

COUNCIL MEETING MINUTES
October 13, 2014

0:00 **DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, OCTOBER 13, 2014**

CONVENED The meeting convened at 7:00 p.m. with Mayor Figley presiding.

ROLL CALL

Mayor Figley	Present
Councilor Cox	Present
Councilor Lonergan	Present
Councilor McCallum	Present
Councilor Morris	Present
Councilor Ellsworth	Present
Councilor Alonso Leon	Present

Staff Present: City Administrator Derickson, City Attorney Shields, Police Chief Russell, Finance Director Head, Human Resources Director Hereford, Captain Alexander, Public Works Director Scott, Communications Coordinator Horton, City Recorder Pierson

0:01 **CONSENT AGENDA**

- A. Woodburn City Council minutes of September 22, 2014
- B. Woodburn City Council Executive Session minutes of September 22, 2014
- C. Woodburn Recreation and Park Board minutes of September 16, 2014
- D. Building Activity for September 2014

McCallum/Lonergan...adopt the Consent Agenda. The motion passed unanimously.

0:02 **COUNCIL BILL NO. 2970 - AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF WOODBURN**

McCallum introduced Council Bill No. 2970. Recorder Pierson read the two readings of the bill by title only since there were no objections from the Council. Councilor McCallum stated that passage of the recreational marijuana measure will have a high impact on public safety in the City and he supports this tax. Councilor Lonergan concurred and asked if Woodburn would still have a tax on medical marijuana if the measure fails and City Administrator Derickson answered yes. Councilor Ellsworth asked if this ordinance is like those being passed in other cities and City Administrator Derickson answered that it is and that they looked at examples from the City of Salem, City of Ashland and the City of Wilsonville. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2970 duly passed.

0:05 **COUNCIL BILL NO. 2971 - A RESOLUTION AUTHORIZING EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE WOODBURN POLICE ASSOCIATION FOR A CONTRACT BEGINNING ON JULY 1, 2014 AND ENDING ON JUNE 30, 2017**

McCallum introduced Council Bill No. 2971. Recorder Pierson read the bill by title only since there were no objections from the Council. Mayor Figley thanked the

COUNCIL MEETING MINUTES
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representatives from the Woodburn Police Association and the City's bargaining team for their hard work. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2971 duly passed.

0:06 **ACCEPTANCE OF 2014 COPS POLICE OFFICERS FUNDING GRANT**

Lonergan/McCallum... authorize staff to accept the grant for a School Resource Officer Position under the 2014 COPS Hiring Grant Program. The motion passed unanimously.

CITY ADMINISTRATOR'S REPORT

The City Administrator had nothing to report.

0:07 **MAYOR AND COUNCIL REPORTS**

Councilor Alonso Leon stated that she got a lot of great ideas from the League of Oregon Cities conference and that in the future she will be proposing some ideas for the City.

Councilor Ellsworth stated that she also learned a lot at the League of Oregon Cities conference. She also reminded people that school is session and to slow down for school buses and children.

Councilor Cox stated that it is good to be back.

0:11 **ADJOURNMENT**

McCallum/Lonergan... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 7:11p.m.

APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

Woodburn Police Department

MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2014

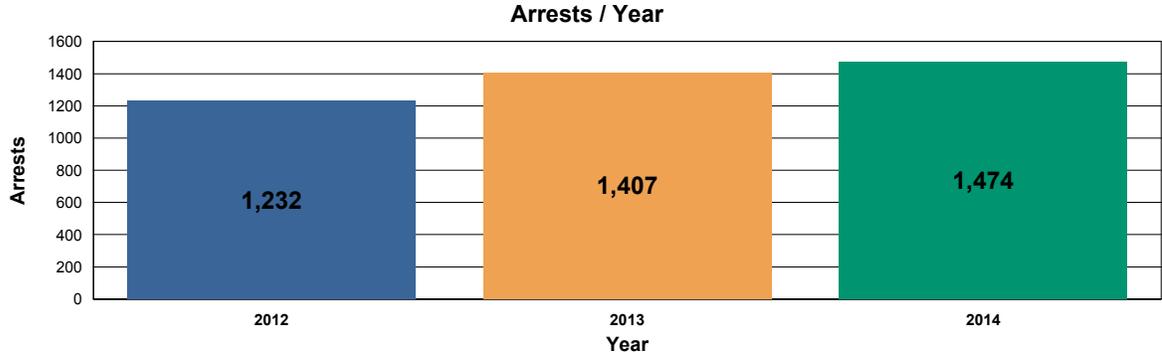
CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
AGGRAVATED ASSAULT	1	1	1	1	1	8	3	4	1	21
ANIMAL CRUELTY	0	1	0	0	0	0	0	0	0	1
ANIMAL ORDINANCES	1	0	2	5	2	0	1	6	3	20
ASSAULT SIMPLE	3	8	8	5	13	15	8	34	11	105
ATTEMPTED MURDER	0	0	0	0	0	1	1	0	0	2
BURGLARY - BUSINESS	0	0	0	0	1	0	0	0	0	1
BURGLARY - OTHER STRUCTURE	0	2	0	0	1	0	1	0	0	4
BURGLARY - RESIDENCE	0	2	0	1	0	1	3	8	0	15
CHILD NEGLECT	0	0	1	0	1	0	0	0	0	2
CITY ORDINANCE	0	0	0	1	0	0	0	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	1	0	1	0	1	2	3	2	2	12
CURFEW	1	4	0	0	0	2	0	2	2	11
CUSTODY - DETOX	1	0	1	0	0	1	2	0	0	5
CUSTODY - MENTAL	5	0	2	3	4	3	6	8	8	39
DISORDERLY CONDUCT	6	4	5	4	7	14	5	26	6	77
DRIVING UNDER INFLUENCE	7	3	11	8	6	20	15	24	16	110
DRUG LAW VIOLATIONS	21	9	8	18	14	14	8	6	12	110
DWS/REVOKED - FELONY	1	0	0	0	0	0	1	0	0	2
DWS/REVOKED-MISDEMEANOR	4	1	2	1	4	4	3	0	3	22
ELUDE	2	0	0	0	0	1	1	0	1	5
EMBEZZLEMENT	0	0	0	1	0	0	0	0	1	2
FAIL TO DISPLAY OPERATORS LICENSE	0	0	2	1	1	0	0	2	0	6
FAILURE TO REGISTER AS SEX OFFENDER	0	1	0	0	0	0	0	2	1	4
FAMILY-OTHER	1	0	0	0	0	0	0	0	0	1
FORCIBLE RAPE	1	1	0	0	1	0	0	0	1	4
FORGERY/COUNTERFEITING	2	1	4	0	1	0	8	2	4	22
FRAUD - BY DECEPTION/FALSE PRETENSES	0	0	0	1	0	0	0	0	0	1
FRAUD - IMPERSONATION	1	0	0	0	0	0	0	0	0	1
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	1	0	0	0	0	0	0	1
FRAUD-OTHER	0	2	0	0	0	0	0	0	0	2
FUGITIVE ARREST FOR ANOTHER AGENCY	23	22	32	32	28	20	39	38	25	259
FURNISHING	0	0	0	0	0	2	0	2	0	4
GARBAGE LITTERING	1	0	0	1	0	1	0	0	0	3
HIT AND RUN FELONY	0	1	0	0	0	0	0	0	0	1
HIT AND RUN-MISDEMEANOR	2	1	2	4	0	0	0	6	1	16
IDENTITY THEFT	1	0	1	0	1	0	1	0	1	5
INTIMIDATION /OTHER CRIMINAL THREAT	2	1	1	8	2	2	9	16	4	45
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	0	0	0	0	0	1	0	0	1
MINOR IN POSSESSION	9	16	0	2	1	5	6	12	1	52
MISCELLANEOUS	0	0	0	0	0	0	0	0	2	2
MOTOR VEHICLE THEFT	1	3	0	0	0	3	0	0	0	7
OTHER	4	6	2	3	6	6	7	14	7	55
PROPERTY RECOVER FOR OTHER AGENCY	0	0	0	0	1	5	0	0	0	6
RECKLESS DRIVING	2	1	2	1	0	1	0	2	0	9
RECKLESSLY ENDANDERING	2	2	2	2	0	1	3	0	1	13
RESTRAINING ORDER VIOLATION	0	1	2	1	0	1	0	2	1	8
ROBBERY - BANK	0	0	1	0	0	0	0	0	0	1
ROBBERY - BUSINESS	0	0	0	0	0	1	1	2	0	4
ROBBERY - OTHER	2	0	0	1	0	0	1	0	1	5
ROBBERY - RESIDENCE	0	0	0	0	0	0	0	2	0	2
RUNAWAY	1	1	1	0	1	0	0	0	1	5
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	0	0	0	0	0	0	0	2	0	2
SEX CRIME - EXPOSER	0	0	1	0	0	0	2	0	0	3
SEX CRIME - INCEST	0	1	0	0	0	0	0	0	0	1

Woodburn Police Department

MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2014

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
SEX CRIME - MOLEST (PHYSICAL)	0	0	0	0	1	0	0	2	0	3
SEX CRIME - NON FORCE SODOMY	0	0	0	0	0	1	0	4	0	5
SEX CRIME - NON-FORCE RAPE	0	0	0	0	0	2	0	16	0	18
STALKER	3	2	0	0	0	0	0	2	1	8
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	4	0	2	0	0	0	0	0	6
SUICIDE	0	0	0	0	0	0	1	0	0	1
THEFT - BICYCLE	1	0	0	1	0	0	0	2	0	4
THEFT - BUILDING	2	0	0	1	1	0	1	0	0	5
THEFT - OTHER	4	2	0	2	4	3	2	4	2	23
THEFT - SHOPLIFT	10	6	7	5	13	9	9	12	10	81
TRAFFIC VIOLATIONS	3	1	16	9	12	7	20	34	8	110
TRESPASS	3	0	2	1	11	8	2	6	2	35
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	0	4	0	0	2	2	0	0	0	8
VANDALISM	0	0	4	0	2	2	3	0	4	15
WARRANT ARREST FOR OUR AGENCY	2	0	0	0	0	0	0	0	0	2
WEAPON - CARRY CONCEALED	0	3	1	0	0	0	1	2	2	9
WEAPON - EX FELON IN POSSESSION	2	1	0	0	1	1	0	4	1	10
WEAPON - OTHER	0	0	0	0	0	1	0	0	0	1
WEAPON - POSSESS ILLEGAL	0	1	1	0	1	1	1	4	3	12

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
2014 Total	139	120	127	126	146	171	179	316	150	1,474
2013 Total	188	165	135	96	217	224	109	137	136	1407
2012 Total	165	158	95	117	141	124	140	167	125	1232



Woodburn Police Department

MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2014

CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
AGGRAVATED ASSAULT	1	1	1	1	1	6	2	1	2	16
ANIMAL ORDINANCES	1	0	2	5	2	1	3	2	2	18
ARSON	0	1	0	0	0	0	3	1	0	5
ASSAULT SIMPLE	3	10	8	7	15	13	13	19	14	102
ATTEMPTED MURDER	0	0	0	2	0	2	1	1	0	6
BURGLARY - BUSINESS	1	7	4	3	3	3	4	5	2	32
BURGLARY - OTHER STRUCTURE	8	8	4	4	3	4	2	1	1	35
BURGLARY - RESIDENCE	4	7	5	4	1	4	4	8	2	39
CHILD NEGLECT	0	1	0	1	1	0	1	0	0	4
CITY ORDINANCE	0	0	0	1	0	0	0	0	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	19	23	13	12	14	13	11	12	7	124
CURFEW	1	1	0	0	0	2	0	1	1	6
CUSTODY - DETOX	1	0	1	0	0	1	2	1	0	6
CUSTODY - MENTAL	5	0	2	3	4	3	6	3	8	34
DISORDERLY CONDUCT	5	4	3	3	8	10	6	13	5	57
DRIVING UNDER INFLUENCE	7	3	11	8	6	20	14	12	16	97
DRUG LAW VIOLATIONS	19	8	9	14	13	10	8	5	15	101
DRUG PARAPHERNALIA	1	0	0	0	0	0	0	0	0	1
DWS/REVOKED - FELONY	1	0	0	0	0	0	1	0	0	2
DWS/REVOKED-MISDEMEANOR	3	1	2	1	4	4	3	1	3	22
ELUDE	4	0	0	0	0	4	1	0	1	10
EMBEZZLEMENT	0	1	0	1	0	0	0	0	1	3
EXPLOSIVES	0	0	0	0	0	1	0	0	0	1
FAIL TO DISPLAY OPERATORS LICENSE	0	0	2	1	1	0	0	1	0	5
FAILURE TO REGISTER AS SEX OFFENDER	0	1	0	0	0	0	0	1	1	3
FORCIBLE RAPE	2	3	0	1	3	0	0	0	1	10
FORGERY/COUNTERFEITING	2	5	4	2	1	2	4	0	8	28
FRAUD - BY DECEPTION/FALSE PRETENSES	2	0	1	2	0	4	1	0	0	10
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	1	3	2	0	1	1	3	0	1	12
FRAUD - IMPERSONATION	1	0	0	0	0	0	0	0	0	1
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	1	0	1	0	0	0	0	2
FRAUD-OTHER	0	1	0	0	0	0	0	0	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	22	24	31	30	28	21	40	17	23	236
FURNISHING	0	0	0	0	0	2	0	1	0	3
GARBAGE LITTERING	1	0	0	1	0	1	0	0	0	3
HIT AND RUN FELONY	0	1	0	0	1	0	1	0	0	3
HIT AND RUN-MISDEMEANOR	12	5	10	9	13	5	8	9	12	83
IDENTITY THEFT	1	4	9	8	5	1	5	1	4	38
INTIMIDATION /OTHER CRIMINAL THREAT	5	1	1	7	4	4	9	6	5	42
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	0	0	0	1	0	1	0	0	2
LICENSING ORDINANCES	0	0	0	0	2	0	0	0	0	2
MINOR IN POSSESSION	3	1	0	1	1	2	3	3	1	15
MISCELLANEOUS	10	6	4	7	4	4	9	6	7	57
MOTOR VEHICLE THEFT	8	12	4	4	11	5	9	6	6	65
OTHER	6	8	3	3	6	5	8	7	6	52
PROPERTY - FOUND LOST MISLAID	0	3	0	0	3	3	2	2	3	16
PROPERTY RECOVER FOR OTHER AGENCY	1	0	1	0	0	5	0	0	1	8
RECKLESS DRIVING	4	1	2	1	0	1	1	1	0	11
RESTRAINING ORDER VIOLATION	0	1	3	1	2	1	1	1	1	11
ROBBERY - BANK	0	0	2	0	0	0	0	0	0	2
ROBBERY - BUSINESS	2	1	1	0	0	1	2	1	1	9
ROBBERY - OTHER	1	0	0	1	1	0	2	0	0	5
ROBBERY - RESIDENCE	0	0	0	0	0	0	0	1	0	1
RUNAWAY	7	4	4	1	2	3	4	3	2	30
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	0	0	0	0	0	0	1	2	0	3
SEX CRIME - EXPOSER	0	0	1	0	0	0	2	0	0	3
SEX CRIME - FORCIBLE SODOMY	1	0	0	0	0	0	1	0	0	2

Woodburn Police Department

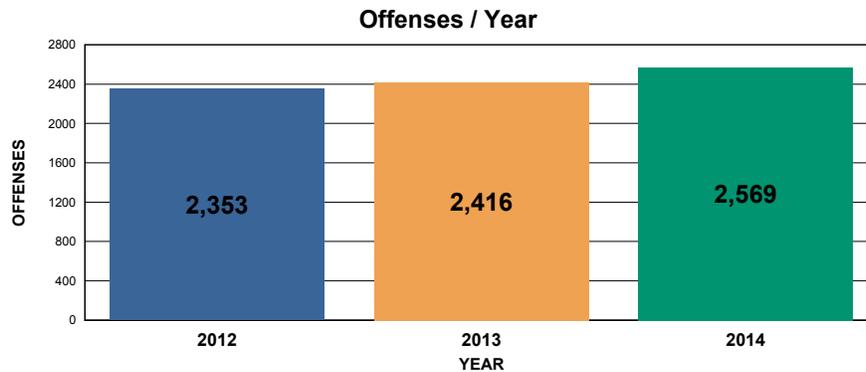
MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2014

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
SEX CRIME - INCEST	1	3	0	0	0	0	0	0	0	4
SEX CRIME - MOLEST (PHYSICAL)	0	0	0	1	4	0	1	2	0	8
SEX CRIME - NON FORCE SODOMY	0	0	0	0	2	0	0	1	0	3
SEX CRIME - NON-FORCE RAPE	0	1	0	2	3	1	2	5	1	15
SEX CRIME - OBSCENE PHONE CALL	1	0	1	0	0	0	0	0	0	2
SEX CRIME - OTHER	0	1	0	0	1	0	1	0	0	3
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	0	0	0	1	0	0	0	0	1
STALKER	4	2	0	0	0	0	0	1	1	8
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	2	1	1	0	0	0	0	1	5
SUICIDE	0	0	0	0	0	0	1	0	0	1
THEFT - BICYCLE	2	0	0	1	0	5	2	4	0	14
THEFT - BUILDING	6	13	2	6	7	7	4	10	2	57
THEFT - COIN OP MACHINE	0	0	1	0	0	0	0	0	0	1
THEFT - FROM MOTOR VEHICLE	24	17	12	18	15	8	14	3	7	118
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	1	0	1	0	1	1	2	0	2	8
THEFT - OTHER	12	13	9	9	18	13	19	11	17	121
THEFT - PURSE SNATCH	0	0	0	1	0	1	1	0	1	4
THEFT - SHOPLIFT	12	10	10	16	15	10	12	12	10	107
TRAFFIC VIOLATIONS	6	1	20	16	17	13	22	21	12	128
TRESPASS	2	3	3	4	9	7	1	2	3	34
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	13	12	5	9	13	6	8	3	3	72
VANDALISM	18	17	36	36	42	29	37	82	27	324
VEHICLE RECOVERD FOR OTHER AGENCY	0	0	0	1	0	0	0	1	1	3
WEAPON - CARRY CONCEALED	0	3	1	0	0	0	1	1	1	7
WEAPON - EX FELON IN POSSESSION	2	1	0	0	1	1	0	2	1	8
WEAPON - OTHER	0	0	0	0	0	1	0	0	0	1
WEAPON - POSSESS ILLEGAL	0	1	2	0	1	1	2	3	2	12
WEAPON - SHOOTING IN PROHIBITED AREA	0	1	0	1	0	1	0	0	0	3
WILLFUL MURDER	0	1	0	0	0	0	0	0	0	1

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
2014 Total	280	263	255	272	316	277	332	319	255	2,569

2013 Total	327	266	265	179	302	280	225	304	268	2,416
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2012 Total	246	249	233	261	244	264	261	313	282	2,353
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Woodburn Police Department

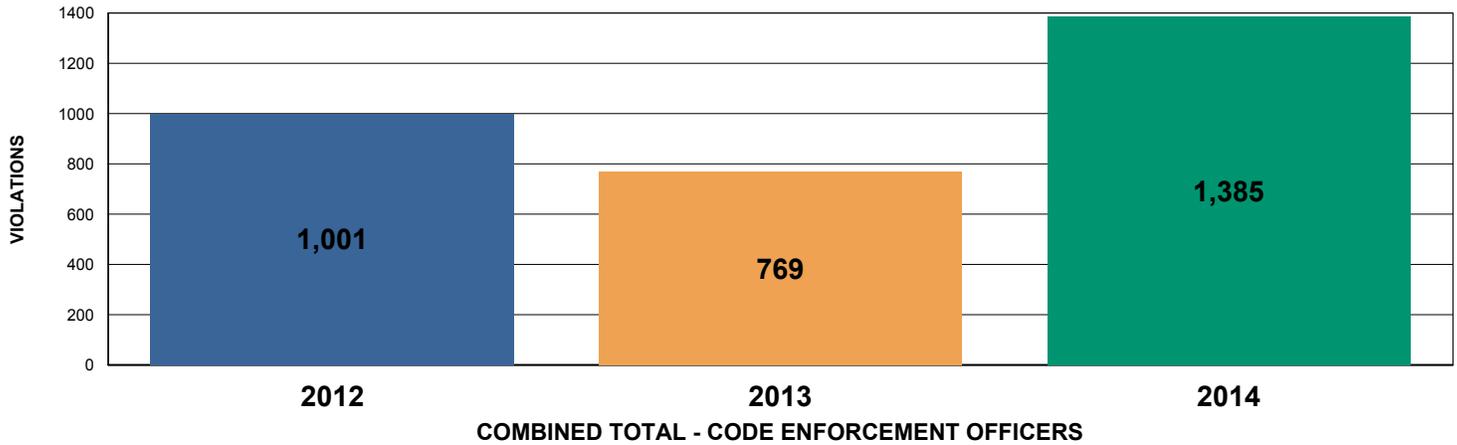
ORDINANCE VIOLATIONS

JANUARY - DECEMBER 2014

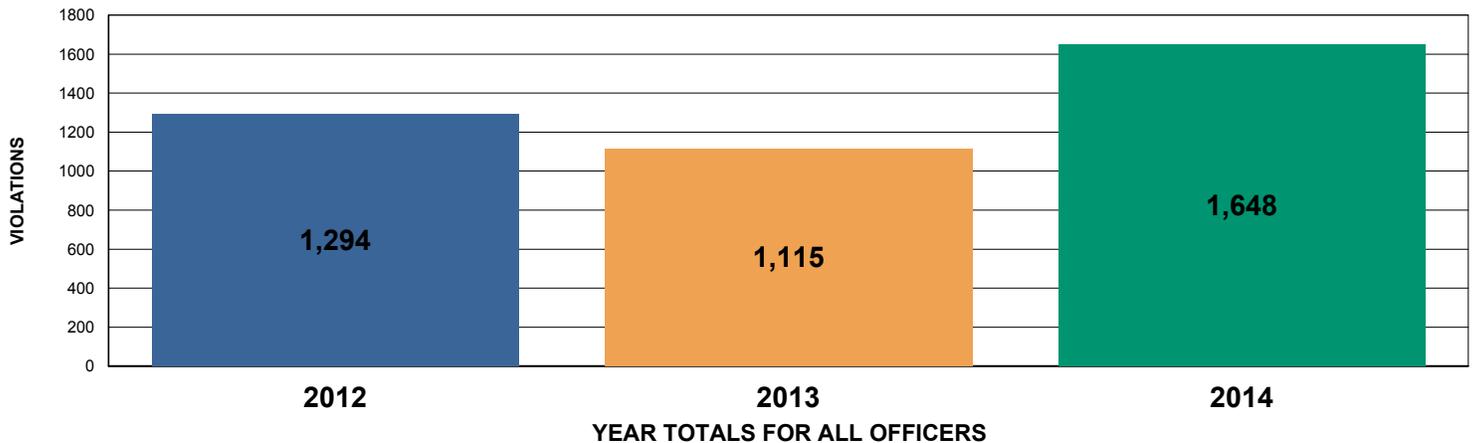
10/20/2014

Ordinance Discription	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
Animal Complaint	32	26	47	45	55	48	68	56	53	430
Ordinance - Abate/Nuisances	6	3	2	0	2	1	5	8	3	30
Ordinance - Abandoned Vehicles	11	11	14	41	28	19	18	27	15	184
Ordinance - Abate Graffiti	7	18	21	10	24	16	17	40	10	163
Ordinance - Land Use Violations	0	0	0	1	2	0	1	1	1	6
Ordinance - Oth Violation	60	64	105	96	35	32	51	39	49	531
Ordinance - Tall Grass	0	0	0	0	196	77	17	13	1	304
2014 Total	116	122	189	193	342	193	177	184	132	1,648
2013 Total	72	89	102	143	189	126	141	148	105	1,115
2012 Total	130	106	144	117	156	177	181	179	104	1,294

Ordinance Violations / Code Enforcement Officers



Ordinance Violations / Year





Agenda Item

October 27, 2014

TO: Honorable Mayor and City Council
FROM: Scott C. Derickson, City Administrator
SUBJECT: **Northwest Natural Gas Company Franchise Agreement**

RECOMMENDATION:

It is recommended the City Council adopt the ordinance granting a non-exclusive gas utility franchise to Northwest Natural Gas Company, and fixing the terms, conditions, and compensation of such franchise.

BACKGROUND:

A franchise agreement with Northwest Natural Gas Company (NW Natural) was last approved in 2004, effective through November 10, 2014. The franchise is currently set to expire on November 10, 2014.

Ordinance 2376 sets forth the franchise relationship between NW Natural and the City related to the company's operation within city rights of way and for franchise payments. In addition to the franchise, NW Natural is subject to a statutory privilege tax under Ordinance 2145 which does not have a term limit and continues in force separate from the franchise.

The negotiation of the franchise was successfully completed by city staff "in house" without the assistance of a utility franchise consultant or outside legal counsel. This resulted in a significant monetary savings.

DISCUSSION:

NW Natural is seeking to renew its franchise with little substantive change from the previous franchise. Here are some of the primary aspects of this franchise:

- The franchise is for a period of ten years, and the City continues to maintain control over the rights of way.
- The franchise requires NW Natural to pay compensation of 3 percent of its gross revenues. This is in addition to the 2 percent privilege tax NW Natural

Agenda Item Review: City Administrator City Attorney Finance

pays pursuant to Ordinance 2145. The combined 5 percent of gross revenues is comparable to most other cities in Oregon.

- The City can require relocation and prior approval of relocation work.
- NW Natural cannot sell or transfer the franchise without City permission.
- Location and relocation of NW Natural facilities require private parties or private development to pay the cost of relocations, where the relocation is for the benefit of such parties or development.

An emergency clause was added to the ordinance so that the new franchise can become immediately operational after its formal acceptance by NW Natural.

FINANCIAL IMPACT:

NW Natural paid \$237,770 in franchise fees and privilege taxes to the City in FY 2013-14.

**COUNCIL BILL NO. 2972
ORDINANCE NO. 2524**

AN ORDINANCE GRANTING A NON-EXCLUSIVE GAS UTILITY FRANCHISE TO NORTHWEST NATURAL GAS COMPANY, AND FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE; PROVIDING AN EFFECTIVE DATE; REPEALING ORDINANCE 2376; AND DECLARING AN EMERGENCY

WHEREAS, the City of Woodburn has the authority to regulate the public right-of-way and award Franchises to utility providers for its use; and

WHEREAS, the existing Franchise of Northwest Natural Gas Company granted by Ordinance 2376 was for a 10 year period and expires on November 10, 2014; and

WHEREAS, the parties want to continue their historically good working relationship under a new Franchise with terms and conditions similar to those under the existing Franchise; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions and Explanations.

- (1) As used in this Ordinance.
 - (a) "City" means the City of Woodburn and the areas within its boundaries, including its boundaries as extended in the future.
 - (b) "Council" means the legislative body of the City.
 - (c) "Grantee" means the corporation referred to in Section 2 of this ordinance.
 - (d) "Gas" means natural methane-based gas.
 - (e) "Gas Facilities" means Grantee's Gas transmission and distribution facilities, including pipes, pipe lines, mains, laterals, conduits, feeders, regulators, reducing and regulating stations, meters, fixtures, connections and all attachments, appurtenances, and all accessories necessary and incidental thereto located within the City limits, whether the facilities are located above or below ground.
 - (f) "Person" includes an individual, corporation, association, firm,

partnership and joint stock company.

- (g) "Public Place" means any City-owned property within the City that is open to the public that is not a Right-of-Way, including public squares and parks.
- (h) "Qualified Contractor" means a Person that is knowledgeable about the construction and operation of a natural gas transmission and distribution system, and must be subject to and comply with the qualifying standards as it relates to the work in question, set forth in 49 CFR Part 192, Subpart N – Qualification of Pipeline Personnel. Additionally, this Person must adhere to all applicable requirements of NW Naturals Quality Assurance program and Contractor Management group.
- (i) "Right-of-Way " means the space in, upon, above, or under the public, streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, bridges, and places used or intended to be used by the general public for travel as the same now or may hereafter exist, that the City has the right to allow Grantee to use.

- (2) As used in this ordinance, the singular number may include the plural and the plural number may include the singular.

Section 2. Rights Granted.

- (1) Subject to the conditions and reservations contained in this ordinance, the City hereby grants to NORTHWEST NATURAL GAS COMPANY, a corporation, the right, privilege and franchise to:
 - (a) Construct, maintain and operate a natural gas utility system within the City;
 - (b) Install, maintain and operate gas facilities on, in and under the Right-of-Way of the City, residents, agencies and businesses in the City and to territory beyond the limits of the City; and
 - (c) Transmit, distribute and sell gas within the City and to territory beyond the limits of the City.
- (2) The rights granted herein shall not confer on Grantee any right, title or interest in any public way beyond that expressly conferred by the provisions of this Section 2, nor shall it confer any right or privilege to use or occupy any other property of the City or any other entity.

Section 3. Use of Rights-of-Way by Grantee.

- (1) Before the Grantee may use or occupy any Right-of-Way, the Grantee shall first obtain permission from the City to do so and shall comply with any special conditions the City may impose on such use or occupation.
- (2) The compensation paid by Grantee for this franchise includes all compensation for the use of Right-of-Way located within the City as authorized. The City may charge additional compensation for the use of any public place.

Section 4. Duration.

This franchise is granted for a period of 10 years from and after the effective date of this ordinance.

Section 5. Franchise Not Exclusive.

This franchise is not exclusive, and shall not be construed as a limitation on the City in:

- (1) Granting rights, privileges and authority to other persons similar to or different from those granted by this ordinance.
- (2) Constructing, installing, maintaining or operating any City-owned public utility.

Section 6. Public Works and Improvements Not Affected by Franchise.

The City reserves the right to:

- (1) Construct, install, maintain and operate any public improvement, work or facility in, on or over the Right-of-Way.
- (2) Do any work that the City may find desirable on, over or under any Right-of-Way.
- (3) Vacate, alter or close any street. Whenever the City shall vacate any Right-of-Way or Public Place for the convenience or benefit of any person or governmental agency or instrumentality, Grantee's rights under this franchise shall be preserved as to any of its Gas Facilities then existing in the Right-of-Way or Public Place if reasonably practicable. To the extent Grantee's rights in the Right-of-Way cannot be preserved in any street vacation, City shall where reasonably practicable provide an alternative Right-of-Way for the location of Grantee's Gas Facilities. If

Grantee's Gas Facilities must be relocated from a vacated Right-of-Way, the petitioners of such vacation shall bear the costs of relocating the Gas Facilities. Upon receipt of a notice of a petition for vacation, Grantee shall as soon as practicable investigate and advise the City and petitioners in writing whether the Gas Facilities must be relocated, the estimated costs of relocation and the time needed for this relocation.

- (4) Whenever the City shall perform, cause or permit any work in any present or future Right-of-Way of the City on its behalf, where such work may disturb Grantee's Gas Facilities, the City shall, or require its permittee to, notify Grantee in writing, sufficiently in advance of such contemplated work to enable Grantee to take such measures, as Grantee may deem necessary to protect such facilities, at its own expense.

Section 7. Continuous Service.

Grantee shall maintain and operate an adequate system for the distribution of gas in the City. Grantee shall use due diligence to maintain continuous and uninterrupted 24-hour a day service which shall at all times conform at least to the standards common in the business and to the standards adopted by state authorities and to standards of the City which are not in conflict with those adopted by the state authorities. Under no circumstances shall Grantee be liable for an interruption or failure of service caused by an act of God, unavoidable accident or other circumstances beyond the control of Grantee through no fault of its own.

Section 8. Safety Standards and Work Specifications.

- (1) The Gas Facilities of Grantee shall at all times be maintained in a safe, substantial and workmanlike manner.
- (2) For the purpose of carrying out the provisions of this section, the City may provide such specifications relating thereto as may be necessary or convenient for public safety or the orderly development of the City. The City may amend and add to such specifications from time to time.

Section 9. Control of Construction.

- (1) Before commencing any construction, extension or relocation of facilities in a City Right-of-Way, Grantee shall file with the City drawings, in such form as may be acceptable to the City Engineer, showing the location of existing facilities and facilities to be constructed, maintained, or relocated and shall obtain from the City approval of the location and plans prior to commencement of the work.

- (2) All work done within a City Right-of-Way shall be done in the location approved by the City Engineer and in accordance with plans and specifications approved by the City Engineer. The City Engineer's approval of the plans and specifications may include conditions and the conditions shall be binding on Grantee. Such construction work shall be done in a safe manner subject to the approval of the City Engineer and in accordance with requirements of applicable federal and state laws and City ordinances. All work done shall be subject to the rejection or correction requirements of the City Engineer and subject to the City Engineer's approval.

Section 10. Street Excavations and Restorations.

- (1) Subject to the provisions of this ordinance, the Grantee or its subcontractor may make necessary excavations for the purpose of constructing, installing, maintaining and operating its Gas Facilities. In all circumstances pertinent to this agreement, any action by Grantee's subcontractors shall be the responsibility of Grantee. Any subcontractor of Grantee shall be bound to the requirements of this agreement.
- (2) Except in emergencies, and in the performance of routine service connections and ordinary maintenance, on private property, prior to making an excavation in the traveled portion of any Right-of-Way, and, when required by the City, in any untraveled portion of any Right-of-Way, Grantee shall obtain from the City approval of the proposed excavation and of its location.
- (3) Grantee shall give notice to the City by telephone, electronic data transmittal or other appropriate means prior to the commencement of service or maintenance work and as soon as is practicable after the commencement of work performed under emergency conditions.
- (4) When Grantee does any work in the unimproved portion of a Right-of-Way, Grantee or its subcontractor, shall promptly restore the affected portion of Right-of-Way to the same condition in which it was prior to the excavation. When Grantee does any work in an improved portion of a Right-of-Way, Grantee or its subcontractor shall promptly restore the affected portion of the Right-of-Way in compliance with the conditions in any permit issued by the City or any specifications, requirements and regulations of the City in effect at the time of the work. All work done shall be subject to the rejection and correction requirements of the City Engineer's approval. If Grantee or its subcontractor fails to restore promptly the affected portion of a right-of-way in accordance with City Standard Construction specifications in effect at the time of the work, the City may make the restoration, and the cost thereof shall be paid by Grantee.

Section 11. Location and Relocation of Facilities.

- (1) All Gas Facilities of Grantee shall be placed so that they do not interfere unreasonably with the use of the Right-of-Way by the City and the public and in accordance with any specifications adopted by the City governing the location of facilities.
- (2) The City may require the removal or relocation, temporarily or permanently, of facilities maintained by Grantee in the streets of the City. Grantee shall remove and relocate such facilities within 120 days after receiving notice so to do from the City. The cost of such removal or relocation shall be paid by Grantee; however, in the event that the removal, relocation, change or alteration is needed to accommodate private development or other private use of the Right-of-Way, the developer or other private party requiring the action shall be responsible for the cost of removal, relocation, change or alteration. Construction of public improvements by a private party within the Right-of-Way as a condition of City approval shall be considered installation of public improvements of the City if the improvement is not needed to provide service to the private party. In the event of a dispute as to whether the removal, relocation, change or alteration is a public improvement or accommodates private development, the dispute shall be referred to the City Administrator, whose decision shall be final and binding.

Section 12. Compensation.

- (1) As compensation for the franchise granted by this ordinance, the Grantee shall pay to the City an amount equal to three percent (3%) of the gross revenue collected by the Grantee from its customers for gas consumed within the City. "Gross Revenues" means revenues received from the use of the Gas Utility System within the City Limits less related net uncollectibles. Gross revenues shall include revenues from the use, rental, or lease of the Gas Facilities, except when those revenues have been paid to Grantee by another franchisee of the City and the paid revenues are used in the calculation of the franchise fee for the operations of the other franchisee within the City Limits. Gross revenues shall not include revenues derived from the sale and transportation of gas supplied under an interruptible tariff schedule and revenues paid directly by the United States of America or any of its agencies. Gross revenues shall not include proceeds from the sale of bonds, mortgage, or other evidence of indebtedness, securities or stocks, or sales at wholesale by Grantee to any public utility or public agency when the public utility or public agency

purchasing the gas is not the ultimate customer. Gross Revenues will also not include public purpose charges, provided that such charges or surcharges are required or authorized by federal or state statute, administrative rule, or by tariff approved by the OPUC and raise revenue used solely for a public purpose and not to compensate Grantee for the sale or use of natural gas or for the use, rental, or lease of Grantee's Gas Facilities in the City.

- (2) The City shall retain the right, as permitted by Oregon Law, to charge a privilege tax in addition to the franchise fee set forth herein based on the Gross Revenues of the company, payable on the same terms and conditions as the franchise fee itself.
- (3) The compensation required by this section shall be due for each calendar year, or fraction thereof, within thirty (30) days after the close of such calendar year, or fraction thereof. Within thirty (30) days after the termination of this franchise, compensation shall be paid for the period elapsing since the close of the last calendar year for which compensation has been paid.
- (4) Grantee shall furnish to the City Finance Director with each payment of compensation required by this section a written statement, showing the amount of Gross Revenue of the Grantee within the City for the period covered by the payment computed on the basis set out in subsection (1) of this section. If Grantee fails to pay the entire amount of compensation due the City through error or otherwise, the difference due to City shall be paid by the Grantee within fifteen (15) days from discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise, shall be offset against the next payment due from Grantee.
- (5) Acceptance by the City of any payment due under this section shall not be deemed to be a waiver by the City of any breach of this franchise occurring prior to the acceptance, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City.

Section 13. Book of Account and Reports.

On an annual basis, upon thirty (30) days prior written notice, the City or its agent shall have the right to conduct an audit or review of Grantee's records reasonably related to the administration or enforcement of this ordinance. All amounts of Franchise Fees paid by Grantee shall be subject to audit or financial

review by the City, provided that only payments that occurred or should have occurred during a period of thirty-six (36) months prior to the date the City notifies the Grantee of its intent to perform an audit or financial review. If an audit or review of the records determines that franchise fees have been underpaid by more than 5% of the amount that should have been paid, Grantee shall reimburse the City for the total cost of the audit or review within thirty (30) days of City's written demand for same. All amounts underpaid shall accrue interest at the statutory rate from the effective date of the underpayment.

Section 14. Classification of Fees.

The City Council determines that any fees imposed by this franchise are not taxes subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution.

Section 15. As-Built Drawings.

Subject to the confidentiality limitations of this section, Grantee shall make available to City at an office in Oregon within 100 miles of Woodburn, available maps of the location of its Gas Facilities and operational data requested by the City. The Grantee shall also make available as-built plans for those portions of the system that are added to or modified during the year. These records are submitted in confidence, and the City will keep those records in confidence and not allow others to view or copy them. The City agrees to keep the documents confidential and to take the position that they are exempt from public disclosure. The City shall limit access to the as-built drawings to City employees or City contractors with a need to know where the Grantee's Gas Facilities are located and shall review the as-built drawings only as necessary to plan City projects, coordinate the use of the Right-of-Way, and to protect the public health and safety.

Section 16. Indemnification.

Grantee shall indemnify and save harmless the City and its officers, agents and employees from any and all loss, cost and expense arising from damage to property and/or injury to, or death of, persons due to any wrongful or negligent act or omission of Grantee, its agents or employees in exercising the rights, privileges and franchise hereby granted.

Section 17. Sale or Assignment of Franchise.

Grantee shall not during the term of this Franchise sell, assign, transfer or convey this franchise without first obtaining the consent of the City Council, by ordinance, which consent shall not be unreasonably withheld. All of the

provisions of this ordinance shall inure to and bind the successors and assigns of the Grantee. Whenever Northwest Natural shall be mentioned in this ordinance, it shall be understood to include such successors or assigns in interest of Northwest Natural as shall have been so consented to by the City Council.

Section 18. Termination of Franchise for Cause.

The City may terminate this franchise as provided in this Section, subject to Grantee's right to a court review of the reasonableness of such action, upon the willful failure of the Grantee to perform promptly and completely each and every material term, condition or obligation imposed upon it under or pursuant to this ordinance. The City shall provide the Grantee written notice of any such failure and the Grantee shall have sixty (60) days from receipt of notice to cure such failure, or if such failure cannot reasonably be cured within sixty (60) days, to commence and diligently pursue curing such failure.

Section 19. Renegotiation of the Franchise.

If the State of Oregon or the PUC amends or adopts a state statute or administrative rule that would affect a term, condition, right or obligation under this agreement, either party may reopen the franchise agreement at any time with regard to such term, conditions, right or obligation in order to address the change required or allowed by the new or amended state statute or administrative rule.

Section 20. Remedies Not Exclusive, When Requirement Waived.

All remedies and penalties under this ordinance, including termination of the franchise, are cumulative, and the recovery or enforcement of one is not a bar to the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this ordinance, including termination of the franchise, are not exclusive and the City reserves the right to enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this ordinance. A specific waiver of a particular breach of any term, condition or obligation imposed upon Grantee by or pursuant to this ordinance shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation, or a waiver of the term, condition or obligation itself.

Section 21. Acceptance.

The Grantee shall, within thirty (30) days from the date this ordinance takes effect, file with the City its written unconditional acceptance of this franchise,

and if the Grantee fails to do so, this ordinance shall be void.

Section 22. Prior Ordinance Repealed.

Ordinance 2376 is hereby repealed.

Section 23. Emergency Clause.

This ordinance being necessary for the immediate preservation of the public peace, health and safety, so that franchised natural gas utility system service can continue, an emergency is declared to exist and this ordinance shall take effect immediately upon passage by the Council and approval by the Mayor, and shall be valid for a term of franchise as stated in Section 4 and provided that Grantee files its acceptance as stated in Section 21.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____
Submitted to the Mayor _____
Approved by the Mayor _____
Filed in the Office of the Recorder _____

ATTEST: _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

ACCEPTANCE

City of Woodburn
Attn: City Administrator
270 Montgomery St.
Woodburn, OR 97071

This is to advise the City of Woodburn, Oregon (the "City") that Northwest Natural Gas Company (the "Grantee") hereby accepts the terms and provisions of Ordinance No. _____ passed by the Woodburn City Council on _____ (the "Franchise") granting a Franchise for ten (10) years to Grantee. The Grantee agrees to abide by each and every term of the Franchise, and shall become effective upon acceptance of said agreement by NW Natural Gas Company (the "Grantee").

(Name)
BY _____

Vice President & Corporate Secretary
TITLE _____ Legal, Risk & Compliance _____

DATE _____

This Acceptance was received by the City of Woodburn on _____, 2014.

City Recorder