



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 10 Ordinance/Resolution# 16-064

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 21, 2015
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON MAIN STREET ON OCTOBER 3, 2015.

PURPOSE(S) OF ACTION:

To approve the issuance of a waiver.

COUNCIL DISTRICT: 1		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal/City Attorney	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

According to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a licensed premises that is within 300 feet of a church or school. However, in 1997 the statute was amended to allow for the granting of a waiver of the distance restriction by the governing body of the local option district.

Southern New Mexico Pride is sponsoring its Fall Festival, to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on Saturday, October 3, 2015. The Casa De Alabanza Church is within 300 feet of a designated alcoholic beverage service area located near the intersection of Main Street and Griggs Avenue.

Amaro Winery and High Desert Brewing Company have submitted Public Celebration Permit Applications to provide wine and beer for sale and consumption on October 3, 2015 from 6:00 p.m. to 10:30 p.m. The Alcohol and Gaming Division of the Regulation and Licensing Department requires a waiver of the church/school distance restriction by the City Council for the Public Celebration Permit Applications to be approved.

(Continue on additional sheets as required)

The Public Celebration Permit Applications are presented as separate agenda items and approval is contingent upon approval of a waiver of the church/school distance restriction.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Zoning/Vicinity Map showing Main Street and the approximate distance to the nearest church.
3. Attachment "1", Map of event area on Main Street, showing the designated alcohol service areas.
4. Attachment "2", List of property owners.
5. Attachment "3", Form of letter sent to the property owners listed in Attachment "2".

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY__.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the issuance of a waiver of the church/school distance restriction. Approval will allow Amaro Winery and High Desert Brewing Company

to continue with the permitting process for the sale and consumption of wine at the Southern New Mexico Pride Fall Festival on October 3, 2015.

2. Vote "No"; if the Las Cruces City Council does not approve the waiver, Alcohol & Gaming will be notified of the reason(s) the waiver was not approved and the Director of Alcohol & Gaming shall not approve the Public Celebration Permit.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the City Council fails to either approve or disapprove the issuance of a waiver, the matter will be submitted to Alcohol & Gaming for further proceedings.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION NO. 16-064

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON MAIN STREET ON OCTOBER 3, 2015.

The City Council is informed that:

WHEREAS, according to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a premises that is within 300 feet of a church or school. However, in 1997, the statute was amended to allow for the granting of a waiver of the distance restriction; and

WHEREAS, Southern New Mexico Pride is sponsoring its Fall Festival, to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on October 3, 2015; and

WHEREAS, the Casa De Alabanza Church is within 300 feet of a designated alcoholic beverage service area near the intersection of Main Street and Griggs Avenue; and

WHEREAS, Amaro Winery and High Desert Brewing Company have submitted Public Celebration Permit Applications to provide wine and beer for sale and consumption during the Fall Festival; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires a waiver of the church/school distance restriction from the Las Cruces City Council for the Public Celebration Permit Applications to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow

the applicants to proceed to the next step of the application process.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the issuance of a waiver of the church/school distance restriction to Amaro Winery and High Desert Brewing Company for the Southern New Mexico Pride Fall Festival, to be held on Main Street on October 3, 2015, as shown on Exhibit "A" attached hereto, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED on this _____ day of _____, 20__.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

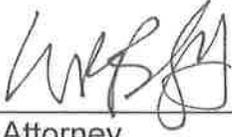
VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

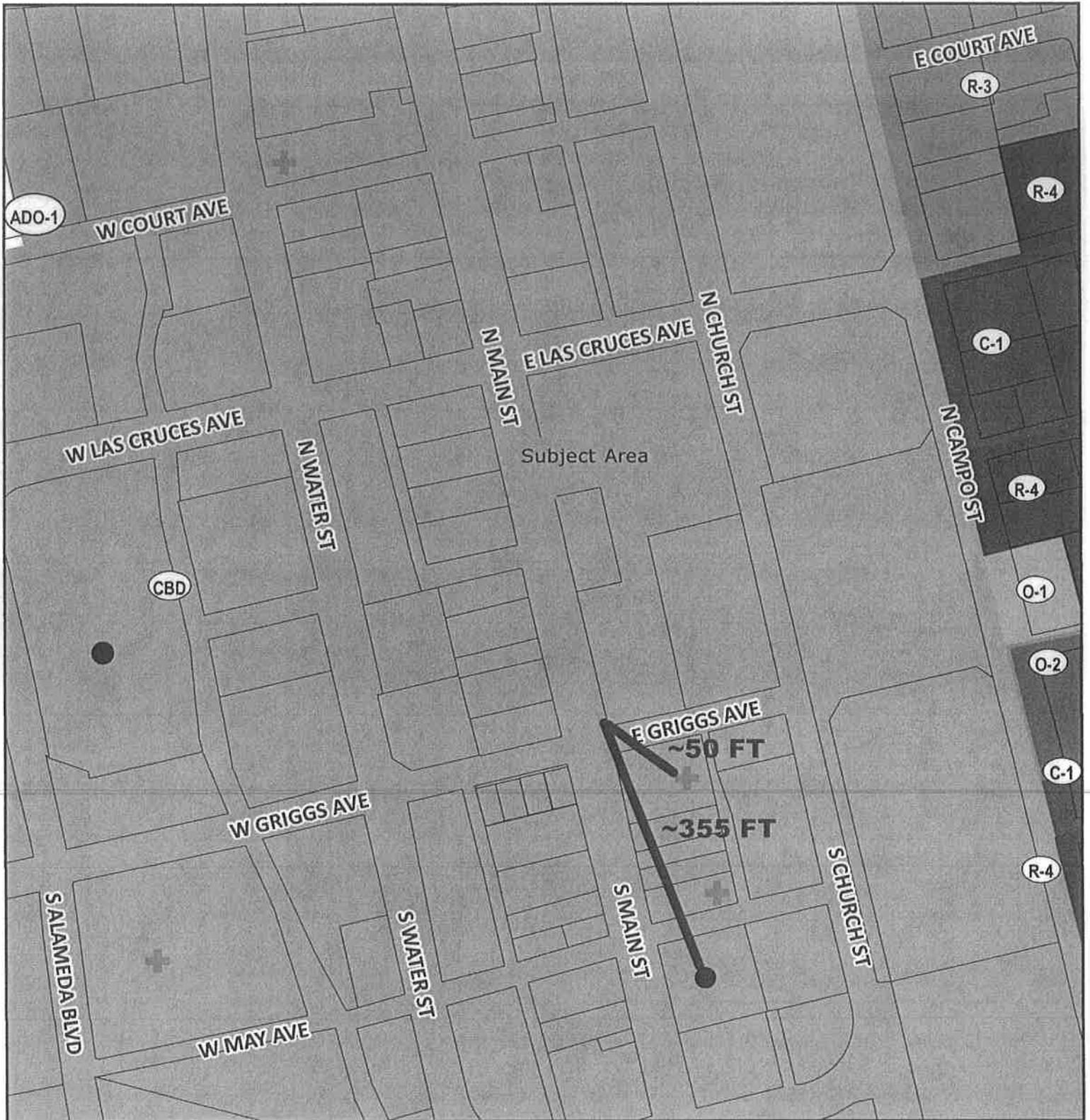
Seconded by: _____

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be 'W. B. J.', written over a horizontal line.

City Attorney

ZONING/VICINITY MAP



ZONING SCHOOL CHURCH

Zoning: CBD

Distance to nearest school: ~355 Feet

Distance to nearest church: ~50 Feet

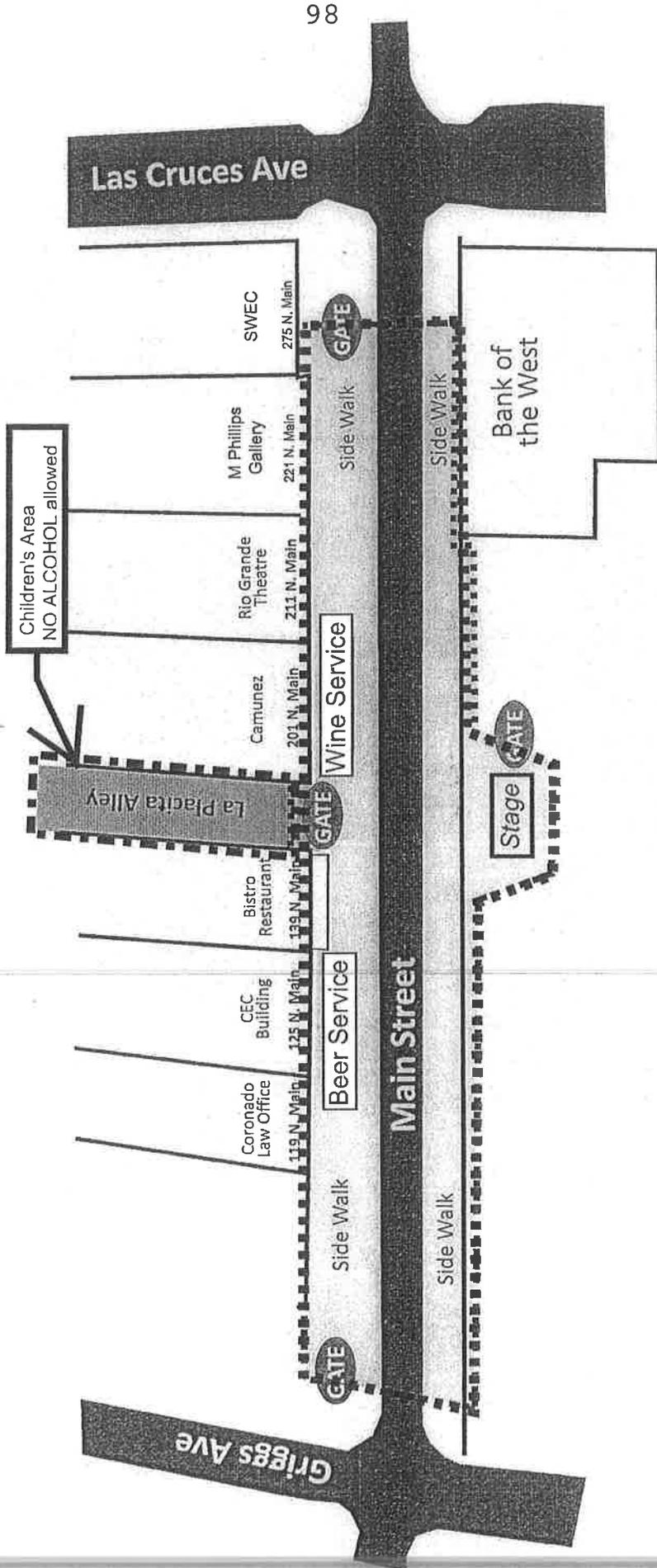


Community Development Department
700 N Main St
Las Cruces, NM 89001
(575) 528-3222

Beer & Wine Service Map

Southern NM Pride Fall Festival

October 3, 2015 (Saturday)



Total fenced in beer serving area is approximately 13,285 sq ft
 Total length=295'; Total width = 45'; Extra cut-out=10'
 (Sidewalk = 12.5' on either side; Street = 20')

Street closed at Main St & Griggs Ave
 Street closed at Main St & Las Cruces Ave
 R2 Barriers at street closings
 4 foot orange barrier fencing around all open areas and in front of street barriers.

Authorized personnel at all gates to ensure alcohol does not leave the enclosed area.

125 W GRIGGS LLC
125 W GRIGGS
LAS CRUCES NM 88001

ALBERTO GUTIERREZ LLC
213 W GRIGGS AVE
LAS CRUCES NM 88005

BANK OF THE WEST
PO BOX 5155
SAN RAMON, CA 94583-5155

CALVARY CHAPEL INC
139 S MAIN ST
LAS CRUCES NM 88001

CLARK RUTH & BOBBY C
TRUSTEES
PO BOX 1777
LAS CRUCES NM 88004

CORONADO JOSE R & RUBEN
CORONADO
119 N MAIN ST
LAS CRUCES NM 88001

GARCIA R LEO & SALLY P
PO BOX 16228
LAS CRUCES NM 88004

HAMILL-BUCKLEY LLC ET AL
1230 CITYLIGHTS PL
LAS CRUCES NM 88007

HOUSE OF PRAISE INC
PO BOX 2527
LAS CRUCES NM 88004-252

NEW MEXICO DEVELOPMENT
CORPORATION
PO BOX 2049
LAS CRUCES NM 88004

RICHARD ROSEN INC
306 E OVERLAND
EL PASO TX 79901

SOUTHERN RIO GRANDE
MENTAL HEALTH
100 W GRIGGS
LAS CRUCES NM 88001

ST GENEVIEVE PARISH INC
1280 MEDPARK DR
LAS CRUCES NM 88005

SUN CITY FINANCE INC
3190 DEL REY BLVD
LAS CRUCES NM 88012

TREE OF LIFE FELLOWSHIP
INC
PO BOX 467
ORGAN NM 88052

VALENTINE, JERALD A & J A
PO BOX 850
LAS CRUCES NM 88004-0850



September 4, 2015

Dear Property Owner:

Southern New Mexico Pride is sponsoring its Fall Festival on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on October 3, 2015. Amaro Winery and High Desert Brewing Company have submitted applications to provide wine and beer for sale and consumption at the event from 6:00 p.m. to 10:30 p.m. As part of the approval process, the Liquor Control Act ("LCA") requires the liquor license holder to obtain approval for the use of City property from the Las Cruces City Council.

This matter will come before the City Council as part of its regular meeting on Monday, September 21, 2015, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

In addition, the LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. A waiver request will be considered by the City Council for approval or disapproval because Casa De Alabanza Church is within 300 feet of a designated alcohol service area near the intersection of Main Street and Griggs Avenue.

If you wish to share your views concerning the Southern New Mexico Fall Festival, the liquor license holders' applications and the waiver request, you may attend the City Council Meeting on September 21, 2015, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, September 17, 2015.

If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,

CITY OF LAS CRUCES

William R. Babington Jr.
City Attorney



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 21, 2015
 (Adoption Date)

TITLE:

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE SOUTHERN NEW MEXICO PRIDE FALL FESTIVAL TO BE HELD ON MAIN STREET ON OCTOBER 3, 2015.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Monica Campbell</i>	541-2128	9/3/15
Department Director	<i>WRB</i>	541-2128	3 Sept 2015
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2107	9/8/15 9/4-15
Assistant City Manager/COO	<i>David Ole</i>	541-2271	9-9-15
City Attorney	<i>WRB</i>	541-2128	3 Sept 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	9-11-15