

YACHATS CITY RECORDER'S REPORT
BY NANCY BATCHELDER, CITY RECORDER
November 2010

Report: Contractor vs. Employee

At the October 11, 2010 work session Councilor Nixon expressed concerns about the service contracts the City has with independent contractors for such things as marketing and code enforcement. He asked if providing them with computers or Kindles and reimbursing them for some expenses would change the relationship from contractor to employee and thus make the City liable for employment taxes.

I contacted the City's Risk Management Consultant at CIS, Dunny Sorensen and provided him with a copy of the contracts for the marketing director and the code enforcement officer.

Sorensen's initial response was that he did not believe there was a risk of becoming liable for employment taxes, and he shared copies of the contracts with Property/Casualty Trust Manager, Scott Moss and Mark Rauch, CIS Attorney for confirmation.

After reviewing the contracts, Moss response was as follows:

While providing "tools" does increase the risk for contractors to be considered employees, I doubt providing a cell phone and computer for business use crosses the threshold. I think the contracts are well written and both parties agreed the contractors are independent. The contracts do not provide the "direction & control" of an employee relationship.

So I think they are fine...

Sorensen said that if Rauch has a different answer when he returns from vacation he (Sorensen) would let me know, but for now he thinks the City is fine.

Risk Management

- **Worker Safety and OSHA Compliance**

The City's workers compensation insurance is through CIS and because it is a pool it is considered to be self-insured. Oregon OSHA has been focusing their attention on compliance issues for self-insured entities lately. Public Works Director, John McClintock and I discussed this and decided that it would be a good idea to ask OSHA for a voluntary compliance review to make sure that the City is doing everything to comply and provide a safe and healthy environment for the employees. By asking for this voluntary review the City will be given the opportunity to correct any physical conditions or equipment issues and any deficiencies in

polices or record keeping they find - without fines or citations for violations. The last time OSHA conducted a surprise inspection was over ten years ago and the public works department was found to be out of compliance with some rules. The City corrected the issues and the fines were reduced significantly. But, by being proactive and asking OSHA for this inspection we will not need to worry about a “surprise inspection” for quite awhile and we will know for sure that the City is in compliance with all the rules.

- **Risk Management Incentive Funds**

CIS is offering each member a percentage of their premium back in a type of grant to fund projects that will help mitigate claims. This year the City of Yachats has about \$2,500 available. As a result of the wastewater pump station failure during the power outage last month two homes were flooded with overflow from the system. Check valves in the lateral lines to those homes would have mitigated the situation. Although check valves are the responsibility of the property owner, other cities have been installing them to reduce the risk. I spoke to our Risk Management Consultant at CIS to find out if the City could use the incentive funds to purchase and install check valves in lines for any home that is below the level of the manholes to prevent this from happening in the future. CIS has approved that use and I would like to apply for the funding.

- **New Tool Available to CIS Members**

I attended a “webinar” to learn more about a new service the City has access to because our property and casualty insurance is through CIS. They have contracted with Agility Recovery Solutions, a business that specializes in assisting cities and counties deal with, and recover from disasters of any size. That disaster could be anything from a major natural event, to a fire that destroys one office or the entire building or a vandal taking out the office computers. The City would pay for these services at cost – there is no mark-up. Most times these costs are covered by the CIS insurance policy.

Agility may actually provide equipment or they may coordinate with local providers. For example they can bring in generators for power or mobile offices equipped with computers and other technology needed to continue operations. They can also provide options to restore connectivity if the phones and internet go down - for a couple of hours or a couple of weeks.

They also provide planning tools to help CIS members with implementation and recovery plans. The implementation plan can be copied and pasted into the City’s Continuation of Operations Plan (COOP). Their online tool walks you through the details needed to think about things like data and computer needs, ideal locations for a temporary office to house employees or how to contact your employees before a disaster occurs. The online planning tools and education is free to CIS members.

Report: Library District

I have verified the current amount for the Library District to be 0.3365 and at the total assessed value of the City (not including the Urban Renewal District) of \$224,620,340 the citizens would be paying \$75,584.74 this year in taxes if part of the district. I believe the Library Levy would actually be on the frozen value established at the time the URD was adopted the same as the taxing districts so it may not be the full amount above. I would need to find out which value is used if a levy voted in by the citizens *after* a URD is established.

The City general rate is 0.1717 and the bonded debt levy is 0.3712. The levy for the Library District is nearly as much as all of the taxes paid to the City for general operations and payment of the general obligation bonds for the water and sewer system.

The Library District levy would be \$33.65 for a \$100,000 dollar home, and so it would be \$134.60 for a \$400,000 home. And, would be an additional tax added to the current property tax bill.

In addition to the property taxes levied on the property owners, the City would be committed to paying the annual fee. That fee is expected to be increased to \$4,500. Future increases are also likely. This fee would come out of the City budget and would be in addition to the current budget for Library operations and book purchases. That represents a 25% increase in the Library Budget. Currently the City spends about \$6,000 for books each year so borrowing books from other Libraries instead of increasing the Yachats collection would be an option to keep the Library Budget at the current level. That would be a policy decision the Library Commission, Budget Committee and City Council would need to make.

The Library Commission and Volunteer Librarians are currently discussing the need for improved storage and additional computers. Becoming a member of the Library District would not improve the storage or add space for additional computers – those problems would still exist. Committing to the annual fee would reduce City resources available for funding those capital improvements. Voters could be asked to pass a short-term (10-year) local option levy to fund the improvements. That local option levy would be in addition to the current City taxes and the Library District Levy.

Budget and Finance

• Street and Storm Drain Improvement Plan

I met with two members of the Finance Committee and John McClintock to continue work on the street and storm drain improvement plan. The Committee had decided that the first step would be to figure out what sources of funding could be used other than general fund money so we went through the list of streets and storm drain projects to determine which were in the Urban Renewal District and eligible for funding by that source. This was a very interesting exercise because the URD boundary does not follow any straight lines. For example for some streets as

little as one block is in the URD. The percentage of total length within the URD will be used to calculate the eligible costs.

- **Revenues**

Attached are spreadsheets used for tracking the Transient Tax and the Food and Beverage Tax. There is still one outstanding F & B tax return, but if the next two quarters this year equal last year's it looks like there will be a 10% shortfall in the budget for each of these revenues.

It will not have a negative impact on the sewer loan payments this year because there was extra in reserves set aside for those payments and more System Development Charge revenue last year will be available to off-set the shortfall in F & B tax this year.

I have not been successful in my attempts to find out what the statewide statistics are for this year. The latest report on the Travel Oregon website was for 2009¹ and they have not responded to my inquiry. I have also asked the Central Oregon Coast Association and the Oregon Department of Revenue for current information. Neither has responded. As soon as I have that information I will update my report.

I will be starting the strategic planning process established by the Finance Committee to start looking at ways to deal with the shortfall in the General Fund and the other funds supported by the General Fund. I will talk to the Public Works Director when he returns from leave about possible reductions in the streets and storm drain funds. Of course the water and sewer funds are self-supporting and independent of the General Fund and the revenues in those funds are currently meeting operational needs.

Miscellaneous

I began working with Councilor Scott on the new Municipal Code maintenance database. We are determining how the online application should function and appear by going through the process I currently use step-by-step. I will be providing information about default formatting, an explanation of how the ordinance drafting work space integrates with the actual code database, examples of a finished Ordinance and the Code and suggestions about how to make it work in a similar, but better, way than my current (failing) software. Scott will provide the technical specifications. We will probably need to meet with the developers so I can demonstrate the current process before they start writing the computer code.

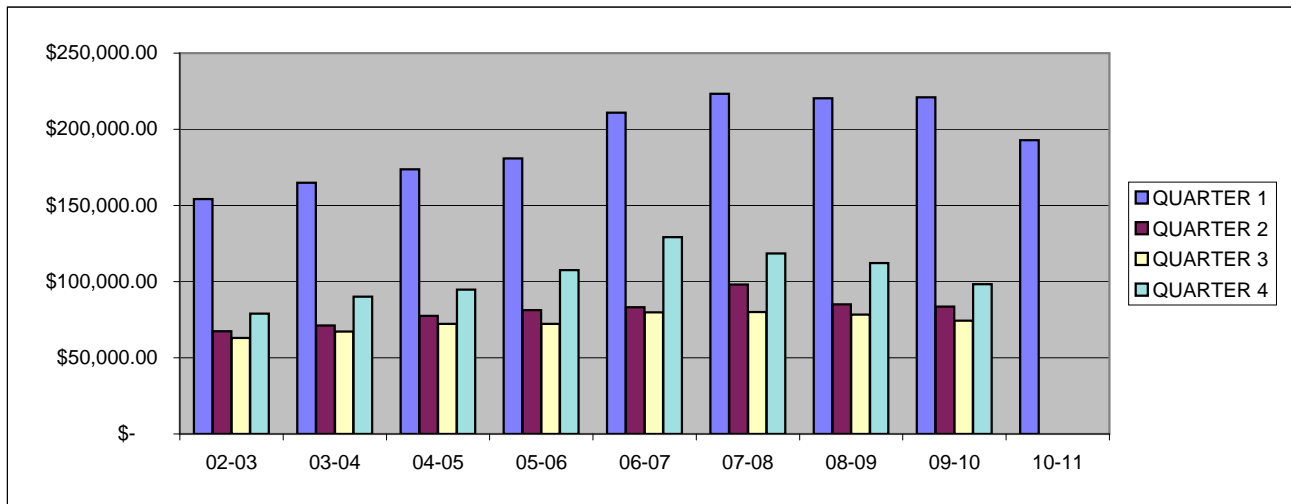
¹ In that 2009 report it showed that room taxes were down statewide by 17% and occupancy was down 9.9%. Yachats was down 4% for the year so we did very well compared to the other areas in the State.

	QUARTER 1	QUARTER 2	QUARTER 3	QUARTER 4	TOTALS
02-03	\$ 154,261.32	\$ 67,501.82	\$ 62,930.20	\$ 79,035.72	\$ 363,729.06
03-04	\$ 164,864.65	\$ 71,244.61	\$ 67,240.66	\$ 90,161.51	\$ 393,511.44
04-05	\$ 173,686.28	\$ 77,465.62	\$ 72,174.88	\$ 94,674.71	\$ 418,001.48
05-06	\$ 180,906.94	\$ 81,392.13	\$ 72,317.74	\$ 107,468.05	\$ 442,084.85
06-07	\$ 211,001.51	\$ 83,141.71	\$ 79,811.90	\$ 129,101.24	\$ 503,056.36
07-08	\$ 223,396.01	\$ 98,074.73	\$ 79,991.64	\$ 118,469.35	\$ 519,931.73
08-09	\$ 220,296.51	\$ 84,996.48	\$ 78,285.96	\$ 112,202.54	\$ 495,781.49
09-10	\$ 220,986.80	\$ 83,544.45	\$ 74,271.42	\$ 98,361.54	\$ 477,164.21
10-11	\$ 192,856.14	\$ -	\$ -	\$ -	\$ 192,856.14

\$ 3,613,260.63 02/03 through 09-10 total
 \$ 500,000.00 10-11 budget

	QUARTER 1	QUARTER 2	QUARTER 3	QUARTER 4	Totals to date
Average by Qtr	42.88%	17.92%	16.25%	22.96%	100.00%
10-11 Budget need by percentage	214,405	89,581	81,232	114,782	500,000
10-11 Actual to date	192,856				192,856
Projected total					250,321
Difference	-21,549				-249,679

Projected Difference to date: -21,549



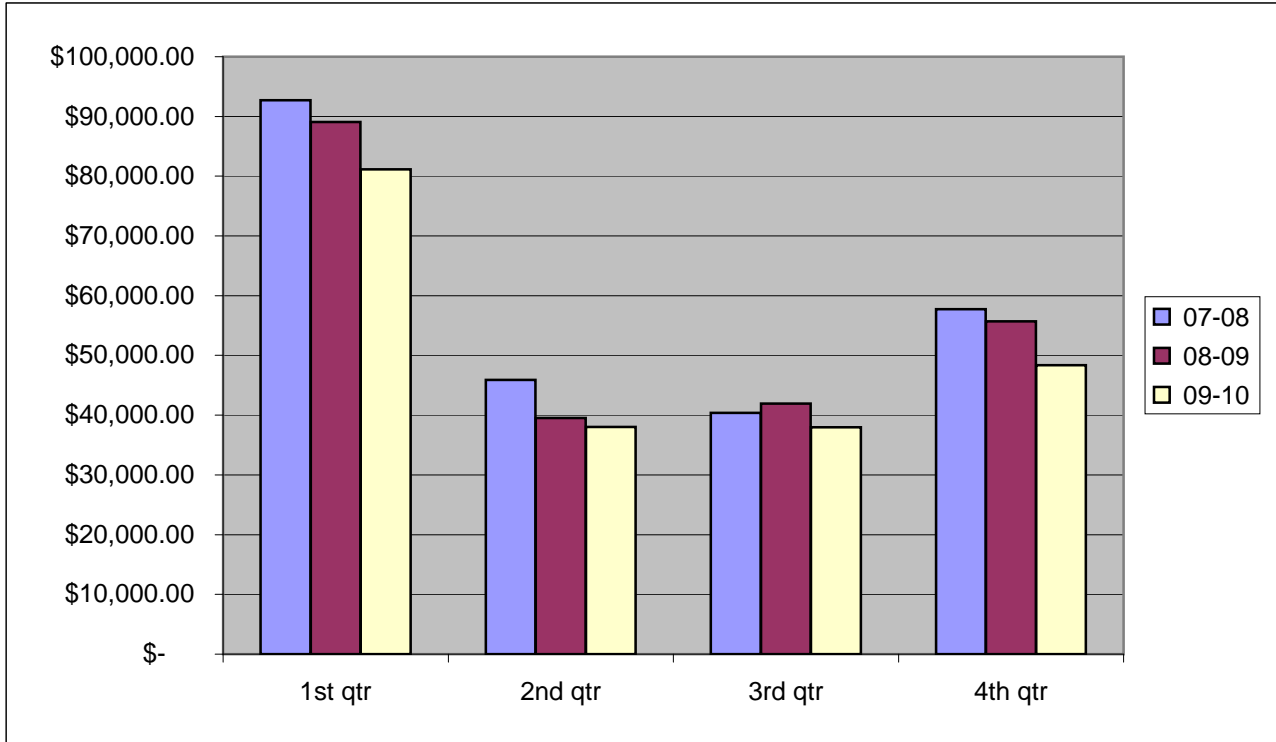
Note: This report is by quarter and does not track with the fiscal budget year since the 4th qtr is always received in the next fiscal year.

amount actually received in this fiscal year: \$ 290,643.39 percent of budget 58%

projected receipts in this budget year \$ 448,459.26 90%

if receipts for the next two qtr are at least as much as last year.

	1st qtr	2nd qtr	3rd qtr	4th qtr	total
07-08	\$ 92,700.29	\$ 45,889.08	\$ 40,373.20	\$ 57,731.28	\$ 236,693.85
08-09	\$ 89,089.49	\$ 39,543.42	\$ 41,939.32	\$ 55,710.57	\$ 226,282.80
09-10	\$ 81,127.74	\$ 38,039.90	\$ 37,979.18	\$ 48,390.19	\$ 205,537.01
10-11	\$ 69,542.67				\$ 69,542.67



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amount actually received in this fiscal year: (not all returns in for last qtr)	\$ 115,946.50	% of budget	51%
projected receipts in this budget year if receipts for the next two qtr are at least as much as last year and outstanding returns for the 1st qtr are paid	\$ 201,002.51		89%

The City currently has a lien on one property for \$14,000+ in unpaid food and beverage taxes that I hope to collect when the property sales. It is currently bank owned.