

**CITY OF CENTRAL POINT
STUDY SESSION AGENDA
May 21, 2012**

Central Point
City Hall
541-664-3321

City Council

Mayor

Hank Williams

Ward I

Bruce Dingler

Ward II

Kelly Geiger

Ward III

Ellie George

Ward IV

Allen Broderick

At Large

Carol Fischer

Kay Harrison

Administration

Phil Messina,

City Manager

Chris Clayton, Assistant

City Manager

Deanna Casey,

City Recorder

Community

Development

Department

Tom Humphrey, Director

Finance Department

Bev Adams, Director

Human Resources

Barb Robson, Director

Parks and Public Works

Department

Matt Samitore, Director

Jennifer Boardman,

Manager

Police Department

Police Chief

Jon Zelif

I. MEETING CALLED TO ORDER – 6:00 P.M.

II. DISCUSSION ITEMS

- Pg 1 - 17 A. Graffiti Ordinance (Captain Allison)
- 18 B. Front Street Analysis (Samitore)
- 19 - 23 C. System Development Charge Credits
(Samitore)
- 24 - 28 D. Contract Ordinance Amendments (Clayton)

III. ADJOURNMENT

City of Central Point

140 South Third Street
Central Point, Oregon 97502
Phone 541.664.3321 | Fax 541.664.6384
www.centralpointoregon.gov



Multicultural Committee

diversity@centralpointoregon.gov

April 6, 2012

Dear Business or Concerned Citizen,

Please join the City of Central Point Multicultural Committee for an educational luncheon to discuss a proposed Graffiti Vandalism Ordinance we will be presenting in May for adoption by the City Council. The luncheon will be held from 12:00 – 1:00 p.m. on April 19, 2012, in the Police Department Training Room, 155 South Second Street. We will provide a light lunch.

The proposed Graffiti Ordinance will provide the City with tools to help prevent the spread of graffiti by establishing a program for the removal of it from public and private property. The Multicultural Committee and the Police Department look forward to hearing your comments and providing education to the community and businesses about this proposed ordinance at the luncheon.

If you have any questions or would like to see the proposed Ordinance please call City Recorder Deanna Casey at 541-423-1026, or email her at deanna.casey@centralpointoregon.gov or email the Multicultural Committee at diversity@centralpointoregon.gov.

Thank you,

Fran Cordeiro-Settell

Fran Cordeiro-Settell
Committee Chair

Grange Co-op
Norm Rush
89 Alder St
Central Point OR 97502

Fair City Market & Deli
Herbert Miller
1775 N. 10th Street
Central Point OR 97502

Dave's Central Market
David Lefebvre
750 Hopkins Rd
Central Point OR 97502

7 Eleven – Central Point
Roger Petery

Albertsons – Central Point
Donald Kennedy

Ray's – Central Point
Scott South

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 8.40 ENTITLED
"GRAFFITI VANDALISM"
TO THE CENTRAL POINT MUNICIPAL CODE

THE PEOPLE OF THE CITY OF CENTRAL POINT, OREGON, DO ORDAIN AS
FOLLOWS:

Section 1. Findings and Purpose. The City Council of the City of Central Point is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, it tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through the adoption of this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

Section 2. There is hereby added to the Central Point Municipal Code a new Chapter, 8.40, entitled "Graffiti Vandalism", to read as follows:

8.40.010 Definitions. The following definitions apply in this Chapter:

1. "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

2. "Graffiti implement" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

8.04.020 Prohibited Acts. A. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any City-owned property or, without the permission of the owner or occupant, on any non-City-owned property.

B. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations

1 - ORDINANCE NO. _____ (100908)

upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

C. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the City.

8.04.030 Accessibility to Graffiti Implements. A. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.

B. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Every person who operates a retail commercial establishment selling graffiti implements shall:

1. Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable as either a misdemeanor or a felony, depending upon the monetary value of the resulting damage."

2. Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than 18 years of age is against the law and punishable by a fine of up to \$250."

3. The City of Central Point Police Department will make available the required aforementioned warning signs to all applicable retail commercial establishments and offer needed logistical support and practical expertise on how to best achieve full and voluntary compliance with the provisions of this ordinance

2 - ORDINANCE NO. _____ (100908)

8.40.040 Rewards and Reimbursements for Information. A. The City may offer a reward in an amount to be established by resolution of the City Council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the City for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate.

B. Claims for rewards under this Section shall be filed with the City in the manner specified by the City Council.

C. No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this Section have been satisfied.

D. The City shall reimburse to any person reporting by means of a mobile or cellular phone an act of graffiti vandalism or existence of graffiti within the City the amount of the direct phone charges, exclusive of taxes, incurred by the person.

8.04.050 Graffiti Declared a Nuisance. A. The existence of graffiti on public or private property in violation of this Chapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Chapter.

B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

8.40.060 Removal of Graffiti. A. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Public Works Director, or any additional City department head, as authorized by the City Administrator. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

B. If graffiti is not removed by the perpetrator according to the Section above, graffiti shall be removed pursuant to the following provisions: It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

1. The street address and legal description of the property sufficient for identification of the property;

3 - ORDINANCE NO. _____ (100908)

2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;

3. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City will declare the property to be a public nuisance, subject to the abatement procedures in this Chapter and in Chapter 8.04 of this Code; and

4. An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

C. The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

1. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

2. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service by first class mail of notice of the defacement.

D. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly owned property or on privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Administrator, or his or her designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

E. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

F. The City Administrator, or his or her designee, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous

4 - ORDINANCE NO. _____ (100908)

place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the area in which the property is located.

G. The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the Owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.

H. Not sooner than the time specified in the order of the Hearing Officer, the City Administrator, or his or her designee, shall implement the eradication order and shall provide an accounting to the Owner and the responsible party of the costs thereof.

I. The owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the Owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council.

J. As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Public Works Director shall present a Resolution of Lien to the City Council, and upon passage and adoption thereof, shall cause a certified copy of the Lien to be recorded in the City Records.

8.40.070 Ease of Removal and Prevention. A. Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the City shall paint its above-surface metal fixtures with a uniform paint type and color that meets with the approval of the City Administrator.

B. All encroachment permits issued by the City shall, among such other things, be conditioned on:

1. The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the City Administrator, or his or her designee;
2. The permittee's immediate removal of any graffiti;
3. The City's right to remove graffiti or to paint the encroaching object; or
4. The permittee's providing the City with sufficient matching paint and/or

5 - ORDINANCE NO. _____ (100908)

anti-graffiti material on demand for use in the painting of the encroaching object containing graffiti.

C. In approving site plans, conditional use permits, variances, or other similar land use entitlements which involve the approval of building plans, the City shall consider imposing any or all of the following conditions, or other similar or related conditions, at the public hearing required by law for approval of the site plan, conditional use permit, variance or other similar land use entitlement:

1. Developer shall apply an anti-graffiti material of a type and nature that is acceptable to the City Administrator, or his or her designee, to the publicly viewable surfaces on the improvements to be constructed at the site deemed by the City Administrator, or designee, to be likely to attract graffiti;

2. Developer shall, either as part of the general conditions, covenants and restrictions, or separate covenants recorded against individual lots, prior to resale of any of the parcels, covenant in a form satisfactory to the city that the owner of the lots shall immediately remove any graffiti placed thereon.

D. Any applicant for design review approval, conditional use permit, special use permit, or building permit shall, to the extent deemed feasible by the City Administrator, or his or her designee, have designed any building structures visible from any public or quasi- public place in such a manner to consider prevention of graffiti, including, but not limited to the following:

1. Use of a protective coating to provide for the effective and expeditious removal of graffiti;

2. Use of additional lighting;

3. Use of non-solid fencing;

4. Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; or

5. Use of architectural design to break up long, continuous walls or solid areas.

E. The following provisions may be incorporated in a graffiti eradication order during an abatement hearing, at the discretion of the City Council:

1. Any surface of a structure on a parcel of land used for non- residential purposes that has been defaced with graffiti more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the City as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.

2. The owner of property used for non-residential purposes on which is located a surface of a structure that has been defaced with graffiti more than five (5) times in twelve (12) months shall permit the City to enter the property and, at the City's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.

8.40.080 Trust Fund. The City Council hereby creates the City of Central Point Anti-Graffiti Trust Fund. Penalties assessed against violators of this Chapter shall be placed in the fund, along with any monetary donations received from persons wishing to

6 - ORDINANCE NO. _____ (100908)

contribute to the fund. The Council shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal, the payment, at the discretion of the City Administrator, of rewards for information leading to the conviction of violators of this Chapter, the costs of administering this Chapter, and such other public purposes as may be approved by the Council by resolution.

8.40.090 Penalty. Violations of this Chapter shall be punishable by the General Penalty, with each day a violation exists constituting a separate offense.

Section 3. Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Passed by the Council and signed by me in authentication of its passage this _____ day of _____, 2008.

Mayor Hank Williams

ATTEST:

City Representative

Approved by me this _____ day of _____, 2008.

Mayor Hank Williams

7 - ORDINANCE NO. _____ (100908)

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 8.50 ENTITLED
“GRAFFITI VANDALISM”
TO THE CENTRAL POINT MUNICIPAL CODE

Recitals:

- A. The Council desires to amend the code to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public private property.
- B. Words ~~lined through~~ are to be deleted and words **in bold** are added.

The People of the City of Central Point do ordain as follows:

Section 1. Findings and Purpose. The City Council of the City of Central Point is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, it tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through the adoption of this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

Section 2. There is hereby added to the Central Point Municipal Code a new Chapter, 8.50, entitled “Graffiti Vandalism”, to read as follows:

Chapter 8.50
Graffiti Vandalism

- 8.50.010** **Definitions**
- 8.50.020** **Prohibited Acts**
- 8.50.030** **Accessibility to Graffiti Implements**
- 8.50.040** **Rewards and Reimbursements for Information**

1 - ORDINANCE NO. _____ (030812)

- 8.50.050 Graffiti Declared a Nuisance
- 8.50.060 Removal of Graffiti
- 8.50.070 Ease of Removal and Prevention
- 8.50.080 Trust Fund
- 8.50.090 Penalty

8.50.010 Definitions. The following definitions apply in this Chapter:

1. “Graffiti” means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

2. “Graffiti implement” means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

8.50.020 Prohibited Acts. A. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any City-owned property or, without the permission of the owner or occupant, on any non-City-owned property.

B. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

C. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the City.

2 - ORDINANCE NO. _____ (030812)

8.50.030 Accessibility to Graffiti Implements. A. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.

B. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Every person who operates a retail commercial establishment selling graffiti implements shall:

1. Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable as either a misdemeanor or a felony, depending upon the monetary value of the resulting damage."

2. Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than 18 years of age is against the law and punishable by a fine of up to \$250."

3. The City of Central Point Police Department will make available the required aforementioned warning signs to all applicable retail commercial establishments and offer needed logistical support and practical expertise on how to best achieve full and voluntary compliance with the provisions of this ordinance.

8.50.040 Rewards and Reimbursements for Information. A. The City may offer a reward in an amount to be established by resolution of the City Council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the City for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate.

B. Claims for rewards under this Section shall be filed with the City in the manner specified by the City Council.

C. No claim for a reward shall be allowed unless the City investigates and verifies

3 - ORDINANCE NO. _____ (030812)

the accuracy of the claim and determines that the requirements of this Section have been satisfied.

D. The City shall reimburse to any person reporting by means of a mobile or cellular phone an act of graffiti vandalism or existence of graffiti within the City the amount of the direct phone charges, exclusive of taxes, incurred by the person.

8.50.050 Graffiti Declared a Nuisance. A. The existence of graffiti on public or private property in violation of this Chapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Chapter.

B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

8.50.060 Removal of Graffiti. A. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Public Works Director, or any additional City department head, as authorized by the City Manager. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Chapter. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

B. If graffiti is not removed by the perpetrator according to the Section above, graffiti shall be removed pursuant to the following provisions: It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

1. The street address and legal description of the property sufficient for identification of the property;
2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
3. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City will declare the property to be a public nuisance, subject to the abatement procedures in this Chapter and in Chapter 8.04 of this Code; and
4. An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

C. The removal requirements above shall not apply if the property owner or

responsible party can demonstrate that:

1. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

2. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service by first class mail of notice of the defacement.

D. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly owned property or on privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Manager, or his or her designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

E. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Chapter, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

F. The City Manager, or his or her designee, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the area in which the property is located.

G. The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the Owner or the responsible party or their respective agents, the Hearing Officer

5 - ORDINANCE NO. _____ (030812)

determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.

H. Not sooner than the time specified in the order of the Hearing Officer, the City Manager, or his or her designee, shall implement the eradication order and shall provide an accounting to the Owner and the responsible party of the costs thereof.

I. The owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the Owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council.

J. As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Public Works Director shall present a Resolution of Lien to the City Council, and upon passage and adoption thereof, shall cause a certified copy of the Lien to be recorded in the City Records.

8.50.070 Ease of Removal and Prevention. A. Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the City shall paint its above-surface metal fixtures with a uniform paint type and color that meets with the approval of the City Manager.

B. All encroachment permits issued by the City shall, among such other things, be conditioned on:

1. The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the City Manager, or his or her designee;
2. The permittee's immediate removal of any graffiti;
3. The City's right to remove graffiti or to paint the encroaching object; or
4. The permittee's providing the City with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object

6 - ORDINANCE NO. _____ (030812)

containing graffiti.

C. In approving site plans, conditional use permits, variances, or other similar land use entitlements which involve the approval of building plans, the City shall consider imposing any or all of the following conditions, or other similar or related conditions, at the public hearing required by law for approval of the site plan, conditional use permit, variance or other similar land use entitlement:

1. Developer shall apply an anti-graffiti material of a type and nature that is acceptable to the City Manager, or his or her designee, to the publicly viewable surfaces on the improvements to be constructed at the site deemed by the City Manager, or designee, to be likely to attract graffiti;

2. Developer shall, either as part of the general conditions, covenants and restrictions, or separate covenants recorded against individual lots, prior to resale of any of the parcels, covenant in a form satisfactory to the city that the owner of the lots shall immediately remove any graffiti placed thereon.

D. Any applicant for design review approval, conditional use permit, special use permit, or building permit shall, to the extent deemed feasible by the City Manager, or his or her designee, have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:

1. Use of a protective coating to provide for the effective and expeditious removal of graffiti;

2. Use of additional lighting;

3. Use of non-solid fencing;

4. Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; or

5. Use of architectural design to break up long, continuous walls or solid areas.

E. The following provisions may be incorporated in a graffiti eradication order during an abatement hearing, at the discretion of the City Council:

1. Any surface of a structure on a parcel of land used for non-residential purposes that has been defaced with graffiti more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the City as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.

2. The owner of property used for non-residential purposes on which is located a surface of a structure that has been defaced with graffiti more than five (5) times in twelve (12) months shall permit the City to enter the property and, at the City's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or

7 - ORDINANCE NO. _____ (030812)

as necessary to permit more convenient or efficient removal of graffiti.

8.50.080 Anti-Graffiti Account. An Anti-Graffiti Account is created for penalties assessed against violators of this Chapter. Penalties assessed against violators of this Chapter shall be placed in the account, along with any monetary donations received from persons wishing to contribute to the account. The Council shall direct the expenditures of monies in the account. Such expenditures shall be limited to the payment of the cost of graffiti removal, the payment, at the discretion of the City Manager, of rewards for information leading to the conviction of violators of this Chapter, the costs of administering this Chapter, and such other public purposes as may be approved by the Council by resolution.

8.50.090 Penalty. Violations of this Chapter shall be punishable by the General Penalty, with each day a violation exists constituting a separate offense.

Section 3. Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Passed by the Council and signed by me in authentication of its passage this _____ day of _____, 2012.

Mayor Hank Williams

ATTEST:

City Representative

8 - ORDINANCE NO. _____ (030812)



STAFF REPORT

DATE: MAY 16, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: MATT SAMITORE, DIRECTOR

BACKGROUND

During the open house for the Front Street/Highway 99 Streetscape the Creamery owners requested a potential option of reducing the southbound travel lanes to allow for on-street parking. In order to potentially accomplish this task additional traffic engineering is needed. The City received a bid from our Transportation Engineer, DKS, for \$10,950. A copy of the analysis is attached.

This would exceed the amount budgeted for professional engineering services. Staff needs direction on whether additional monies should be allocated to this project.

RECOMMENDATION:

1. Change the current budget to reflect the study; OR
2. Reject the bid and work with the Creamery on alternative parking solutions.

STAFF REPORT

DATE: MAY 16, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: MATT SAMITORE, DIRECTOR

BACKGROUND

In 2005 the City updated our System Development Charge (SDC) ordinance to reflect current state law. One of the items added was the development of SDC credits for upsizing a qualified public improvement. In concurrence with ORS 223.304 credits are only good for a maximum of ten years. The City also has two other types of credits that are specific to Central Point. The second type is what we call pay with no construction and the third is a change of use credit.

ISSUES:

SDC Credit – Qualified Public Improvement

An example of this type of credit exists at the CP Mill site now called Snowy Butte Station. The developer upsized South Haskell Street from a residential street to a collector. The street was widened by an additional 10 feet. The City agreed to an agreed upon credit for this upsizing, paying for the right of way, and cost of additional road way.

Most of the credits were established when the building boom was going on. The two largest on file exist in Snowy Butte Station and the Federal Way Business Park. The Snowy Butte Station credits were established in 2005 and the Federal Way development in 2008. Staff wanted to bring this to Councils attention as we are sure you will be asked about it in the future. We are unable to extend the credit per the ORS.

| | | | | |
|---------------------|----------------------------------|------|------|------------|
| Snowy Butte Station | Parks Development | 0.00 | 0.00 | 53,627.08 |
| Snowy Butte Station | Parks Development | 0.00 | 0.00 | 0.00 |
| Snowy Butte Station | Storm Drain upsizing | 0.00 | 0.00 | 13,975.58 |
| Snowy Butte Station | Street Upsizing Res to Collector | 0.00 | 0.00 | 326,829.61 |

| | | | | |
|---------------------------|----------------------------------|------|------|------------|
| Federal Way Business Park | Street Upsizing Res to Collector | 0.00 | 0.00 | 161,174.06 |
|---------------------------|----------------------------------|------|------|------------|

RECOMMENDATION:

1. Send annual statements to current owners informing them of date of expiration.

SDC Credit – Pay with no construction

In 2005 when the City did a major revision to our SDC methodology developers came flooding in with permits for projects that were not ready to be constructed in order to avoid paying the higher SDC fees. Most of the projects were either built or the developer asked for a refund. However, two projects started foundations then stopped and no construction activity has taken place since. The two projects in question are as such:

Mt. View Plaza – the two commercial lots near Freeman. Cash paid in 2004 = \$25,836



The other is Beebe Woods in the Central Point East area = \$95,000



The issue with these credits is that we are serving as the bank. The developer was given an opportunity in the first year to ask for a refund, but they decided it'd be in their best interest to just have them pre-paid. Issues on these are:

1. How long do we allow them to stay on the books?
2. Are they transferable to new owners?
3. They started construction then stopped, in all other cases the SDC's for individual lots are forfeited, is that the case here?

RECOMMENDATION:

1. Change ordinance so that the credit is only available for 10 years.

140 S. Third Street • Central Point, OR 97502 • 541.664.3321 • Fax 541.664.6384

2. Are allowed to be transferred to new owners.
3. Adopt a policy on this type of stop then start developments credits.

SDC Credit – Change of Use

This type of credit is one of our greatest economic development tools as it allows for redevelopment of areas at such as the downtown at potentially a lesser amount than a new undeveloped parcel. The best example of this is the People’s Bank. They bought the Bee-Gee’s building and it had a credit for the old restaurant. There were some hic-cups on our SDC methodology on this particular project, but when it was completed it was cheaper to develop than at a vacant site because of the credit.

The following is an example we are dealing with currently. Bank X buys a property and demolishes a commercial office. How long are the credits for the commercial office viable until Bank X redevelops the property? Our ordinance is unclear on this issue. Also, is Bank X doesn’t redevelop the parcel are they allowed to transfer these credits to other projects in the City?

RECOMMENDATION:

4. Change ordinance so that the credit is only available for 10 years.
5. Transferability to other parcels is only available if they are immediately adjacent to where the credit was established. Cannot transfer to a project on the other side of the City.

City of Central Point
Budget
 N. Front St. Cross-section Evaluation

| | PIC (Grade 26) \$180 | PM (Grade 19) \$145 | PE (Grade 10) \$100 | CAD (Grade 6) \$80 | PA (Tech I) \$75 | Expenses | Total |
|-------------------------------|----------------------------|---------------------------|---------------------------|--------------------------|------------------------|--------------|-----------------|
| Task | | | | | | | |
| 1.1 Project Management | 0 | 6 | 0 | 0 | 2 | \$0 | \$1,020 |
| 1.2 Meetings | 0 | 8 | 4 | 0 | 0 | \$500 | \$2,060 |
| 2.1 Traffic Analysis | 1 | 12 | 58 | 0 | 2 | \$0 | \$7,870 |
| Total NTE | 1 | 26 | 62 | 0 | 4 | \$500 | \$10,950 |

Legend:

PIC = Principal-in-Charge

PM = Project Manager

PE = Project Engineer

CAD = Cad Technician

PA = Project Assistant

Expenses = Travel/Lodging Costs and Traffic Counts



Quality Based Selection (Q.B.S.)

What is Qualifications Based Selection?

- Process for selection of design professionals including: Architects, Engineers, Landscape Architects, and Land Surveyors by public owners.
- Based on qualifications and competence in relation to necessary work or project.



Quality Based Selection (Q.B.S.)

What is the value of Q.B.S.?

- Fosters broad based competition.
- Provides better project understanding for both the public owner and project consultant.
- Saves money over bid-based methods.
- Takes full advantage of design consultant expertise.





Quality Based Selection (Q.B.S.)

Are Oregon public agencies required to use Q.B.S.?

- Q.B.S. is required on the following projects:
- All federally funded projects.
- State Agency & Local Agency Projects that meet the threshold of \$900,000 total project cost (10% state funded).



Quality Based Selection (Q.B.S.)

How does a public agency decide who is qualified?

- Local Agency retains control.
- Special emphasis on skill, local knowledge, and availability.
- Consultant qualifications fit the needs of the specific project.





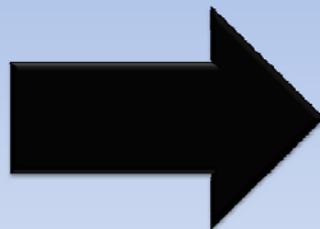
Quality Based Selection (Q.B.S.)

When I use Q.B.S., how will I know if I am getting a fair price?

- All work done for public agencies is public information.
- The Q.B.S. law allows the use of previous project pricing information for comparative purposes.



Quality Based Selection (Q.B.S.)



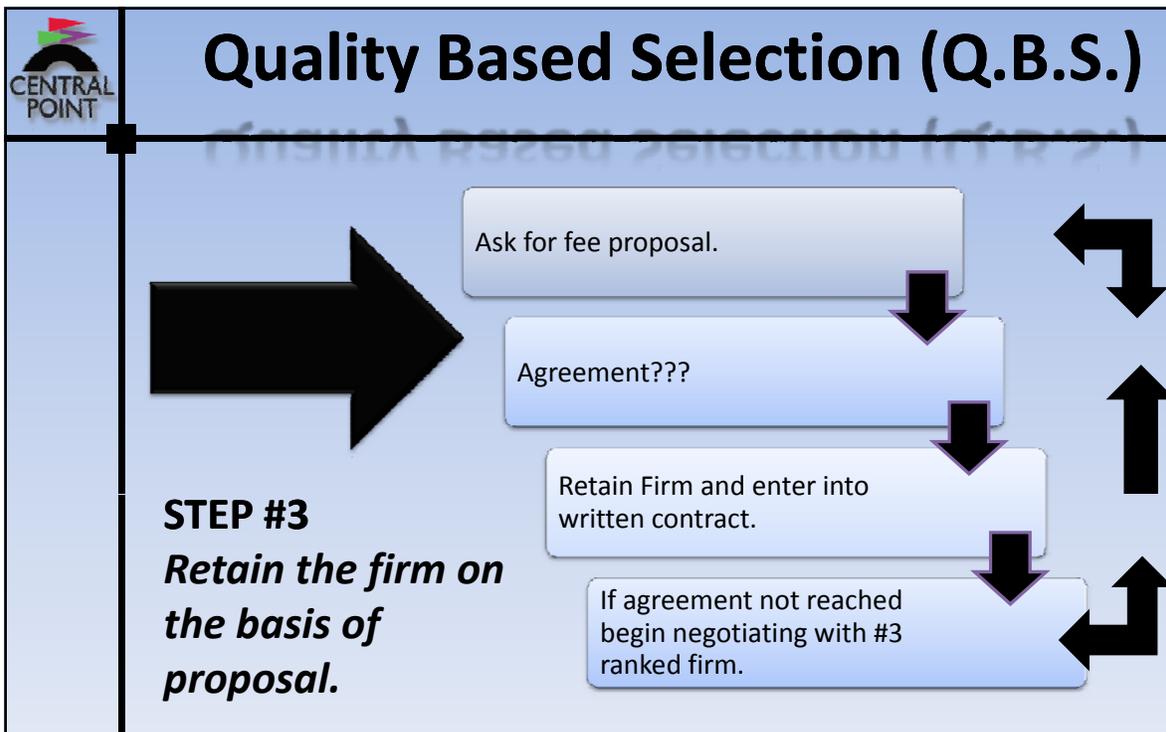
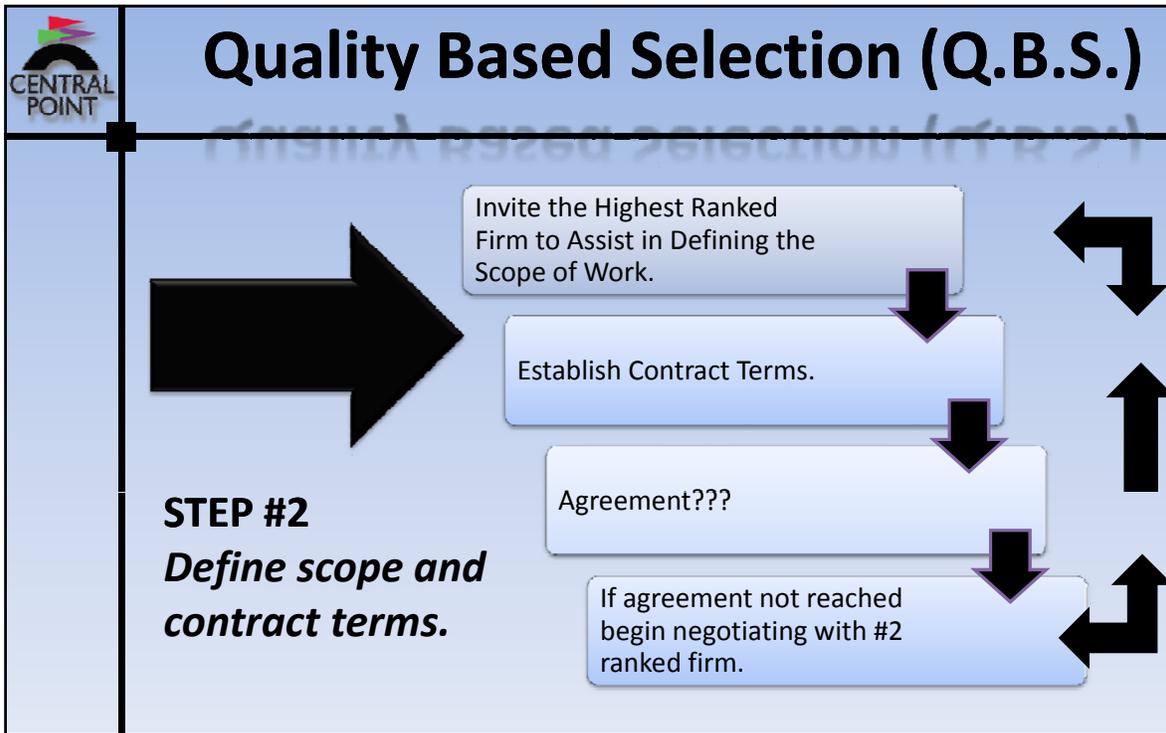
STEP #1
Rank the firms in terms of best qualified.

Establish Evaluation Criteria

Solicit Statements of Qualifications from Interested Firms

Develop a Short List of 3-5 Firms. Investigate references, jobs and office.

Interview & Rank Firms





Quality Based Selection (Q.B.S.)

Why would a public owner want to use qualification based selection?

- Consultant influence project start to finish.
- Improved design quality.
- More efficient less costly.
- Retained control by public owner.



Quality Based Selection (Q.B.S.)

Questions & Comments