREAS:** Arbor Day is now observed throughout the nation and the world; and
- WHEREAS:** Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife; and
- WHEREAS:** Trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and
- WHEREAS:** Trees in our city increase property values, enhance the economic vitality of business areas and beautify our community; and
- WHEREAS:** In honor of Oregon Arbor Month, the City of Roseburg Parks and Recreation will team up with Phoenix Charter School on Arbor Day to plant several trees at Sunshine Park. Roseburg Parks & Recreation will also celebrate Oregon Arbor Month by sharing social media posts highlighting trees throughout the month and distributing free activity booklets focusing on Arbor Day and trees during the month of April.

**NOW, THEREFORE,** I Larry Rich, Mayor of the City of Roseburg, Oregon, do hereby proclaim April 2024, as

### OREGON ARBOR MONTH

**DATED** this 8<sup>th</sup> day of April, 2024.



Larry Rich, Mayor



**MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL MEETING  
March 25, 2024**

Mayor Rich called the regular meeting of the Roseburg City Council to order at 7:00 p.m. on March 25, 2024 in the City Hall Council Chambers, 900 SE Douglas Avenue, Roseburg, Oregon.

1. Pledge of Allegiance

Councilor Rummel led the pledge of allegiance.

2. ROLL CALL

Present: Councilors Tom Michalek, David Mohr, Ellen Porter, Kylee Rummel, Patrice Sipos, Ruth Smith, Shelley Briggs Loosley, and Andrea Zielinski

Absent: None

Others: City Manager Nikki Messenger, City Attorney Jim Forrester, Police Chief Gary Klopfenstein, Finance Director Ron Harker, Library Director Kris Wiley, Public Works Director Dawn Easley, City Recorder Amy Nytes, and Management Assistant Grace Jelks

3. Mayor Reports

A. Mayor Rich proclaimed April 7 – 13, 2024 as National Library Week. Director Wiley shared information about the library's services and statistics for the past year, as well as appreciation for the Council's recognition.

4. Commission Reports/Council Ward Reports.

- Councilor Michalek gave an update about MedCom's final meeting on March 21, 2024. MedCom has completed the process to dissolve.
- Councilor Rummel gave an update about the March 20, 2024 Historic Resources Review Commission meeting.
- Councilor Porter gave an update on about the March 14, 2024 Public Works Commission meeting.
- Councilor Sipos read a statement into the record from the Downtown Parking discussion group.

Mayor Rich's comments and questions included clarification of the final recommendation, asking Staff to review the statement to determine pros and cons or make recommendations, and clarification of next steps.

Councilor Sipos' comments and questions included clarification of assessing a fee to each water meter so that everyone shares the cost, it doesn't matter whether you live outside the city limits if you are coming into the city to use services, the initial focus will be on paying for parking, upgrades to the parking garage will come after there is enough money to pay for it, and changes or improvements will happen in increments.

Councilor Porter's comments and questions included clarification of the fee versus a tax, it is important to remember that there people in the County utilizing the Courthouse and Downtown resources, and the parking garage should be included as a critical aspect.

Council President Mohr's comments and questions included clarification of upgrades to the garage, whether that is included in the request for evaluation by Staff, and upgrades to the garage would be significant.

Councilor Smith's comments and questions included appreciation for how many people are using the library, whether ACE Parking Services monitors the library parking lot, and finding a way to work together to find a solution.

Messenger asked for clarification and direction from the Council regarding next steps.

Forrester clarified that many of the Councilors had not seen the statement or the recommendations requiring additional staff hours. Staff needs to know whether Council is giving direction to proceed with an evaluation and to report back at a future meeting date.

Direction was given for Staff to review the statement submitted by the Downtown Parking discussion group and to bring back an evaluation.

- Councilor Briggs Loosley gave an update about the March 25, 2024 Homeless Commission meeting.

A. Mayor Rich presented the Homeless Commission Resignation.

Councilor Briggs Loosley moved to accept Dr. Gregory Brigham's resignation from the Homeless Commission, with regrets. The motion was seconded by Councilor Zielinski and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

B. Mayor Rich presented the Homeless Commission Appointment. Discussion ensued.

Councilor Porter's comments and questions included when the Homeless Commission evaluation will take place.

Mayor Rich clarified there are three new members appointed by their agencies and that he and Councilor Briggs Loosely will be discussing the evaluation with former members to present at the next Homeless Commission meeting.

Councilor Briggs Loosley moved to appoint Gene McVae to the Homeless Commission. The motion was seconded by Councilor Zielinski and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

C. Councilor Zielinski presented the Library Commission Appointment.

Councilor Zielinski moved to appoint Brady McNulty to the Library Commission. The motion was seconded by Councilor Rummel and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.



5. Audience Participation

Shari Coopride, resident, spoke in opposition to the Dream Center property.

6. Special Presentations

- A. Dick Dolgonas presented Bike Walk Roseburg.
- B. Jacob Schlueter – UCAN Manager and Will Kuhanek, former program participant, presented the Gary Leif Navigation Center Update. Discussion ensued.

Councilor Michalek's comments and questions included whether non-resident's could participate in programs, type of services or programs available, whether services would be used by people inside an urban campground, and the cost of security services.

Councilor Smith's comments and questions included clarification of the number of people that have successfully found stable housing.

Councilor Porter's comments and questions included clarification of the percentage calculations used to determine the success rate of people finding stable housing, congregate shelter capacity, prioritizing families in the congregate shelters, and the annual point in time report.

Councilor Rummel's comments and questions included the current waitlist number.

Council President Mohr's comments and questions included the average wait time after the initial request for services, average number of people receiving services in a month, and addressing communication gaps.

Mayor Rich's comments and questions included dealing with barking dogs at the Center, determining if participants accessing services are local, and amount of funding provided by the City to the Center. The grant funds issued by the State are going to go somewhere, so we might as well ask for some of that funding to come here.

Mr. Schlueter clarified the requirements for participant's is one night on the streets in Oregon. Providers come onsite to assist with access to services, insurance, identification, mail, healthcare, mental health services, and housing. There is a waitlist for housing at the Center, walk-in services are available to anyone Monday – Friday / 9:00 a.m. – 4:00 p.m., One Security provides services for our organization and others in the region, 92 people have left since the program began, 75 – 80% of those people found stable housing, the success rate percentages are based on the State's criteria and calculations, there are about 150 people on the waitlist, the waitlist is prioritized by a scoring system that identifies those most in need, participants stay an average of five months, the average number of individuals served varies each month, 835 unique individuals have received services since the program started, communication gaps are an issue due to unsuccessful attempts to contact people on the waitlist, we offer cell phone and mail services to address communication and contact issues, the Center has a variety of pets that are mostly well behaved and kept on a leash or in a crate, most participants are local, participants brought in by another agency

usually need a bus ticket to get home, congregate shelters are being used by families, and the point in time count report has not been issued yet.

Mr. Kuhanek clarified the goal is to help people transition into stable housing within six months, the length of stay is specific to individual needs, and pet issues are addressed immediately.

Messenger clarified the congregate shelter opened six months ago, the Center has been mostly funded by grants, ARPA funds were used to complete construction, the City paid one month of operating costs between grants in the amount of \$18,850, and the City has a contract to pay up to 10% of overhead operating costs not covered by any grants. The State will be issuing new grants directly to UCAN and it helps that we have a very high success rate.

7. Consent Agenda

- A. February 26, 2024 Regular Meeting Minutes.
- B. OLCC – New Outlet – BHM Corporation dba Holy Smoke Shop at 161 NE Garden Valley Blvd. #101.

Council President Mohr moved to approve the consent agenda. The motion was seconded by Councilor Smith and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

8. Ordinances

- A. Ordinance No. 3599 – An Ordinance Granting a Franchise to Charter Communications for the Purpose of Providing Cable Television Services, Effective June 1, 2024, First Reading.

Nytes read Ordinance No. 3599, entitled, “An Ordinance Granting a Franchise to Charter Communications for the Purposes of Providing Cable Television Services, Effective June 1, 2024” for the second time.

Council President Mohr moved to adopt Ordinance 3599, An Ordinance Granting a Franchise to Charter Communications for the Purpose of Providing Cable Television Services, Effective June 1, 2024. The motion was seconded by Councilor Zielinski and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

9. Resolutions

- A. Nytes presented Resolution No. 2024-07 – A Resolution Setting a New Council Reimbursement Amount for 2024. Discussion ensued.

Councilor Michalek’s comments and questions included clarification of the amount increased, he does not participate, it looks funny to vote on a raise for yourself, and he is against it.

Councilor Sipos’ comments and questions included that she did not know the amount was going to increase until after she received the check and feels it

would be more appropriate to have the resolution to approve the increase before implementation.

Council President Mohr's comments and questions included not participating and shares similar concerns.

Councilor Porter's comments and questions included that she does not participate but she knows there are some Councilors that it really helps.

Nytes clarified the amounts last year for internet and cellphone were \$50 and \$25, this year will be \$67.50 and \$48.55, the amount was determined by the lowest bill of the participants, and appreciation for the feedback.

Council President Mohr moved to adopt Resolution No. 2024-07 – A Resolution Setting a New Council Reimbursement Amount for 2024. The motion was seconded by Councilor Zielinski and approved with following vote: Councilors Briggs Loosley, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilor Michalek voted no. The motion passed (7-1).

- B. Nytes presented Resolution No. 2024-08 – A Resolution Designating Bank Signatories.

Council President Mohr moved to adopt Resolution No. 2024-08 – A Resolution Designating Bank Signatories. The motion was seconded by Councilor Zielinski and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

10. Department Items

- A. Easley presented the Douglas Avenue Deer Creek Bridge Project – Intergovernmental Agreement – Change Order No. 1. Discussion ensued.

Councilor Michalek's comments and questions included whether the project could be started before the price goes up again.

Council President Mohr's comments and questions included how long bridges last once they are built.

Councilor Smith's comments and questions included memories of the bridge being built and how long they last.

Easley clarified that the project is progressing and the life expectancy of a bridge averages one hundred years or more.

Councilor Porter moved to authorize execution of Change Order No.1 to the Intergovernmental Agreement with ODOT for the Douglas Avenue Deer Creek Bridge Construction Project. The motion was seconded by Councilor Michalek and approved with following vote: Councilors Briggs Loosley, Michalek, Mohr, Porter, Rummel, Sipos, Smith and Zielinski voted yes. No Councilors voted no. The motion passed unanimously.

11. Items from Mayor, City Council, and City Manager

Councilor Porter shared the importance of informing the community that the Supreme Court's decision on the Grant's Pass homeless camping case will not make a difference here because the State codified it.

Councilor Michalek asked Forrester whether feeding turkeys is prohibited.

Messenger shared that she will out of town at the Northwest Regional City Manager's conference, will available by email or phone, it was discovered during budget discussions that costs are increasing faster than revenue, a work session might be needed to discuss fee adjustments, and the next Council Goal Setting Work Session is scheduled on April 15, 2024.

12. Adjourn

Mayor Rich adjourned the regular meeting at 8:18 p.m.

*Grace Jelks*

Grace Jelks

Management Staff Assistant

## ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY



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**ORDINANCE NO. 3600 – AN ORDINANCE AMENDING CHAPTER 2.18 “ECONOMIC DEVELOPMENT COMMISSION” OF THE ROSEBURG MUNICIPAL CODE  
AND  
ORDINANCE NO. 3601 – AN ORDINANCE REPEALING SECTION 2.32.060 OF THE ROSEBURG MUNICIPAL CODE**

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**Meeting Date: April 08, 2024**  
**Department: Administration**  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

**Agenda Section: Ordinances**  
**Staff Contact: Stuart Cowie/Amy Nytes**  
**Contact Telephone Number: 541-492-6866**

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### **ISSUE STATEMENT AND SUMMARY**

Council is being asked to consider updates to the Roseburg Municipal Code (RMC) to better reflect Commission expenditures and update the Economic Development Commission’s (EDC) granting authority to \$7,500 per application.

### **BACKGROUND**

#### **A. Council Action History.**

City Council adopted Ordinance 3334 on March 22, 2010, establishing a Commission Expenditure Authority of \$5,000. On February 12, 2024, Council directed staff to explore options for increasing the maximum amount the EDC can directly award for the tourism grant program.

#### **B. Analysis.**

The original intent of the expenditure limit in Ordinance 2.32.060 was to allow Commissions to expend limited City funds as part of their work on behalf of the City and the Council. In reality, the Economic Development Commission (EDC) is the only Commission that utilizes RMC Section 2.32.060. Staff is recommending this section be repealed and a new section be added to RMC Chapter 2.18, which outlines the EDC’s roles and responsibilities to better reflect actual practice. If approved, a section will be added to reference the EDC’s authority to grant funds up to \$7,500.

Costs associated with tourism promotion have continued to rise since the Council adopted the \$5,000 limit on Commission expenditures. According to the CPI Inflation Calculator through the Bureau of Labor Statistics, \$5,000 in April of 2010 has the same buying power as \$7,117.27 in the current year.

In reviewing the RMC for possible updates related to this topic, it was determined that the EDC is the only commission utilizing RMC Section 2.32.060. As such, staff is proposing

to repeal RMC Section 2.32.060 through Ordinance 3601 and amend RMC Chapter 2.18, concerning the EDC, by adding a new section outlining the EDC's "Granting Authority" under RMC Section 2.18.050 through Ordinance 3600.

**C. Financial/Resource Considerations.**

If approved, the new ordinance would require Council approval of any Commission recommended grant fund expenditures exceeding \$7,500. The FY 2023-24 approved budget includes \$75,000 for the Tourism Grant Program reviewed by the EDC. The Hotel/Motel Tax Fund is projected to have an ending fund balance in excess of \$1.9 million at the end of the current fiscal year. Staff is proposing to increase the available grant funding to \$125,000 in the FY 24-25 budget.

**D. Timing Considerations.**

If Council adopts both ordinances, the new changes will become effective 30 days following the second reading and adoption. If adopted, the spring tourism grant cycle will open immediately upon the effective date. The grant application will be amended to indicate the EDC's ability to authorize up to \$7,500 of grant funding rather than \$5,000. Tourism grants will be reviewed and awarded by the EDC beginning on July 25, 2024.

**COUNCIL OPTIONS**

Council has the following options:

- Proceed with a first reading of the attached ordinances as proposed; or
- Make minor changes to the ordinances and proceed with first reading; or
- Direct staff to make changes to the ordinances and bring it back at a future meeting.

**STAFF RECOMMENDATION**

Staff recommends Council proceed with first reading of the proposed ordinances.

**SUGGESTED MOTION**

No action is required, just first reading of the ordinances.

**ATTACHMENTS:**

Attachment #1 – Ordinance 3600

Attachment #2 – Ordinance 3601

**ORDINANCE NO. 3600**

**AN ORDINANCE AMENDING CHAPTER 2.18 "ECONOMIC DEVELOPMENT  
COMMISSION" OF THE ROSEBURG MUNICIPAL CODE**

**SECTION 1.** Roseburg Municipal Code Section 2.18.050, titled "Authority to Award Grant Funds" is hereby added to read as follows:

**2.18.050 Authority To Award Grant Funds.** The Commission shall be authorized to award grant funds as outlined in Section 2.18.030(B) only if the funds have been budgeted in the current fiscal year, the expenditure has been approved by the City Manager, and does not exceed \$7,500. Any Commission-supported grant award exceeding \$7,500 must be presented to City Council for final approval.

**SECTION 2.** *All other sections and subsections of Chapter 2.18 of the Roseburg Municipal Code shall remain in full force and effect as written.*

**ADOPTED BY THE ROSEBURG CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

\_\_\_\_\_  
**LARRY RICH, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**AMY NYTES, CITY RECORDER**

**ORDINANCE NO. 3601**

**AN ORDINANCE REPEALING SECTION 2.32.060 “EXPENDITURE AUTHORITY” OF  
THE ROSEBURG MUNICIPAL CODE**

**WHEREAS**, the Roseburg Municipal Code was amended to establish a maximum Commission expenditure authority by Ordinance No. 3334; and

**WHEREAS**, at this time the only Commission that has awarded funding in the form of a grant has been the Economic Development Commission; and

**WHEREAS**, an update to the expenditure authority for the Economic Development Commission is being addressed by Ordinance No. 3600.

**NOW, THEREFORE, THE CITY OF ROSEBURG ORDAINS AS FOLLOWS:**

**SECTION 1.** Roseburg Municipal Code Section 2.32.060 establishing commission expenditure authority is hereby repealed in its entirety.

**SECTION 2.** All other sections and subsections of Chapter 2.32 shall remain in full force and effect as written.

**ADOPTED BY THE ROSEBURG CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

\_\_\_\_\_  
**LARRY RICH, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**AMY NYTES, CITY RECORDER**



# ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY



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## ORDINANCE No. 3602 – AN ORDINANCE GRANTING A TELECOMMUNICATIONS FRANCHISE TO PATRIOT MOBILE LLC

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Meeting Date: April 8, 2024  
Department: Administration  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

Agenda Section: Ordinances  
Staff Contact: Amy Nytes  
Contact Telephone Number: 541-492-6866

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### ISSUE STATEMENT AND SUMMARY

The City has received an application for a telecommunications franchise from Patriot Mobile LLC located in Atlanta, Georgia.

### BACKGROUND

#### A. Council Action History.

No history. This is a new telecommunications provider.

#### B. Analysis.

The subject application and application processing fee were received on March 21, 2024. They plan to begin providing service for Roseburg customers once the franchise agreement is approved.

#### C. Financial/Resource Considerations.

Under our definitions of telecommunications “provider” and telecommunication “service,” Patriot Mobile LLC is required to pay a franchise fee of 5% of the gross revenues derived from customers within the City.

#### D. Timing Considerations.

As noted above, the application was submitted recently and is moving through the process. If Council approves this Ordinance at the time of the second reading, the effective date will make the initial term of the franchise 2 years 7 months, with an expiration date of December 31, 2026. The ordinance will also allow renewal options of three years each, for a total of five terms.

### COUNCIL OPTIONS

Council has the following options:

- Proceed with first reading of the ordinance, followed by second reading and adoption on April 22, 2024; or
- Request additional information; or
- Do nothing.

**STAFF RECOMMENDATION**

Staff recommends that Council proceed with first reading of the ordinance.

**SUGGESTED MOTION**

No action required, just first reading of the ordinance.

**ATTACHMENTS:**

Attachment #1 – Ordinance No. 3602

Cc: [Patriot Mobile LLC, 3575 Piedmont Rd NE Bldg. 15-1550, Atlanta GA 30305-1632]  
Subject Franchise File

**ORDINANCE NO. 3602**

**AN ORDINANCE GRANTING A TELECOMMUNICATIONS FRANCHISE  
TO PATRIOT MOBILE LLC EFFECTIVE ON MAY 22, 2024**

**SECTION 1. Grant of Franchise.** The City of Roseburg, hereinafter called “City,” hereby grants Patriot Mobile LLC, hereinafter called “Franchisee,” the non-exclusive right to use and occupy all public ways within the Franchise Territory, solely for the purposes described herein, for a period of three years, beginning May 22, 2024, and ending December 31, 2026, following Franchisee’s acceptance of the Franchise as provided in Section 11 of this Ordinance.

**SECTION 2. Incorporation of Roseburg Municipal Code.** This Franchise is granted pursuant to Chapter 9.25 of the Roseburg Municipal Code (“RMC”), entitled “Telecommunications Providers,” and shall be interpreted to include all provisions of Chapter 9.25, as it now exists and as it may be amended during the term of the Franchise, and all other provisions of the Roseburg Municipal Code and City regulations with which Chapter 9.25 requires compliance, as if set forth in writing herein. A copy of Chapter 9.25, as it exists and is in effect on the effective date of this Franchise, is attached to this Franchise as Exhibit “A.” It shall be the responsibility of the Franchisee to keep itself informed of any amendments to applicable provisions of the Roseburg Municipal Code and all related regulations.

**SECTION 3. Amendment and Renewal.** The Franchise granted by this Ordinance may be amended in accordance with RMC 9.25.120 and may be renewed in accordance with RMC 9.25.100.

**SECTION 4. Franchise Territory.** The “Franchise Territory” is all territory within the boundaries of the City of Roseburg, as currently existing or as the boundaries may be adjusted during the term of this Franchise.

**SECTION 5. Services to be Provided.** Franchisee shall provide telecommunications services as authorized by law to residents, businesses and other entities within the City of Roseburg.

**SECTION 6. Franchise Fees.** Franchise fees shall be based on Franchisee’s annual use of the City’s public ways, as provided below:

**A. Fee Base.** For the privileges granted by this Franchise, Franchisee shall pay five percent (5%) of its gross revenue derived from services provided to customers within the City limits of Roseburg.

**B. Payment.** All payments due hereunder shall be paid to the City of Roseburg by check or money order delivered to the address of the City for notices

as set forth herein.

**C. Due Date.** Franchise fees shall be paid to the City on a quarterly basis, based on the revenues derived from the quarter just passed, not more than 30 days following the end of each quarter.

**D. Late Fee.** If Franchisee fails to pay the Franchise fee when due, Franchisee shall be charged a penalty of ten percent (10%), and the legal rate of interest established by state statute on the unpaid balance.

**SECTION 7. Notices and Authorized Representatives.**

**A.** Except for emergency notification of Franchisee, all notices or other communications between the parties shall be deemed delivered when made by certified United States mail or confirmed express courier delivery to the following persons and locations:

**If to City:**

City of Roseburg  
ATTN: Amy Nytes, City Recorder  
900 SE Douglas  
Roseburg, OR 97470  
E-mail: [nytes@cityofroseburg.org](mailto:nytes@cityofroseburg.org)  
Phone: 541-492-6866

**If to Franchisee:**

Patriot Mobile LLC  
ATTN: Janette Minasian Pires  
3575 Piedmont Rd NE #15-1555  
Atlanta, GA 30305-1632  
E-mail: 888-813-6556  
Phone: 1-877-367-7524

Either party may change the identity of its authorized representative(s) or its address or phone number for notice purposes by delivering written notice of the change to the other party.

**B.** In case of an emergency that causes or requires interruption of service, City shall give Franchisee emergency notification by hand delivery or telephone, as appropriate to the nature of the emergency, to the following:

**Contact Person's Name:** Janette Minasian Pires

**Mailing Address:** 1111 S. Main Street, Suite 101, Grapevine, TX 76051

**Telephone:** 1-877-367-7524

**SECTION 8. Location, Relocation and/or Removal of Facilities.** RMC Chapter 4.02, along with RMC Sections 9.25.290 – 9.25.320, sets forth the conditions for the construction, installation, location, relocation and removal of Franchisee's facilities. There are no exceptions or additions to these regulations unless Franchisee is exempted by statute.

**SECTION 9. Representation and Warranty of Franchisee.** By executing this document, Franchisee represents and warrants that it is familiar with all provisions of this Franchise, including those contained in this Ordinance, and that it accepts and agrees to be bound by all terms, conditions and provisions set forth herein.

**SECTION 10. Franchise Effective Date.** Franchisee submitted an application requesting a telecommunications franchise and paid the application processing fee on March 21, 2024 and will begin serving Roseburg customers on May 22, 2024. The Roseburg City Council approved such request at its meeting on April 22, 2024; and hereby authorizes this Franchise to take effect on May 22, 2024, and expire on December 31, 2024, provided Franchisee satisfies the acceptance requirements of Section 11 of this Ordinance.

**SECTION 11. Acceptance of Franchise.** Upon receipt of this Ordinance, Franchisee shall sign in the space below to indicate its unconditional acceptance of the terms and conditions upon which City has offered the Franchise described herein, and immediately return such acceptance to the City. If Franchisee fails to accept the Franchise and return acceptance to City within 30 days of the adoption of this Ordinance, this Ordinance and the Franchise granted herein shall become void and have no force or effect.

**ADOPTED BY THE CITY COUNCIL ON THIS \_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**APPROVED BY THE MAYOR ON THIS \_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**MAYOR**

\_\_\_\_\_  
**Larry Rich**

**ATTEST:**

\_\_\_\_\_  
**Amy Nytes, City Recorder**

**(Franchisee's Acceptance on Following Page)**

ORDINANCES B  
ATTACHMENT NO. 1

**FRANCHISEE'S ACCEPTANCE OF ORDINANCE NO. \_\_\_\_\_.** This Ordinance is hereby accepted by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**By:** \_\_\_\_\_  
(Signature)

**Name:** \_\_\_\_\_  
(Printed)

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

State of \_\_\_\_\_ )

) ss.

County of \_\_\_\_\_ )

This acceptance was signed before me on \_\_\_\_\_, 20\_\_ by,  
\_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Notary Public for \_\_\_\_\_  
Name: \_\_\_\_\_  
My commission expires on: \_\_\_\_\_

.....  
Acceptance received by City Recorder on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
**Amy Nytes, City Recorder**

**ORDINANCE NO. \_\_\_\_ – EXHIBIT “A”**

**ROSEBURG MUNICIPAL CODE CHAPTER 9.25 - TELECOMMUNICATIONS PROVIDERS**

**Sections:**

- 9.25.005** Definitions.
- 9.25.010** Purpose.
- 9.25.020** Jurisdiction and management of the public way.
- 9.25.030** Regulatory fees and compensation not a tax.
- 9.25.040** Overview of franchise requirements.
- 9.25.050** Reserved.
- 9.25.060** Application.
- 9.25.070** Application review fee.
- 9.25.080** Determination by the City.
- 9.25.090** Rights granted.
- 9.25.100** Term and renewal of franchises.
- 9.25.110** Franchise Fee.
- 9.25.115** Operation without a franchise.
- 9.25.120** Amendment of franchise.
- 9.25.130** Reserved.
- 9.25.140** Reserved.
- 9.25.150** Obligation to cure as a condition of renewal.
- 9.25.160** Assignments or transfers of system or franchise.
- 9.25.170** Revocation or termination of franchise.
- 9.25.180** Notice and duty to cure.
- 9.25.190** Hearing.
- 9.25.200** Standards for revocation or lesser sanctions.
- 9.25.210** General construction and location of facilities in the public way.
- 9.25.220** Construction codes.
- 9.25.230** Construction permits.
- 9.25.240** Applicant's verification.
- 9.25.250** Construction schedule.
- 9.25.260** Coordination of construction activities.
- 9.25.270** Noncomplying work.
- 9.25.280** As-built drawings.
- 9.25.290** Location of facilities.
- 9.25.300** Interference with the public way.
- 9.25.310** Relocation or removal of facilities.
- 9.25.320** Removal of unauthorized facilities.
- 9.25.330** General franchise provisions--Facilities.
- 9.25.340** Damage to grantee's facilities.
- 9.25.350** Duty to provide information.
- 9.25.360** Service to the City.
- 9.25.370** Cable franchise.
- 9.25.380** Leased capacity.
- 9.25.390** Grantee insurance.
- 9.25.400** General indemnification.
- 9.25.410** Performance surety.
- 9.25.420** Consent.
- 9.25.430** Confidentiality.
- 9.25.440** Governing law--Venue.
- 9.25.450** Written agreement.
- 9.25.460** Nonexclusive grant.
- 9.25.470** Severability and preemption.
- 9.25.480** Other remedies.
- 9.25.490** Compliance with laws.

### **9.25.500 Application to existing ordinances and agreements.**

**9.25.005 Definitions.** For the purpose of this Chapter, the following terms, phrases, words and their derivations, shall have the meanings given herein. Terms not defined in this Section shall be interpreted in accordance with Chapter 1.04 of this Code. Terms not defined in this Section or in Chapter 1.04 of this Code, shall be given the meaning set forth in the Communications Policy Act of 1934, as amended, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996. If not defined there, the words shall be given their common and ordinary meaning. Definitions for this Chapter are as follows:

**"Cable service"** means the one-way transmission to subscribers of video programming, or other video, audio or data service using the same means of transmission as used to transmit video programming; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

**"City property"** means and includes all real property owned by the City, other than the public way and utility easements as those are defined herein.

**"Conduit"** means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholds, bolts or other facilities used for any telegraph, telephone, cable television, electrical or communications conductors or cable facilities.

**"Construction"** means any activity in the public way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

**"Control"** means actual working control in whatever manner exercised.

**"Customer"** means both the end user of telecommunications services in the City and any person that acquires telecommunications services, bandwidth or other form of capacity for its own to use or for resale in the City.

**"Duct"** means a single enclosed raceway for conductors or cable.

**"Emergency"** has the meaning provided in ORS 401.025.

**"Franchise"** means a license from the City which grants a privilege to occupy the public way and utility easements within the City for a dedicated purpose, for specific compensation and for a specified period of time.

**"Grantee"** means the person to whom or the entity to which a telecommunications franchise is granted by the City, including both telecommunication carriers and non-carrier providers.

**"Gross revenue"** means all revenue earned by a telecommunications provider from operations within the City, including but not limited to service to customers located within the City and other persons who use the grantee's facilities within the City to provide service to customers. A person that sells capacity or bandwidth to another telecommunications provider, as described in section 9.25.380, may deduct the income received in that transaction from its gross revenue for purposes of calculating the franchise fee described in section 9.25.110

**"Non-carrier provider"** means a telecommunications provider that is not also classified as a telecommunications carrier. It includes but is not limited to providers that install, own or lease facilities in the public way and providers that acquire bandwidth or other capacity to resell or provide service directly to customers in the City. "Non-carrier provider" includes several different types of telecommunications providers, including but is not limited to providers often known as competitive local exchange carriers, resellers and long-haul providers.



**"Person"** means an individual, corporation, company, association, joint stock company or association, firm, partnership or limited liability company.

**"Private telecommunications network"** means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. "Private telecommunications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.

**"Public way"** includes, but is not limited to, any street, road, bridge, alley, sidewalk, trail, path and utility easement, including the subsurface under and air space over these areas. This definition applies only to the extent of the City's right or authority to grant a franchise to occupy and use such areas for telecommunications facilities. "Public way" does not include City-owned buildings, parks or other property.

**"Small Cells"** means low-powered radio access nodes that operate in licensed and unlicensed spectrum with a range of 10 meters to 1 or 2 kilometers and can be deployed relatively easily on utility poles, street lamps, water towers, or rooftops.

**"Telecommunications Act"** means the Communication Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. sec. 151 et seq.) and as hereafter amended.

**"Telecommunications carrier"** means a telecommunications provider that is a telecommunication utility as defined in ORS 759.005 or successor statutes or a cooperative corporation formed under ORS Chapter 62 that provides telecommunications service as defined in ORS 759.005 or successor statutes. It is often known as the incumbent local exchange carrier.

**"Telecommunications facilities"** means the plant and equipment, other than customer premises equipment, including but not limited to line, pipe, wire cable, fiber, etc. occupying the public way, used, designed or intended for use by a telecommunications provider to provide telecommunications services.

**"Telecommunications provider"** means: (1) any person that provides telecommunications services to any person or premises within the City, including both telecommunication carriers and non-carrier providers; (2) any person that directly or indirectly owns, leases, operates, manages, or otherwise controls telecommunications facilities which occupy public way within the City; (3) any person that is directly or indirectly owned or controlled by any person described in this definition; and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the City which is used, or to be used for the purpose of offering telecommunication services. For purposes of this definition, "owns" or "controls" means that one person or entity owns more than 25% of the stock or assets or has more than 25% common partners, directors or owners with another entity. In addition, any person that leases, purchases or otherwise receives telecommunications service or use of a telecommunications facility for less than a reasonable price, so as to create a reasonable inference that the two parties did not deal at arm's length, shall be deemed to be owned or controlled by the second party.

**"Telecommunications service"** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, or by laser, microwave, radio, satellite or similar wireless facilities, with or without benefit of any closed transmission medium and without regard to the nature of the transmission protocol employed, but does not include: (1) cable television services; (2) private telecommunications network services; (3) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; (4) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996; (5) services provided solely for the purpose of providing internet service to the customer; (6) public safety radio systems; (7) mobile service within the meaning of 47 U.S.C. Section 153(33) (2012); and services to devices exclusively utilizing electromagnetic spectrum unlicensed by the Federal Communications Commission.

"Telecommunications System" see "Telecommunication facilities" above.

"Telecommunications Utility" has the same meaning as given in ORS 759.005(9).

"Utility easement" means any easement granted to or owned by the City and acquired, established, dedicated or devoted for public utility purposes.

"Utility facilities" means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the public right of way of the City and used or to be used for the purpose of providing utility or telecommunication services.

**9.25.010 Purpose.** The purpose and intent of this Chapter are to:

- A.** Respond to increased use of the public way by telecommunication providers and to technological advances in the telecommunications industry;
- B.** Comply with the 1996 Telecommunications Act as it applies to local governments, telecommunications providers and the services those providers offer;
- C.** Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to businesses, institutions and residents of the City on a competitively neutral basis;
- D.** Permit and manage reasonable access to the public way of the City for telecommunications purposes on a competitively neutral basis and conserve the limited physical capacity of the public way held in trust by the City;
- E.** Assure that the City's current and ongoing costs of granting and regulating private access to and the use of the public way are fully compensated by the persons seeking such access and causing such costs;
- F.** Recognize the public way as a valuable City asset and secure fair and reasonable compensation to the City and its residents for permitting private use of the public way and for physical damage and aesthetic harm to the public way from construction and installation of facilities in the public way;
- G.** Assure that all telecommunications providers occupying the public way with telecommunication facilities obtain a franchise and comply with the ordinances, rules and regulations of the City;
- H.** Enable the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development; and
- I.** Assure telecommunications providers that investing in infrastructure in the City is a secure and wise investment, while reserving to the City the ability to respond to new developments in the industry at the time of franchise renewal and by amending its ordinances.
- J.** Recognize that the City's grant of a franchise is in the nature of a license in exchange for a fee, rather than a contract.

(Ord. 3133 § 2, 2003; Ord. 3063 § 2, 2000) (Ord. 3294, § 2, 12-8-2008)

**9.25.020 Jurisdiction and management of the public way.**

**A.** The City has jurisdiction and exercises regulatory management over the public way whether the City has a fee, easement or other legal interest in the public way and whether the legal interest was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

**B.** No person may occupy or encroach on a public way or other City property without the permission of the City. The City grants permission to use public way by franchises and permits.

**C.** The City retains the right and privilege to cut or move any telecommunications facilities located within the public way as the City may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

(Ord. 3063 § 2, 2000)

**9.25.030 Regulatory fees and compensation not a tax.** The fees provided for in this chapter and any compensation charged and paid for use of the public way provided for in this Chapter are not a tax and are separate from, and in addition to, any and all federal, state, local and City charges as may be levied, imposed or due from a telecommunications provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services. (Ord. 3063 § 2, 2000)

**9.25.040 Overview of franchise requirements.**

**A.** All telecommunications providers who occupy the public way in the City or provide telecommunications services to customers in the City must obtain a franchise from the City. For purposes of this Section, "occupy" the public way means to own, lease, rent or possess the right to make physical changes to a telecommunications facility in the public way

**B.** A telecommunications provider that holds a current, valid franchise from the City may continue to provide the services authorized by its franchise for the duration of the current term of the franchise.

**C.** Nothing in this Chapter is intended to override state or federal law, and any provision that would conflict with state or federal law if applied to a particular grantee shall be unenforceable to the extent of the conflict and only to that extent.

(Ord. 3294, § 3, 12-8-2008) (Ord. 3133 § 3, 2003: Ord. 3063 § 2, 2000)

**9.25.050 Reserved.**

Editor's note: Ord. No. 3294, § 4, adopted Dec. 8, 2008, repealed § 9.25.050, which pertained to Telecommunications franchise and derived from Ord. 3063 § 2, 2000 and Ord. 3133 § 5, 2003. See also the Code Comparative Table and Disposition List.

**9.25.060 Application.** Any person that desires a telecommunications franchise shall file with the City Recorder an application which includes the following information:

**A.** The identity and legal status of the applicant, including the name, address and telephone number of the duly authorized officer, agent or employee responsible for the accuracy of the information required on the application and the duly authorized officer, agent or employee to be contacted in case of an emergency.

**B.** A description of the type of telecommunications services that are to be offered or provided by the applicant to customers within the City; a description of the general types and locations of telecommunication facilities that the applicant currently owns or leases within the City; and a description of the general types and locations of telecommunication facilities that the applicant intends to construct within the City within two years of obtaining a franchise.

**C.** Engineering plans, specifications and a network map of the facilities located within the public rights of way in the City, including the location and route requested for applicant's proposed telecommunications facilities. The City may require the information to be provided in electronic form readable by City computers or may specify another format.

**D.** The area or areas of the City the applicant desires to serve and a preliminary construction schedule for build-out to the entire franchise area.

**E.** Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services proposed including, but not limited to, the appropriate license from the Oregon Public Utility Commission (PUC) or the Federal Communication Commission (FCC).

**F.** An accurate map showing the location of any existing telecommunications facilities, if any, in the City that applicant intends to use or lease.

(Ord. 3294, § 5, 12-8-2008) (Ord. 3133 § 6, 2003: Ord. 3070 § 2, 2000)

**9.25.070 Application review fee.** An application review fee as set by Council resolution shall be paid to the City as part of the application filed pursuant to the above Section 9.25.060. (Ord. 3133 § 7, 2003: Ord. 3070 § 3, 2000)

**9.25.080 Determination by the City.** The City shall issue a written determination granting or denying the application in whole or in part. If the application is denied, the written determination shall include the reasons for denial. A denial may be appealed to the City Council which shall resolve the appeal in the manner provided in Section 9.25.190. (Ord. 3133 § 8, 2003: Ord. 3063 § 2, 2000)

**9.25.090 Rights granted.** No franchise granted pursuant to this Chapter shall convey any right, title or interest in the public way, but shall be deemed a grant to use and occupy the public way for the limited purposes and term and upon the conditions stated in the franchise agreement. (Ord. 3133 § 9, 2003: Ord. 3063 § 2, 2000)

**9.25.100 Term and renewal of franchises.**

**A.** Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be in effect for an initial term of three years. Subject to conditions stated in this Code and unless otherwise specified in a franchise agreement, telecommunication franchises shall be automatically renewed for additional three-year terms, running from the anniversary of the grant of the initial franchise, up to a total of five terms including the initial term. A grantee desiring termination of a franchise after the initial term, but prior to any such renewal(s), must provide the City with written notice of such intent to terminate certifying that it will no longer be providing telecommunication services within the City of Roseburg at least 30 days prior to the date of renewal of said franchise.

**B.** A grantee shall be entitled to automatic renewal of its franchise for additional three-year terms, up to a total of five terms including the initial term, subject to and contingent upon the following conditions:

1. In the City's judgment, the public way has sufficient capacity to accommodate the grantee's existing and proposed facilities;
2. The grantee continues to meet the legal requirements for providing service in the City;
3. The grantee has complied with all the requirements of this Chapter and its franchise;
4. Applicable federal, state and local laws, rules and policies allow the grantee to continue its operations in the City;
5. The grantee agrees to comply with such additional requirements as may be imposed under Subsection C. of this Section.

**C.** As a condition of each automatic renewal of a franchise, the City, upon written notice provided to the grantee at least sixty (60) days prior to the renewal date, may require the grantee to:

1. Pay additional compensation, or pay compensation calculated in a different manner, for the rights granted by the franchise. Any additional or new compensation requirement shall be consistent with the requirements imposed on other similarly situated grantees at the time of renewal.
2. Comply with any amendments to this Chapter or other applicable provisions of this Code that the City has adopted since the franchise was granted.
3. Agree to amendments to the franchise based on changes to state or federal law; and
4. Execute a modification agreement setting forth all such amended terms of the franchise.

**D.** After the term of the initial franchise and maximum renewals provided for in this Section have expired, a grantee must apply for a new franchise under the same terms and conditions as apply to new franchise applications at the time and pay a fee as set by Council resolution to cover the cost of the City's review of the application. An application for a new franchise must be submitted not less than 180 days prior to expiration of the existing franchise and must contain the following information:

1. The information required pursuant to Section 9.25.060 of this Chapter; and
2. Any information required pursuant to the franchise agreement between the City and the grantee.

(Ord. No. 3353, § 1, 7-26-2010) (Ord. 3133 § 12, 2003; Ord. 3063 § 2, 2000)

**9.25.110 Franchise Fee.** Each grantee shall pay to the City a franchise fee as follows:

**A.** A telecommunications carrier shall pay seven percent (7%) of its gross revenue derived from exchange access services, as defined in ORS 403.105 or a successor statute, less net uncollectibles from such revenue. The fee shall be paid to the City on a quarterly basis, based on the revenues derived from the quarter just passed, not more than 30 days following the end of the quarter.

**B.** A non-carrier provider that serves customers in the City shall pay five per cent (5%) of its gross revenue. The fee shall be paid to the City on a quarterly basis, based on the revenues derived from the quarter just passed, not more than thirty (30) days following the end of the quarter.

**C.** A non-carrier provider that occupies the public way but has no customers in the City shall pay an annual fee for each linear foot of the public way occupied by its facilities. The fee shall be set by Council resolution and adjusted annually in accordance with the Consumer Price Index (CPI-U West). The fee shall be paid by January 31 of each year, based on the linear feet of public way occupied by grantees facilities as of December 31 of the prior year. For the year in which grantee first obtains a franchise, the fee may be

prorated on a monthly basis from the date of issuance of a permit to construct facilities in the public way, to December 31 of said year. Such proration shall not be applied in subsequent years.

**D.** A person that holds a franchise for a private communications network shall pay an annual fee for each linear foot of the public way occupied by its facilities. The fee shall be adjusted annually in accordance with the Consumer Price Index (CPI-U West). The fee shall be paid by January 31 of each year, based on the linear feet of public way occupied by grantee's facilities as of December 31 of the prior year. For the year in which grantee first obtains a franchise, the fee may be prorated on a monthly basis from the date of issuance of a permit to construct facilities in the public way, to December 31 of said year.

**E.** A telecommunications provider that serves customers in the City and, on the effective date of this ordinance, holds a valid franchise authorizing it to occupy the public way and pay a fee by the linear foot, may, until the expiration of the current term of such franchise, continue to pay at the per-foot fee set by Council resolution in effect at the time this Ordinance is adopted, as adjusted for inflation, or may elect to pay a fee calculated according to Paragraph B of this section

**F.** The fee for each small cell installed within the city limits of the City of Roseburg shall be set by Council resolution. The fee shall be paid on an annual basis, not more than 30 days following the end of each calendar year.

**G.** Any grantee that fails to pay the franchise fee when due, shall be charged a penalty of ten percent and the legal rate of interest established by state statute, on such unpaid balance.  
(Ord. 3294, § 6, 12-8-2008)

**9.25.115 Operation without a franchise.** A telecommunications provider that occupies the public way without a franchise, provides services to customers in the City without a franchise or provides services not authorized by its franchise shall pay the City a fee of six per cent (6%) of gross revenues, plus interest and penalties as described in section 9.25.110F. (Ord. 3294, § 7, 12-8-2008)

**9.25.120 Amendment of franchise.** Conditions for amending a franchise are as follows:

**A.** If any grantee desires to extend or locate its telecommunications facilities in a public way of the City which is not included in a franchise previously granted by the City, an amendment to the franchise will be required.

**B.** If the City orders a grantee to locate or relocate its telecommunications facilities in a public way not included in a previously granted franchise, the City shall grant an automatic amendment without an additional fee.

**C.** An amended franchise shall be required of any grantee that desires to provide a different type of a service (e.g., cable, telephony) which was not included in a franchise previously granted by the City. An amendment to a franchise will not be required if a grantee adds new or enhanced services of the same type authorized by its existing franchise - e.g., a cable service provider offers digital music service as well as video, or a telephonic service provider adds features like call waiting, call forwarding or caller i.d.  
(Ord. 3133 § 13, 2003; Ord. 3063 § 2, 2000)

**9.25.130 Reserved.**

Editor's note: Ord. No. 3353, § 2, adopted July 26, 2010, repealed § 9.25.130, which pertained to renewal applications and derived from Ord. 3133 § 14, 2003; Ord. 3063 § 2, 2000.

**9.25.140 Reserved.**

Editor's note: Ord. No. 3353, § 2, adopted July 26, 2010, repealed § 9.25.140, which pertained to renewal of franchise and derived from Ord. 3133 § 15, 2003; Ord. 3063 § 2, 2000.

**9.25.150 Obligation to cure as a condition of renewal.** No franchise shall be renewed until any and all ongoing violations or defaults in the grantee's performance of the franchise, or of the requirements of this Chapter, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the City. (Ord. 3133 § 16, 2003; Ord. 3063 § 2, 2000)

**9.25.160 Assignments or transfers of system or franchise.** Ownership or control of a majority interest in a telecommunications franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the City, which consent shall not be unreasonably withheld or delayed. The City may attach reasonable conditions to its consent, such as, but not limited to:

**A.** Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.

**B.** The approval shall be effective only when the assignee or transferee has demonstrated that it has the legal, technical, financial and other qualifications required by law to own, hold and operate the telecommunications system pursuant to this Chapter.

**C.** Unless otherwise provided in a franchise agreement, the grantee shall reimburse the City for all direct and indirect fees, costs and expenses reasonably incurred by the City in considering a request to transfer or assign a telecommunications franchise, including the reasonable cost of the professional consultation on legal, technical or financial issues related to the transfer or assignment.

(Ord. 3133 § 17, 2003; Ord. 3063 § 2, 2000)

**9.25.170 Revocation or termination of franchise.** A franchise to use or occupy public way of the City may be revoked or terminated for any of the following reasons:

**A.** Construction or operation in the City or in the public way of the City without a construction permit.

**B.** Construction or operation at an unauthorized location.

**C.** Failure to comply with Section 9.25.160 herein with respect to sale, transfer or assignment of a telecommunications system or franchise.

**D.** Misrepresentation by or on behalf of a grantee in any application to the City.

**E.** Abandonment of telecommunications facilities in the public way.

**F.** Failure to relocate or remove facilities as required in this Chapter.

**G.** Failure to pay taxes, compensation, fees or costs when and as due the City under this Chapter.

**H.** Insolvency or bankruptcy of the grantee.

**I.** Violation of a material provision of this Chapter.

**J.** Violation of a material term of a franchise agreement.

**K.** No longer providing telecommunications services in the City of Roseburg.

(Ord. 3133 § 18, 2003; Ord. 3063 § 2, 2000)

**9.25.180 Notice and duty to cure.** In the event that the City believes that grounds exist for revocation or termination of a franchise, the City shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty (30) days, to furnish evidence that:

**A.** Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;

**B.** The allegation of a violation or noncompliance is incorrect; and/or

**C.** It would be in the public interest to impose some penalty or sanction less than revocation.

(Ord. 3133 § 19, 2003; Ord. 3063 § 2, 2000)

**9.25.190 Hearing.** In the event that a grantee fails to provide evidence reasonably satisfactory to the City as provided in Section 9.25.180, the City Manager shall refer the apparent violation or noncompliance to the City Council. The City Council shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter. The hearing may be before the City Council, or at its discretion, the Council may appoint a hearings official to receive evidence and arguments and to prepare a report to the Council. (Ord. 3133 § 20, 2003; Ord. 3063 § 2, 2000)

**9.25.200 Standards for revocation or lesser sanctions.** If persuaded that the grantee has violated or failed to comply with material provisions of this Chapter or a franchise agreement, the City Council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

**A.** The misconduct was egregious.

**B.** Substantial harm resulted.

- C. The violation was intentional.
  - D. There is a history of prior violations of the same or other requirements.
  - E. There is a history of overall compliance.
  - F. The violation was voluntarily disclosed, admitted or cured.
  - G. Any other fact or circumstance that, in the City Council's judgment, is relevant to the severity of the violations.
- (Ord. 3133 § 21, 2003: Ord. 3063 § 2, 2000)

**9.25.210 General construction and location of facilities in the public way.** No person, telecommunications provider or grantee shall commence or continue with the construction, installation or operation of telecommunication facilities in a public way except as provided in Sections 9.25.220 through 9.25.320, and in compliance with Chapter 4.02 of this Code and the applicable rules of the City. (Ord. 3133 § 22, 2003: Ord. 3063 § 2, 2000)

**9.25.220 Construction codes.** Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including the National Electrical Code and the National Electrical Safety Code. (Ord. 3133 § 23, 2003: Ord. 3063 § 2, 2000)

**9.25.230 Construction permits.** No person, telecommunications provider or grantee shall construct or install any telecommunications facilities in a public way without first obtaining a permit and paying the fees required by Chapter 4.02 of this Code. No permit shall be issued for the construction or installation of telecommunications facilities in a public way unless the person or telecommunications provider has first applied for and received a franchise pursuant to this Chapter. (Ord. 3133 § 24, 2003: Ord. 3063 § 2, 2000)

**9.25.240 Applicant's verification.** All construction permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations. (Ord. 3133 § 25, 2003: Ord. 3063 § 2, 2000)

**9.25.250 Construction schedule.** All construction permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the City's Public Works Director. The grantee shall promptly complete all construction activities so as to minimize disruption of the public way and other public and private property. All construction work within the public way, including restoration, must be completed within 90 days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved by the City's Public Works Director. (Ord. 3133 § 26, 2003: Ord. 3063 § 2, 2000)

**9.25.260 Coordination of construction activities.** All grantees are required to make a good faith effort to cooperate with the City, including, but not limited to the following:

- A. By January 1 of each year, grantees shall provide the City with a schedule of their proposed construction activities in, around, or that may affect, the public way;
  - B. Non-carrier providers shall also provide the City with a written statement certifying the number of linear feet of public way occupied by their facilities as of December 31st of the prior year;
  - C. If requested by the City, each grantee shall meet with the City annually or as determined by the City, to schedule and coordinate construction in the public way. At that time, the City will provide available information on plans for local, state and/or federal construction projects; and
  - D. All construction locations, activities and schedules shall be coordinated, as ordered by the Public Works Director or his designee, to minimize public inconvenience, disruption or damage.
- (Ord. 3133 § 27, 2003: Ord. 3063 § 2, 2000)

**9.25.270 Noncomplying work.** Within sixty (60) days following written notice from the City to remove the facilities, which notice shall not be issued until the grantee has had a reasonable opportunity, not to exceed sixty (60) days, to correct noncomplying conditions, all work which does not comply with the construction permit, the approved or corrected plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the grantee. (Ord. 3133 § 28, 2003: Ord. 3063 § 2, 2000)

**9.25.280 As-built drawings.** If requested by the city, the grantee shall furnish the City with two (2) complete sets of plans drawn to scale and certified to the City as accurately depicting the location of all telecommunications facilities constructed pursuant to the construction permit. These plans shall be submitted to the City's Public Works Director or designee within sixty (60) days after completion of construction, in a format acceptable to the City. (Ord. 3133 § 29, 2003: Ord. 3063 § 2, 2000)

**9.25.290 Location of facilities.** All facilities located within the public way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

**A.** Wherever existing electric utilities, cable facilities and telecommunication facilities are located underground within a public way of the City, a grantee with permission to occupy the same public way must also locate its telecommunications facilities underground.

**B.** Whenever all new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the City, a grantee that currently occupies the same public way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public way, absent extraordinary circumstances or undue hardship as determined by the City's Public Works Director and consistent with applicable state and federal law.

**C.** The Public Works Director may require grantees to coordinate construction schedules and to co-locate facilities in the public way where the coordination or co-location requirements do not unreasonably interfere with any of the grantees' operations. The Public Works Director shall require a co-locating grantee to provide reasonable compensation to another grantee whose facilities it shares if necessary or appropriate to prevent unjust enrichment of the co-locating grantee.

(Ord. 3133 § 30, 2003: Ord. 3063 § 2, 2000)

**9.25.300 Interference with the public way.** No grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public way by the City, by the general public or by other persons authorized to use or be present in or upon the public way. All use of the public way shall be consistent with Chapter 4.02 of this Code and applicable rules and policies. (Ord. 3133 § 31, 2003: Ord. 3063 § 2, 2000)

**9.25.310 Relocation or removal of facilities.** Within sixty (60) days following written notice from the City or such shorter time as the City may prescribe because of an emergency, a grantee shall, at no expense to the City, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public way whenever the City shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

**A.** The construction, repair, maintenance or installation of any City or other public improvements in the public way regardless of whether part of a private development or a publicly funded project.

**B.** The operations of the City or other governmental entity in the public way.

**C.** The public interest.

(Ord. 3133 § 32, 2003: Ord. 3063 § 2, 2000)

**9.25.320 Removal of unauthorized facilities.** Within sixty (60) days following written notice from the City, any grantee, telecommunications provider, or other person that owns, controls or maintains any unauthorized telecommunications system, facility, or related appurtenances within the public way of the City shall, at its own expense, remove such facilities or appurtenances from the public way of the City. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

**A.** One year after the expiration or termination of a telecommunications franchise previously granted to this Chapter.

**B.** Upon abandonment of a telecommunications facility within the public way of the City. A telecommunications facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety (90) days or longer. Such facility will not be considered abandoned if it is temporarily out of service for repairs, upgrading or replacement or is an addition to or expansion of a telecommunications facility in use, which addition or expansion has been installed to provide excess capacity to serve future needs.



**C.** If the telecommunications system or facility was constructed or installed without the appropriate prior authority at the time of installation.

**D.** If the telecommunications system or facility was constructed or installed at a location not permitted by the grantee's telecommunications franchise or other legally sufficient permit.  
(Ord. 3133 § 33, 2003: Ord. 3063 § 2, 2000)

**9.25.330 General franchise provisions--Facilities.** Upon request, each grantee shall provide the City with an accurate map or maps certifying the location of all of the grantee's telecommunications facilities within the public way. Each grantee shall provide updated maps annually. Non-carrier providers shall also provide a written certification of the total linear feet of public way occupied by its facilities as of December 31st of the prior year, or as of any date requested by the City. (Ord. 3133 § 34, 2003: Ord. 3063 § 2, 2000)

**9.25.340 Damage to grantee's facilities.** Unless directly and proximately caused by willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any telecommunications facility within the public way of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom.  
(Ord. 3133 § 35, 2003: Ord. 3063 § 2, 2000)

**9.25.350 Duty to provide information.** Within ten (10) business days of a written request from the City, each grantee shall furnish the City with information sufficient to demonstrate that grantee has complied with all requirements of this Chapter. All books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public way shall be made available for inspection by the City at reasonable times and intervals. (Ord. 3133 § 36, 2003: Ord. 3063 § 2, 2000)

**9.25.360 Service to the City.** If the City contracts with the grantee for the use of telecommunications facilities, telecommunication services, installation or maintenance, the grantee shall charge the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for a similar volume of service, subject to any grantee's tariffs or price lists on file with the Oregon Public Utilities Commission. With the City's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the City and the grantee. (Ord. 3133 § 37, 2003: Ord. 3063 § 2, 2000)

**9.25.370 Cable franchise.** Any person, persons or entity providing cable service exclusively shall be subject to the cable franchise requirements in Chapter 9.10 of this Code rather than the requirements of this Chapter. (Ord. 3133 § 38, 2003: Ord. 3063 § 2, 2000)

**9.25.380 Leased capacity.** A grantee shall have the right, without prior City approval, to offer or provide capacity or bandwidth to another telecommunications provider for resale or service to end-user customers; provided that the grantee shall notify the City that such lease or agreement has been granted to a customer or lessee. The person who acquires capacity or bandwidth in such arrangement also must obtain a franchise and pay franchise fees as provided in this Chapter. (Ord. 3133 § 39, 2003: Ord. 3063 § 2, 2000) (Ord. 3294, § 8, 12-8-2008)

**9.25.390 Grantee insurance.** Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the franchise, secure and maintain the following liability insurance policies insuring both the grantee and the City, and its elected and appointed officers, officials, agents and employees as coinsured:

**A. (1)** Comprehensive general liability insurance with limits not less than three million dollars (\$3,000,000) for bodily injury or death to each person; **(2)** three million dollars (\$3,000,000) for property damage resulting from any one accident; and **(3)** three million dollars (\$3,000,000) for all other types of liability.

**B.** Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars (\$1,000,000) for each person and three million dollars (\$3,000,000) for each accident.

**C.** Workers' compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

**D.** Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).

**E.** The liability insurance policies required by this Section shall be maintained by the grantee throughout the term of the telecommunications franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ninety (90) days after receipt by the City of Roseburg, by registered mail, of a written notice addressed to the City Recorder of such intent to cancel or not to renew."

**F.** Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the grantee shall obtain and furnish to the City evidence that grantee meets requirements of this Section.

**G.** As an alternative to the insurance requirements contained herein, a grantee may provide evidence of self-insurance subject to review and acceptance by the City.  
(Ord. 3133 § 40, 2003: Ord. 3063 § 2, 2000)

**9.25.400 General indemnification.** To the extent permitted by law, each grantee shall defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunication facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a franchise agreement made or entered into pursuant to this Chapter. (Ord. 3133 § 41, 2003: Ord. 3063 § 2, 2000)

**9.25.410 Performance surety.** Before a franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the grantee shall provide a performance bond, in form and substance acceptable to the City, as security for the full and complete performance of a franchise granted under this Chapter, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the City. This obligation is in addition to the performance surety required by Chapter 4.02 of this Code. (Ord. 3133 § 42, 2003: Ord. 3063 § 2, 2000)

**9.25.420 Consent.** Wherever the consent of either the City or of the grantee is specifically required by this Chapter, or in a franchise granted, such consent will not be unreasonably withheld. (Ord. 3133 § 43, 2003: Ord. 3063 § 2, 2000)

**9.25.430 Confidentiality.** The City agrees to use its best efforts to preserve the confidentiality of trade secrets or other information that reasonably may be deemed confidential, as requested by a grantee, to the extent permitted by the Oregon Public Records Law and to the extent consistent with other provisions of this Chapter. (Ord. 3133 § 44, 2003: Ord. 3063 § 2, 2000)

**9.25.440 Governing law--Venue.** Any franchise granted under this Chapter is subject to the provisions of the Constitution and laws of the United States, and the State of Oregon and the ordinances and Charter of the City. Any action or suit pertaining to rights and obligations arising from this Chapter or any franchise or permit granted pursuant to this Chapter or Chapter 4.02 of this Code shall be filed in the Circuit Court of Douglas County, Oregon. (Ord. 3133 § 45, 2003: Ord. 3063 § 2, 2000)

**9.25.450 Written agreement.** No franchise shall be granted hereunder unless the agreement is in writing. (Ord. 3133 § 46, 2003: Ord. 3063 § 2, 2000)

**9.25.460 Nonexclusive grant.** No franchise granted under this Chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights of way of the City for delivery of telecommunications services or any other purposes. (Ord. 3133 § 47, 2003: Ord. 3063 § 2, 2000)

**9.25.470 Severability and preemption.** If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decisions, the remainder of the Chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this Chapter shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Chapter, then the provision shall be read to be preempted to the extent and/or the time required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no long preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the City, and any amendments hereto. (Ord. 3133 § 48, 2003: Ord. 3063 § 2, 2000)

**9.25.480 Other remedies.** Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter, including citation in compliance with Chapter 1.06 of this Code. (Ord. 3133 § 49, 2003: Ord. 3063 § 2, 2000)

**9.25.490 Compliance with laws.** Any grantee under this Chapter shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the City heretofore or hereafter adopted or established during the entire term any franchise granted under this Chapter, which are relevant and relate to the construction, maintenance and operation of a telecommunications system. (Ord. 3133 § 50, 2003: Ord. 3063 § 2, 2000)

**9.25.500 Application to existing ordinances and agreements.** To the extent that this chapter is not in conflict with and can be implemented with existing ordinances and franchise agreements, this Chapter shall apply to all existing ordinances and franchise agreements for use of the public right of way for telecommunications. (Ord. 3133 § 51, 2003: Ord. 3063 § 2, 2000)

# ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY



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## RESOLUTION NO. 2024-09 SUPPORTING THE CONSTRUCTION OF THE ROSEBURG VETERANS' HOME AND REQUESTING FEDERAL FUNDING

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Meeting Date: April 8, 2024  
Department: Administration  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

Agenda Section: Resolutions  
Staff Contact: Nikki Messenger, CM  
Contact Telephone Number: 541-492-6866

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### ISSUE STATEMENT AND SUMMARY

Staff has prepared the attached resolution supporting the construction of the Roseburg Veterans' Home and requesting federal funds. The issue for the Council is whether to adopt the resolution.

### BACKGROUND

**A. Council Action History.**  
None.

**B. Analysis.**

Around 2009-10, Roseburg competed for the construction of a new state Veterans' home on the campus of the existing VA Health Care System (VARHS). At that time, the selection committee chose to build the next state home in Lebanon. Recognizing the growing need to provide veteran services, the Oregon Legislature adopted a bill (HB 2578/ORS 408.385) in 2011 that directed the Director of Veterans Affairs to establish the Roseburg Oregon Veterans' Home. Since that time, work has continued in the background towards bringing the project to fruition.

In 2021, a consultant for the Oregon Department of Veterans' Affairs (ODVA) contacted staff regarding the project. Planning work was underway and upcoming tasks included securing a land agreement and IGA with Roseburg VA, potential IGAs with the City and the County, and developing a plan for the state/local match. The project will primarily be federally funded, but does require a 35 percent match. During the recent legislative short session, the match funding was included in SB 5701, which passed both houses.

**C. Financial/Resource Considerations.**

The project is estimated to cost approximately \$100 million, including the \$35 million state/local match. The City may be asked to participate in the future in the form of SDC waivers or infrastructure contributions, but there is no financial consideration at this time.

**D. Timing Considerations.**

Given the identification of state matching funds during the most recent legislative session, it would be appropriate to adopt the resolution and forward to Oregon's Senators as soon as practical.

**COUNCIL OPTIONS**

The Council has the following options:

1. Adopt the attached resolution supporting the project and requesting federal funds;  
or
2. Recommend changes to the attached resolution prior to adoption; or
3. Do nothing.

**STAFF RECOMMENDATION**

Staff recommends the Council adopt Resolution No. 2024-09 supporting the construction of a state veterans' home in Roseburg and requesting federal funding.

**SUGGESTED MOTION**

***"I MOVE TO ADOPT RESOLUTION NO. 2024-09, SUPPORTING THE CONSTRUCTION OF THE ODVA ROSEBURG VETERANS' HOME AND REQUESTING FEDERAL FUNDING."***

**ATTACHMENTS:**

Attachment #1 – Resolution No. 2024-09

**RESOLUTION NO. 2024-09**

**A RESOLUTION SUPPORTING THE CONSTRUCTION OF THE OREGON DEPARTMENT  
OF VETERANS' AFFAIRS - ROSEBURG VETERANS' HOME AND REQUESTING  
FEDERAL FUNDING**

**WHEREAS**, Veterans account for more than 12 percent of the population within both the City of Roseburg and Douglas County; and

**WHEREAS**, the local Veteran population is more than 1.5 times the average rate within Oregon and more than double the rate within the United States; and

**WHEREAS**, of the over 12,000 wartime Veterans living in Douglas County, over half are Veterans of World War II, Korea or Vietnam and may be reaching an age that requires care from a skilled nursing facility; and

**WHEREAS**, the Oregon Department of Veterans' Affairs has a plan to construct a skilled nursing facility on the VA Roseburg Health Care System campus; and

**WHEREAS**, through Senate Bill 5701, the Oregon State Legislature has programmed funds to meet the 35% federal funding match in order to establish the Roseburg Veterans' Home, as directed by Oregon Revised Statute 408.385; and

**WHEREAS**, the Roseburg Veterans' Home is a critical project to meet the current and ongoing needs of our brave Veterans who have served this country with honor; and

**WHEREAS**, the timely release of federal funds to support the project is appropriate and necessary to honor and fulfill the needs of Oregon Veterans.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY  
OF ROSEBURG that:**

**Section 1.** The City Council fully supports the construction of the Roseburg Veterans' Home by the Oregon Department of Veterans' Affairs.

**Section 2.** The City Council requests the Honorable Senators Ron Wyden and Jeff Merkley do everything within their power to secure federal funding to facilitate the project.

**Section 3.** This resolution shall become effective immediately upon adoption by the Roseburg City Council.

**ADOPTED BY THE ROSEBURG CITY COUNCIL AT ITS REGULAR MEETING  
ON THE 8<sup>TH</sup> DAY OF APRIL, 2024.**

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**Amy Nytes, City Recorder**

# ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY



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## INMATE HOUSING INTERGOVERNMENTAL AGREEMENT EXTENSION

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**Meeting Date: April 8, 2024**

**Department: Police**

[www.cityofroseburg.org](http://www.cityofroseburg.org)

**Agenda Section: Department Items**

**Staff Contact: Police Chief Gary Klopfenstein**

**Contact Telephone Number: 541-492-6770**

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### ISSUE STATEMENT AND SUMMARY

The intergovernmental agreement (IGA) between the City and Douglas County for inmate housing at the Douglas County Jail is up for renewal via a contract extension.

### BACKGROUND

#### **A. Council Action History.**

Extensions to this agreement have been brought to the Council in previous years.

#### **B. Analysis.**

In May of 2004, the City and Douglas County entered into an intergovernmental agreement to house the City of Roseburg's Adults in Custody (AIC) in the Douglas County Jail for a per prisoner/per day fee. This agreement has been extended nineteen times to date, with the latest IGA extension expiring June 30, 2024.

In June of 2023, the County Commissioners proposed, and the City agreed to, a modification to the nineteenth extension. Instead of paying per AIC per night, the City agreed to pay \$25,000 per month for up to 16 AIC beds per day for AICs accepted and housed pursuant to the IGA; any beds over 16 were paid at a rate of \$103.83 per AIC day for each City AIC accepted and housed pursuant to the IGA. This modification benefited the City, as it allowed the Municipal Court Judge to sentence more AICs, and reduced the amount we had been paying for the Jail.

Douglas County determines inmate housing cost increases, and they are not negotiable. The twentieth extension extends the current agreement to June 30, 2025, and reflects a 4% increase from the previous FY; this changes the monthly payment to \$26,000, and the daily AIC cost from \$103.83 to \$107.98.

Due to the cost of this agreement, Council approval is required.

#### **C. Financial/Resource Considerations.**

The Police Department programmed \$320,000 for jail expenses in the proposed FY 24-25 budget; this amount reflects an \$8,000 contingency to cover days when more than 16 AICs are incarcerated.

**D. Timing Considerations.**

The current inmate housing extension expires June 30, 2024. Approval of the twentieth extension will ensure services continue as outlined in the agreement.

**COUNCIL OPTIONS**

Council has the following options:

- Authorize the City Manager to sign the twentieth extension of the Inmate Housing IGA with Douglas County; or
- Request additional information; or
- Not authorize the City Manager to sign the twentieth extension.

**STAFF RECOMMENDATION**

Staff recommends Council authorize the City Manager to sign the twentieth extension of the Inmate Housing IGA with Douglas County.

**SUGGESTED MOTION**

***"I MOVE TO AUTHORIZE THE CITY MANAGER TO SIGN THE TWENTIETH EXTENSION OF THE INMATE HOUSING IGA WITH DOUGLAS COUNTY."***

**ATTACHMENTS:**

None



# ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY




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## INTERGOVERNMENTAL AGREEMENT – DOUGLAS COUNTY COMMUNICATIONS SERVICES AND RADIO USAGE AGREEMENT

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Meeting Date: April 8, 2024  
 Department: Police / Fire  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

Agenda Section: Department Items  
 Staff Contact: Police Chief Gary Klopfenstein  
 Contact Telephone Number: 541-492-6760

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### ISSUE STATEMENT AND SUMMARY

Douglas County Emergency Communications (DCEC) provides communications services for the Roseburg Police and Fire Departments annually through an intergovernmental agreement (IGA). The current agreement expires June 30, 2024, and a new IGA needs to be executed to continue this essential service.

### BACKGROUND

#### A. Council Action History.

Council has authorized the City Manager to enter into a communications service IGA with DCEC on an annual basis.

#### B. Analysis.

In the 1990s, Roseburg elected to contract with DCEC for dispatch services. Since that time, Roseburg Police and Fire Departments have paid annually for use of DCEC. The City has utilized multiple communications services IGAs with DCEC over the years.

Douglas County initiated a separate radio usage fee in 2019 to help maintain their aging radio network infrastructure. Douglas County increased the radio usage fee by 4% for FY 24-25.

#### Radio usage fee for FY 24-25:

Roseburg Police:	\$71,995.04
Roseburg Fire:	<u>\$9,209.20</u>
Total:	\$81,204.24

DCEC increased dispatch services cost this year by 4%.

#### Dispatch usage fee for FY 24-25:

Roseburg Police:	\$441,885.60
Roseburg Fire:	<u>\$93,768.36</u>
Total:	\$535,653.96

Dispatch and radio fees for FY 24-25:

Police and Fire radio usage fee:	\$81,204.24
Police and Fire dispatch usage fee:	<u>\$535,653.96</u>
<b>Total due to Douglas County:</b>	<b>\$616,858.20</b>

Douglas County generated an FY 24-25 Communications Services Agreement that requires a signature from the City Manager; due to the associated cost, Council authorization is required. The FY 24-25 IGA includes two one-year renewal terms.

**C. Financial/Resource Considerations.**

The FY 24-25 IGA requires quarterly payments of \$154,214.55 beginning July 1, 2024. Police and Fire Departments have sufficiently budgeted for the dispatch services and radio usage fee increases in their proposed FY 24-25 budgets.

**D. Timing Considerations.**

Douglas County FY 24-25 dispatch services and radio usage fee increases go into effect on July 1, 2024.

**COUNCIL OPTIONS**

1. Authorize the City Manager to enter into an IGA with Douglas County for Communications Services, or;
2. Not authorize the City Manager to enter into an IGA with Douglas County for Communications Services.

**STAFF RECOMMENDATION**

Staff recommends authorizing the City Manager to enter into an IGA with Douglas County for Communications Services.

**SUGGESTED MOTION**

***“I MOVE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN IGA WITH DOUGLAS COUNTY FOR COMMUNICATIONS SERVICES.”***

**ATTACHMENTS:**

None



## ROSEBURG CITY COUNCIL AGENDA ITEM SUMMARY

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### CITY MANAGER ACTIVITY REPORT

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**Meeting Date:** April 8, 2024  
**Department:** Administration  
[www.cityofroseburg.org](http://www.cityofroseburg.org)

**Agenda Section:** Informational  
**Staff Contact:** Nikki Messenger, City Manager  
**Contact Telephone Number:** 541-492-6866

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### ISSUE STATEMENT AND SUMMARY

At each meeting, the City Manager provides the City Council with a report on the activities of the City, along with an update on operational/personnel related issues which may be of interest to the Council. These reports shall be strictly informational and will not require any action on the Council's part. The reports are intended to provide a mechanism to solicit feedback and enhance communication between the Council, City Manager and City Staff. For your April 8, 2024 meeting, the following items are included:

- Department Head Meeting Agendas
- Tentative Future Council Agenda Items
- City Manager Friday Messages



Agenda  
Department Head Meeting  
Public Safety Center Umpqua Room  
March 26, 2024 - 10:00 a.m.

1. March 25, 2024 City Council Meeting Synopsis
2. April 8, 2024 City Council Meeting Agenda
3. Review Tentative Future Council Meeting Agendas
4. Documents, Events, or Grants to review and/or sign
  - A. Community Event Application – Sunrise Service
5. Discussion Items
  - A. Dispatch Contract



Agenda  
Department Head Meeting  
Public Safety Center Umpqua Room  
April 1, 2024 - 10:00 a.m.

1. IT Updates and Questions – Christine, Systech
2. April 8, 2024 City Council Meeting Agenda
3. Review Tentative Future Council Meeting Agendas
4. Documents, Events, or Grants to review and/or sign
5. Discussion Items
6. Employee Service Pins
  - A. Kevin Sumerlin – Public Works, 5 years
  - B. Lanakila Peck – Public Works, 10 years

**TENTATIVE FUTURE COUNCIL AGENDA**



**Unscheduled**

- UTRAN Presentation
- VA Director Presentation
- Council Goals Adoption
- Authorization to accept FAA Grant

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**April 22, 2024**

Mayor Reports

- A. Historic Preservation Month Proclamation
- B. Thrive Umpqua Day Proclamation

Consent Agenda

- A. April 8, 2024 Meeting Minutes

Ordinances

- A. Ordinance No. 3600 – An Ordinance Amending Ch. 2.18 Providing the Economic Development Commission with the Authority to Provide Grant Funding of up to \$7,500 and Ordinance No. 3601 – An Ordinance Repealing Roseburg Municipal Code 2.32.060, Second Reading
- B. Ordinance No. 3602 – An Ordinance Granting a Telecommunications Franchise Agreement to Patriot Mobile LLC, Second Reading

Department Items

- A. Bradford Avenue ADA Ramp Project – Contract Award Recommendations
- B. Fee Discussion

Informational

- A. City Manager Activity Report
- B. Quarterly Financial Report
- C. Municipal Court Quarterly Report

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**May 13, 2024**

Mayor Reports

- A. EMS Week Proclamation
- B. National Public Works Proclamation
- C. 2023 Roseburg Optimist Club Officer of the Year

Consent Agenda

- A. April 22, 2024 Meeting Minutes

Resolutions

- A. Annual Fee Adjustment
  - i. General Fees
  - ii. Water Related Fees

Department Items

- A. 2024-2029 Capital Improvement Plan Update

Informational

- A. City Manager Activity Report

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**May 27, 2024      MEMORIAL DAY**

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**June 10, 2024**

Mayor Reports

Consent Agenda

- A. May 13, 2024 Meeting Minutes  
Public Hearings
- A. Urban Growth Boundary SWAP  
Resolution
- A. Resolution to Adopt the Budget  
Informational
- A. City Manager Activity Report

*Urban Renewal Agency Board Meeting*  
Consent Agenda

- A. December 11, 2023 Meeting Minutes  
Resolution
- A. Resolution to Adopt the Budget

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**June 24, 2024**

- Mayor Reports
- Consent Agenda
- A. June 10, 2024 Meeting Minutes  
Informational
- A. City Manager Activity Report

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**July 8, 2024**

- Mayor Reports
- A. Parks and Recreation Month Proclamation
- Consent Agenda
- A. June 24, 2024 Meeting Minutes  
Informational
- A. City Manager Activity Report

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**July 22, 2024**

- Mayor Reports
- Consent Agenda
- A. July 8, 2024 Meeting Minutes  
Informational
- A. City Manager Activity Report
- B. Municipal Court Quarterly Report

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**August 12, 2024**

- Consent Agenda
- A. July 22, 2024 Meeting Minutes  
Informational
- A. City Manager Activity Report
- B. Quarterly Financial Report

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**August 26, 2024**

- Consent Agenda
- A. August 12, 2024 Meeting Minutes  
Informational
- A. City Manager Activity Report

## Grace Jelks

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**From:** Nicole A. Messenger  
**Sent:** Monday, March 25, 2024 4:42 PM  
**To:** All.CouncilandDepartmentHeads  
**Cc:** Grace Jelks; Autumn C. David; Amy L. Sowa; Suzanne E. Hurt  
**Subject:** Updates

Good afternoon –

I apologize for not getting a Friday message out last week. There are a few noteworthy things I want to share:

- I will be at the Regional City Manager's conference in Seaside for most of the rest of the week. I plan on leaving about noon on Tuesday. Stuart Cowie will be acting in capacity Wednesday – Friday. I will be available by cell phone and email, although email may be slow. Amy Nytes will be in all week.
- The Community Development Department approved one of Mr. Woodard's two applications for additional tent camp sites. The registered site will be on a vacant parcel on Micelli Street across from Micelli Park. The site will not be fully approved until Mr. Woodard completes the necessary improvements such as perimeter fencing and other requirements outlined in the adopted policy. The second site has not been approved. It is located on Flint Street. The City did a phase 1 environmental study on this parcel in 2017. The study indicates there may be surface level contamination on the property, so staff has requested proof that the site has been remediated prior to registering it as a tent camp site.
- Development of the FY 24-25 budget continues. Ron and I have met with all department heads and are in the process of finalizing the proposed General Fund budget. There may be a few more adjustments after we see the General Fund budget in its entirety. It is pretty clear that costs are outpacing revenue growth and this will need to be addressed.
- According to the Doodle Poll, the 'best' date for the next goal setting session is April 15 from 4 to 6 pm. I will ask Grace to send out a calendar invite tomorrow to make sure everyone gets it on their calendar.

Thanks and see you this evening!

Nikki

*Nikki Messenger, P.E.*

City Manager

*City of Roseburg*

900 SE Douglas Ave

Roseburg, OR 97470

541-492-6866

[nmessenger@cityofroseburg.org](mailto:nmessenger@cityofroseburg.org)