



## HUMAN SERVICES COMMITTEE

### Agenda

Tuesday, October 7, 2014  
2:00 pm

Madison Avenue Meeting Room  
500 SW Madison Avenue

- |                                    |  |
|------------------------------------|--|
| Discussion/ <b>Possible Action</b> | I. Majestic Theatre<br>(Attachment)        |
| Discussion/ <b>Possible Action</b> | II. Open Carry of Firearms<br>(Attachment) |
| Information                        | III. Other Business                        |

### **Next Scheduled Meeting**

Tuesday, October 21, 2014 at 2:00 pm  
Madison Avenue Meeting Room, 500 SW Madison Avenue

### **Agenda**

Council Policy Reviews and Recommendations:

- 93-4.11, "Public Library Policy for Selecting and Discarding Materials"
  - 95-4.08, "Code of Conduct on Library Premises"
- Rental Housing Program Annual Report



# MEMORANDUM

**To:** Human Services Committee  
**From:** Karen Emery, Director Parks and Recreation Department  
**Date:** October 1, 2014  
**Subject:** Majestic Theatre

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**Issue:**

The Board of Directors of Majestic Theatre Management, Inc (MTM) has voted to discontinue its operation of the City-owned Majestic Theatre.

**Background:**

The City purchased the Majestic Theatre in 1985 and in 1991 entered an agreement with Willamette Arts Council, Inc. which later became MTM. MTM has been responsible for the operations of the theatre since that time through an agreement with the City. The operating agreement requires MTM to pay the regular operations costs of the building (e.g., electric, custodial costs) while the City does major maintenance on the facility (e.g., roof replacement, seismic upgrade). The City loaned MTM \$20,000 interest free to facilitate cash flow in December of 2004. The current balance is \$17,500 and MTM makes payments of \$100 each month; they are current on this re-payment schedule.

The City manages an endowment to be used for the Majestic Theatre operations and which currently has a balance of \$425,239.28. The endowment was created by several large and many small donations and is designated by the City Council to be used for the Majestic Theatre; there are no external requirements to hold the endowment principal whole. According to the operating agreement, interest earned in one fiscal year is allocated to MTM in the following fiscal year for operating support. In the 1990s and early 2000s, the interest earned was significant, at \$30,000 or so per year. Though the endowment balance has not changed, market conditions have dropped the earnings significantly. For FY 14-15, \$2,500 is budgeted. In recent years, MTM moved to develop and build an endowment to be managed by a third party, which would likely be able to invest monies at a higher level of risk/higher rate of return than the City's endowment. Staff does not have knowledge of the balance in this endowment or its intended use.

During the reporting period September 1, 2012 through August 31, 2013, MTM provided the City with its unaudited report of gross revenues totaling \$254,327 and expenses of \$349,166, for a net annual loss of \$94,839. The latest reporting period for FY13-14 has recently ended and is projected by MTM to have a modest positive balance.

MTM has had significant turnover in the Executive Director position, three in four years, as well as Board member turnover which has impacted the organization's effectiveness and long-term viability. The Board of MTM adopted a business plan in March 2014, which is attached, outlining where they want to be in five years. In FY 13-14, they held 24 productions, 79 community theatre performances, monthly reader's theatre performances, bi-lingual events and has seen an increase in membership.

On September 11, 2014, following the resignation of the Executive Director, the MTM Board announced that they had voted against renewing their agreement with the City for management of the Theatre. The Board has delegated all duties of the Executive Director amongst the five Board Members and staff. They will be able to continue operations until the City has a transition plan ready to implement. The Board will also complete a third party financial audit. They are honoring all current contracts and obligations as described in the Operations Agreement.

**Discussion:**

Staff has outlined four (4) options for City Council's consideration for the Majestic Theatre.

1. Immediately solicit a request for proposal for contracting the operations of the Majestic Theatre.

Pros: May be less expensive than the other alternatives;

Cons: May have similar turnover experience as MTM for the Executive Director and Board members;

It could take 5 to 6 months for a signed contract to be in place and operations would need to continue in the meantime based on bookings already in place;

Difficult to recruit and retain highly skilled Executive Director based on rate of pay and benefits;

May not be sustainable.

2. Parks and Recreation staff operates the Majestic Theatre for two years to assess the best management structure. The outcome might be a continuation of City operations or a new model.

Pros: Would utilize the City resources of the Finance, Human Resources and Parks and Recreation Departments. Existing staff would assume some of the administrative duties;

Utilize ActiveNet registration software for room rentals at Majestic;

Parks and Recreation would implement Cost Recovery methodology which would expect an improved recovery of direct costs;

Friends of Corvallis Parks and Recreation, a 501(c)(3), could manage donations specific to the Majestic Theatre that are not designated by the donor to increase the City's endowment;

P&R programming could be offered at Majestic, thereby reducing costs the City currently pays for space rentals;

Performing arts education programming would be offered more consistently.

Cons: Staffing costs will be higher for the Executive Director. A full time Majestic Theatre supervisor would cost around \$80,000 for salary and full benefits which is about double the MTM cost;

This would add a facility for Parks & Recreation to manage with limited resources.

3. Mothball the Majestic Theatre.

Pros: Would save some operating expenses.

Cons: City would have some expenses without any benefit;

The community loses an important venue for the arts;

The City's current contract with MTM states the City will honor 11 months of bookings should the relationship with MTM be terminated.

4. Sell the Majestic Theatre.

Pros: City would no longer provide a performing arts theatre. Energy and resources could be redirected;

Cons: City would no longer provide a performing arts theatre;

The revenue from selling the venue may be less than the dollars invested in seismic and remodeling projects;

The community may not support selling the historic theatre.

Staff recommends alternative #2. Two years would give the Parks & Recreation Department time to determine whether the Theatre could be operated in a manner that made positive cash flow, and would meet the current contract's requirement to honor 11 months of bookings. Any of the other three alternatives could be pursued in 18 -24 months if the Theatre does not meet cost recovery goals.

If City Council directs staff to pursue operating the Majestic Theatre internally, staff would develop a budget pro-forma projecting expenses and revenues. Staff would expect that the Theatre would be self-supporting, though in the short-term the following actions would be likely needed:

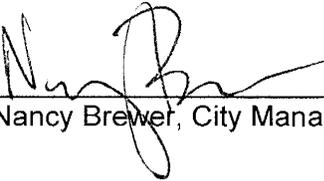
1. Use projected revenues and/or General Fund Contingencies to establish the appropriations necessary to pay the projected costs;
2. Use the Majestic Theatre endowment to provide up-front cash flow and/or additional

cash support for the Theatre until bookings are filled and revenues are adequate to fully fund the operation.

**Recommendation:**

Staff recommends that the Human Service Committee discuss this issue and recommend to the City Council to bring the operations of the Majestic Theatre into the Parks and Recreation Department for a period of two years.

**Review and Concur:**

  
\_\_\_\_\_  
Nancy Brewer, City Manager *Pro Tem*

  
\_\_\_\_\_  
Janet Chenard, Interim Finance Director

Attachment: Majestic Theatre Management Business Plan



## **Majestic Theatre Management, Inc.**

**5 Year**

### **Business Plan**

115 SW 2nd Street  
Corvallis, Oregon 97321  
541-757827  
tinamarie@majestic.org

March 08, 2014

# Majestic Theatre Business Plan

## EXECUTIVE SUMMARY

Now in its 100th year, The Majestic Theatre is a creative laboratory, meeting place, and performance venue for a vibrant community hungry for culture in the Mid-Willamette Valley. The mission of the organization includes: developing and expanding audiences through outreach and engagement; enhancing the value and reputation of the arts in Corvallis, Oregon; practicing ethical, transparent, and stable nonprofit governance, finances and management. The company was chartered in February 1986 and has received 501(c)(3) status.

### VALUES

Our guiding principles and core beliefs:

- We value being a place which is a positive environment primed for play, intellectual engagement and the curious mind.
- We value inclusivity and diversity of people and ideas.
- We promote the cultivation of creativity.
- We build and nurture partnerships with the community to enhance cultural, creative, and intellectual life in the region.
- We believe in access for all with the opportunity to succeed and experience engaged learning.
- We believe collaboration informs every aspect of how we must produce the arts.

### VISION and KEY MESSAGES:

The activities of the arts and culture sector and local economic vitality are connected in many ways including the economic impact to a community. Arts, culture, and creativity can

- improve a community's competitive edge
- create a foundation for defining a sense of place
- attract new and visiting populations
- integrate the visions of community and business leaders
- contribute to the development of a skilled workforce

### PERFORMANCE SERIES:

Attracting top performing artists  
World Premieres  
Multicultural Events and Performances  
Diversity Focused Series

### COMMUNITY ENGAGEMENT:

Live Theatre Projects: Reader's Theatre, Musicals, Community Theater  
Support & Partner with local nonprofit organizations  
Community Engaged Theatre Making - focus on community issues/topics

**PROGRAMS:**

- We are Growing Art* - Unbridled Voices, Outreach
- Artist-in-Residence
- Arts Education – Adult and Youth
- Monthly Art Exhibitions
- Artist Consortium - Fiscal Sponsorship

**ORGANIZATION STRUCTURE**

**BOARD OF DIRECTORS:**

- President
- Vice President
- Treasurer
- Secretary

- Standing Committees
  - Development Council
  - Communications and Outreach
  - Planning
  - Personnel
  - Finance Committee

**BOARD DEVELOPMENT:**

A well designed and populated Board will increase the number of unique relationships within the community and will provide needed leadership and professional skills. The Board is also key to fundraising both through personal contributions and through participation and support of overall fundraising efforts. Providing the Majestic Theatre's Business Plan to potential board and/or committee members will make it possible for future board members to understand the Majestic Theatre's objectives. To accomplish these objectives and in order to best connect to the community, the Board needs to be diverse in terms of age, ethnicity, gender, profession - both geographically and professionally.

**ORGANIZATION DESCRIPTION**

**Description:** In August 2013 The Majestic Theatre in Corvallis, Oregon turned 100 years old. The venerable vaudeville house has seen many incarnations over the decades. The organization is enjoying a new surge of energy and output with a new staff, new strategic focus, new model and new programs. All are focused on establishing the Majestic as the flagship cultural space for the performing and contemporary arts in downtown Corvallis, serving the City and surrounding counties.

**Ownership Structure:** Majestic Theatre Management is a non-profit company contracted to oversee operations, programs and fiscal health at The Majestic Theatre, a City owned community arts center in downtown Corvallis, OR.

**Mission Statement:** Our mission is to provide access, excellence and education to benefit the public and the greater arts community.

**Goals and Objectives:** The Majestic Theatre strives to:

- Remain relevant within our community.
- Develop Partnerships.
- Promote Community Engagement.
- To pursue economic development projects with a creative approach.
- Improve a community's competitive edge.
- Create a foundation for defining a sense of place.
- Attract new and visiting populations.
- Integrate the visions of community and business leaders.
- Contribute to the development of a skilled workforce.

The Majestic's work has had transformational impact on our ongoing efforts to fashion the venue as a community arts center - a setting for inclusive, multi-generational events, projects and conversations. The audience relationships that we have been building through our outreach efforts and audience development strategies are informing our vision of how programming and pricing should be design.

## MARKET ANALYSIS

### **Industry Overview**

The market segmented groups: baby boomers, college coeds, young families, professionals, and seniors.

### **Target Market**

The Majestic Theatre strives to fulfill the needs and interests of all ages, socio/economic and ethnic backgrounds.

### **Competition**

#### **Holt Center for the Performing Arts**

Strengths: 2,400 seats, Soreng theatre: 500; local and non-local artists

Home to six Resident Companies, a Broadway presenter, local dance groups, touring shows

Weaknesses: Ticket cost, travel expense and time

#### **The Shedd Institute**

Strengths: Quality, high profile artists and concerts. Youth education program. Musicals.

Weakness: Music only. Ticket prices. Travel Expense

The LaSells Stewart Center, OSU campus

Strength: 1,200-seat auditorium; high tech audio visual capabilities; Conferences (community and world interests), Music Concerts, Gallery. FREE events and speakers.

Weaknesses: Live Theatre, Youth Program, Concerts.

OSU Theatre Department

Strengths: Campus support (young adult patrons and participation). Live Theatre; education program; open to community participation of all ages. Summer 'Bard in the Quad', 8th year. Institute funding support for artists/educators. Free labor.

Weakness: Few mainstage performances annually, limited community use, concerts/music.

Corvallis High School Theatre Department

Strength: Auditorium seating 620; and black box performance space. Youth centered theatre, large scale musicals, free labor, community supported, concerts, summer arts program.

Weakness: High school campus (stigma of going to a high school for quality entertainment). Financial resources to book regular visiting artists.

Russell Tripp Performance Center -- LBCC campus

Strengths: 450 seats, state of the art lighting system; dressing rooms with showers; fully functional scene shop; host community interest events; live theatre; campus dance and music concerts; annual children's theatre; free labor.

Weakness: Commuter College, location; limited funding to host visiting artists; limited staff support.

**PRODUCT / SERVICE**

The Majestic Theatre offers the following facility products and services:

Rental Spaces:

Conference/Classrooms - 3

Lab Theatre – seating capacity ~ 60

Mainstage – seating capacity 300

South Lobby – capacity ~ 45

Green Rooms – 2 full w/ toilets

Ticketing System Services

Product(s):

The Majestic offers various performance opportunities for and with the community:

Dance and Music Concerts, Live Theatre, Art Exhibitions, Cultural Events, Conferences.

The Majestic also offers training: Internships, Volunteers, Experience Works, Youth service-hrs.

<b>RENTALS</b>	<b>CURRENT</b>	<b>NEW 2014/15</b>	
Entire Venue	1,000	1,500	
Downstairs (only)	\$500	\$900	
Rooms (upstairs)	\$25	\$100	1 <sup>st</sup> hr - \$25/hr after
Weekly	\$2,300	\$2,500	
Sunday, entire venue	\$325	\$375	
Friday/ Saturday	\$750	\$850	One night
Thurs- Sun	\$550	\$650	One night
Weekday	\$400	\$500	

Nonprofit Discount: \$ 100

**Ticketing Prices:**

Present Ticketing Services:

Majestic pays credit card fee and service charge ~\$1 per ticket

3.5 % for visa and Mastercard

The per ticket fee is different though:

\$ 0.25 at box-office or on the phone

\$ 0.95 on-line

Ticketing Services: Community Ticket Sales Service: \$1/ticket (free mailing list)

**MARKETING AND SALES**

**Marketing Plan**

The Majestic currently uses radio, local television, newspaper advertising to promote our events. We plan on increasing our online marketing campaign through social media websites and Constant Contact. We frequently offer comp tickets on local radio stations, and social media.

**Sales Plan**

The majority of sales are in person or online.

**Image Marketing**

The Majestic needs to be a place with a WOW factor and up to date image. Staging is key, especially photos. Bid for staging to enhance the features the Majestic already holds.

Photos & Virtual Tour --

- Lobby(s)
- Meeting areas, both empty and fully set up for an event so that people can visualize it in both environments
- Theater, both empty and during a performance. Photos of both the audience and performers.
- Balcony
- Entrance & street views
- Photo from your office looking out over the street (night or dusk shot when sun is setting)

- Virtual Tour and place on following: Website; Social Media, facebook, google +, twitter
- YOUTUBE (Majestic must have a YouTube account)

### **Marketing Outreach and Public Relations**

The scope of this marketing and outreach plan is the building and retaining of a loyal audience, filling houses for concerts, productions, events and maximizing revenue from ticket sales. Also, in the performing arts, the term marketing has taken on a narrow definition that focuses on advertising and ticket sales. In this plan marketing is used in a more traditional sense:

As used here marketing includes:

- Market research
- Publicity, public relations, including international publicity
- Outreach, proactive measures to reach out to the market or specific subsets of the market to develop relationships.
- Audience and patron development including building a substantial audience before mounting a new program
- Electronic Marketing
- Box Office, Ticket Sales, Group Sales
- Dynamic Inventory and Price Management

## **MANAGEMENT AND OPERATIONS**

### **Management Team:**

#### **Executive Director (ED)**

ED for the Majestic Theatre (MTM) and is granted authority in all matters necessary to fulfill that role and implement the Mission, goals and objectives of the organization. Responsibilities of the position include, but are not limited to:

#### **Development/Fundraising and Financial Sustainability:**

Expands support for the MTM through fundraising, sponsorships, fundraising events, individual gifts and grants (in consultation with MTM directors and their designees);

Develops and implements best business practices and ensure the organization sustains financial sustainability; Develops and implements yearly operational budgets; Assures that the theater is operating within budget at all times.

**Community Relations and Promotions:** works with staff to assure that public relations, marketing, advertising, web and social media support is adequately provided, maintained, updated and improved; Maintains collaborations with other city and community organizations (in consultation with MTM directors and their designees). **Staff & Volunteer management**

Works with MTM Directors to develop employee/contractor policies; Performs recruiting, hiring, training and development of staff, interns and volunteers; Supervises and provides leadership and training to administrative support and operational support staff; Terminates or modifies employment or volunteer relationships as necessary; Assures that staff, renters, contractors, patrons and volunteers are trained in the safe and responsible use of the MTM

buildings and equipment (including sound and lighting equipment); Ensuring adequate staff support and volunteer support are available during all shows and events. Programming, Production and Rentals. Hire, manage and facilitate the work of appropriate full, part-time or consulting creative and technical staff (including, but not limited to: Artistic Director(s), Theater Manager, visiting directors, multi-media presenters, etc.) Provides regular, post-project attendance, trouble-shooting and financial reports to MTM Directors.

#### Business Manager

The following duties under the direction of and in collaboration with the Executive Director:

Accounts billable; Accounts payable; Bank reconciliation; maintain files with contracts with renters & artists; Payroll

Report and Coordinate on Staff Coverage

Manage Facility/Operation - renter interaction and walk-thrus

Scheduling - maintenance; troubleshoot/anticipate problems

Manage Calendar - classes; productions; rentals

Manage Box Office - Ticket Reports and Reconcile monies

#### Administrative Assistant & Volunteer Coordinator

Job Duties included (but not limited to):

Receivable key entry

Customer Service: Ticket Sales and Membership

Ensures operation of equipment by completing preventive maintenance requirements; calling for repairs; maintaining equipment inventories; evaluating new equipment and techniques.

Provides information by answering questions and requests. Maintains supplies inventory by checking stock to determine inventory level; anticipating needed supplies; placing and expediting orders for supplies; verifying receipt of supplies.

Pulling online ticketing reports. Complete forms in accordance with company procedures.

Answer telephones and give information to callers, take messages, or transfer calls to appropriate individuals. Complete forms in accordance with company procedures.

Greet visitors and callers, handle their inquiries, and direct them to the appropriate persons according to their needs. Contributes to team effort by accomplishing related results as needed.

Volunteer Coordinator: Recruit new volunteers. Contact volunteers and coordinate agendas to meet the needs of each show. Coordinate bi-monthly volunteer appreciation meetings

#### Print Marketing Specialist

Job Duties included (but not limited to):

Event Poster Design; Program/Brochure Design; Print Media Design

Design and Send out monthly e-newsletter; Assist with other media projects as needed

Experience with: Adobe Creative Suite, Google applications, Microsoft Office, Wordpress and Constant Contact (or other similar program). Collaborate with staff and management on design and marketing of print and web based media. Website maintenance. Experience and knowledge of web based marketing and social media platforms. Ability to work independently.

### Operations Assistant

Perform routine building maintenance; schedule inspections and repairs; enforce fire and safety protocol; Janitorial duties: track supplies, organize shop/basement/scene shop. Projects as needed. Walk-thrus for renters; set and strike of events; train renters in tech operations; train in light/sound operations as needed.

### VENDOR, Sound Engineer - contract projects

Audio technician. Engineering at events and concerts. Maintaining a functional main sound system, as well as a portable system. Orientation and training of new people to use the system.

Video technician: Setup and operation of video equipment.

Maintain communication between performers and the house; this will be on a case-by-case basis, and mostly for concerts. Facilities for larger jobs or consulting challenging projects.

### VENDOR, Lighting Technician/Design - contract projects

Electrical experience/training. Assemble and Maintain a Detailed and Current Inventory of lighting Equipment, Controllers, Accessories, Cable, Gel, Gobos, Lamps and part stock.

Schedule and oversee service on any and all areas of the Lighting and Electrical stage systems.

Maintain familiarity with standard 'House Plot' and all accompanying needs.

Perform quarterly checks on bolt tightness for ALL fixtures hanging in the theater. Collaborate with clients, technical staff for contracted performers, and community workshops for their pre, active and post production needs. Schedule, Manage and utilize labor from a mix of paid and volunteer staff. Ensure all needed elements of Lighting are installed and show ready in a timely fashion. Attend weekly staff meetings. Ensure theatrical lighting fixtures used about the building are maintained. Install specialty lighting in Lobby, Rehearsal room, Community room and in the Theater on a per event basis.

### House Manager

Prep concessions. Stock fridge, clean surrounding areas, and pick up/purchase any necessary items. Insure events programs are printed, folded, and ready for the guests.

Using programs like Microsoft Word, InDesign, and Photoshop I create any extra flyers or signs needed to direct or inform guests of changes; i.e.: what items are for sale, signs leading to Reader's Theatre, seating arrangements, sold out shows, etc. Adjust house, lobby, and reception lights and temperatures accordingly. Organize and manage volunteers before, during, and after each show. Communicate with stage manager. Determine what needs must be met, and what time to open house and for intermission.

Cash box and credit card purchases recorded, and all concessions stored.

After concessions dispose of garbage and/or recycling from concessions, turn off all lights and select equipment, and lock doors.

Certification: update CPR training. Inform all volunteers of emergency procedures.

### Janitor

Cleaning facility, including but not limited to: restrooms, green rooms, offices (as requested), auditorium, upstairs classrooms, kitchen(s), lobby areas and hallways. Vacuuming all carpeted

areas, sweeping and mopping of floors and auditorium. Backstage area mopped and dusted regularly. Minor touch ups on walls and doors. Painting areas as directed. Cleaning all mirrors including dance rooms.

Internships: FREE

Community Service (required program for youth): FREE

Experience Works: FREE Oregon work program, senior members paid thru state program

### **Facility Operations**

#### **Business Location:**

The Majestic Theatre is located in the heart of downtown Corvallis with a 300 seat mainstage auditorium; 60 seat Lab Theatre; 2 class/conference rooms; full service concessions with beer and wine service and Art Gallery in the South Lobby.

#### **Future Needed Staffing:**

Marketing Director  
Production Manger  
Box Office Mgr  
Grant Writer  
Set Designer – Vender  
Master Electrician/Technical Director  
Costume Designer - Vender  
Stage Manager  
Telemarketer(s)  
Janitorial  
House Manager (3 total)

#### **Current Suppliers:**

Taylor Street Ovens  
Tyee Winery  
Bicoastal Willamette Valley LLC  
Boomer & Senior News  
CenturyLink  
Charlie's Piano Tuning  
Constant Contact  
Corvallis Pedicab  
first Alternative coop  
Gracewinds Music  
KEZI 9 NEWS  
KLCC

Mid-Valley Newspapers  
Northwest Senior Boom News  
Quill Corporation  
SPB  
CORE  
ProPrint  
Robnett's Hardware, Inc.

## **Facility Equipment and Improvements:**

### **House Needs:**

#### **Lighting Equipment**

##### **Dimmer rack replacement:**

- Model: ETC Sensor3, 96x2.4k Dimmer Rack

##### **Truss, Chain Hoist, and Moving Light package:**

- 40' of Thomas 12"x12" Black Aluminum Truss
- Chain Hoist x 3
- 6xVari-Lite 2500 Spot
- 6xVari-Lite 2500 Wash

##### **Cable, Connectors, repair parts:**

- o 1000 Ft Spool of wire
- o 100 Stage Pin Connectors
- o Wiring tools/accessories

##### **Color Scrollers:**

- Apollo Color Changer
- Would be Great to have 12

##### **Lighting Fixtures:**

ETC Lekos, 36 degree lens  
ETC Pars

#### **Sound Equipment**

##### **Stage monitors:**

-4 to 6 matching, options include:

- EAW microwedge
- Radian 15"
- Yamaha DXR12

##### **High quality mic stands:**

-4 short boom stands  
-4 to 6 tall boom stands

##### **Stage microphones:**

-pair of pencil condensers, cardioid  
-better kick mic, Heil PR  
-4 shure beta 58 mics

Stereo 31 band eq, DBX 2231

### **General Operations Improvements**

- Dishwasher - Small commercial-grade
- Washer & dryer
- Large refrigerator
- South lobby accordion door
- Matching Wine glasses
- Marley dance floor
- Kitchen remodel
- LED border lights
- Vacuum Cleaner
- Digital Camera
- Professional grade printer
- Newer Laptop
- Stereo systems (3)
- Keg-a-rator or tap system

## **FINANCIAL PLAN**

### **Scope and Objectives**

The objective of this financial plan is to enable the Majestic Theatre to accomplish its overall cultural and community objectives while managing its financial affairs in a sound, conservative and transparent way. This requires booking the venue 3 years in advance of each season. Two major fundraising campaigns: Capitalization and Annual:

### **Funding Requirements**

#### **CAPITALIZATION CAMPAIGN:**

Cash payments for future season: \$50,000

Annual Campaign 2014/15

Operating Reserve - equal to one season's expense (protect company from economic cycles)

Campaign Duration - 36 months targeted cash receipts over 3 to 5 years

**ANNUAL CAMPAIGN:** Annual fundraising to benefit following annual season

Raise start up funds to retain Fundraising Consultant 2015/16

#### **Membership Fees:**

	Current	2014/15
Student	25.00	35.00
Individual	35.00	50.00
Family	50.00	100.00
Centennial	100.00	200.00
Inner Circle	250.00	300.00

Producer	500.00	500.00
Patron	1000.00	1000.00
Investor	2500.00	2500.00
Visionary	5000.00	5000.00

**Use of Initial Funding**

The anticipated amount of \$150,000 will be used as follows:

\$30,000 Facility/equipment improvement

\$20,000 Staffing

\$25,000 Marketing

\$30,000 Program Development

\$20,000 Educational Director

\$15,000 Outreach

\$10,000 Special Projects

**Stewardship**

In the recent state of the economy, Donors can become frustrated by the lack of stewardship demonstrated by a local nonprofit organization. The Majestic has the opportunity to distinguish itself in this regard. That means that the Majestic must value and reward effective relationship building and sustenance, not just the funds raised.

No supporter of the Majestic should ever feel as if the only time the Majestic contacts them is to ask for money. The Majestic should plan to make 2 to 4 contacts by personal note, telephone calls and/or personal visits. Even during initial fundraising efforts.

Development Resources – key resources needed for fundraising plan:

Fundraising Consultant

General Manager

Development Director

Supportive website

Appropriate Materials

Patron relationship management system

Chairman and committee fundraising events

**Grant Opportunities:**

Oregon Arts Commission

Meyer Memorial Trust

Benton County Foundation

Kinman's Foundation

Oregon Community Foundation

Oregon Cultural Trust

Ford Family Foundation

MAP Foundation

**FIVE YEAR PROJECTIONS**

<u>Season</u>	Year One	Year Two	Year Three	Year Four	Year Five
Concerts	12	14	16	18	20
Musicals	1	1	2	2	2
Mainstage Live Theatre	2	2	3	3	3
Lab Live Theatre	16	18	18	20	20
Multi-Cultural Events	2	3	4	4	4
Community Engagement Projects-Original Works	1	2	2	2	3
Maj. Fundraising Events	2	2	2	2	2

Based on number of shows per category and avg. overhead costs: ~ Season NET Proceeds

<b>EVENT</b>	<b>YEAR 1</b>	<b>YEAR 2</b>	<b>YEAR 3</b>	<b>YEAR 4</b>	<b>YEAR 5</b>
Concerts	\$ 18,000	\$ 21,000	\$ 24,000	\$ 27,000	\$ 27,000
Musicals	\$ 35,000	\$ 40,000	\$ 50,000	\$ 60,000	\$ 60,000
Mainstage Live Theatre	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000
Lab Live Theatre	\$ 5,000	\$ 5,000	\$ 6,000	\$ 6,000	\$ 7,000
Multi-Cultural Events	\$ 4,000	\$ 5,000	\$ 6,000	\$ 6,000	\$ 7,000
Community Engagement Projects	\$ 2,000	\$ 3,000	\$ 3,000	\$ 4,000	\$ 4,000
Fundraising Events	\$ 10,000	\$ 12,000	\$ 15,000	\$ 20,000	\$ 20,000
Annual Capital Capaine	\$ 30,000	\$ 30,000	\$ 40,000	\$ 40,000	\$ 40,000
Grants	\$ 10,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 40,000
Rentals	\$ 55,000	\$ 60,000	\$ 60,000	\$ 65,000	\$ 65,000
<b>TOTAL</b>	<b>\$ 181,000</b>	<b>\$ 208,000</b>	<b>\$ 236,000</b>	<b>\$ 260,000</b>	<b>\$ 282,000</b>



October 1, 2014

To: Corvallis City Council  
From: Corvallis Arts & Culture Commission

At the Corvallis Arts & Culture Commission meeting on Sept. 17 the commission discussed the current situation with the Majestic Theater and agreed voted unanimously to submit the following statement.

*“Members of the Corvallis Arts & Culture Commission encourage members of the Corvallis City Council to accept the proposal from Corvallis Parks and Recreation to assume management of The Majestic Theatre for at least one year.*

*The process for creating a new management plan for this performing arts center gem in downtown dovetails nicely with the vision planning work currently being done by the Commission. We value all of our local arts and culture organizations. Stronger collaborations among partners will increase the overall visibility and impact of arts and culture in Corvallis adding to the economic vitality of our downtown.”*

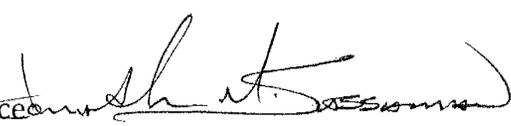
Sincerely,

Rebecca Badger  
Karyle Butcher  
Charles Creighton  
Shelley Moon  
Cynthia Spencer  
Brenda Van Develder  
Wayne Wiegand  
Charles Robinson (*absent*)

Memorandum  
Corvallis Police Department  
September 29, 2014

To: Human Services Committee

From: Jonathan M. Sassaman, Chief of Police  
Jim Brewer, Deputy City Attorney



Subject: "Open Carry" of firearms in public

**Issue:**

This report contains potential legislation relative to "open carry" of a loaded firearm in public including what a new local law would and would not allow, and proposed educational information strategy for the public on the subject.

**Background:**

At the May 19, 2014 City Council Meeting, citizens asked the City to consider steps to prohibit the "open carry" of firearms. City Council was provided an informational memorandum which addressed "open carry" and the authority of the Corvallis Police Department to enforce federal law.

At the June 2, 2014 City Council meeting, Council referred to Human Services Committee (HSC) the issue of "open carry" of firearms in public. Staff reported to HSC on July 8, 2014 providing information on the U.S. Constitution, the State of Oregon Constitution and the Corvallis Municipal Code relative to "open carry" of loaded firearms (attachment 1). HSC directed staff to prepare potential Legislation, information about what additional legislation would and would not allow and options to inform the public. Minutes from the July 8, 2014 HSC meeting are included (attachment 2).

**Discussion:**

Staff previously examined "open carry" legislation from 9 other Oregon jurisdictions (Astoria, Beaverton, Bend, Multnomah County, Newport, Oregon City, Portland, Salem and Tigard). The City of Portland's "open carry" ordinance was challenged (State v. Christian, 354 OR 22, 307 P3d 429, 2013) as violating the U.S. 2<sup>nd</sup> Amendment and Oregon Article 1, Section 27. The Oregon Supreme Court ruled Portland's ordinance does not violate the U.S. or Oregon Constitution. It's important

to note in the Portland case, the Oregon Supreme Court ruling followed the 2013 U.S. Supreme Court's rulings (Washington D.C. v. Heller and Chicago v. McDonald), that different facts could lead to different results and there's been no appeal to the U.S. Supreme Court.

Portland's "open carry" ordinance is specific to ORS 166.173 where a City is authorized to regulate the possession of a loaded firearm in public places. Staff, following the City of Portland drafted a potential ordinance for Council review and consideration (attachment 3).

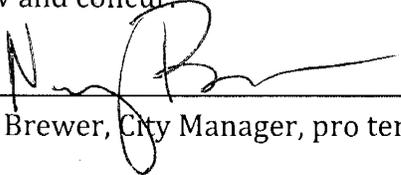
A new Corvallis ordinance mirroring the City of Portland does not grant police officers additional authority beyond that which exists today to investigate an "open carry" situation. Officers do not have the unilateral authority to stop, detain, question or search an individual because they have a firearm which can be observed by others in public. An officer must have reasonable suspicion (e.g. specific and objective articulable facts) that a crime is about to be committed, is being committed or was just committed, in order to exercise authority to intervene.

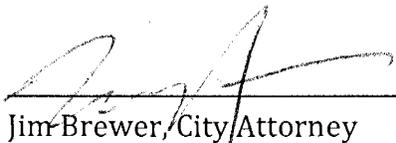
Upon final decisions by Council (enact an ordinance or not), staff will develop informational documents specific to "open carry" referencing:

- A. The Oregon Revised Statutes.
- B. The Corvallis Municipal Code.
- C. In lay terms depict what is legal and what is not.
- D. When and how to call 911 and non-emergency lines.
- E. What a citizen can do to be and feel safe when "open carry" is occurring.
- F. Develop a Frequently Asked Questions data sheet.

Staff will utilize and post the information on the Police Departments Web Page, linking our social media to the web page (e.g. Facebook, twitter, Department MyPD App.), and provide the information to the local media.

Review and concur:

  
\_\_\_\_\_  
Nancy Brewer, City Manager, pro tem

  
\_\_\_\_\_  
Jim Brewer, City Attorney

Attachments:

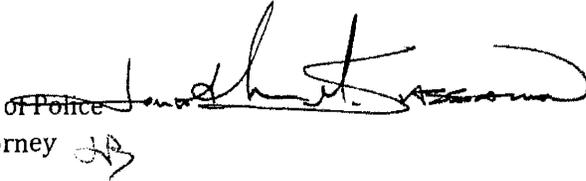
1. "Open Carry" of firearms in public staff report dated July 1, 2014
2. Minutes from July 8, 2014 HSC meeting.
3. Draft ordinance

Memorandum  
Corvallis Police Department

July 1, 2014

To: Human Services Committee

From: Jonathan M. Sassaman, Chief of Police  
Jim Brewer, Deputy City Attorney



Subject: "Open Carry" of firearms in public

**Issue:**

City Council, at the June 2, 2014 Council meeting referred to Human Services Committee the issue of "open carry" of firearms in the public. This staff report addresses legal issues and local authority relative to "open carry" of firearms. (Information for council)

**Background:**

At the May 19, 2014 City Council meeting, a group of citizens expressed concern about a person carrying a firearm openly in Cloverland Park, possibly within 1000 feet of a school, in possible violation of a federal statute. This group of citizens asked for the City to consider appropriate steps to prohibit "open carry" of firearms. City Council was provided an informational memorandum (attachment 1), containing information about "open carry" and the authority of the Corvallis Police Department to enforce federal law.

**Discussion:**

The 2<sup>nd</sup> Amendment of the United States of America Constitution grants the right to people to keep and bear arms which shall not be infringed upon. In 2010, the United States Supreme Court (McDonald v. Chicago) ruled a ban on ownership of handguns within a private home was unconstitutional, affirming the 2<sup>nd</sup> Amendment applies to States and therefore gun ownership is an individual right and it cannot be taken away by the individual States.

Article I, Section 27 of the State of Oregon Constitution echo's in part the 2<sup>nd</sup> Amendment and grants the people of Oregon the right to bear arms. The State of Oregon enacted ORS 166.170 which preempts local governments from regulating firearms or enacting civil or criminal ordinances relating to firearms. Any ordinances contrary to ORS 166.170 are void, however the Oregon Legislature did carve out for local governments the authority to enact very narrow laws governing the discharge of firearms and the possession of a loaded firearm in public places with exceptions for public safety officials, those with concealed handgun licenses, military members,

employees of the US Department of Agriculture and other lawful purposes in defense of person and property.

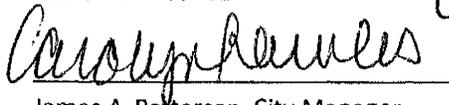
Corvallis Municipal Code 5.03.120.020 restricts the possession of concealed weapons and Corvallis Municipal Code 5.03.120.030 restricts the discharge of weapons within the City of Corvallis. The City does not have an ordinance restricting the possession of a loaded firearm in public.

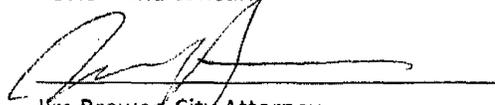
The 4<sup>th</sup> Amendment of the United States of America Constitution grants the right of the people to be secure from unreasonable searches and seizures. Police officers who respond to unknown situations with people who "open-carry" a firearm, do not have the unilateral authority to stop, detain and question or search any person because they have a firearm which the general public can observe. A Police officer must have "reasonable suspicion" that a crime or violation of law is about to occur, is occurring or just occurred in order to stop a person. A person who openly carries a firearm, in and of its self, is insufficient cause to stop a person.

Attached are excerpts from a training "power point" (Attachment 2) utilized by the Corvallis Police Department to train staff of laws related to "open-carry" which will be discussed during the meeting.

Attachments:

1. Council request follow-up, dated May 28, 2014
2. Training slides

Review and concur: *AJC*  
*cm*  
  
James A. Patterson, City Manager

Review and concur:  
  
Jim Brewer, City Attorney

1

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COUNCIL REQUESTS

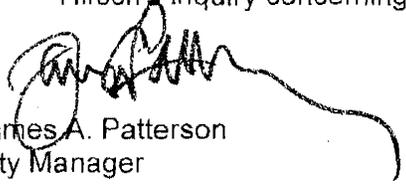
FOLLOW-UP REPORT

MAY 29, 2014

\*\*\*\*\*

1. Open Carry of Guns in Parks (Possible City-Wide Ban) (Hirsch)

The attached memorandum from Police Chief Sassaman addresses Councilor Hirsch's inquiry concerning open carry of firearms in City parks.

  
James A. Patterson  
City Manager

To: Mayor and City Council  
From: Jon Sassaman, Police Chief  
Jim Brewer, Deputy City Attorney JB  
Date: May 28, 2014  
Subject: Council Follow-up/ "Open-carry" of firearms in public places

**Issue:**

At the May 19, City Council meeting, a group of citizens expressed concern about a person carrying a firearm openly in Cloverland Park, possibly within 1000 of a school, in possible violation of a federal statute. This group of citizens asked for the City to consider appropriate steps to prohibit "open carry" of firearms. This memorandum is intended to provide some information about "open carry" and the authority of the Corvallis Police Department to enforce federal law.

**Background:**

In Oregon, any City's ability to regulate firearms is greatly limited by a state law that preempts most regulations:

ORS 166.170 is the State Preemption law. It states:

- 1). Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.
- 2). Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and complements thereof, including ammunition. Ordinances that are contrary to this subsection are void.

There are also specific Oregon Revised Statutes where the Legislature grants narrow authority to local jurisdictions:

ORS 166.172 authorizes a City to regulate the discharge of firearms. As such, we have a local ordinance to this effect.

ORS 166.173 authorizes a City to regulate the possession of a **loaded** firearm in public places. A local municipality may regulate, restrict or prohibit the possession of a loaded firearm in public places, with some exceptions. Exceptions include public safety officials and those with concealed handgun licenses.

Under the state law, if someone has a concealed handgun license, they are free to carry a loaded firearm concealed or to "open-carry" it. There is no authority granted to local jurisdictions to prohibit open-carry for someone with a concealed handgun license. The laws grant limited authority to local jurisdictions who desire to regulate loaded firearms in public for people without a concealed handgun license or are

Council Follow-up  
"open-carry"

otherwise exempt (e.g. police officer). Even if additional laws are passed, I suspect legal challenges may result and any new law does not grant a greater degree of safety for our officers who are put in the position to engage these situations.

When we receive a call for service about someone openly carrying a firearm, there is currently no specific law in Corvallis granting police officers the unilateral authority to stop, detain, question or search an individual merely because they have a firearm on their hip where people can see it. At this point, there's no reasonable suspicion that a crime or violation of law has occurred. There are many people who have a CHL and choose to open-carry. We do have local ordinances dealing with weapons:

**Municipal Code: Section 5.03.120.020 Concealed weapons.**

1) No person, other than, with regard to firearms, a person described by ORS 166.260 or licensed pursuant to ORS 166.291 through 166.293, shall carry concealed on or about the person, or carry concealed and readily accessible about the person within any vehicle, any firearm; any gun; any knife having a blade that projects or swings into position by force of a spring, commonly known as a switchblade; any dirk or dagger; any metal knuckles; any nunchaku sticks; any sling shot; or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person.

2) A violation of this Section is a Class B Misdemeanor.

(Ord. 90-10 § 2, 1990; Ord. 82-77 § 111.02, 1982)

**Municipal Code: Section 5.03.120.030 Discharge of weapons.**

1) No person, other than a police officer or animal control officer, shall fire or discharge within the City any bow and arrow, firearm, or gun.

2) A violation of this Section is a Class A Misdemeanor.

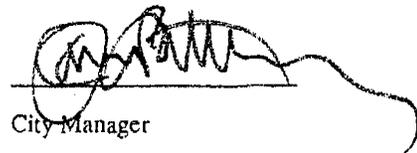
(Ord. 2010-21 § 2, 10/18/2010; Ord. 82-77 § 111.03, 1982) (Ord. 2002-19 § 3, 06/17/2002)

The City Attorney's Office has reviewed local ordinances in the jurisdictions listed in the citizens' letter (Astoria, Beaverton, Multnomah County, Newport, Oregon City, Portland, Salem, Tigard, and Bend). Each of them has carefully followed the state statutory scheme and only banned the open carrying of a loaded firearm, with the statutory exceptions including people with concealed carry permits (who may therefore carry a loaded weapon openly).

Police officers in Oregon do not have jurisdiction or authority to directly enforce federal law. Federal agencies (DEA, ATF, FBI, etc.) with law enforcement authority may do so. Under Oregon's statutory scheme, local governments may not independently create a regulation that echoes the 1000 foot rule. The state has not chosen to do so.

Both the Police Chief and City Attorney are available to answer any questions.

Review and Concur:



City Manager

Council Follow-up  
"open-carry"

# Carrying Firearms



## Legal Issues

Developed By:

- ❖ The Corvallis Police Department
- ❖ The Benton County District Attorney, John Haroldson
- ❖ The Corvallis City Attorney, Jim Brewer

## Sources

- Oregon Revised Statutes
- DA Haroldson and CA Brewer, CPD Capt. Hendrickson, Lt. Brewer and Sgt. Mann
- Annual legal update in-service training, DDA Amesbury
- Memorandum: Benton County Sheriff's Office "Notice to Concealed Handgun License Holders",
- Syllabus DISTRICT OF COLUMBIA ET AL. v. HELLER:  
<http://www.supremecourt.gov/opinions/07pdf/07-290.pdf>
- Syllabus MCDONALD ET AL. v. CITY OF CHICAGO, ILLINOIS, ET AL:  
<http://www.supremecourt.gov/opinions/09pdf/08-1521.pdf>
- Constitution of the United States of America:  
<http://www.usconstitution.net/const.html#Am2>
- Oregon Court of Appeals Ruling: OREGON FIREARMS EDUCATIONAL FOUNDATION, v. BOARD OF HIGHER EDUCATION and OREGON UNIVERSITY SYSTEM
- H.R. 218 The Law Enforcement Officers Safety Act of 2004
- S.R. 1132 The Law Enforcement Officers Safety Improvements Act of 2010

## Training Objectives

- Protection of the community.
- Ensure stops and arrests for firearms laws are based on sound legal guidance and principles.
- Increase officer safety through awareness and contact procedures.
- Protection of the rights of citizens to carry firearms legally.
- When the opportunity arises, education of citizens regarding carrying firearms.

## Firearms are a Tool

- Everyday you work, you are around many other people who are armed.
- You also pass many citizens on the street who are legally armed:
  - Citizens with Concealed Handgun Licenses (CHL).
  - Some people carry firearms openly in public legally; this may cause some people alarm.
- It's the person and actions that can be dangerous; a firearm is a tool that can increase the person's capacity for violence, whether for crime or legal defense.

## Issue

- Most citizens just want to exercise their rights peacefully and without calling attention to themselves.
- There is a movement of becoming more educated in firearms carry laws and exercising the ability to carry firearms.
- Some activists are trying to bring this cause to light by engaging in "open carry" of firearms.
- Locally and across the country, these individuals are encountering law enforcement to test our knowledge of the law.
- Being aware of the presence of a firearm is important - remain alert.

## The Issues Are Complex



- **Possession of firearms is a legal and a political issue**

## Areas Where Firearms are or may be Restricted

- Court Facilities
- Public Buildings
- The grounds adjacent to Public Buildings
- Federal Facilities, including the Post Office and some BLM land
- Tribal Land and Facilities
- Private property where posted

## 2<sup>nd</sup> Amendment of the Constitution of the United States

*"A well regulated Militia,  
being necessary to the security of a free State,  
the right of the people to keep and bear Arms,  
shall not be infringed."*



## 2<sup>nd</sup> Amendment of the Constitution of the United States

- Ratified in 1791. Until recently, it was undecided if the 2<sup>nd</sup> Amendment meant that individuals (without militia membership) have a right to own firearms.
- The issue of individual ownership of firearms was not resolved until 2008 and 2010.
- There will likely still be challenges to any law that restricts possession of firearms and LE will likely be involved.
- Some people may push the issue to get into court.

## US Supreme Court 2008: Washington DC v. Heller

- Washington DC had a complete ban on handgun ownership
- The US Supreme Court ruled in this case that the 2<sup>nd</sup> amendment is an individual right
- “The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.”
- This ruling only applied to the Federal Government; not to the States.

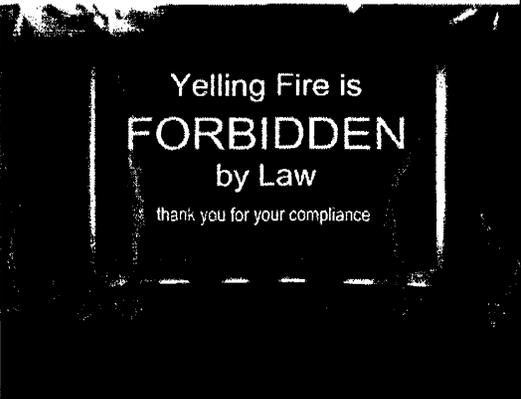
## US Supreme Court 2010: McDonald v. Chicago

- In June 2010, the U.S. Supreme Court ruled that a Chicago ban on ownership of handguns within a private home was unconstitutional.
- This ruling means the 2<sup>nd</sup> Amendment applies to the States (via the “Due Process Clause”); gun ownership is an individual right and it cannot be taken away by the individual States.

## 2<sup>nd</sup> Amendment of the Constitution of the United States

- **HOWEVER....Just like freedom of speech, government has the ability to regulate “time, place and manner” issues**

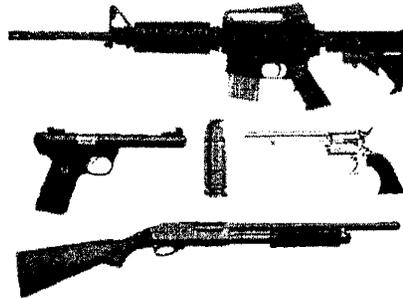
Example: the freedom of speech does not allow a citizen to yell “FIRE!” in a crowded theater when there is not a fire.



Yelling Fire is  
**FORBIDDEN**  
by Law  
thank you for your compliance

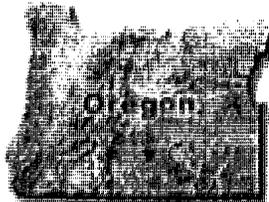
## 2<sup>nd</sup> Amendment of the Constitution of the United States

- **Final Assessment on 2<sup>nd</sup> Amendment: Gun ownership is a fundamental right, BUT some restrictions / limits can be placed on firearms by government.**



## State of Oregon Constitution

- **Article I, Section 27. Right to bear arms; military subordinate to civil power.** The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power.



## Oregon Statutes

- **166.170 State preemption (summarized). Except where specifically authorized by state statute, only the state legislature may regulate (in any manner) firearms, components and ammunition.** (affirmed by Western Oregon University case of Sept, 2011).
- **166.171-166.276 Allows for some very limited regulation of firearms by cities and counties**

### Authority of City to regulate discharge of firearm (ORS 166.172)

- A City may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within the city's boundaries.
  - CMO 5.03.120.030 Discharge of Weapons, regulates, restricts and prohibits the discharge of weapons within the City of Corvallis with exemptions for Police Officers and the Animal Control Officer. Violation of the CMO is a Class A Misdemeanor

Authority of City or County to regulate possession of  
loaded firearms in public  
(ORS 166.173)

- A city or county may adopt ordinances to regulate, restrict or prohibit the possession of loaded firearms in public places, as narrowly defined by state law.
  - The City of Corvallis does not have a law to this effect.

## State v. Christian

- Portland ordinance (PCC 14A.60.010(A)):
- “It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.”
- 14 exceptions including concealed handgun license

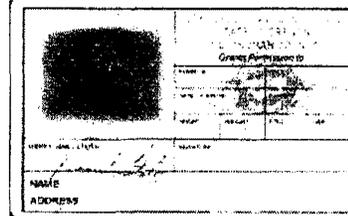
## State v. Christian

354 OR 22, 307 P3d 429 (2013)

- Ordinance challenged as violating face of US 2<sup>nd</sup> Amendment and Oregon Article I, Section 27
- Oregon Supreme Court rules that Portland Ordinance does not violate US or Oregon Constitution.
- Different facts could lead to different result
- No appeal taken to US Supreme Court
- 2013 decision, follows Heller and McDonald

## Concealed Handgun License

- If an applicant meets the legislated requirements and pays the required fees, ORS 166.291 requires a sheriff to issue a person a concealed handgun license.
- The applicant must be:  
(summarized)
  - 21 years old
  - A resident of that county
  - Trained in firearms safety
  - Not mentally ill
  - Not a “criminal” (see ORS for specifics; many including the person is not free on any form of pretrial release)



## Can a CHL Holder “Open Carry”?



Someone with a CHL CAN OPEN CARRY; there is no requirement a CHL holder carry concealed.

CHL holders are allowed to carry firearms in some places that non-holders are prohibited from carrying. *(Example: CHL holders can carry in most public buildings, but NOT in courts or federal buildings!)*

## An Important Definition to Know

- 166.360 (4) “Public building” means a hospital, a capitol building, a public or private school, as defined in ORS..., a college or university, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS..., other than a court facility. (As an example, the Corvallis/Benton County Library is a “Public Building” )

## Officer May Examine Firearms in Public Buildings

- **166.380 Examination of firearm by peace officer; arrest for failure to allow examination. (1) A peace officer may examine a firearm possessed by anyone on the person while in or on a public building to determine whether the firearm is a loaded firearm.**
- **(2) Refusal by a person to allow the examination authorized by subsection (1) of this section constitutes reason to believe that the person has committed a crime and the peace officer may make an arrest pursuant to ORS 133.310.**

## CHL Exemptions

- **166.262 Limitation on peace officer's authority to arrest for violating ORS 166.250 or 166.370. A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or (b) or 166.370 (1) if the person has in the person's immediate possession a valid license to carry a firearm as provided in ORS 166.291 and 166.292. [1999 c.1040 §5]**

## Tactics when Dealing with Firearms General Guidelines

- Caution and reasonableness are key.
- Your reason for contact must be legally sound; anonymous reports will not/do not justify a stop.
- We don't want to conduct a high-risk custody on everyone who has a gun; the totality of the circumstances will determine the tactics.
- Consider the setting and try not to cause greater alarm than necessary.
- There is no perfect tactic for these situations; Tactics will be suggested, but ultimately the officer on the scene needs to decide the best course of action and be able to justify it

## Open Carry in General Public

- Open carry in a public place (but NOT IN A PUBLIC BUILDING, a COURT or a FEDERAL FACILITY) is generally LEGAL. – *Do not stop anyone just for carrying a firearm!*
- Totality of the circumstances MIGHT justify a stop if you have reasonable suspicion of a crime. You don't need "probable cause", just reasonable suspicion. Examples may include specific actions, such as the manner the person is carrying the gun, the person trying to evade being detected, threatening words – but this will be for you to justify and articulate!
- Generalities ("officer safety", "in an area where crime has occurred") will NOT suffice.

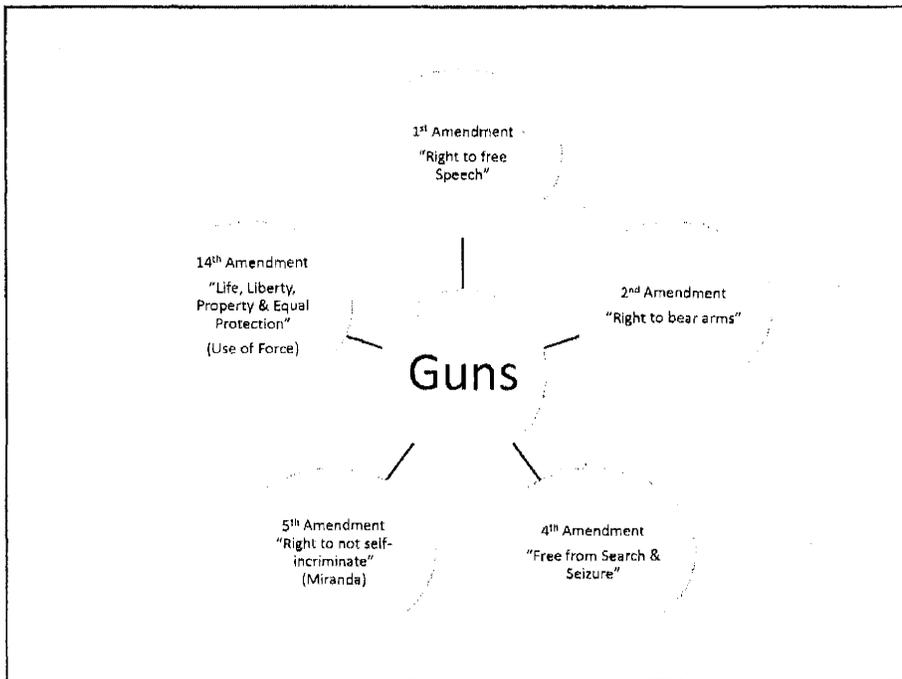
## CHL Holders

- There is no law that overtly states that a CHL holder has to present it when carrying under that license. You cannot arrest someone for the crime of "Failure to Carry and Present" a CHL (the crime does not exist)
- However, the exemptions from arrest from the carrying crimes only apply if the CHL holder has the CHL in his possession
- Whether or not the person has a CHL is something you may investigate; if the person does not want to show you a CHL, you can only act on what you know
- It is lawful to stop a person if you have reasonable suspicion to believe he is (1) carrying concealed anywhere in public but you don't know he is a CHL holder or (2) carrying a firearm (open or concealed) in a public building and you don't know he is a CHL holder

	No CHL, open carry	Possess CHL, concealed carry	Possess CHL, open carry	On-duty Officer	Off-duty Officer
Public Property (sidewalks, streets, etc)	Yes	Yes	Yes	Yes	Yes
Court Facilities (cmts are not public bldgs)	No	No	No	Yes, unless judge says no	No
Public Buildings (specific list) <i>Officer may inspect firearm per 286.380</i>	No	Yes	Yes	Yes	Yes
Ground adjacent to public buildings	No	Yes	Yes	Yes	Yes
Federal Facilities (Post Office, Buildings)	No	No	No	Yes	No
Natl Forest Service/BLM Land – normally okay, but could be restricted, so check postings and with a ranger	Yes	Yes	Yes	Yes	Yes
Tribal Land and Facilities – Written permission to carry may be obtained from tribal judge	Not without written permission	Not without written permission	Not without written permission	Yes	Not without written permission
Private Property	Yes, unless otherwise posted	Yes, unless otherwise posted	Yes, unless otherwise posted	Yes	Yes, unless otherwise posted

## Agency Comparisons

	2013 & 2014 YTD Charges	Procedural Changes based on Ordinance
Astoria Police Dept.	0	No Change
Beaverton Police Dept.	No response	No response
Bend Police Dept.	0	No Change
Multnomah County S.O.	0	No Change
Newport Police Dept.	0	No Change
Oregon City Police Dept.	0	No Change
Portland Police Bureau	153	No Change
Salem Police Dept.	1	No Change
Tigard Police Dept.	2	"Stop" people w/guns



	2011	2012	2013	2014 ytd
# of Firearm Arrest cases	15	11	6	6
# of Open-Carry calls for service	4	1	3	2
# of CHL's in Benton County	2,921			

**HUMAN SERVICES COMMITTEE  
MINUTES  
July 8, 2014**

Present

Councilor Penny York, Chair  
Councilor Mike Beilstein  
Councilor Bruce Sorte

Staff

Jim Patterson, City Manager  
Jim Brewer, Deputy City Attorney  
Jon Sassaman, Police Chief  
Carrie Mullens, City Manager's Office

Visitors

Jim Day, *Corvallis Gazette-Times*  
Stewart Wershow  
Carl Price  
Christy Anderson Brekken  
Rebecca Landis, Corvallis Farmers Market Director

**SUMMARY OF DISCUSSION**

	Agenda Item	Info Only	Held for Further Review	Recommendations
I.	Visitors' Propositions • Open Carry of Weapons (Price, Anderson Brekken)	Yes		
II.	Corvallis Farmers' Market Annual Report			Accept the 2013 Corvallis Farmers' Market annual report
III.	Open Carry of Weapons		Sept	
IV.	Other Business • Pending agenda items	Yes		

Chair York called the meeting to order at 2:00 pm.

**CONTENT OF DISCUSSION**I. Visitors' Propositions

Carl Price testified in support of open carry as an inherent civil and constitutional right. He quoted from the Corvallis City Charter, "Corvallis is a community that honors diversity and diverse interests and aspires to be free of prejudice, bigotry and hate." He opined that recent information in local news media about banning open carry is similar to tactics used in an attempt to ban other civil rights, such as gay and interracial marriage. He said many of the arguments have been about the safety of children; however, Corvallis does not have a violence problem. During research, he could not locate any case in Corvallis that resulted in violence from an individual legally and openly carrying a weapon.

Mr. Price said banning open carry is against the City Charter and the oath Councilors took to uphold the Oregon and US Constitutions. In the *District of Columbia v. Heller* case, the US Supreme Court said the protective right to bear is

to open carry. Infringing on that right without pressing interest from the government is abridging an individual's civil rights by the government. The City should never attempt to infringe on any civil right.

Regarding safety, Mr. Price referred to Federal Bureau of Investigation (FBI) statistics that indicate violence in the US has decreased by more than 50% since 1993 as gun ownership has increased.

Mr. Price noted that citizens are suing cities who have banned open carry, and those cities are financially settling those lawsuits out-of-court. He inquired how Corvallis would pay for that type of settlement and encouraged Council to address the financial burden before any action is taken.

In response to Chair York's inquiry, Mr. Price said a number of states have prohibitions against open carry including California, New York, and the District of Columbia. Texas bans open carry of pistols but not rifles. Chicago's ban was recently challenged and failed.

Christy Anderson Brekken testified on behalf of the families who signed a letter submitted to Council requesting an open carry ban. She said there have been several open carry incidents in Corvallis that have alarmed families, especially when small children are nearby. In one specific issue, an off-duty Officer spoke casually with the individual who was openly carrying and that person left the area. This is an issue, even if it does not result in violence. Allowing open carry interferes with the feeling of safety in the community and the right to conduct business in a civil and dignified way without feeling there are people nearby who are either expecting violence or who may be inclined to violence. She noted that several cities in Oregon ban open carry in the same way that has been proposed. The Portland ban was challenged and found to be constitutional by the Oregon Supreme Court.

Regarding safety, Ms. Anderson Brekken said the presentation slides included in the meeting materials point out to officers that there is an increased risk of violence and bodily harm when firearms are present in public.

Ms. Anderson Brekken explained that if Corvallis adopts the proposed open carry ban, concealed handgun license (CHL) holders would still be allowed to open carry. That means when citizens see individuals openly carrying, they know those individuals have passed CHL requirements, including safety training and background check. She noted that concern has been mentioned about whether a ban will provide Officers with additional power to stop and talk to those people who openly carry. She referred to the presentation slide titled CHL Holders that states the Police Department's position that it is lawful to stop a person if an Officer has reasonable suspicion to believe a person is carrying a firearm (open or concealed) in a public building without knowing if the person is a CHL holder. She opined that

if an open carry ban is adopted in Corvallis, "public building" could be replaced with "public place."

Ms. Anderson Brekken added that Corvallis is a wonderful city to live in and raise children. Observing an increase of people openly carrying would disrupt that feeling. Citizens perceive that someone who is openly carrying is anticipating or considering violence. It is reasonable to maintain a civil, open, warm feeling of Corvallis where citizens feel safe to have children around without the children asking why someone else has a gun. The families of Corvallis strongly encourage Council to adopt an open carry ban.

Councilor Beilstein inquired whether Ms. Andersen Brekken believes the current protections are adequate when the Police Department has determined that it is lawful to stop someone who is openly carrying a firearm to inquire whether they have a CHL.

Ms. Anderson Brekken responded that the City settled a lawsuit related to an Officer approaching someone who was openly carrying a firearm. The person sued on the premise that the Officer did not have reasonable suspicion to stop and ask whether they had a CHL. Under current law, an Officer cannot ask whether the person has a CHL because open carry is not banned in Corvallis. If open carry was banned, an Officer would have the right to stop and ask a person who is openly carrying if they have a CHL.

## II. Corvallis Farmers' Market Annual Report

In regards to the previous testimony, Ms. Landis said in 2008 the Market had an incident related to open carry. Several customers were very alarmed by the behavior and requested she do something as the Market Director.

Ms. Landis referred to the annual report and asked the Committee to recommend Council acceptance.

Ms. Landis reported that this year the Market was granted an extension to the permit to cross over the alley between 1st and 2nd Streets on Monroe Avenue. The Market was already able to occupy the area to the east of the alley and with the extension, the Market can block off space to the west. There is a pending parking elimination permit for reconstruction at the Julian Hotel. The Market is working with Public Works to keep at least a portion of this area that was previously granted to the Market so services promised to local farmers can be upheld. The space extension allows the Market to accept additional vendors and assist other organizations with publicity, such as providing space for a kinetic sculpture to promote the local kinetic event and offer space for a blood drive.

Ms. Landis said the Market continues to struggle with raising funds for the Supplemental Nutrition Assistance Program (SNAP) incentive. A monthly raffle is held at the Market and a summer picnic in Willamette Park will be held on August 3 to raise funds to supplement the Oregon Trail Card.

In response to Councilor Beilstein's inquiry related to the supplement to the SNAP program, Ms. Landis said fundraising amounts vary and are minimal. The most expeditious way for this program to work would be if an outside funder gave the Market a few thousand dollars. Additionally, the Market is not designed for, nor does it have the capacity for major fundraising. She noted that one of the local churches is holding a breakfast for members as a fundraising activity for the SNAP program and will raise a few hundred dollars. Benton County occasionally provides funds when they receive grants that match the purpose of the program.

Councilor Beilstein said he does not believe farmers' markets should be responsible for fundraising SNAP funds. He inquired about the utilization of the supplemental monies. Ms. Landis said the Corvallis Market could easily utilize \$15,000 to \$20,000 in supplemental funds.

Chair York thanked Ms. Landis for her stable leadership.

The Committee unanimously recommended Council accept the 2013 Corvallis Farmers' Market Annual Report.

### III. Open Carry of Weapons

Chief Sassaman reported that several citizens expressed their concern to Council about an open carry incident that occurred in a park. Staff prepared a brief follow-up report and Council referred the issue to this Committee to begin discussions about open carry issues and concepts. The staff report highlights the 2nd Amendment of the US Constitution and Article 1, Section 27 of Oregon's Constitution related to the right to bear arms; Corvallis Municipal Code regarding concealed weapons and discharging weapons; the 4th Amendment of the US Constitution related to search and seizure; and a brief description of reasonable suspicion. Chief Sassaman reviewed portions of a PowerPoint presentation that the Department uses to train staff on laws related to open carry.

Chief Sassaman said primary Departmental training objectives focus on how to protect the community; legal boundaries Officers must work within to ensure stops, detentions, and arrests are founded on sound, legal guidance; safety of staff; protecting the rights of all citizens; and education of the public. An issue Officers must contend with is citizens openly carrying to create a police encounter to test Officer response and/or create a lawsuit. A few years ago, someone was walking downtown with an assault rifle while videotaping Department staff and uploading

the videos to the internet. Staff is well trained in how to respond to these types of encounters and they followed legal protocol without infringing on rights.

Chief Sassaman clarified that the 2008 *Heller* case was about the District of Columbia attempting to completely ban handguns. The US Supreme Court ruled the ban unconstitutional and that possessing a handgun was an individual right. Since the District of Columbia is not a state, the ruling does not necessarily apply to other states; however, it does provide guidance for other jurisdictions. The 2010 *McDonald v. Chicago* case was related to prohibiting handguns in private homes. The US Supreme Court ruled against Chicago and said gun ownership is an individual right that cannot be taken away by individual states. However, government has the right to regulate time, place, and manner. Although it is a fundamental right to possess a firearm and/or open carry, limits can be placed on those rights. The Oregon Constitution provides for ... "the right to bear arms for the defense of themselves...." Oregon Revised Statute 166.170 preempts local jurisdictions from creating laws that would further restrict weapon possession. There are areas where local jurisdictions can enact narrow laws, including the discharge of weapons and possessing loaded firearms in public places. Exemptions to the latter include Police Officers, military personnel, and CHL holders. Corvallis Municipal Code regulates the discharge of weapons, but not the possession of loaded firearms in public places.

Mr. Brewer noted that a law prohibiting the possession of a loaded firearm in a public place would not prohibit open carry of an unloaded firearm in a public place. The City cannot prohibit open carry of unloaded firearms.

Councilor Beilstein noted that adopting a law prohibiting open carry in public places would provide Officers with the legal authority to stop someone who is openly carrying to ask whether they hold a CHL.

Mr. Brewer explained that, for law enforcement purposes, a stop is a show and use of force. An Officer must have reasonable suspicion or probable cause based on an articulable subjective or objective fact to stop someone. An Officer can have encounters or conversations with people; however, many factors are considered when determining whether it is a "stop," such as where the Officer's car is parked, or any other show of force where a reasonable person would believe they were not free to leave.

Mr. Brewer said the issue is whether the City can, under the narrow authority to prohibit loaded weapons in public places, inquire whether someone openly carrying has their weapon loaded. Other jurisdictions with similar language do not inquire about this due to the reasonable suspicion law. Chief Sassaman added that without an inquiry, an Officer is not going to know who has a CHL permitting them to carry a loaded weapon versus someone without a CHL who can legally carry an unloaded weapon.

Mr. Brewer explained that Portland's ordinance prohibits knowingly carrying a recklessly loaded weapon. The Portland ordinance was upheld by the Oregon Supreme Court (*State v. Christian; 2013*). If Corvallis moves forward with an ordinance, the Portland ordinance would be used as a starting point.

Chief Sassaman added that Oregon is a "shall issue" State regarding CHL. The Sheriff's Department is required to issue any CHL applied for as long as the applicant meets all criteria. A CHL holder is allowed to open carry a loaded weapon; it does not need to be concealed. A CHL holder is also allowed to open carry a loaded weapon in public buildings and on public property. A CHL holder cannot open carry a loaded weapon in courts and federal buildings. The table following the CHL Holders slide is utilized by Department staff as a guide for CHL rules.

In response to Councilor Beilstein's inquiry related to Officers carrying a concealed weapon, Chief Sassaman said there are exemptions for off-duty law enforcement personnel. The standard officers must comply with at the State level requires additional certifications and annual testing.

Chair York referred to table following the CHL Holders slide and said it appears there is a very narrow section of the law where the City could potentially do something more than current law by addressing the first and fourth items (public property and ground adjacent to public buildings). Mr. Brewer agreed.

Chair York noted that these discussions do not include regulations related to CHL holders.

Chief Sassaman reviewed information received from other jurisdictions (Agency Comparisons slide) who were asked: 1) how many times has your department charged someone with violating their ordinance related to openly carrying a loaded firearm in a public place, and 2) what changes were made in the respective departments when their ordinance was enacted? Of the eight responses, five departments answered zero to question #1 and none of the eight departments made any changes in relation to question #2.

Chief Sassaman responded to several inquiries posed by Chair York:

- The important things to consider when someone begins to feel they are not free to leave during an Officer encounter are who approached first, where the Officer stands, where the Officer's vehicle is parked, who else is present, among others.
- The procedure in approaching anyone openly carrying a firearm remains the same.
- When discussing guns, the conversation must also consider:
  - 1st Amendment – Right to free speech

- 2nd Amendment – Right to bear arms
- 4th Amendment – Free from search and seizure
- 5th Amendment – Right to not self-incriminate (Miranda)
- 14th Amendment – Life, liberty, property and equal protection (use of force)

Chair York referred to the 14th Amendment and inquired about the right to liberty and a feeling of safety for a person who is not carrying a firearm and is walking through a park with their family. Chief Sassaman said everyone wants to feel safe. Levels of comfort vary depending on personal experiences and history. It is difficult to legislate how one feels about something. Laws are geared toward prohibiting something and whether there is a legal foundation to do so. There is no study that quantifies a degree of fear that led to any form of legislation.

In response to Chair York's inquiry, Mr. Brewer confirmed that "life and liberty" has been legally interpreted to be the right to move about safely in public; however, it is mutual for all parties. He said the question is when does someone else's constitutional right end and the other person's right begin. Fear is subjective. For safety purposes, everyone should assume that every firearm is loaded.

Chair York said sometimes it is difficult to draw the line between the individual rights of different people. Mr. Brewer said the Police Department would rather have people who are afraid call them instead of being afraid and not making the call. Chief Sassaman agreed and added that Officers are well trained but cannot predict everything. The public needs to be comfortable contacting the Department and expressing their concern.

Chief Sassaman referred to the final slide that identified the number of:

- Firearm arrests cases in 2011, 2012, 2013, and 2014 year-to-date.
- Open carry calls for service in 2011, 2012, 2013, and 2014 year-to-date.
- CHL holders in Benton County.

Chief Sassaman referred to the last item in the CHL Holders slide and clarified that Oregon law specifically identifies "public buildings." The City would not be able to replace "buildings" with "property" as was suggested.

In response to Councilor Beilstein's inquiry about a legal decision involving one of the City's Police Officer's, Mr. Brewer said the person asked if they were free to go and the Officer said no. The person then asked if they were under arrest and the Officer asked the person to identify themselves. When the person refused to identify himself, the Officer arrested him. This incident rapidly progressed from an encounter to at least a stop and an arrest. The facts of the case and the things that brought the Officer to a point of arresting the individual were understandable. It is difficult to second guess an Officer's concern for his own safety.

Councilor Beilstein said, according to the judge, the behavior of the Officer was incorrect. He inquired whether staff agreed. Mr. Brewer said from a legal point of view, judges are correct because they are judges.

Chief Sassaman said the case resulted in many of the training slides included in the meeting materials. He added that Officers must make split-second decisions in difficult circumstances. These will always be second-guessed by a multitude of people on multiple layers who were not present during the incident. The Officer must also use their best judgment at the time. Chief Sassaman opined that this Officer used his best judgment at the time.

Councilor Beilstein inquired whether there was anything Council should consider to provide a clearer path for Officers. Mr. Brewer responded that Council does not have the ability to adopt a local ordinance that would give Officers the right to violate any constitutional standard.

Chief Sassaman said staff is not expecting a recommendation at this time. He anticipated additional discussions and/or direction from this Committee and the full Council for more information and/or the development of a draft ordinance. He cautioned that an adopted law does not necessarily provide additional rights for Officers.

Councilor Sorte said he prefers a "soft touch" approach. He contacted a rural community about how they approach open carry. Law enforcement personnel in rural counties have the luxury of knowing most of their citizens, but they also use a casual approach when inquiring about why someone is openly carrying. He opined that the general public and Parks staff may need some guidance in when and how to contact the Police Department.

Chief Sassaman said 9-1-1 dispatchers are well trained and know what questions to ask that can be translated to Officers in the field. Citizens should call 9-1-1, be observant (good witness), and not engage. Councilor Sorte agreed and added that the City has a responsibility to manage the interaction between the public and the Police Department.

Councilor Sorte said an ordinance banning open carry of a loaded firearm does not preclude anyone from carrying an unloaded firearm and keeping shells or handgun clips easily accessible in a pocket.

Councilor Sorte noted that the Citizens Advisory Commission on Transit recently reviewed a pamphlet for the new Night Owl bus (formally Beaver Bus). He referred the responsible staff members to Mr. Brewer and Chief Sassaman after reading a statement in the pamphlet about riders not being allowed to carry weapons.

Councilor Sorte said he agrees that the City would spend a great deal of money defending any ordinance banning open carry. Adopting this type of ordinance may encourage activists to engage with Officers as a means of protest. The no carry statement in the Night Owl brochure may also encourage people to test the law.

Chair York inquired about next steps. She said she has no interest in challenging constitutional or State law. She would prefer a clearer understanding of the narrow scope of what Council could do differently and what the potential consequences might be if action was taken. She has an interest in the feeling of safety by members of the community. She needs a clearer understanding of the rights of someone who is openly carrying and the rights of someone who may feel a sense of fear or potential loss of life or liberty due to someone else exercising their right to open carry.

Councilor Beislstein said adopting an ordinance similar to Portland would not achieve a greater quality of service already provided by the Police Department nor would it empower Officers to do anything different. He opined that it would be a waste of time for the City Attorney to draft an ordinance if adoption will not change Police procedures. However, if an ordinance made the community feel more safe and secure, he would support it. If Council considered an ordinance, he would prefer it be modeled after Portland.

Mr. Brewer confirmed for Councilor Sorte that the only legislation Council can amend is to ban open carry of a loaded firearm. Councilor Sorte said this information needs to be thoroughly articulated to the public along with the practicality of what is gained by adopting that type of legislation. If staff can present what the City currently has and what decision(s) Council can make, then the public can testify or lobby for their preference. He opined that Corvallis could set a good, thoughtful example or precedent for other jurisdictions. Providing education and direction to those people who fear open carry would be beneficial. He noted that the people who support open carry have a clearer view of their options than those who are concerned.

The Committee directed staff to return with potential legislation, clear information about what additional legislation would and would not allow, and options to inform the public about keeping safe.

Councilor Beilstein suggested that the Community Policing Forum might be a good venue for public education.

Chief Sassaman said staff will return with draft legislation that they believe will sustain a legal challenge and create an educational strategy and implementation plan. He anticipated returning with the information in September.

Chair York encouraged the public to provide suggestions and comments at future meetings.

IV. Other Business

Chair York reviewed the pending Committee agenda items (Attachment 1).

Councilor Beilstein announced that he will be absent for the July 22 and August 5 meetings. He requested that the Parks and Recreation presentation about relocating the Senior Center be postponed until August 19.

Chair York suggested that the Council Policy review regarding the City Hall Plaza and Kiosk be rescheduled to that date also.

Mr. Patterson agreed to move the July 22 pending agenda items and cancel the July 22 meeting.

In regards to the Senior Center relocation information, Councilor Sorte requested maps or other information about the location of current Senior Center users. He opined that the Senior Center is a social cushion in that neighborhood, and said if it is relocated, he would prefer the facility continue to provide some of the same attributes. He clarified that the information can be provided in the meeting materials or during the presentation.

The next Human Services Committee meeting is scheduled for 2:00 pm on Tuesday, August 5 in the Madison Avenue Meeting Room.

The meeting adjourned at 3:29 pm.

Respectfully submitted,

Penny York, Chair

**Draft Corvallis**

**5.03.120.070 Possession of a Loaded Firearm in a Public Place.**

**1)** It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.

**2)** It is unlawful for any person to knowingly possess or carry a firearm and that firearm's clip or magazine, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the clip or magazine.

**3)** The following are exceptions and constitute affirmative defenses to a violation of this Section:

- a)** A police officer or other duly appointed peace officers, whether active or honorably retired.
- b)** A member of the military in the performance of official duty.
- c)** A person licensed to carry a concealed handgun.
- d)** A person authorized to possess a loaded firearm while in or on a public building under ORS 166.370.
- e)** A government employee authorized or required by his or her employment or office to carry firearms.
- f)** A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer.
- g)** A merchant who possesses or is engaged in lawfully transporting unloaded firearms as merchandise.
- h)** Organizations which are by law authorized to purchase or receive weapons from the United States or from this state.
- i)** Duly authorized military or civil organizations while parading, or their members when going to and from the places of meeting of their organization.
- j)** A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.
- k)** Persons travelling to and from an established target range, whether public or private, for the purpose of practicing shooting targets at the target ranges.
- l)** Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.
- m)** A person authorized by permit of the Chief of Police to possess a loaded firearm, clip, or magazine in a public place in the City of Corvallis.
- n)** A security guard employed at a financial institution insured by the Federal Deposit Insurance Corporation while the security guard is on duty.

**4)** It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a police officer to inspect that firearm after the police officer has identified him or herself as a police officer. This Section does not apply to

law enforcement officers or members of the military in the performance of official duties, nor persons licensed to carry a concealed handgun or persons authorized to possess a loaded firearm, clip or magazine while in or on a public building or court facility.

**5) Penalty**

**a)** In the absence of the aggravating factors listed in Subsection 5.03.120.070 5)b), the court may impose a sentence of up to 6 months imprisonment and a fine not to exceed \$500 for violation of this section.

**b)** When this offense is committed by carrying a loaded firearm containing ammunition that employs gunpowder as a propellant in a vehicle, including a transit vehicle, the court must impose a mandatory minimum sentence of 30 days for violation of this Section.

A Historical Perspective of The Majestic Theatre  
Submitted October 7, 2014

My name is Robert Leff. As a long time support of the Majestic Theatre and someone who worked on the Bond Issue Elections, I want to provide a historical perspective of the Majestic Theatre.

On November 1, 1985, the city purchased the theatre in order to establish a community facility for the performing arts, meetings and speakers. In May 1986, a bond issue to provide funding for the first phase of improvements was defeated. Those of us who worked on the campaign redoubled our efforts in support of a new bond issue that appeared on the November 1986 ballot.

A support wrote an essay titled, A MATTER OF OPINION which, I recalled ran in the Gazette-Times before the election. The writer gave these reasons for supporting the project.

- \* The Majestic Theatre will provide a home for local performing arts groups.
- \* The Majestic Theatre will not continue to be a vacant building and will attract people and contribute to a more attractive and viable Downtown.
- \* The Majestic Theatre project will be of quality and reflect the values of the community.
- \* The Majestic will contribute to the quality of life in Corvallis.
- \* The Majestic is not for a few but will be open to all.

Our hard work paid off and the bond issue was approved.

Now, almost 30 years later, the Majestic Theatre is faced with problems. I believe with hard work they can be solved.

I am not advocating a return to 1986. Times have changed. I am advocating reviewing what worked in the past and building on the long history of the theatre taking into account today's economic climate. A simple manta should be, the Majestic Theatre, with realistic budgets, must live within its means. It should continue as a community facility for the performing arts, meetings, speakers and provide education in the performing arts for children and adults.

**Mullens, Carrie**

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**From:** Holzworth, Carla  
**Sent:** Tuesday, October 07, 2014 10:24 AM  
**To:** Mullens, Carrie  
**Cc:** Brewer, Nancy; Sassaman, Jon  
**Subject:** FW: Testimony for Open Carry proposal, Human Services Committee Meeting

Please make copies for today's HSC meeting. Thx.

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**From:** jumpstart@[REDACTED] [mailto:jumpstart@[REDACTED]]  
**Sent:** Tuesday, October 07, 2014 10:01 AM  
**To:** Holzworth, Carla  
**Subject:** Testimony for Open Carry proposal, Human Services Committee Meeting

Ms. Holzworth,

I hope that I have the correct email for the city's recorder and that this is the correct place to submit this. Please add this testimony to the record for Tues, Oct 7th 2014 Human Services Committee meeting:

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I have been following the Open Carry proposal and wanted to express my serious misgivings with this.

Our own city attorney and our chief of police find issues with this proposal. It is, in a practical sense, unenforceable since it will absolutely lead to lawsuits, as it should, since it seeks to suppress specific civil rights that are as precious as any other right. It can easily be challenged on the 2nd, 4th and 14th amendments. Recent federal, state and local legal challenges across the country have shown even liberal courts to come down on the side of those civil rights.

I would hate to be the Corvallis police office that will be put in the unenviable position of violating an individual's constitutional rights without violating an individual's constitutional rights. Knowing that if they do not walk the razor's edge, they could easily land the city or themselves in a costly lawsuit.

Perhaps I am simply unaware. Unaware of the grave and immediate Corvallis public safety crisis that warrants these enormous legal and financial risks to the city and the increased burden to our police department that this proposal will surely bring. Perhaps I am unaware of the size of the city's treasury and copious free time of the city attorney. However I am aware that certain individuals may have personal feelings and issues with various civil rights that they consider this to be a crisis.

People are entitled to their feelings but not suppression of any civil rights. Personal feelings are hardly a crisis that involves the City of Corvallis. There will always be people who think various enumerated rights do not stand above their own personal feelings and beliefs. We see this every day in our world. People whose list of acceptable civil rights varies from the actual ones that we all have and have been upheld in countless courts. They would seek to suppress what they deem inappropriate because it offends or frightens them.

Many people care about all of our civil rights, not just the ones that agree with them personally.

Please consider this sincere testimony.

Sincerely,

Frank DeMonte



Corvallis Oregon 97330

## ATTACHMENT 3

Carolina Amador, MD, MPH

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In May, I spoke at the City Council meeting after a person arrived at Cloverland Park playground openly carrying a gun while I was there playing with my children. Subsequently, I learned that the City of Corvallis has no restriction on open carry of guns.

I am here in support of an open carry ban. However, 'ban' is actually a misnomer. It's a restriction, an absolutely minimal requirement to openly carry a weapon after an individual has followed basic protocol.

Getting a permit is simple.

1. U.S. citizen or legal alien for 6 months
2. Age 21 or older
3. Not a convicted felon
4. Not convicted or found guilty of a misdemeanor
5. No outstanding warrants
6. Demonstrates competence with a handgun.

There isn't good research that tells us if these types of restrictions are effective in reducing gun violence or accidental gun injuries. When there is lack of data, we as leaders and professionals then need to use judgment and rationale to determine what's best for the public. Given that guns are the single device most responsible for causing accidental child fatalities, shouldn't we err on the side of safety rather than unrestricted access?

The goal of gun regulation is not to stop people from exercising their rights but it is the goal to protect the public. This is common sense gun legislation. Requiring a permit does not interfere with responsible gun ownership. In fact, actually promotes it.

I feel sure that you, as representatives of the City of Corvallis must frequently ask yourselves what the people of Corvallis would want and what type of city we want to live in. An open carry restriction is consistent with the values we support in our city. These values include safety and high quality livability.

If anyone argues against this type of restriction, I challenge them to answer the following questions:

\*\*Why shouldn't we require a person carrying a gun to be 21 years old?

\*\*Why shouldn't we require that the person not be a felon or have a warrant for their arrest?

\*\*Why shouldn't we require that they demonstrate competence with a gun?

Ultimately, it would be nice if individuals could exercise their rights while having no negative impact on others. But, individuals don't live in a vacuum, they live in communities. We live in a community that represents many great qualities. Please envision how this restriction is congruent with those values.

A new Corvallis ordinance mirroring the City of Portland does not grant police officers additional authority beyond that which exists today to investigate an "open carry" situation. Officers do not have the unilateral authority to stop, detain, question or search an individual because they have a firearm which can be observed by others in public. An officer must have reasonable suspicion (e.g. specific and objective articulable facts) that a crime is about to be committed, is being committed or was just committed, in order to exercise authority to intervene.

Nancy Brewer and Jim Brewer  
Memorandum  
Corvallis Police Department  
September 29, 2014

The 4th Amendment of the United States of America Constitution grants the right of the people to be secure from unreasonable searches and seizures. Police officers who respond to unknown situations with people who "openMcarry" a firearm, do not have the unilateral authority to stop, detain and question or search any person because they have a firearm which the general public can observe. A Police officer must have "reasonable suspicion" that a crime or violation of law is about to occur, is occurring or just occurred in order to stop a person. A person who openly carries a firearm, in and of its self, is insufficient cause to stop a person.

James Patterson and Jim Brewer  
Memorandum  
Corvallis Police Department  
July 1, 2014

The very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is really worth insisting upon. A constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all.

US Supreme Court  
Heller, 554 U.S. pg 62 and 63

The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes

US Supreme Court  
Heller, 554 U.S. pg 1

Meaning of the Operative Clause. Putting all of these textual elements together, we find that they guarantee the individual right to possess and carry weapons in case of confrontation. This meaning is strongly confirmed by the historical background of the Second Amendment. We look to this because it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "shall not be infringed." As we said in *United States v. Cruikshank*, 92 U. S. 542, 553 (1876), "[t]his is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The Second amendment declares that it shall not be infringed . . . ."

US Supreme Court  
Heller, 554 U.S. pg 19

But the enshrinement of constitutional rights necessarily takes certain policy choices off the table.

US Supreme Court  
Heller, 554 U.S. pg 64

*Carl Price*  
10/7/14

Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.

US Supreme Court  
Heller, 554 U.S. pg 64

As the Court noted in Heller, "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad." Heller, 554 U.S. at 634-35

Palmer v DC  
pg 10

As the court noted in Peruta, "[t]he Second Amendment secures the right not only to 'keep' arms but also to 'bear' them[.]" Peruta, 742 F.3d at 1151; and, as the Supreme Court explained in Heller, "[a]t the time of the founding, as now, to 'bear' meant to 'carry[.]'" Heller, 554 U.S. at 584. "Yet, not 'carry' in the ordinary sense of 'convey[ing] or transport[ing]' an object, as one might carry groceries to the check-out counter or garments to the laundromat, but 'carry for a particular purpose confrontation.'" Peruta, 742 F.3d at 1151-52 (quoting [Heller, 554 U.S. at 584]). According to the Heller majority, the "natural meaning of 'bear arms'" was the one that Justice Ginsburg provided in her dissent in *Muscarello v. United States*, 524 U.S. 125 (1998), that is "'wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person.'" Heller, 554 U.S. at 584 (quoting *Muscarello*, 524 U.S. at 143, 118 S. Ct. 1911) (Ginsburg, J., dissenting) (quoting *Black's Law Dictionary* 214 (6th ed. 1998)).

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Finally, "both Heller and McDonald identif[ied] the 'core component' of the right as self-defense, which necessarily 'take[s] place wherever [a] person happens to be, whether in a back alley or on the back deck.'" Peruta, 742 F.3d at 1153 (citing Moore, 702 F.3d at 937 ("To confine the right to be armed to the home is to divorce the Second Amendment from the right of self-defense described in Heller and McDonald."))

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Furthermore, as the court in Peruta correctly pointed out, "with Heller on the books, the Second Amendment's original meaning is now settled in at least two relevant respects." Peruta, 742 F.3d at 1155. "First, Heller clarifies that the keeping and bearing of arms is, and has always been, an individual right. *Id.* (citing [Heller], 554 U.S. at 616, 128 S. Ct. 2783). "Second, the right is, and has always been, oriented to the end of self-defense." *Id.* (citation omitted). After an exhaustive summary of the text and history of the Second Amendment, the Ninth Circuit in Peruta concluded that "the carrying of an operable handgun outside the home for the lawful purpose of self-defense, though subject to traditional restrictions, constitutes 'bear[ing] Arms' within the meaning of the Second Amendment." Peruta, 742 F.3d at 1166.

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pg 14

Furthermore, this injunction prohibits the District from completely banning the carrying of handguns in public for self-defense by otherwise qualified non-residents based solely on the fact that they are not residents of the District.

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Section 4. Responsibility to All People. The City shall exercise its power to ensure the equal protection, treatment, and representation of all persons without discrimination including, but not limited to, age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income. Corvallis is a community that honors diversity and diverse interests, and aspires to be free of prejudice, bigotry, and hate.

Corvallis City Charter

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

US Bill of Rights  
Second Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

US Bill of Rights  
Fourth Amendment

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Fourteenth Amendment  
Section 1

**Section 9. Unreasonable searches or seizures.** No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.—

Oregon State Constitution  
Article 1 -- Bill of Rights

**Section 27. Right to bear arms; military subordinate to civil power.** The people shall have the right to bear arms for the defence [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power[.]

Oregon State Constitution  
Article 1 -- Bill of Rights

## 166.170<sup>1</sup>

### State preemption

- (1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.
- (2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void. [1995 s.s. c.1 §1]

## 166.173<sup>1</sup>

### Authority of city or county to regulate possession of loaded firearms in public places

- (1) A city or county may adopt ordinances to regulate, restrict or prohibit the possession of loaded firearms in public places as defined in ORS 161.015 (General definitions).
- (2) Ordinances adopted under subsection (1) of this section do not apply to or affect:
  - (a) A law enforcement officer in the performance of official duty.
  - (b) A member of the military in the performance of official duty.
  - (c) A person licensed to carry a concealed handgun.
  - (d) A person authorized to possess a loaded firearm while in or on a public building or court facility under ORS 166.370 (Possession of firearm or dangerous weapon in public building or court facility).
  - (e) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a loaded firearm in the course of the lawful taking of wildlife. [1995 s.s. c.1 §4; 1999 c.782 §8; 2009 c.556 §3]

Next discussion will turn to the proposed ordinance, as I have stated, and shown in the above quotes, this ordinance violates an individual's civil rights, and if any form of it is passed by the council, it will expose the city to lawsuits and expenses that are not needed.

I also want to address fatal flaws in the proposed ordinance, even if you ignore all federal and constitutional law and rulings, and only look at ORS 166.

First, as you can see in the ORS 166.170, the city may only pass an ordinance dealing with loaded firearms in public.

Section 2 of the proposed ordinance deals with the storage and transportation of ammunition, which is vested solely in the Legislature per ORS 166.170. This is on its face a violation of state statute.

Section 3 states that the exceptions may be used as an "affirmative defense to a violation". ORS 166.173 that the any local ordinance enacted under ORS 166.173 "do not apply to or effect" certain individuals (see the text of the law above). This is very different from an affirmative defense, and is again a fatal flaw in the proposed ordinance.

Section 4 purports to remove 4<sup>th</sup> Amendment protections from open carriers. The law in this area has been established for over 45 years. Terry v Ohio clearly set out instances that police may stop and seize or search a person. An individual that is lawfully conducting their life just for the convenience of the police. I will include one more quote below that explains Terry better.

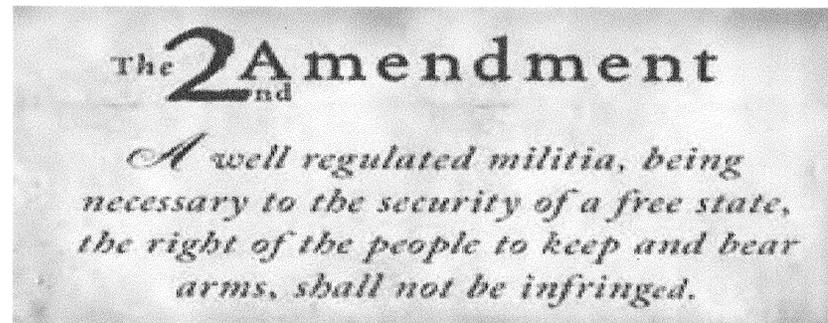
"to be lawful, a Terry stop 'must be supported at least by a reasonable and articulable suspicion that the person seized is engaged in criminal activity'. Reid v Georgia, 448 U.S. 438, 440 (1980) The level of suspicion must be a 'particularized and objective basis for suspecting the particular person stopped of criminal activity' United States v Griffin, 549 F.3d 148, 152 (4<sup>th</sup> Cir 2009) As such, 'the officer must be able to point to specific and articulable facts which, taken together with the ration inferences from those facts, reasonably warrant the intrusion' Terry, 392 U.S. At 21

I hope the Councilors can see not only does this proposed ordinance violate the 2<sup>nd</sup> Amendment, it also violates the 4<sup>th</sup> Amendment, and is fatally flawed from an Oregon State perspective.

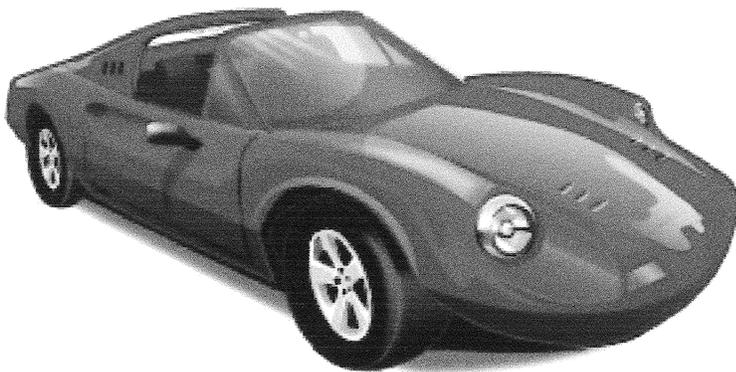
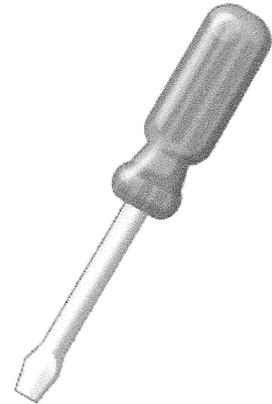
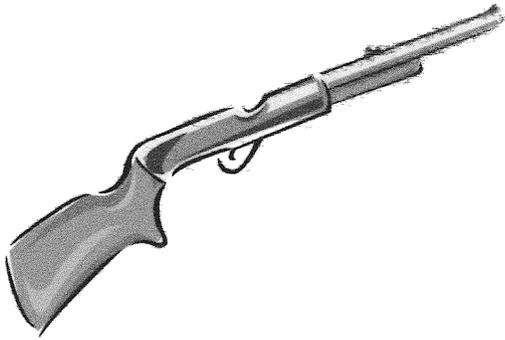
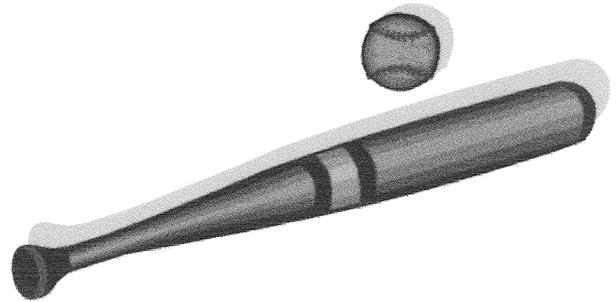
Corvallis is sitting at a tipping point. We as a city have prided ourselves on being a diverse and tolerant community. Today, you have before you an ordinance that will violate individual's civil rights. Today, you have an ordinance not of diversity and tolerance, but of hate and intolerance. I urge you to not take this city down a path of hate, fear, and intolerance.

Thank you for your time and attention to this issue.

# The Constitution of the United States



# TOOLS



For Good or Evil

# Restraining Order

*This piece of paper will not defend you from  
fists, knives, guns, hammers, vehicles, hatchets, etc.*

Items seen in Cornwallis  
Proudly displayed by  
military families.



TARGETS FOR ISIS



## Oregon man gets 30 years in Christmas bomb plot



OCTOBER 01, 2014 2:51 PM • BY NIGEL DUARA

PORTLAND, Ore. (AP) — A young Somali American was sentenced Wednesday to 30 years in prison for plotting to detonate a bomb in Portland's downtown square while 10,000 revelers gathered to watch the mayor light a towering Christmas tree.

Prosecutors had sought a 40-year term for Mohamed Mohamud, 23, in the 2010 plot that actually was an FBI sting. But U.S. District Court Judge Garr King said Mohamud's youth and remorse for his actions helped lower his

sentence.

King said he believes the actions of undercover FBI agents edged into "imperfect entrapment," the idea that though they didn't fully entrap Mohamud in a legal sense, their actions nonetheless encouraged him to commit wrongdoing.

"This is a sad case," King said.

Mohamud was arrested Nov. 26, 2010, after pressing a keypad button on a cellphone that he believed would trigger a massive truck bomb and kill people gathered for the annual holiday event. But the bomb was a fake provided by FBI agents posing as al-Qaida recruiters.

The undercover agents made friends with Mohamud after learning he had written for an online jihadi magazine and exchanged emails with accused terrorists.

King disagreed with defense attorneys who made a last-gasp effort to portray Mohamud's actions as those of a confused teenager who just had his braces removed when first contacted by an FBI agent posing as a member of a terrorist cell.

Mohamud chose the location and timing of the bomb, King said, and when offered the choice to commit peaceful acts of resistance, he instead told the undercover agents he wanted to "become operational."

Mohamud's defense team had sought a term of no more than 10 years, and said he will appeal the sentence.

The former Oregon State University and his parents spoke before he was sentenced.

"The things I said and did were terrible," Mohamud said. "The hardest thing is to go over the (undercover agents') tapes, to see myself, to hear what I was saying."

His mother, Mariam Barre, begged the judge for leniency.

"Give him another chance," she said through tears on the witness stand.

His father, Osman Barre, said he has watched his waifish teenage son become an adult in person and mature in the process. But King said Mohamud's youth aside, the sentence had to both punish him for his actions and serve as a warning for anyone planning similar acts.

FBI director James Comey said Wednesday that King's remarks about "imperfect entrapment" will have no effect on the agency's sting operations.

Comey was in Portland as part of a national tour of field offices — the U.S. Attorney's Office for Oregon says his presence on the day of Mohamud's sentencing was a coincidence.

Osman Barre was the first person to alert the FBI of his son's early leanings toward violent jihad, something he later said he regretted. The alert led the FBI to launch its sting operation.

Comey said Wednesday that parents in a similar situation ultimately have no other recourse, and he's unsure whether Mohamud's case would discourage them from coming forward.

"I just don't know what the alternative is," Comey said.

Jurors rejected Mohamud's entrapment defense at his January 2013 trial. The sentencing was pushed back a year after the government disclosed that warrantless overseas wiretaps helped make its case. The defense unsuccessfully sought a new trial.

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Associated Press writer Steven Dubois contributed to this report.

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Reach Duara at <https://www.twitter.com/nigelduara>

## FAQ Prohibiting Open Carrying of Firearms in Corvallis

What's the problem with open carrying firearms?

- While members of the open carry movement argue that they are just "exercising their rights," the open carrying of firearms intimidates the public, wastes law enforcement resources, and creates opportunities for injury and death due to the accidental or intentional use of firearms.
- Open carrying poses particular challenges for law enforcement officers who must respond to 911 calls from concerned citizens about people carrying guns in public.

Won't we be safer with everyone carrying guns?

- No. Claims that open carrying is needed for self-defense are belied by the available research. Even when a gun is used in self-defense, which is rare, research shows that it is no more likely to reduce a person's chance of being injured during a crime than various other forms of protective action.[David Hemenway, *Private Guns, Public Health* 78 (2004)]
- Instead of improving safety, open carrying needlessly increases the likelihood that everyday interpersonal conflicts will turn into deadly shootouts.
- In addition, in states that allow open carrying without a permit, law enforcement officers may be prohibited from demanding identification when stopping an individual who is openly carrying a firearm. Without identification, those officers are unable to confirm whether the individual is eligible to possess a firearm under federal or state law. **This has already happened in Corvallis in 2013 when Corvallis police arrested Kevin Hall resulting in a \$5,000 fine against the City.**

Does the City of Corvallis have the authority to ban open carrying?

- Yes. ORS 166.173 authorizes a City to regulate the possession of a loaded firearm in public places.
- A local municipality may regulate, restrict or prohibit the possession of a loaded firearm in public places, with some exceptions.
- Exceptions include public safety officials and those with concealed handgun licenses.

What about people who have Oregon concealed handgun licenses?

- There is no authority granted to local jurisdictions to prohibit open carrying for someone with a concealed handgun license.
- The laws grant limited authority to local jurisdictions who desire to regulate loaded firearms in public for people without a concealed handgun license or are open-carry" otherwise exempt (e.g. police officer).

Do other Oregon cities prohibit open carrying?

- Yes. Portland, Beaverton, Tigard, Salem and Oregon City have prohibitions.

Is the prohibition constitutional?

- Yes. In 2013, the Oregon Supreme ruled in *State v. Christian* that the prohibition does not violate Oregon state law or the Second Amendment.

Loerna Simpson  
10/7/14