

Ashley Scott

From: Tonya Grass <tgrass@sdao.com>
Sent: Monday, December 11, 2023 3:15 PM
To: Ashley Scott
Subject: [EXTERNAL] RE: Philomath News - Public Notices

Hi Ashley,

Thanks for your patience while I looked into this one. You pose a really good question, and I wanted to confer with our CEO and our government affairs reps, who would have a much better read on the legislative happenings & potential impact to our districts.

In this instance, after reviewing the bill and the changes being made to the statutes, the digital newspaper option is available only if it satisfies all the requirements laid out in the bill for a "digital newspaper." The Philomath News does not appear to qualify due to the bona fide subscribers issue. I know the city attorney is arguing this point on behalf of the City, and I think it's a good argument, but as far as what I can advise, I'm bound by what the statute/bill lays out. In black & white terms that means this digital news source doesn't meet the qualifications. Our government affairs representative (Mark Landauer) confirmed this as well.

Having said that, we ultimately leave things up to the autonomy of the board. If the board wants to lean on the city attorney's research and argument into this, that's a decision for them. We're not any kind of enforcement agency or anything like that. However, if the district decides to go that way, and someone raises an issue, it would need to be prepared to defend that position.

I do think the tide is turning on this whole newspaper publication issue, as things change more & more to digital, website-based notifications, so I think in time this will be an easy sell, but as with most regulations, the statutes are a bit slow to catch up with the real world.

Thanks for reaching out Ashley, and let me know if you have any further questions on this.

Have a great day,

Tonya Grass

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Legal and Technical Support Administrator
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From: Spencer Rockwell <srockwell@sdao.com>
Sent: Thursday, November 30, 2023 7:49 AM
To: Tonya Grass <tgrass@sdao.com>
Subject: FW: [EXTERNAL] Philomath News - Public Notices

Can I shuffle this your way?

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From: Ashley Scott <Ashley.Scott@philomathfire.com>
Sent: Wednesday, November 29, 2023 12:20 PM
To: Spencer Rockwell <srockwell@sdao.com>
Cc: Chancy Ferguson <chancy.ferguson@philomathfire.com>
Subject: FW: [EXTERNAL] Philomath News - Public Notices

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Newspaper of Record Question:

City of Philomath has decided to transition to Philomath News (entirely web based) to fulfill their public notice requirement after the passage of House Bill 3167. Can our Fire District utilize this as well?
Brad included a lot of details that I have included below- if you desire specifics.

~Ashley

From: Bradley Fuqua <bradfuqua@philomathnews.com>
Sent: Wednesday, November 29, 2023 8:03 AM
To: Ashley Scott <Ashley.Scott@philomathfire.com>
Subject: [EXTERNAL] Philomath News - Public Notices

Hi Ashley,

The city's decision to switch its publication of public notices was the result of a conversation we had early this fall when I reached out to the city manager in reference to the passage of [House Bill 3167](#). Eventually, the issue was forwarded to the city attorney with the belief that the bill provided more latitude in determining the newspaper of record.

The city recorder reviewed Philomath coverage of the Gazette-Times from Sept. 1-30, 2023, to "evaluate if they are providing "consistent, regular coverage of local news AND in which at least 25% of the total news content is locally and originally composed by the newspaper, regardless of whether the newspaper is produced or printed in the local area." (HB3167 SS1(2)(b)). She reported to the city attorney that over the course of September 2023, the G-T produced 1 printed article and 3 digital articles relative to Philomath in addition to obituaries, event calendar, sports schedule and sports standings. During the same period, Philomath News produced 95 digital articles related to Philomath plus photo galleries and obituaries.

The possible hang-up involved the law's requirements for "bona fide subscribers." Since Philomath News doesn't require paid subscriptions and provides 100% of its coverage for free, paid subscriber numbers are not available. As a result, the city recorder asked me to provide some data regarding readership. In turn, I provided the following information regarding readership:

Philomath News does not have a paywall so there are no paid subscription numbers to report. Being a digital-only news publication, the primary measurement of readership comes through page views and site visitors beginning with last month and going back a year:

August 2023: 88,499 page views, 50,656 site visitors

July 2023: 86,923 page views, 51,551 site visitors

June 2023: 61,107 page views, 34,169 site visitors

May 2023: 52,637 page views, 25,453 site visitors

April 2023: 68,302 page views, 36,853 site visitors

March 2023: 70,553 page views, 33,275 site visitors

February 2023: 74,424 page views, 40,845 site visitors

January 2023: 69,366 page views, 36,385 site visitors

December 2022: 60,271 page views, 30,686 site visitors

November 2022: 55,489 page views, 28,770 site visitors

October 2022: 69,439 page views, 36,444 site visitors

September 2022: 97,110 page views, 66,134 site visitors

August 2022: 67,992 page views, 41,957 site visitors

Source: Jetpack analytics

I do have a free newsletter that is distributed via email at least five times per week (six times on occasion if the news cycle warrants it). The number of subscribers as of Sept. 11 was 725. Of those, 56% are highly engaged (often open, click links) and another 5% are moderately engaged (sometimes open and click links). Based on IP addresses, the top three locations among newsletter subscribers are those who are in Philomath, Corvallis and Albany. **From Sept. 4-10, there were 3,625 newsletters delivered and 2,367 of those were opened (65.3%).**

I also have a Philomath News membership program in which readers can voluntarily contribute money to help local news reach sustainability. As of Sept. 11, Philomath News has 245 active paying members (139 pay \$7/mo. or \$77/yr.; 78 pay \$15/mo. or \$150/yr.; and 28 pay \$35/mo. or \$350/yr.). In addition, Philomath News has received 18 contributions of varying amounts from 17 others so far this year.

Philomath News has 2,188 Facebook followers.

Philomath News uses Broadstreet Advertising to manage ads. Analytics are available as far as views, hovers and clicks on specific ads to provide an overview of how an ad is performing.

In late 2022, a University of Oregon Agora Journalism Center study listed the Philomath News as the only general news site with daily news in Benton County. The Corvallis Gazette-Times closed its Corvallis office and moved to Linn County. The other publications in the county are an alternative weekly in Corvallis and a monthly college newspaper at OSU. Access the study's [interactive map here](#).

At this point, the city believed there was a path forward to make the change. The city attorney agreed on the coverage component and interpreted the Philomath News "membership" as just a different label for paid subscribers. He saw no definition for "paid subscriber" in the statute or in the cases. In his opinion, I needed to show that at least 123 of the 245 paid memberships are "bona fide subscribers" as having been paid members for at least 12 months without being 6 months in arrears on their memberships. He added that total circulation compared to "paid" circulation doesn't seem to be a factor in ORS 193.010, as long as the other requirements of the statute are met.

The fire district covers a larger area than the city boundary, so I don't know if those numbers would change in your situation — that might be something that your legal counsel takes into account. But I believe it's safe to say that the Gazette-Times basically provides little to no coverage in the distribution areas of the city, fire district and school district.

I confirmed to the city that on the voluntary membership numbers, I would easily meet the minimum that the city attorney had established. At the time, my membership database showed 211 of my 246 current members had been paying for 6 months or longer.

From there, things moved into the phase of how I would present the public notice on the news site and I spent a few weeks coming up with various options. I ultimately decided upon placing the public notices in the upper right position in the sidebar zone. A summary of the legal would appear in this space with the call to action being "CLICK TO ENLARGE." The reader could then simply click on the "ad" to read the public notice's text. For a visual, click on this link to see the demo: <https://my.broadstreetads.com/preview/pOMWCXaHVBW2UPFTTdagh4kLh0Riv+LXWq5+SONb3Hz11sL+9guqvuD88w==--d0qJjXayR8137BfV--yEYGptc%2F60CMp43C6Hw29w==>

In addition, a separate public notices section/page will be created to serve as an archive for all of the public notices and there would be a link so that can be easily found (plus included in the regular site menu for another navigational option). A text link to the public notice will also be inserted in the Philomath News newsletter. The public notice would stay in that visible location on the home page for one week.

I also worked out the specifics of how the rate was established — a calculation based on current ad rates and the public notice's full depth in pixels (the depth of the enlarged, full ad). There is also an administrative processing fee that covers the cost of my physical printing of the affidavit, the process of having it notarized and maintaining the archives section/page on the website.

I want to point out that the city's decision to switch to Philomath News as its newspaper of record for public notices was theirs and based on the city attorney's opinion that it's defensible if challenged. I have not consulted with an attorney on my end and have just responded to requests for information. If the fire district comes to the same conclusion as the city on the interpretation of the revised statute and it ends up being challenged legally, I wouldn't be held liable in any way. It would be the fire district's decision.

City Manager Chris Workman said he would make himself available to talk to you if you want to inquire with him.

The city has not published any public notices yet and as a result, website changes to accommodate their publication haven't been implemented yet (I'll perform that work when I receive my first one). As for the rate structure, if you want to send me an example of a public notice that you've published with the daily, I could give you an estimate of what you would've been charged with Philomath News — that might be the easiest way to compare.

If you want specifics on the rate structure:

The rate is based on the enlarged public notice's full depth in pixels. The charge relates to the standard size that would be able to accommodate the ad.

Standard Sidebar Zone Sizes and Weekly Rates. All widths = 300 px

DEPTH

0-250 px: \$24/wk

251-425 px: \$29/wk

426-600 px: \$34/wk

601-900 px: \$51/wk

901-1200 px: \$68/wk

Depths greater than 1200 px, add \$17 per 300 px

ADMINISTRATIVE FEE (Proof of publication form, archives, etc.)

One-time flat fee of \$20 to cover proof of publication affidavit process (time, materials, delivery) and online archives maintenance.

Example:

1. You have a public notice that is sized 300x150 px. This falls into the 0-250 px range with the rate of \$24/wk.
2. The administrative fee is \$20.
3. The fire district receives a 15% nonprofit/government discount.
4. $\$24 + \$20 = \$44$. With 15% discount = $\$37.40$.

Note: If you want or require it to be published for more than 1 week, multiply the above number by the number of weeks you want it to appear on the home page.

Example 2:

1. The public notice for the fiscal year budget measures 600 px in width and 1000 px in depth. This equates to 2 columns of 300x1000 px notices. A 300x1000 rate falls in the 901-1200 px range with the rate of \$68/wk. Multiply by 2 because it's two columns for a total of \$136/wk. A 300x250 px version with Click to Enlarge would appear on the home and story pages.
2. The administrative fee is \$20.
3. The fire district receives a 15% nonprofit/government discount.
4. $\$136 + \$20 = \$156$. With 15% discount = $\$132.60$.

Note: If you want or require it to be published for more than 1 week, multiply the above number by the number of weeks you want it to appear on the home page.

If the fire district is interested in publishing other types of notices that fall beyond the legal requirements for public notices, we could discuss a special rate (public meeting notices, etc.). I'm thinking something in the neighborhood of \$19 per post or ad (I receive these notices via email and I include them free in my Community Calendar but this is available if you want more visibility to increase transparency, etc.).

That's a lot of information and I tried to make it as clear as possible. This is sort of a process that's in motion with the city as we move forward so there could be unforeseen things that come up. But I think it's a solid plan on my end. If the fire district's legal folks come to the same conclusion as the city and you want to move forward, let me know. Of course I'll answer any questions.

Brad Fuqua, Editor/Publisher

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Philomath Fire and Rescue Transaction Detail By Account July 2022 through June 2023

Ty...	Date	Num	Name	Memo	Amount	Balance
6000 · Materials and Services						
6040 · Publications and Elections						
Bill	09/26/2022	2022-070	OSCU 402518-72	AA Recruitment publication	57.80	57.80
Bill	09/26/2022	2022-061	OSCU 402518-72	AA recruitment publication	57.80	115.60
Bill	11/14/2022	3173	WFCA The Daily ...	Resident Volunteer	100.00	215.60
Bill	11/14/2022	3125	WFCA The Daily ...	Daytime Firefighter Ad	280.00	495.60
Bill	12/08/2022	42517	OSCU 402518-70	Philomath News Membership	150.00	645.60
Bill	04/10/2023	138-60001078	Midvalley Newsp...	Notice of Budget Hearing	218.48	864.08
Bill	05/03/2023	3666	WFCA The Daily ...	Staff Captain Employment Ad	280.00	1,144.08
Bill	05/10/2023	152990, 152275	Midvalley Newsp...	Budget Notices	840.56	1,984.64
Bill	06/20/2023	05-2023	Benton County Cl...	May 2023 Election	4,315.67	6,300.31
Total 6040 · Publications and Elections					6,300.31	6,300.31
Total 6000 · Materials and Services					6,300.31	6,300.31
TOTAL					6,300.31	6,300.31

*Budget Notices
 Corvallis Gazette-Times
 \$1,059.04
 we budget \$1,500 annually
 vs. Philomath News
 \$116.45*