

# LOCAL FOCUS

A Publication of the League of Oregon Cities



JUNE 2010

## IN THIS ISSUE

2011 Legislative Survey

Lead Safety Rule Takes Effect

Elections & Bond Financing

Public Contracting Basics

## SOCIAL MEDIA

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# LOCAL FOCUS

JUNE 2010

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## AT THE LEAGUE

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### City Input Needed For 2011 Legislative Agenda

The League's eight policy committees have completed their work in identifying issues that need to be addressed during the 2011 legislative session. These proposed legislative priorities, complete with a ballot and background explanations, have been mailed to every city in Oregon.

City participation in this important biennial process is crucial to the success of the League's advocacy effort. Cities have until July 9 to officially determine which four issues are the most important. The four choices should be the most

critical; not necessarily ranked one through four. The LOC Board will review these results to determine the priority issues for the 2011 legislative session.

**All ballots are due to the League's office no later than 5:00 p.m. on Friday, July 9.** The LOC Board will meet July 23 to adopt the 2011 legislative priorities.

Please contact Craig Honeyman, LOC Legislative Director ([choneyman@orcities.org](mailto:choneyman@orcities.org)), with any questions. ■



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## Revenue Forecast Sparks Budget Cut Request

The Interim House Revenue Committee, chaired by Representative Phil Barnhart (D-Eugene), and the Interim Senate Finance and Revenue Committee, chaired by Senator Ginny Burdick (D-Portland), met jointly this week to receive the June 2010 Oregon Economic Revenue Forecast presented by State Economist Tom Potiowsky of the Office of Economic Analysis (OEA). Despite clear signs of economic growth in the state, the General Fund Revenue forecast was down a surprising \$525.6 million from the previous forecast, and \$891 million from the close of session forecast, leaving a projected ending balance for the current biennium of negative \$577.1 million.

Immediately following Mr. Potiowsky's presentation, Governor Ted Kulongoski announced his intention to exercise his allotment authority and request across-the-board agency budget reductions of nine percent for the final 12 months of the 2009-2011 biennium. Both the governor and Senate President Peter Courtney (D-Salem) expressed reticence at convening a special session as there is no new revenue available to address the deficit. However, with the preliminary agency cut list expected within two weeks, House Speaker Dave Hunt (D-Gladstone) indicated the Legislature will assess the true impact of the allotment cuts to state services and gauge what steps may be warranted. There are \$175 million in reserves which could be used to rebalance the budget when the Legislature convenes in February 2011.

The consequences of this announcement and any resultant actions for cities was not known at press time, but once the cut list is made public, the League will analyze repercussions and report back to the cities. Please consult the weekly *LOC Bulletin* for the latest information.

The drop in projected revenue in the June forecast was due in great measure to weaker than expected personal income

tax receipts. Payments through April are down 16.4 percent from a year ago, with a precipitous drop off shown in just the past few weeks. Additionally, income tax refunds exceeded expectations for the 2009 tax year. Dramatically impacting tax revenue for the state was an 80 percent decline in capital gains income since 2008, due to decreased stock transactions in the poor national economy.

While corporate income taxes declined slightly during the first quarter of the year, they have increased \$19.8 million overall since the close of the 2009 legislative session. Ironically, this increase provides the possibility of a corporate kicker refund for 2011. Lottery revenue is continuing to stabilize in the wake of a \$5.6 million increase since the March forecast.

Despite the need for further state agency cuts, the May forecast shows indications that a recovery is well underway. Job numbers for April showed the first growth since late 2007 and state exports increased 41.2 percent during the first quarter compared to the previous year, bringing them close to their pre-recession peak. Mr. Potiowsky reiterated the consensus that the recession, although technically over, will be followed by a recovery that is slow.

There are two serious threats jeopardizing state recovery. One is the growing recognition that while job growth is occurring, it is too weak to support pulling the state fully out of the doldrums. Pre-recession employment numbers in Oregon are not expected until at least 2013. The other threat to recovery continues to be the volatility of the state's tax system and its reliance on income tax revenues. That led Senator Burdick to conclude in her remarks that it is "time to stop doing this to ourselves" and that it is "time for reform" of the state tax system. ■



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## EPA's New Lead Safety Rule Now in Effect

**L**ead is a toxic metal used for many years in products found in and around homes and work places. Children six years old and under are most at risk from the health effects that lead may cause, from behavioral problems and learning disabilities to seizures and death.

To protect against this risk, the U.S. Environmental Protection Agency (EPA) issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Beginning in April 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination.

Under this rule, a child-occupied facility is a building, or a portion of a building:

- Constructed prior to 1978;
- Visited regularly by the same child, less than six years of age, on at least two different days within any week, where each day's visit lasts at least three hours; and
- The combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours.

As of April 22, 2010, federal law requires that contractors or facility staff performing renovation, repair and painting projects that disturb more than six square feet of paint in homes, rental units, after school youth care facilities, summer programs, child care facilities and schools built before 1978 be certified and trained to follow specific work practices to prevent lead contamination. While cities may not have many buildings that meet these criteria, it's important that the building usage be evaluated to determine if new practices are needed in any city-owned facilities.

### Requirements

**Training:** If facility staff members are going to repair, renovate or paint in buildings designated above, they must attend an EPA-accredited eight-hour course to become a certified renovator. For a list of certified trainers go to: [www.oregon.gov/CCB/lead-based-paint.shtml](http://www.oregon.gov/CCB/lead-based-paint.shtml).

**Notice:** You must provide a copy of the EPA pamphlet "Renovate Right: Important Lead Hazard Information for Families, Childcare Providers and Schools" to parents of children. You must also post signs with the start and end dates and where to obtain the pamphlet.

**Isolate:** The work area must be contained and dust must not be able to migrate.

**Clean:** All surfaces must be cleaned using a clean verification card or dust sampling.

### Recommendation

CityCounty Insurance Services (CIS) recommends the following:

- Review your city's buildings to determine if any of them meet the criteria above.
- Have a member of your facility staff be formally trained in EPA Lead Removal requirements. Please contact John Zakariassen at [jzakariassen@cisoregon.org](mailto:jzakariassen@cisoregon.org) if you would like to be informed of upcoming training opportunities.
- Ensure all renovation contractors are EPA-certified.

**On the Web:** For additional information, see the EPA brochure: [www.epa.gov/lead/pubs/renovation.htm](http://www.epa.gov/lead/pubs/renovation.htm). ■

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## FROM THE EXECUTIVE DIRECTOR

### Mike McCauley

■ ■ ■

### Bitter or Better

As the BP oil spill washed up on the shoreline, a restaurant owner on the Gulf Coast was interviewed about the addition he was putting on his restaurant. He told the interviewer that he had two choices. He could either “get bitter or get better.” He had chosen to get better.

This struck me as a very inspirational example of the adages about being able to choose your attitude even if you can’t control what has happened to you. While confessing to having perhaps spent more time on the bitter in responding to legislation or measures that have preempted local authority or imposed mandates, especially the unfunded ones, the restaurant owner’s approach might serve me better.

City councils in Oregon must be populated with mayors, councilors and commissioners who have decided to make their cities and state better and not dwell on what doesn’t work. Without enumerating all of the challenges facing Oregon’s cities—the economy, the strictures of Measures 5/50, and limitations on revenue-raising and decision-making—there are more than enough outside influences and impacts that could deter service on city councils or efforts to improve communities. Yet, everyday city councils are undertaking projects, balancing difficult budgets and continuing to serve their communities. This reflects a quote from Henry Ford: “Whether you think you can or think you can’t, you are right.”

As we prepare for the 2011 Legislature, let us work to make it better. ■

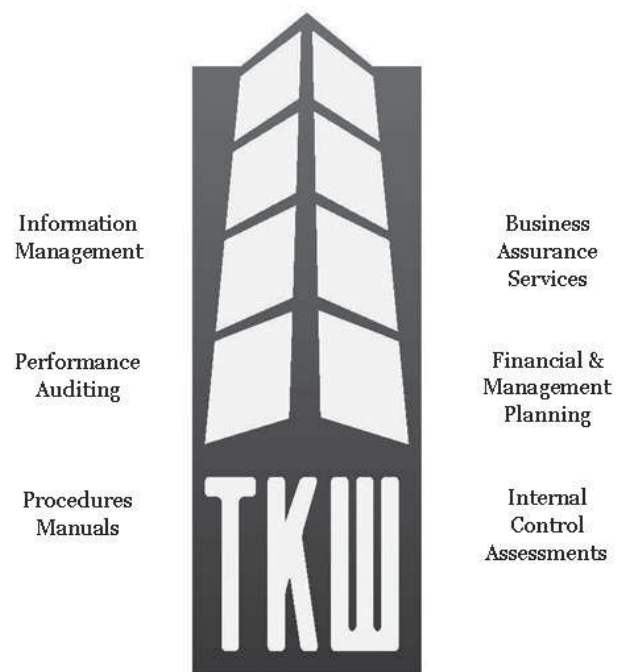
### 2011 Legislative Survey

By filling out this survey, cities can advise the League in priority issues for the 2011 legislative session. Deadline is July 16.

On the Web: [www.orcities.org](http://www.orcities.org) ■

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## Join Us in Eugene!

Eugene in the fall is a beautiful place for the League of Oregon Cities Annual Conference. We extend a warm invitation and eagerly look forward to your visit. I know our cities are experiencing some tough times right now and this will be an opportunity to learn valuable information that can help us help our communities move out of this recession. If you have never come before to an LOC conference, make a point to join us this year. We have a lot to do together.

— Mayor Kitty Piercy

## Early Bird Discount Available for LOC Conference

The League will be offering a discounted rate of \$265 (regular price \$295) as an **early bird special** to our members who register for the LOC conference between June 28 and July 31. This is the same rate as that given to first-time attendees. We hope this early bird special rate will make it possible for more of our members to attend our 85th Annual Conference, taking place September 23-25 in Eugene. Visit our Web site, [www.orcities.org](http://www.orcities.org), in late June for registration information. ■



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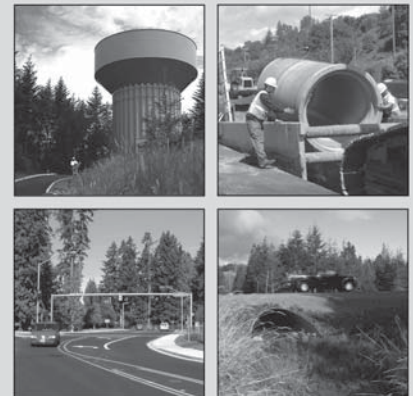
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## Preliminary Program

### THURSDAY, SEPTEMBER 23

- 8:45 a.m. – 11:45 a.m. Managers Workshop  
9:30 a.m. – 11:45 a.m. Councilors and Mayors Workshops  
12:30 p.m. – 4:00 p.m. Eugene Area Tours  
6:00 p.m. – 8:30 p.m. Welcome Reception with Trade Show

### FRIDAY, SEPTEMBER 24

- 7:30 a.m. – 9:00 a.m. Breakfast with Trade Show  
7:30 a.m. – 9:00 a.m. Visit with State Agency Directors  
7:30 a.m. – 9:00 a.m. LOC Nominating Committee Meeting  
9:00 a.m. – 10:30 a.m. Opening Ceremonies/General Session  
9:00 a.m. – 5:00 p.m. OCAA Legal Issues Workshop  
10:00 a.m. – 4:00 p.m. U.S. Congressional Offices  
10:45 a.m. – 12:15 p.m. Concurrent Sessions
- *Public/Private Partnerships*
  - *Leadership in Turbulent Times*
  - *Social Media 101*
  - *Show Me the Money*
- 12:30 p.m. – 2:00 p.m. Lunch with Trade Show  
2:15 p.m. – 3:45 p.m. Concurrent Sessions
- *Updating Your City's Comprehensive Plan*
  - *Domestic & Sexual Violence: What City Officials Should Know*
  - *Small Business Support*
  - *Emerging Technologies: Part 1*
  - *Public Outreach: Getting Citizens Involved*
- 4:00 p.m. – 5:30 p.m. Concurrent Sessions
- *Telecommunications*
  - *Media Relations*
  - *Emerging Technologies: Part 2*
  - *Urban Renewal*
- 5:30 p.m. – 6:30 p.m. CIS Reception and Safety Awards  
Dinner on your own

### SATURDAY, SEPTEMBER 25

- 8:00 a.m. – 10:30 a.m. Breakfast, Annual Membership Meeting  
10:00 a.m. – 2:30 p.m. U.S. Congressional Offices  
10:45 a.m. – 12:15 p.m. Concurrent Sessions
- *The "Oregon Solutions" Approach for Collaboration*
  - *Civility: Integrating Angry People*
  - *Sustainability: An Economic Development Tool*
  - *Maximize Your Dollars: Community Partnerships*
- 12:30 p.m. – 2:00 p.m. Awards Luncheon and Gubernatorial Forum  
2:15 p.m. – 3:45 p.m. Concurrent Sessions
- *Enterprise Zones*
  - *Accreditation: A Law Enforcement Risk Management Tool*
  - *Finance & Budgeting in Tough Economic Times*
  - *Sustainable Cities Initiative*
  - *National Health Care*
- 4:00 p.m. – 5:30 p.m. Small Cities Networking Reception  
6:30 p.m. – 10:00 p.m. Awards Banquet

## Conference Information on LOC Web Site

Check out the conference page on the League's Web Site for information on: lodging, program updates, speakers, tours and more.

To access the page, go to the LOC home page ([www.orecities.org](http://www.orecities.org)) and click on the "conference" link on the main menu. ■



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## 2010 LOC Awards Program

The League encourages cities to submit nominations for one or more of the following awards, sponsored by the LOC and presented during its annual conference.

### City Awards:

**Award for Excellence** . . . given to cities for their innovative approaches to city operations and provision of services to their citizens. Special consideration is given to programs that reduce the cost of government, improve the quality of life, and/or increase the quality of municipal services.

**Good Governance Award** . . . Similar to the Award for Excellence, this award honors city programs that specifically encourage “reconnecting” citizens to their community. Judges consider whether the program successfully engages citizens in the local government process, enhances the citizens’ awareness of the decision-making process at the local level, and/or fosters local leadership through hands-on education, planning efforts or volunteerism.

Submission Deadline: **August 4**

### Exceptional Service Awards:

**James C. Richards Memorial Award** . . . recognizes an elected official who has shown exceptional leadership and contributions to his/her city, regional government, the League, and state and federal government.

**Herman Kehrli Award** . . . granted to a person who is currently or formerly appointed or employed by a city whose exceptional contributions to city government in Oregon have provided lasting benefits to the community.

**Mark O. Hatfield Statesmanship Award** . . . presented to an individual (from the public or private sector) who has demonstrated statesmanship and exemplary service which has positively affected Oregonians.

**Civic Education Award** . . . recognizes educators who have promoted local government education in Oregon schools and who are committed to nurturing civic responsibility in our youth.

Submission Deadline: **August 13**

### Award Winners

Winners of all LOC awards will receive:

- Recognition during the LOC Annual Conference in September;
- A framed certificate; and
- A spotlight in the post-conference issue of the *Local Focus* newsletter.

In addition, the names of the winners of the Richards, Kehrli, and Hatfield awards will be added to newly-redesigned perpetual plaques that are displayed in the League office.

### How to Apply

Informational brochures, including the required entry forms, have been mailed to mayors and city administration offices, and is also available on the LOC Web site: [www.orcities.org](http://www.orcities.org) (click on Conference).

Questions? Contact Kim Bentley at (503) 588-6566 or [kbentley@orcities.org](mailto:kbentley@orcities.org).

## CIS to Recognize Safe Cities

CityCounty Insurance Services (CIS) and the League will again team up to sponsor the annual Employee Safety & Wellness Awards Program for Oregon cities. This program was initiated 37 years ago to stimulate cities’ interest and participation in loss prevention programs by providing recognition to cities with low accident frequency rates. City applicants are divided into categories according to the number of regular employees and full-time equivalent of volunteer hours.

Watch for your application materials this summer. Awards will be presented at the CIS Reception during the League’s annual conference in September.

## Conference Volunteers Needed

The League is looking for volunteers to assist our staff during the 85th Annual LOC Conference, to be held in Eugene in September. Conference assistants are assigned to help in various capacities including: the registration desk; staffing sessions, the trade show and other events; recording meeting minutes; distributing handouts; collecting tickets; and various other duties.

In return, the League provides all on-site meals and lodging (travel and incidentals are not included), and waives the assistant's conference registration fee. The schedule often allows assistants to attend conference sessions of interest to them.

All city officials, elected or appointed, are welcome to apply. However, preference will be given to those individuals who would otherwise be unable to attend the conference or who have never attended an LOC conference in the past.

If you would like to volunteer as an assistant for the 2010 annual conference, please fax, mail or e-mail the information below to Kim Bentley at the League office. ■

### *Testimony from one of last year's volunteers:*

*I want to thank you for the opportunity to be an assistant. It was such a pleasure to work with everyone at the [information] tables. Everyone was so pleasant and treated me as one of the team. The staff...always had a ready smile and were willing to answer any questions.*

*Please forward my thanks on to the great ladies and gentlemen that helped out and made the experience such a memorable and positive one. I hope I'll get to help out again in the future.*

— Suzan Turley, City Councilor, King City  
2009 LOC Conference Volunteer

**Yes, I would like to volunteer to serve as a Conference Assistant  
for the September 2010 Conference!**

Name: \_\_\_\_\_

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

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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Please submit the information above by **June 19**  
to the LOC office, Attn. Kim Bentley:

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Questions? Contact Kim at the e-mail above or (800) 452-0338.



## Applications Sought for LOC Board of Directors

Continuing the quality programs provided by LOC depends on the involvement of city leaders. One avenue for involvement is service on the LOC Board of Directors.

During this year's annual conference, LOC members will elect four directors at large and a treasurer to the LOC Board for 2011. The treasurer position leads to the office of LOC President. According to the LOC Bylaws, the treasurer position and three of the director positions shall be filled by an **elected** city official. One of the four director positions shall be filled by a city management employee, for which the Nominating Committee will consider the recommendation of the Oregon City/County Management Association.

The League's five-member Nominating Committee recommends candidates for open positions. During the annual business meeting the entire membership will receive the recommendations of the Nominating Committee and make the final decision.

### How to Apply

If you or another elected official from your city are interested in running for the LOC Board, complete the application form on the LOC Web site (on the Board of Directors page, under "About Us"), or send a note or e-mail message to Office Manager Kim Bentley ([kbentley@orcities.org](mailto:kbentley@orcities.org)) to receive a hard copy application. Completed forms are due to the League office by **Friday, August 27**. Applicants will be invited to make a presentation to the Nominating Committee during the annual conference.

Serving on the LOC Board is both an honor and a responsibility. The Board has the final say on League policies, both in terms of legislative items and in programs and services. Your involvement will help the League reflect the values you and your citizens have in making cities a better place to live.

If you have any questions about the responsibilities of Board service, please contact any current member of the Board (see back cover). ■

## LOC's Oregon Local Leadership Institute (O.L.L.I.)

### UPCOMING CLASSES

(Visit [www.orcities.org/training](http://www.orcities.org/training) for a full schedule.)

#### Keys to Managing & Oversight of Police & Fire Services

La Grande June 16

#### Oregon Public Contracting/ Purchasing Laws

Medford June 11

La Grande June 15

#### Managing Scope Schedule & Budget

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## Small Cities Support Network

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**For more information:** Contact Mandy Allen, Small Cities Support Network Coordinator, at [mallen@orcities.org](mailto:mallen@orcities.org) or (503) 588-6550. ■

### Schedule of Upcoming Meetings

**Time:** 11:00 a.m. to 1:00 p.m.

- Region 1:** TBD – Garibaldi
- Region 2:** TBD – Mt. Angel
- Region 3:** TBD – Harrisburg
- Region 4:** TBD – Bandon
- Region 5:** June 23 – Sutherlin
- Region 6:** June 24 – Maupin
- Region 7:** July 21 – Union
- Region 8:** July 22 – Burns

For the latest meeting details, please visit [www.orcities.org/smallcities](http://www.orcities.org/smallcities).

## League of Oregon Cities Capital Access Program (LOCAP) Rates

### Representative LOCAP Rates as of Mid-Month

	May-09	Aug-09	Nov-09	Feb-10	May-10
Maturity	Rate	Rate	Rate	Rate	Rate
1-year	1.95%	1.90%	1.85%	1.75%	1.86%
5-year	3.80	3.75	3.85	3.25	3.50
10-year	4.75	4.90	4.85	4.65	4.70
15-year	5.45	5.45	5.25	5.10	5.10
20-year	5.90	5.95	5.65	5.55	5.50

Applications and background information on LOCAP is available on the League's Web site at: [www.orcities.org](http://www.orcities.org); click on Services, then LOCAP.

For additional information on LOCAP, contact Katie Schwab at Wedbush Morgan Securities: (503) 471-6798 or [Katie.Schwab@Wedbush.com](mailto:Katie.Schwab@Wedbush.com). ■

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## SOCIAL BUTTERFLY:

### How Portland's Water Bureau Found its Way into Social Media

*By Jennie Day-Burget Public Information Officer, Portland Water Bureau*

When I assumed my current position with the city of Portland in 2007, social media had only recently become a small part of my private world...little did I know how quickly it would penetrate my work world in a very large way. However, here I am, nearly three years later, blogging, Tweeting and Facebooking nearly every day of the week on behalf of Oregon's largest water utility.

#### What is Social Media?

Social media is most easily described as millions and millions of online conversations and interactions happening every second of every day across the globe. It is the online intersection of technology and real life. Social media is manifested in a variety of different ways: through social networks like Facebook or LinkedIn, news aggregators like Digg and virtual worlds like Second Life—to name just a few.

Social media is a revolution in the way people think and interact; instantly and online.

It represents a major shift in the way people intake information and expect to find information.

Social media is an opportunity. For the Portland Water Bureau and possibly for other cities in Oregon.

#### Our Story

In 2005, the Portland Water Bureau partook in Hurricane Katrina clean-up. The bureau's Commissioner-in-Charge, Randy Leonard, asked staff to begin the Water Blog as a means to keep Portlanders in touch with relief efforts. His hope was that providing an online forum that allowed an exchange in dialogue between staff and the public would keep workers' families and friends and rate payers in the loop.

Our abrupt entrance into the world of social media was successful and strong. The Water Blog was instantly popular with rate payers and employees alike, who responded so well that the blog quickly became a permanent fixture in the bureau's communications toolbox.

#### Facebook, Twitter, etc.

In late 2007, I was excited to inherit the Water Blog as a daily duty...at that time, the term social media wasn't the beast that it is today, but ever yet, I was playing on the social media playground whether I realized it or not. When it became apparent that the buzz word social media was not going away, having a pre-established social media presence in the Water Blog made a new venture into this world a very natural progression for us.

We didn't embark into the unknown social media jungle with abandon, however. I spent several months trying to make social media navigable for us. I began researching these new tools, but at that time, found this to be nearly impossible:

there simply were not yet case studies or best practices. There certainly were not yet internal policy templates. As such, I decided to practice on my own before I played for the Water Bureau. I joined Twitter and YouTube. I continued to play around in Facebook and started my

“Those who don't set up shop on social media sites risk finding themselves irrelevant to the communities they serve.”

own Flickr account. I learned the language and culture of all these sites.

When I finally felt confident that I could responsibly lead the bureau's communications efforts into an effective social media campaign, I started to Tweet. Shortly thereafter, I began a Facebook fan page.

What happened was more than I could have expected. First, Water Blog readership skyrocketed from the new exposure. We also quickly grew a brand new social media-based following of more than 2,000 people eager to interact with us, and much to my surprise, media began picking up stories, having seen their postings on Facebook or Twitter. Our news became truly relevant to rate payers and the media because it was more accessible than ever before.

Since the inception of Facebook and Twitter, I started a Flickr photo library which gets heavy traffic from media, rate payers and employees, all who are searching for just the right photo and are usually able to find it and download it right to their desktop. We also posted our first video on our

*(continued on next page)*



revamped YouTube channel. It got more than 100 views the first hour it was posted, and was pulled straight off of YouTube on to several news sites. Our job in getting this information out couldn't have been any easier.

As a bureau, we also created a social media usage policy and procedure which outlines *who* can use social media on behalf of the bureau and *how* it should be used. It clearly defines best practices and covers public records retention and human resources issues. Policy planning is always a tedious process and this was no exception, but it is certainly a necessity.

## The Time Has Come

Raise your hand if you're reading this and thinking something like, "Oh great. There goes someone else talking about that pesky social media!" If that's you, let me break this to you the easy way; how *you* feel about social media is becoming increasingly irrelevant. Sorry. Social media is, without doubt, a revolution in the way our society communicates and thus a revolution in what our public expects from us. And, if like the Portland Water Bureau, you're trying to connect with the public, the time has come for you to get on board.

## Why?

As stated at the beginning of this article: social media is an opportunity for you. Here's why.

Social media gives government entities the ability to provide customer service like never before. Through its various platforms, government entities can leverage social media to do such things as:

- Create buzz about information or activities that traditional media sources might overlook;
- Provide real time updates on emergency situations;
- Create a friendly, interactive "face" for our workplaces which are oftentimes seen as unapproachable or "too bureaucratic;"
- Promote our brand and key messages without relying on expensive traditional advertising or media campaigns;
- Create one more layer of transparency to our actions by interacting in publicly moderated platforms; and
- Reach out to new and different demographics and engage these people in conversations about our programs, events and daily activities.

Establishing a presence in social media forums is a mandatory part of the future. As these platforms become increasingly popular, those who don't set up shop on social media sites risk finding themselves irrelevant to the communities they serve. And, if your city is anything like the Portland Water Bureau, relevance is not something you can afford to risk.

If your city hasn't tried out social media yet, I recommend that you start your research. Figure out which tools might work best for your city and then play around with them on your personal time. Once you get the hang of it (and anyone

can), I am confident that you'll begin to better understand social media culture. (And you might even enjoy yourself!)

**On the Web:** University of Pennsylvania Article: "Making the Most of Social Media: 7 Lessons from Successful Cities" at [https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/PP3\\_SocialMedia.pdf](https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/PP3_SocialMedia.pdf)

**Editor's Note:** Ms. Day-Burget is the Public Information Officer for the Portland Water Bureau. ■

## Sample of OREGON MUNICIPALITIES Using Social Media

Newberg City Council  
Hillsboro Water Department  
City of Bend  
City of Albany  
City of Gresham

## Social Media FACTS:

- If Facebook were a country, it would be the world's third largest ahead of the United States and only behind China and India.
- People spend over 500 billion minutes per month on Facebook.
- Facebook tops Google for weekly traffic in the U.S.
- Social media has overtaken porn as the #1 activity on the Web.
- One out of eight couples married in the U.S. last year met via social media.
- Years to reach 50 million users:
  - Radio – 38 years
  - TV – 13 years
  - Internet – 4 years
  - iPod – 3 years
  - Facebook added over 200 million users in less than a year.
- The fastest growing segment on Facebook is 55-65 year-old females.
- While you are reading this article, 100+ hours of video will be uploaded to YouTube.
- If you were paid a \$1 for every time an article was posted on Wikipedia, you would earn \$1,712.32 per hour.



## EVERYTHING'S A-TWITTER

By Ronald G. Guerra

Facebook, MySpace, YouTube, LinkedIn, Flickr and Twitter—regardless of the name, social media is here to stay, presenting unique opportunities and risks in the employment setting. At all stages of the employment life cycle—recruitment, selection, advancement, separation—the use and misuse of social media must be addressed if employer liability is to be avoided.

The indiscriminate use of social media and the ease and the speed with which information may be shared or uploaded via the Internet or over a third-party provider's system lead to the possibility that employees may damage the employer's reputation, disclose confidential or proprietary information, create a hostile work environment or make defamatory statements. Municipalities are particularly susceptible to such problems if they don't understand the potential consequences and consider appropriate policies.

How can a balance be achieved between protecting a municipality while still recognizing privacy concerns? Consider the present case pending before the United States Supreme Court, *Ontario v. Quon*.

In *Quon*, the Ninth Circuit Court of Appeals held that the city of Ontario (California) police department violated a SWAT officer's reasonable expectation of privacy by reviewing the content of his sexually explicit text messages, even though (1) the messages had been sent with a department-issued pager through a service provider under contract with the department, and (2) the department's formal policy informed all SWAT officers that the department might review their text messages. The city of Ontario has incurred significant monetary expenses in defending this case.

In addition, consider a sitting judge who found herself in hot water for postings made from her courtroom computer. Judge Shirley Strickland Saffold of the Cuyahoga County, Ohio, Common Pleas Court, is attempting to refute claims that she posted anonymous, snarky comments about some of her own cases to the local newspaper Web site. Unfortunately, the judge was outed by the newspaper, which had obtained public records showing the browsing history of her courtroom computer. As a result, the Ohio Supreme Court has removed her from cases to avoid "even the appearance of bias, prejudice or impropriety." Why the concern? It is because of what the judge allegedly posted: using the pseudonym "lawmiss," she called a defense lawyer a "buffoon" and wrote, "If only he could shut his Amos and Andy style mouth." In a triple-murder case "lawmiss" wrote, "If a black

guy had massacred five people then he would've received the death penalty...A white guy does it and he gets [a] pat on the hand. The jury didn't care about the victims...All of them ought to be ashamed." Not favorable comments at anytime but especially alarming coming from someone whose duty it is to administer justice.

So what should municipalities do?

1. Take inventory of all the social media sites, equipment and software that the municipality uses in all areas of its operations. Don't overlook individual department Web sites or blogs. Be sure to consider who is monitoring the municipality's social media sites to ensure compliance with wage and hour laws.
2. Evaluate and analyze present technology or communication system policies to determine the scope of coverage of monitoring, usage, removal of inappropriate content and disciplinary sanctions for violation. Modify as necessary.
3. Clearly describe and publish to employees prohibited uses of the municipality's electronic systems and potential disciplinary sanctions.
4. Address the use of personal, password-protected, Internet-based e-mail accounts via the municipality's electronic systems and let employees know whether they have any expectation of privacy with such communications.
5. Articulate the municipality's legitimate business reasons for restricting and monitoring employee's personal Internet or other social media usage.
6. Require all employees and new hires to sign an acknowledgement that they have received and understand the municipality's policy. Conduct periodic training to ensure employee compliance.
7. Don't overlook the public records-retention requirements for social media.

Although managing social media may seem daunting, it really isn't any different from other concerns engendered by the progression of technology; it just moves a little faster. Take the time to understand the use and the risks, and then manage such risks to minimize liability.

**Editor's Note:** Ronald G. Guerra is a trial lawyer with Jordan Schrader Ramis PC: [ron.guerra@jordanschrader.com](mailto:ron.guerra@jordanschrader.com). ■

# SOCIAL MEDIA, PUBLIC RECORDS, MEETINGS AND FREE SPEECH

By Alexandra Sosnkowski

The use of social media raises many important legal issues, three of which are addressed in this article:

- (1) Public records—the information posted and comments received on or via social media sites are likely public records subject to retention and disclosure;
- (2) Public meetings—it is much easier to inadvertently “hold a meeting” using social media than using email; and
- (3) Free speech—should public comment be allowed, and if so, what can be done to regulate its content?

This article will briefly address these three issues and provide some recommendations for avoiding legal trouble.

## Public Records

It is tempting to overlook the Oregon Public Records Law when it takes only seconds to send a Tweet or a few minutes to post something on Facebook or a blog. Despite the ease of getting the information out, a record of the information must be kept when it relates to the conduct of the public's business because that information is a public record. Thus, all city employees and officials must be aware that every piece of information posted or sent to or via a city-sponsored social media Web site is potentially subject to retention and disclosure under the Oregon Public Records Law.

So, what should a city do when considering the use of social media tools? The most important step to take is to make sure that public records are addressed in the city's written policy addressing the use of social media (yes, a written policy addressing the use of social media is a very good idea). Both the city's legal and IT personnel should be involved in crafting the policy to determine when public records are created and how they will be retained. Also, consideration should be given to whether to simply duplicate existing records so that no new records are created for retention purposes. If public comments are allowed, the comments will generate public records, so it is also a good idea to require the use of a warning stating that any comments posted are subject to the Public Records Law.

## Public Meetings

Social media is a type of technology that allows simultaneous and near-simultaneous communication to occur. Therefore, it has become even easier than using e-mail to inadvertently hold a public meeting when communicating using social media. Some courts in other states have

determined that a public meeting occurs when a quorum communicates via serial communications. Given the broad mandate behind the Public Meetings Law to conduct government business in the “sunshine” and recent efforts to increase government transparency at both the federal and state levels, the Oregon Legislature or courts will not be far behind. Therefore, public officials will need to be even more mindful when communicating electronically via social media and take care that inadvertent quorums discussing or deciding city business are not created.

It may be possible to hold a public meeting using social media, but while the technology may be there, conducting a public meeting in cyberspace alone will not meet the requirements of the Public Meetings Law because many individuals do not have access to computers or the Internet to receive notice or participate. Consequently, a social media policy should not permit a quorum of governing body public officials to use social media to communicate regarding city business. Training governing body public officials is also a good idea so that they understand the risks of using social media to conduct city business.

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# Elections and Bond Financing

By Katie Schwab, Wedbush Securities Inc., and Ann Sherman, K&L Gates LLP

Cities often finance general purpose facilities through the issuance of general obligation bonds (GO Bonds). GO Bonds are a cost-effective method to raise capital for two reasons. First, the principal and interest on GO Bonds are payable from a special property tax that is levied outside the limits of Article XI, Sections 11 and 11b of the Oregon Constitution if the GO Bond proceeds are used for capital costs, including acquisition, construction, repair and improvements, but not routine maintenance or supplies. This means that the tax levy for GO Bonds is in addition to a city's permanent tax levy, so there is no depletion of the city's general fund resources. Of course, there is nothing precluding a city from making the GO Bond payments out

of other lawfully available funds, such as enterprise revenues, should it choose to do so. Second, GO Bonds are considered a "low risk" investment, so investors are willing to accept a lower yield than on riskier investments, reducing the overall interest expense on the city's project financing.

GO Bonds require voter approval. Depending upon the size of your community and involvement of your citizens, educating your constituents on the need for your capital project and passage of a ballot measure to issue GO Bonds to pay for the project may be a long process. A sample schedule for a GO Bond election follows:

## Pre-Election GO Bond Schedule

Time Prior to Election	Steps
9-12 months	Community survey testing support for bond measure
3-9 months	City decision on bond structure (amount and number of years to make payments)
2 months	City Council adopts a resolution authorizing the ballot title, prepares and files the ballot title and explanatory statement with all of the counties that overlap the city
2 months	The arguments for and against the ballot measure are filed
0-2 months	Capital committee campaigns for the ballot measure
21 days	Deadline for voter registration
20 days	Last day to mail voter's pamphlet
3 weeks	Ballots are mailed

## Are there other types of debt that require voter approval?

A city council may authorize issuance of revenue bonds under ORS Chapter 287A by resolution or a *nonemergency ordinance*. If the revenue bonds are authorized by nonemergency ordinance, they may not be issued until the expiration of a referral period. During the referral period, electors may refer a nonemergency ordinance to a vote. Similarly,

if revenue bonds are authorized by *resolution*, a city council must publish a notice describing the purpose for which the revenue bonds are to be sold, the date the resolution was adopted, the expected source of revenue for repayment of the bonds, the estimated principal amount, and the procedures and timing for electors to refer the revenue bonds to a vote. Electors may file a petition, including valid signatures of at least five percent of the electors, within 60 days of the publication of the notice that asks a city council to refer the

(continued on next page)

question of whether to issue the revenue bonds to a vote. If a revenue bond has been referred to a vote, the question of issuing revenue bonds must appear on the next lawfully available election date and not be sold unless approved by a majority of the electors voting.

A city council always has the choice to refer bonds to voters that otherwise do not require voter approval. Further, cities should review their city charters for any additional voter requirements for bonds.

## Ballot Measure Passage Requirements

Voters approved a ballot measure in the November 2008 general election that allows a simple majority vote to approve money measure in May and November elections. In March and September elections, there is an additional constitutional requirement that at least 50 percent of registered voters eligible to vote cast a ballot.

The election calendar for the rest of 2010 and 2011 follows:

### Election Calendar\*

	Sept. 21, 2010	Nov. 2, 2010 (General Election)	Mar. 8, 2011	May 17, 2011 (Primary Election)	Sept. 20, 2011	Nov. 8, 2011 (General Election)
State Filing Period		June 2, 2010 to Aug. 24, 2010		Sept. 9, 2010 to Mar. 8, 2011		June 8, 2011 to Aug. 30, 2011
State Voter's Pamphlet Material Filing Deadline		Aug. 24, 2010		Mar. 10, 2011		Aug. 30, 2011
Measure and Explanatory Statement Filing/Withdrawal Deadline (61 days before election)	July 22, 2010	Sept. 2, 2010	Jan. 6, 2011	Mar. 17, 2011	July 21, 2011	Sept. 8, 2011
Measure Arguments Filing Deadline (two business days after filing deadline)	July 26, 2010	Sept. 6, 2010	Jan. 10, 2011	Mar. 21, 2011	July 25, 2011	Sept. 12, 2011
Public View Argument Statement (four business days after filing deadline)	July 28, 2010	Sept. 8, 2010	Jan. 12, 2011	Mar. 23, 2011	July 27, 2011	Sept. 14, 2011
Second Attempt Filing Deadline		Sept. 16, 2010				Sept. 26, 2011
Voter Registration Deadline (21 days before election – ORS 254.095)	Aug. 31, 2010	Oct. 12, 2010	Feb. 15, 2011	April 26, 2011	Aug. 30, 2011	Oct. 18, 2011
Ballots Mailed**	Aug. 3 to Aug. 31, 2010	Sept. 22 to Oct. 12, 2010	Jan. 19 to Feb. 15, 2011	Mar. 30 to April 26, 2011	Aug. 2 to Aug. 30, 2011	Sept. 29 to Oct. 18, 2011

\* All regular elections are held on the second Tuesday in March, the third Tuesday in May, the Third Tuesday in September and the first Tuesday after the first Monday in November. Note: all information is subject to change by the Legislature.

\*\* Ballots to military and overseas electors are sent approximately three weeks earlier and to out-of-state electors are sent approximately one week earlier than to local electors.

**Editor's Note:** Katie Schwab of Wedbush Securities Inc. is the underwriter and Ann Sherman is the bond counsel for the League's LOCAP Program. They can be reached as follows: Katie Schwab, (503) 471-6798 or ([Katie.Schwab@Wedbush.com](mailto:Katie.Schwab@Wedbush.com)) and Ann Sherman, (503) 226-5720 or ([Ann.Sherman@klgates.com](mailto:Ann.Sherman@klgates.com)). ■

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# Public Contracting Basics for City Councilors

*By Alex Sosnkowski*

City councilors become involved in a city's public contracts because the city council is typically the city's "local contract review board," charged with authority to procure public contracts and adopt a city's local public contracting code. In many cities, however, the procurement authority will be delegated to the city manager or department heads. Nevertheless, it is important for city councilors to have a basic understanding of some of the fundamentals of public contracting.

Public contracts are generally the purchase, sale or lease of personal property (goods), or services or contracts for the construction of public improvements. Thus a public contract is the purchase of office supplies, equipment, construction services, cleaning services, vehicles and so on. There are many exceptions to the definition of a public contract. The two most important exceptions to remember are contracts for grants or for the lease, purchase or sale of real property.

The authority to enter into a public contract and the limits to that authority are governed primarily by state statute, and to a lesser extent by the Oregon Constitution and local charters. Historically, public contracting codes required that all public contracts be procured through the competitive bidding process to get the work or goods at the lowest cost. Today, public contracting codes continue to require that public contracts be procured through some sort of competitive process, whether by invitation to bid, request for proposals, or some other process that satisfies the principles underlying competitive procurement to obtain goods and services at low cost, and to encourage competition and discourage favoritism.

## Source of Law

The Oregon Public Contracting Code is found in ORS chapters 279, 279A, 279B and 279C. The Public Contracting Code refers to the entity procuring the contract as the "contracting agency." The contracting agency may be the city acting through the city council, or acting through the city manager or a department head to whom the city council has delegated authority.

The Oregon Attorney General's Model Public Contract Rules are the state administrative rules that will apply to all public contracting activity under the Public Contracting Code, unless a city opts out of the Model Rules, which is permitted under the Public Contracting Code. Even if not opting out, a city may adopt its own rules to address matters not addressed in the Code or Model Rules. In order to opt out, a city must adopt its own public contracting code that specifically states that the Model Rules do not apply or only partially apply to it, and that prescribes the rules of procedure that it will use instead.

Whether or not a city opts out of the Model Rules, most cities have adopted their own public contracting code to supplement the provisions of the Public Contracting Code or Model Rules.

## Types of Public Contracts

When proceeding to procure a public contract, the first step is to determine what type of contract is being procured: a public contract for goods and services, a public improvement contract or a personal services contract. A public contract for goods and services will be for goods and/or services, excluding those services specifically defined as personal services in a local code.

A public improvement contract is for the construction, reconstruction or major renovation of real property, including the improvements on the property, whether the city does the work or the work is done for the city. An important exception to public improvement contracts is contracts for emergency work, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. These contracts are actually considered public contracts for goods and services and are procured as such.

A personal services contract is a contract for services that are usually professional in nature, or requiring a certain level of skill, education or expertise. If specifically defined in a local code, a city does not need to follow the Public Contracting Code or the Model Rules in procuring personal services contracts and can instead adopt and follow its own procedures.

## Procurement Methods

There are two primary methods for procuring a public contract for goods and services greater than \$150,000: (1) the competitive sealed bid (aka invitation to bid); and (2) the competitive sealed proposal (aka request for proposal). There are no statutory guidelines as to when to use which method, so the choice is the city's to make.

There is one primary method for procuring a public improvement contract greater than \$100,000, and that is the competitive sealed bid.

A competitive sealed bid typically defines the scope of work with detailed plans and specifications and the contract will be awarded to the lowest bid. A competitive sealed proposal will more broadly define the scope of work, often by identifying a problem and requesting a solution, and the contract will be awarded based on the best qualified, and may also factor in cost.

The Public Contracting Code and the Model Rules provide for a variety of alternative contracting methods for public



contracts under the thresholds defined above, including informal procurement options and some statutory exemptions. In addition, a city, through its local contract review board, may adopt its own exemptions to the procurement methods set out in the Public Contracting Code and Model Rules so long as competition is not substantially diminished or favoritism encouraged.

Personal services contracts are typically procured under the local code through a competitive proposal process unless the city has not specifically defined personal services contracts in which case they are procured in the same manner as public contracts for goods and services.

### **Permissible Limitations on Competition/Contract Preferences**

Despite the legislative policy strongly favoring competition and obtaining public contracts at the least cost, there are a few permissible limits on competition that a city may impose. For example, a city may limit competition for any public contract for goods or services, or for any other public contract estimated to cost \$50,000 or less, to pursue an affirmative action goal, policy or program established by the city. A city may also favor business enterprises certified by the state as disadvantaged, minority, women or emerging small business enterprises or business enterprises owned or controlled by a disabled veteran.

A city must give preference to goods and services manufactured and produced in Oregon, but only when there is a tie low bid, or two identical proposals or offers. A city must also give preference to the procurement of goods manufactured from recycled materials on any public contract for goods under certain circumstances.

A city cannot, however, give preference to local goods or services for public contracts for goods and services or for public improvement contracts. Doing so is considered to encourage favoritism and diminish competition, contrary to the purposes of the Public Contracting Code. However, contacting only local contractors under certain informal procurement methods is likely not considered a local preference in violation of the Public Contracting Code.

### **Responsibility**

The Public Contracting Code contains provisions that effectively do not permit the award of many public contracts for goods and services or public improvement contracts to a contractor who does not meet the standards of responsibility. The standards of responsibility address a contractor's financial ability to perform the contract, licensing, insurance, record of performance of past public contracts and record of integrity.


### **Offer, Performance and Payment Security**

The Public Contracting Code requires offer, performance and payment security under certain circumstances depending on the type of contract procured. All public officials should be aware that when payment security is required by the Code, if the contractor is not required to provide the security, the city and the officers who authorized the contract are jointly liable for payment for the labor and materials used in performing the contract and for workmen's compensation claims, unemployment claims and tax claims.

### **Retainage**

Retainage is a percentage of the contract price for work completed that the contracting agency must withhold or retain until certain conditions are met. Historically, retainage has been in the form of funds withheld as permitted by former ORS 279C.560. However, the 2009 Legislature amended this section which now provides that the contracting agency must accept bonds or other securities described in ORS 279C.560(1) unless the contracting agency makes written findings that accepting the instruments in lieu of retaining funds "poses an extraordinary risk that is not typically associated with the bond or instrument." Regardless of the form of retainage, the contracting agency is entitled to reduce the final payment by the costs incurred by the contracting agency in handling the retainage in accordance with the Code and Model Rules.

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### Termination for the Public Interest

To protect cities (and other contracting agencies) from entering into or proceeding with contracts that can no longer be funded or that are no longer in the public interest, the Public Contracting Code gives cities the authority to terminate or suspend a procurement or contract in progress for any reason it considers to be in the public interest (although the public interest does not include a labor dispute or a lawsuit brought by a third-party relating to the work). If this step is taken, legal counsel should be involved to make sure that the reason qualifies and that the proper steps to terminate are taken.

### Protests and Judicial Review

The Public Contracting Code and Model Rules provide for administrative and judicial remedies for contractors claiming a city has violated the Code or Model Rules. However, not all violations have an administrative review process associated with them, so in some cases a disgruntled contractor can proceed directly to circuit court. The administrative review provisions give the city the ability to decide the issue prior to the matter going to court and a city may provide for administrative review in its own code where it is not provided by the Code or Model Rules.

On judicial review of any protest, the court may, but is not required to, award costs and attorney fees to the prevailing party.

### Public Works Contracts

Public works contracts are public construction contracts valued at more than \$50,000 on which the contractor must pay workers prevailing wage rates. The Bureau of Labor and Industries (BOLI) is the state agency that oversees public works contracts and the wage and hour laws that apply to them. BOLI's rules define what a public works contract is and BOLI can be contacted when in doubt as to whether a project is a public works project. Cities must be careful not to artificially divide a public works project so as to avoid the public works laws and prevailing wage rates.

**Editor's Note:** Alex Sosnkowski is an attorney with her own firm specializing in local government and municipal law. She can be contacted at (503) 475-8816 or [Sosnkowski@gorge.net](mailto:Sosnkowski@gorge.net). ■



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## Social Media and Public Records

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### Public Comment and Free Speech

Social media provide an opportunity for public discourse in a public forum like no other media has in the past. The government speaks through the information and material it posts on a site (government speech) and may invite public comment through the posting of comments or responses (public speech). We are less concerned with pure government speech because the free speech clauses of both the United States Constitution and the Oregon Constitution impose little restrictions on what the government can say. On the other hand, how and to what extent a city can restrict public speech is subject to much stricter regulation, particularly under the free speech clause of the Oregon Constitution.

Many social media tools lend themselves very well to receiving public comment, and many less so. Public comments may include offensive words, unkind criticism or material completely off the topic. Understanding how and to what extent any offensive or superfluous language can be prohibited or removed is essential to deciding whether to allow public comment.

Although the Oregon courts have not yet determined the permissible limits a city may place on public comment on social media sites, we can be quite sure that any restriction on public comment must at least be content neutral and related to forbidden effects. A restriction is content neutral if it does not distinguish between messages or opinions. A restriction relates to forbidden effects if it is imposed for reasons of public safety, aesthetics or other important public

purposes, each of which must be related in some way to the use to which the social media is being put.

Some examples of some effects a public body could seek to prevent are:

- Clogging the comment section with off-topic issues so as to prevent on-topic comment posting and discourse;
- Overloading system capabilities;
- Inefficient use of staff resources to respond to or handle off-topic comments; and
- Conveying misleading information that jeopardizes public safety and health.

Lastly, it is worth noting that most social media sites have their own terms of use that may prohibit the use of obscenity, violent, racially provocative, etc., content. Although a city cannot be required to enforce those terms of use, they may help prevent that kind of content from getting onto a city social media site in the first place.

### Editor's Notes:

Alex Sosnkowski is an attorney with her own firm specializing in local government and municipal law. She can be contacted at (503) 475-8816 or [Sosnkowski@gorge.net](mailto:Sosnkowski@gorge.net).

*This article addresses only a few of the laws that might affect the ability of an city in Oregon to use social media. In addition, because of the complexities and nuances of these various laws, this article is necessarily general and is not intended to provide legal advice. This article should not serve as a substitute for competent legal counsel. Please consult with your legal counsel to ensure that you fully comply with the laws that might affect your city's ability to use social media.* ■



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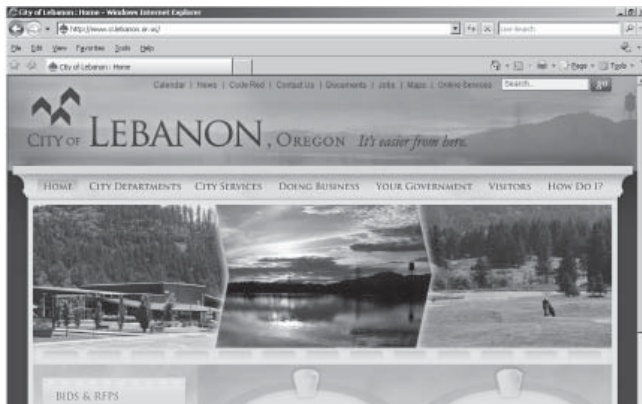
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## CITY NEWS



### LEBANON – Web Site Unveiled; Patriot's Place Coming



The city's new Web site ([www.ci.lebanon.or.us](http://www.ci.lebanon.or.us)) was designed to reflect the branding slogan, "It's easier from here." The site is now easier to navigate, and presents a more professional image of the city. Staff spent months updating each page on the old site before transferring the information to the new one. City Clerk Linda Kaser was the project manager and was instrumental in making sure the project was completed on time and under budget.

In addition, the city will soon be the home for Patriot's Place, the second veteran's home to be built in Oregon. The announcement was made May 19 by Oregon Department of Veteran's Affairs Director Jim Willis. Lebanon was chosen because of the strong partnership between Linn County, the city of Lebanon, and Samaritan Health Services. The Lebanon facility will accommodate between 100 and 150 veterans. Completion of the facility is expected in the fall of 2011.



### PRINEVILLE – Habitat Conservation Plan

Since steelhead fish were reintroduced into the Crooked River Watershed two years ago, the city has undertaken a plan to protect the species. The Federal Energy Regulatory Commission (FERC) required the re-introduction of the steelhead into the watershed as part of a new 50-year hydroelectric project license for Pelton Round Butte Dam.

The fish added to the Crooked River, McKay Creek and Ochoco Creek are listed as threatened under the Endangered Species Act (ESA). As a result, the city is taking action to not only ensure the survival of the fish, but also shield the city


from any liability for any steelhead killed in the watershed.

According to Prineville City Engineer Eric Klann, under the ESA, "It's a \$10,000 (fine) per fish if you kill a fish." In order to prevent any costly penalties associated with inadvertently killing a steelhead, the city is in the process of developing a Habitat Conservation Plan (HCP).


"The development of an HCP is a 10-year process," Klann said. "We are in the second year." During those first two years, the majority of the work has involved scientific studies. "We're looking at how our activities impact them (the steelhead)."


These activities, according to Prineville City Manager Steve Forrester, include "anything that affects water," such as wastewater and storm water projects, rainwater runoff or city planning near a wetland.

*(continued on next page)*



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At this point, Forrester said the city is working to mitigate the impact the HCP will have on the local business community.

"That's what we are trying to manage at this point," he said. "We haven't had any significant impact to businesses with the re-introduction of steelhead or the HCP."

Because the conservation plan will take about a decade to implement, the city will take advantage of two other methods for ESA protection.

According to Klann, the first method, which protects the city for two years, is a letter of prosecution discretion. The city recently received the letter from the National Oceanic and Atmospheric Administration (NOAA). At that point, the city hopes to receive a NOAA "10(j) designation" that will protect them for another 10 years. By then they hope to have the HCP in place, which protects the city for 50 years.

"All of these processes take a long time to get in place," Klann said.

The pursuit of an HCP will ultimately cost the city money, but is an investment Forrester believes is worthwhile in order to avoid greater financial penalties down the road.

"It's a significant amount of money, but a small percentage of the budget (less than five percent of the city water and wastewater budget)," he said. "The investment the city has made and what we have planned for in the budget is necessary. The city is being very proactive in developing both short and long-term practices."

Although the conservation plan will protect the city from ESA penalties down the road, this is not the primary purpose in creating the plan. In the end, it's about saving the steelhead.

"The sole purpose of an HCP is to preserve the survival of the species," Klann said

Source: *Central Oregonian*

### **SANDY – Web-Based Government**

Rather than simply replicating paper processes on the Web, the city of Sandy has embraced the 21st century and moved to web-based government. There are no paper budget documents, municipal code or city council packets; these are now web-based documents only. The council minutes are a blend of written summaries and streaming video. Up-to-date financial reports are provided through a live Web database.

Several hundred thousand pages of city documents—from ordinances and studies to complete building plans and as-built drawings—are accessed online by both city employees and the public. Residents can respond to opinion polls, reserve a picnic shelter, look up their water bill account or report a pothole online. To make this content accessible to all citizens, free Internet terminals are available at the city hall, library and the senior center. The city also provides several free Wi-Fi hotspots and provides low-cost Internet service through its municipal ISP, SandyNet.

*(continued on page 26)*



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## LAKESIDE – Street Makeover



Pictured left to right: Charlie Hill, City Administrator; Kevin Stufflebean, Coos County Commissioner; Chrysta Swift, Lakeside City Councilor; Nikki Whitty, Coos County Commissioner; Rod Schilling, Lakeside Mayor; John Rowe, Coos County Road Master; Paul Slater, PBS Engineering; and Courtney Johnson, Johnson Rock (winner of bid)

It's been nearly 40 years since any paving work has been done on Eighth Street, but on April 27, city and county officials wearing hard hats were there, shovels in hand as part of the groundbreaking for the project.

"This time next year, you won't be able to recognize where you're standing," Lakeside Mayor Rod Schilling said in an interview with the Coos Bay *World* newspaper.

The city and Coos County have partnered to fix about 1,226 feet of the county road that runs through the middle of Lakeside. The project has been three years in the making; negotiations began two years ago involving City Administrator Charlie Hill, Public Works Director Dennis Langley, Coos County Commissioner Kevin Stufflebean and County Road Master John Rowe. Langley's department fills potholes and handles mud slides on many of the county roads within Lakeside's city limits. Many of the roads in Lakeside are owned by the county, which receives all of the property taxes.

The \$476,056 project will include overlaying Eighth Street from Railroad Avenue to Hilltop Drive, restriping parking from parallel to angled to allow 40 more spaces, replacing the sidewalk on both sides of the street, and installing decorative light posts with LED lighting. The city also plans to bring in benches and hanging flower baskets to further spruce up the area.

"Nothing has been done downtown here for so long. With all the tourists and all the activities they have in Lakeside, it's going to be a big improvement," Rowe said.

The job is set to be completed by June 30, and much of the cost will be covered by \$411,000 from the Oregon Department of Transportation's Surface Transportation Program. Johnson Rock, the lowest of three bidders, will head up the project. Because the bid was so low, the more work will be



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done on Eighth Street than originally planned.

### **TALENT – Gateway to Include Park & Plaza**

Downtown Talent's new gateway entrance on West Valley View Road will feature a pedestrian park and plaza just past a roundabout that will route traffic onto an extension of Main Street.

In April, the city council unanimously approved the landscape master plan for the area, which is part of a \$3.3 million Urban Renewal Agency project that will create better traffic flow into downtown.

The new park and plaza will include low-maintenance, sustainable features. Trees, sloped meadows, boulders, cobbles and decomposed granite are shown in a design created by landscape architect Laurie Sager of Ashland.

The park will occupy a 140-foot-long portion of the current West Valley View roadway west of the roundabout. The other half of the road will include a two-way street, trees and parking east of Talent Avenue. That street and an alleyway that connects with the Main Street extension will provide access for homes in the area.

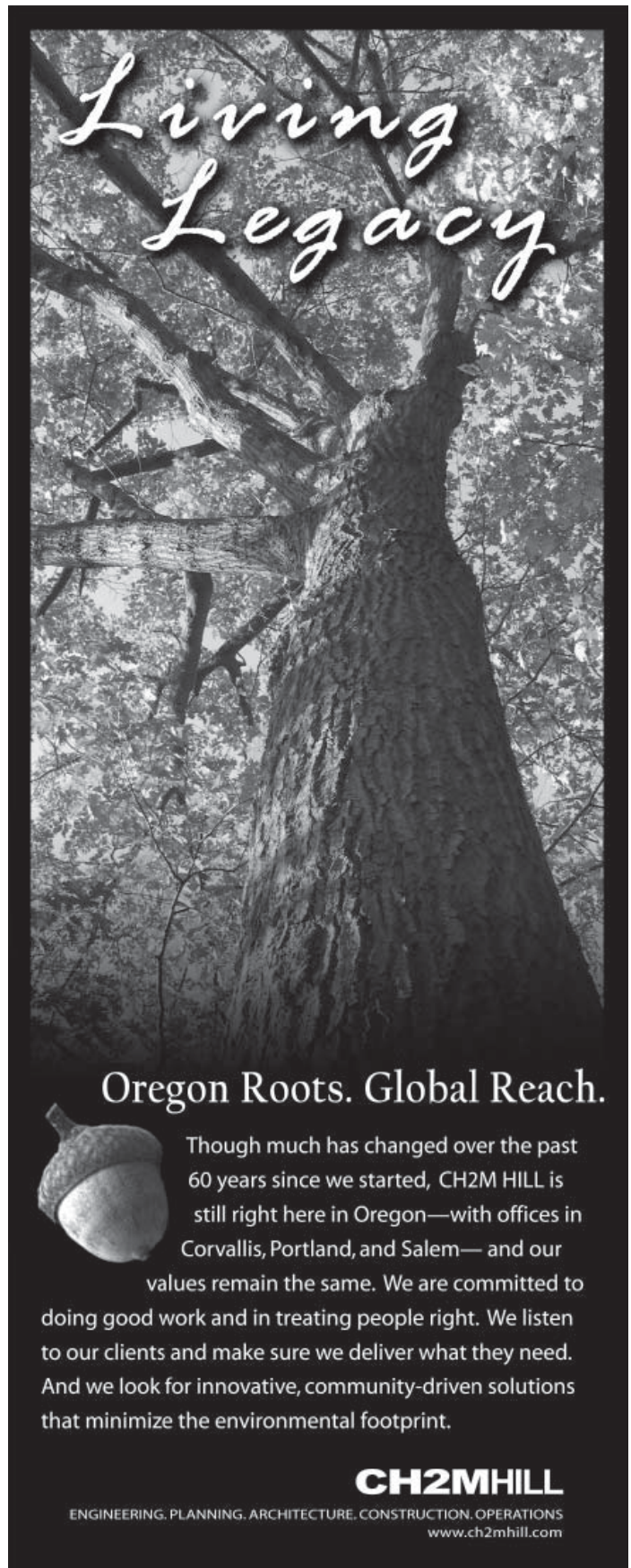
Construction of the project's first phase could begin as early as summer, including the roundabout, the Main Street extension from Talent Avenue to the roundabout, and Seiber Street, which will connect the extension with New Street to the north.

### **HILLSBORO – Summer Youth Outpost**

The Outpost at Shute Park, the parks and recreation department's free eight-week summer drop-in lunch and activities for local youth, provides a positive and enriching experience and a free nutritious lunch for children ages 1-18. The summer weekday program includes learning and sports activities provided by parks and recreation and various community partners, and USDA Summer Food Program provides the meals, which are served by volunteers.


The program was started in 2006 by the city with the help of partnerships involving the Washington County Commission on Children and Families, local churches and the Hillsboro School District. This program is now produced with the help of 16 community partners and is one of the largest summer food sites in Oregon. It has grown from serving around 60 children per day to serving more than 400 per day.

The goals of The Outpost are to provide Hillsboro youth with a safe, educational and positive summer activity environment and a free, nutritious lunch, as well as to build community partnerships in support of Hillsboro youth. The Outpost has been featured by Governor Ted Kulongoski as a model program for other communities around the state, and he visited and spoke at the program in 2008. ■



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## LEGAL BRIEFS

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### TPR and City Responsibilities

*Willamette Oaks, LLC. v. City of Eugene*, 232 Or App 29, 220 P3d 445 (2009)

This case concerns a zone change and a city's responsibility under the transportation planning rule ("TPR"). The TPR is an Oregon Department of Land Conservation and Development rule found at OAR Chapter 660, division 12. The rule generally requires cities to determine whether comprehensive plan and zoning amendments, including zone changes, will "significantly affect" transportation facilities and put in place measures to ameliorate any such effects.

In *Willamette Oaks*, an applicant sought and Eugene approved a zone change from medium to high-density residential. The city did not evaluate whether the zone change would significantly affect transportation facilities, but instead imposed a condition requiring the applicant to demonstrate TPR compliance prior to any development on the property. Cities commonly defer TPR compliance to the development stage, as Eugene did here.

Willamette Oaks appealed Eugene's decision to the Land Use Board of Appeals ("LUBA") and argued that the city must evaluate the TPR before the zone change could be approved. LUBA rejected Willamette Oaks' argument and determined that the TPR analysis could be deferred until the applicant applied to develop the property. Willamette Oaks appealed LUBA's decision to the Oregon Court of Appeals.

The Court of Appeals limited their discussion to the question of "whether, pursuant to OAR 660-012-0060, prior to approving the zone change, the city was required to evaluate whether that zone change would significantly affect transportation facilities." The court determined that the text of the rule shows that "an evaluation of significant effect is intended to be performed *prior* to a contemplated amendment." *Id.* at 35, 448 (emphasis in original). The court held that any approval of an amendment subject to the TPR (e.g. any zone change) could only follow a "significant effect" determination.

With development projects significantly stalled as a result of the recession, many cities are using this time to focus on long range planning issues. The lesson here is that it is imperative for cities to consider what impacts a comprehensive plan amendment, zoning code amendment or zone change will have on transportation facilities and make the necessary TPR findings *before* approving the amendment. In the wake of the *Willamette Oaks* decision, the days of deferring TPR analysis to a later stage are, unfortunately, over. ■

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## Upcoming Events

**Oregon City/County Management Assn. (OCCMA)  
Annual Summer Conference**  
July 13-16 – Bend

**Oregon Mayors Association (OMA) Annual Summer  
Conference**  
July 29-31 – Cottage Grove

**LOC City Hall Week**  
September 13-17 – Statewide

**Local Government Personnel Institute (LGPI) Annual  
Conference**  
September 14-16 – Oregon Garden Resort, Silverton

**Oregon Assn. of Municipal Records (OAMR) Annual  
Conference**  
September 15-17 – Keizer

**LOC Board of Directors Meeting**  
September 22 – Eugene Hilton & Conference Center

**LOC 85th Annual Conference**  
September 23-25 – Eugene Hilton & Conference Center

**International City/County Management Assn. (ICMA)  
96th Annual Conference**  
October 17-20 – San Jose/Santa Clara County, California

**Oregon Municipal Finance Officers Assn. (OMFOA)  
NW Government Finance Institute**  
October 26-28 – Portland

**National League of Cities (NLC) Congress of Cities  
Conference**  
November 30 – December 4 – Denver, Colorado

**LOC Board of Directors Meeting**  
December 10 – Salem

# City Events

## JUNE

- 13-9/17 **Jacksonville** – Britt Festivals ([www.brittfest.org](http://www.brittfest.org))
- 17-19 **Burns** – Country Music Jamboree (541-573-2636)
- 18-20 **Brownsville** – Linn County Pioneer Picnic ([www.historicbrownsville.com](http://www.historicbrownsville.com))
- 18-20 **Tigard** – Festival of Balloons ([www.tigardballoon.org](http://www.tigardballoon.org))
- 19 **Culver** – Road Rally/Poker Run, Bicycle Rodeo & BBQ (541-546-6494)
- 19 **Donald** – Donald Daze (503-678-5543)
- 19 **Elgin** – Elgin Riverfest (800-848-9969)
- 19 **Rockaway Beach** – Wine, Cheese & All That Jazz (503-355-8108)
- 19-8/28 **The Dalles** – Music in the Park (Saturdays) ([www.thedalleschamber.com](http://www.thedalleschamber.com))
- 22-8/10 **Grants Pass** – Concerts in the Park (Tuesdays) ([www.concertsinthepark.org](http://www.concertsinthepark.org))
- 22-8/17 **Roseburg** – Summer Concert Series (Tuesdays) (800-444-9584)
- 25-27 **Cascade Locks** – Sternwheeler Days (503-374-2111)
- 25-27 **Lake Oswego** – Festival of the Arts ([www.lakewood-center.org](http://www.lakewood-center.org))
- 25-27 **Rogue River** – National Rooster Crow (541-582-4401)
- 25-27 **Roseburg** – Umpqua Valley Summer Arts Festival (541-672-2532)
- 26 **Carlton** – Carlton Fun Days (503-852-7575)
- 26 **Coos Bay** – Clamboree (541-888-3020)
- 26 **Ontario** – Japan Nite Obon Festival (541-889-8691)
- 26-27 **Lincoln City** – Summer Kite Festival ([www.oregoncoast.org](http://www.oregoncoast.org))
- 26-27 **Salem** – World Beat Festival ([www.worldbeatfestival.org](http://www.worldbeatfestival.org))
- 26-27 **Tillamook** – Dairy Parade & Rodeo (503-842-7525)
- 27 **Aurora** – 40th Strawberry Social (503-678-5754)
- 30 **Redmond** – Music on the Green (541-923-5191)

Send your city event for this listing to Kim Bentley at [kbentley@orcities.org](mailto:kbentley@orcities.org).

## JULY

### Oregon Coast

- 3 **Depoe Bay** – 3rd of July Fireworks (541-765-2889)
- 3 **Newport** – Clambake & Seafood BBQ ([www.nyebeach.org](http://www.nyebeach.org))
- 3-4 **Coos Bay** – 3rd and 4th of July Celebrations ([www.oregonsadventurecoast.com](http://www.oregonsadventurecoast.com))
- 4 **Astoria** – Fireworks (800-875-6807)
- 4 **Newport** – Fireworks Over Yaquina Bay (800-262-7844)
- 4 **Rockaway Beach** – July 4 Activities ([www.rockawaybeach.net](http://www.rockawaybeach.net))
- 4 **Seaside** – Fireworks, Parade & Social ([www.seasidechamber.com](http://www.seasidechamber.com))
- 16-17 **North Bend** – July Jubilee (800-472-9176)
- 17-31 **Oregon Coast Music Festival** – ([www.oregonsadventurecoast.com](http://www.oregonsadventurecoast.com))

### Portland Metro

- 1,8,15 **Lake Oswego** – Thirst Quencher Thursdays ([www.ci.oswego.or.us/parksrec](http://www.ci.oswego.or.us/parksrec))
- 2-4 **Clatskanie** – Clatskanie Heritage Days ([www.clatskaniedays.com](http://www.clatskaniedays.com))
- 2-5 **Portland** – Waterfront Blues Festival ([www.waterfrontbluesfest.com](http://www.waterfrontbluesfest.com))
- 2-8/27 **Tualatin** – Concerts on the Commons (Fridays) ([www.tualatinarts.com](http://www.tualatinarts.com))
- 3-4 **St. Helens** – 4th of July Festival & Fireworks ([www.travelcolumbiacounty.com](http://www.travelcolumbiacounty.com))
- 3-8/21 **Tualatin** – Movies on the Commons (Saturdays) ([www.tualatinrecreation.com](http://www.tualatinrecreation.com))
- 10-11 **Sandy** – Sandy Mountain Festival ([www.sandymountainfestival.org](http://www.sandymountainfestival.org))
- 16-17 **Sherwood** – Robin Hood Festival ([www.robinhoodfestival.com](http://www.robinhoodfestival.com))
- 23-25 **Tualatin** – ArtSplash Art Show & Sale ([www.tualatinarts.com](http://www.tualatinarts.com))

### Mt. Hood & the Gorge

- 4 **Cascade Locks** – 4th of July ([www.cascadelocks.net](http://www.cascadelocks.net))
- 4 **Hood River** – Old-Fashioned 4th of July Parade & Fireworks ([www.hoodriver.org](http://www.hoodriver.org))
- 10 **The Dalles** – Jammin' July Street Fest ([www.thedalleschamber.com](http://www.thedalleschamber.com))
- 10-11 **Hood River** – Oregon's Lavender Daze Festival ([www.lavenderdaze.com](http://www.lavenderdaze.com))

- 10-17 **The Dalles** – Historic The Dalles Days  
(www.historicthedalles.com)
- 15-17 **The Dalles** – Fort Dalles Rodeo  
(www.thedallescchamber.com)
- 23-24 **Estacada** – Summer Celebration  
(www.estacadasummercelebration.org)

### **Willamette Valley**

- 2-4 **Independence/Monmouth** – 4th of July Independence Days (www.westerndays.us)
- 3-4 **Corvallis** – Red, White & Blues Riverfront Festival  
(www.ci.corvallis.or.us)
- 4 **Creswell** – 4th of July Celebration (541-895-2531)
- 4 **Detroit** – July 4th Celebration  
(www.oregonstateparks.org)
- 4 **Brownsville** – Fireworks & Breakfast  
(www.historicbrownsville.com)
- 4 **Lebanon** – Star-Spangled Celebration  
(541-451-1039)
- 8-11 **Philomath** – Philomath Frolic & Rodeo  
(www.philomathrodeo.org)
- 9-10 **Albany** – Crazy Daze (www.albanydowntown.com)
- 9-10 **McMinnville** – 50th Annual Turkey Rama  
(www.mcminnville.org/turkeyrama)
- 9-11 **Sweet Home** – Sweet Home Rodeo
- 10 **Sweet Home** – Frontier Sportsman Holiday  
(www.sweethomechamber.org)
- 15-18 **Cottage Grove** – Bohemia Mining Days  
(www.bohemiaminingdays.org)
- 16-17 **Coburg** – Coburg Golden Years Festival  
(541-343-9875)
- 16-18 **Corvallis** – Da Vinci Days (www.davinci-days.org)
- 16-18 **Salem** – Art Fair & Festival (www.salemart.org)
- 17 **Brownsville** – Citywide Garage Sale  
(www.historicbrownsville.com)
- 29-8/1 **Dallas** – Dallas Summerfest (www.dallasoregon.org)
- 30-8/1 **Sweet Home** – Oregon Jamboree (541-367-8800) & Arts & Crafts Fair (541-367-8969)
- 31 **Stayton** – Santiam Summerfest Street Fair  
(503-769-3464)

### **Southern Oregon**

- 1-4 **Powers** – White Cedar Days Celebration  
(541-439-3331)
- 3-4 **Yoncalla** – Parade, Rodeo & Fireworks  
(541-849-2152)
- 4 **Medford** – Red, White and Boom!  
(www.medfordchamber.com)

- 9-11 **Medford** – Rogue Valley Balloon Rally  
(541-664-1862)
- 16-17 **Sutherlin** – Stampede Rodeo & Parade; City-wide Yard Sale (541-459-5829)
- 27-31 **Grants Pass** – Back to the '50s  
(www.grantspasstowncenter.org)

### **Central Oregon**

- 2-4 **La Pine** – Frontier Days  
(www.lapinefrontierdays.org)
- 2-6 **Redmond** – Centennial Week (541-504-2010)
- 3-4 **La Pine** – La Pine Rodeo (www.lapinerodeo.com)
- 3-4 **Sisters** – Sisters Summer Faire (541-549-0251)
- 4 **Culver** – Sunrise Parade, Breakfast & Fireworks  
(541-546-6494)
- 4 **Prineville** – 4th of July Celebration (541-447-6304)
- 10 **Sisters** – Outdoor Quilt Show  
(www.sistersoutdoorquiltshow.org)

### **Eastern Oregon**

- 1-4 **Vale** – 4th of July Rodeo & Oregon Trail Days  
(541-473-3800)
- 2-4 **Wallowa/Lostine** – 4th of July  
(www.wallowacountychamber.com)
- 3-4 **Haines** – Haines Stampede & Rodeo  
(www.hainesstampede.com)
- 4 **Boardman** – 4th of July Celebration  
(www.boardmanchamber.org)
- 4 **La Grande** – Union County 4th of July  
(800-848-9969)
- 4 **Ontario** – 4th of July Fireworks (541-889-8012)
- 4 **Prairie City** – 4th of July Celebration  
(541-820-4369)
- 8-10 **Nyssa** – Thunderegg Days (541-372-3091)
- 9-10 **La Grande** – La Grande Crazy Days  
(800-848-9969)
- 10 **Enterprise** – Celebrate Enterprise  
(www.enterpriseoregon.org)
- 10 **Hermiston** – Hermiston Fun Fest (541-567-6151)
- 16-17 **Baker City** – Miners Jubilee/Baker Broncs & Bulls  
(800-523-1235)
- 21-25 **Joseph** – Chief Joseph Days  
(www.chiefjosephdays.com)
- 31 **North Powder** – Huckleberry Festival  
(800-848-9969)



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