

Kent Taylor Civic Hall
200 NE Second Street
McMinnville, OR 97128

**City Council Meeting Agenda
Tuesday, November 14, 2017**

**6:00 p.m. – Dinner Meeting
7:00 p.m. – Regular Council Meeting**

Welcome! All persons addressing the Council will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. If you desire to speak on any agenda item, please raise your hand to be recognized after the Mayor calls the item. If you wish to address Council on any item not on the agenda, you may respond as the Mayor calls for "Invitation to Citizens for Public Comment."

6:00 PM – DINNER MEETING – CONFERENCE ROOM

1. Call to Order
2. Review City Council Agenda
3. Adjournment

7:00 PM – REGULAR COUNCIL MEETING – COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PROCLAMATION
 - a. Small Business Saturday
4. INVITATION TO CITIZENS FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a topic already on the agenda; a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others.*
5. PRESENTATION
 - a. Historic Landmarks Committee Annual Report
6. CONSENT AGENDA
 - a. Consider the Minutes of the March 14, 2017 and July 25, 2017 Dinner and Regular City Council Meetings.
7. WORK SESSION: RECOLOGY

8. RESOLUTION

- a. **Resolution No. 2017-68**: A Resolution of the City of McMinnville, Oregon Authorizing the execution and delivery of one or more Lease Purchase, Loan or similar Financing Agreements.

9. ORDINANCES

- a. **Ordinance No. 5041**: An Ordinance amending the McMinnville City Code, Chapter 2.32, specific to the McMinnville Urban Area Planning Commission.
- b. **Ordinance No. 5042**: An Ordinance amending Ordinance No. 4904 and 5033 relating to the Solid Waste Collection Franchise.

10. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports
- c. Cash & Investment Report

11. EXECUTIVE SESSION

- a. Executive Session: Pursuant to ORS 192.660(2)(D) to conduct deliberations with persons Designated To Carry Out Labor Negotiations.
- b. Executive Session: Pursuant To ORS 192.660(2)(H) To Consult With Legal Counsel Concerning Legal Rights And Duties Regarding Current Litigation Or Potential Litigation.

12. ADJOURNMENT



Whereas, the City of McMinnville, celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 63 percent of net new jobs created over the past 20 years, and

Whereas, small businesses employ 48 percent of the employees in the private sector in the United States; and

Whereas, on average, 33 percent of consumers' holiday shopping will be done at small, independently-owned retailers and restaurants; and

Whereas, 91 percent of all consumers believe that supporting small, independently-owned restaurants and bars is important; and

Whereas, 76 percent of all consumers plan to go to one or more small businesses as part of their holiday shopping; and

Whereas, the City of McMinnville supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

Whereas, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Mayor Hill, Mayor of the City of McMinnville do hereby proclaim, November 25, 2017, as

SMALL BUSINESS SATURDAY

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

In Witness Whereof, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 14th day of November, 2017.

Scott A. Hill, Mayor

STAFF REPORT

DATE: November 14, 2017
TO: Mayor and City Councilors
FROM: Chuck Darnell, Associate Planner
SUBJECT: Historic Landmarks Committee Annual Report

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This is the annual update to the City Council on the recent and upcoming activities of the McMinnville Historic Landmarks Committee (HLC). Per Section 2.34.040, the Historic Landmarks Committee shall make an annual report to the City Council outlining accomplishments for the past year and the work plan for the following year.

Background:

The City's Historic Landmarks Committee (HLC) is the appointed body that is administers and manages the City of McMinnville's historic preservation program. They serve in both an advisory role to the City Council as well as a decision-making body for some land-use decisions.

The HLC was first established by the City Council in 1987, and was established to provide guidance and recommendations to the City Council on historic preservation matters in the city. Specifically, the HLC is tasked with managing the City's Historic Resources Inventory, which is a locally adopted list of protected historic structures, buildings, and sites in the city, and includes over 500 resources dating back as far as 1853. The HLC is also responsible for reviewing alterations to existing historic landmarks for conformance with historic preservation guidelines and design standards, conducting surveys, inventories, and studies of potential historic resources and historic districts, and promoting historic resources to raise public awareness and appreciation of the resources and their role in the community.

The HLC currently has four members (there is one vacant position as Rebecca Quandt recently resigned due to her new work opportunities in Salem), who together bring a wide range of experience and knowledge in historic preservation to the committee. The vacant position is currently advertised. The current members are as follows:

- **Joan Drabkin, Chair** – Long-time resident and committee member, and owner of a local vineyard and locally designated historic resource

- **John Mead** – Long-time committee member and founder of Cellar Ridge Construction, a McMinnville-based construction company that is a leader in green building
- **Mary Beth Branch** – Director of Marketing and Events for The Buchanan Cellars, and also holds a Bachelor of Architecture degree with an emphasis on historic buildings
- **Cory Schott** – Historian for Sea Reach (Wayfinding and Signage Firm in Sheridan) and Adjunct Professor at the University of Arizona, and also holds a PhD in History

Discussion:

For many years, the HLC met on an on-call basis. However, in late 2016, the Planning Department initiated an effort to have the HLC meet monthly with a goal of re-energizing a historic preservation program that was proactive.

Adopted Work Plan:

In late 2016, the HLC adopted a work plan for upcoming years of 2017 and 2018. The work plan was organized into strategies and actions to achieve three overarching goals, which were as follows:

- Preserve McMinnville’s Historic Resources
- Evaluate and Improve the Protection of McMinnville’s Historic Resources
- Increase Awareness and Appreciation of McMinnville’s Historic Resources

The adopted work plan is attached to this staff report for your reference.

2017 Accomplishments:

By the end of 2017, the HLC will have held 10 meetings. The HLC recently established a standing monthly meeting, and that has led to the committee holding more meetings this year than they had in most previous years. The regular monthly meetings occur on the 4th Wednesday of the month at 3:00 PM at the Community Development Center.

The HLC was able to tackle a number of items from the adopted work plan, strategize for additional work that will be completed over the coming year, and also review 5 land use applications related to historic preservation activities. The City would not have been able to complete the amount of historic preservation work over the past year without the HLC members’ commitment to holding a regular monthly meeting.

In 2017, the following items from the 2017-2018 Work Plan were completed:

- The HLC used the adopted 2017-2018 work plan to assist staff in the development of a Certified Local Government (CLG) grant application. The City was ultimately successful and was awarded the CLG grant in the amount of \$12,000, which will be used to complete historic preservation work over the coming year.
- Assisted in the development of a request for proposals (RFP) for Historic Preservation Plan and Intensive Level Survey. The RFP was issued in October 2017, and a consultant was selected in November 2017 to complete the historic preservation work.
-

- Revisited previous surveys to identify areas to conduct the upcoming Intensive Level Survey. The HLC had multiple discussions, and has narrowed the area of the Intensive Level Survey to one of two historic residential areas that are in close proximity to the Downtown Historic District.
- Updated the City's Historic Preservation regulations. The HLC reviewed recently adopted Oregon Revised Statutes related to the preservation of historic resources, and incorporated the new statute requirements into the City's local code. The updates resulted in the adoption of a Historic Preservation chapter (Chapter 17.65) in the McMinnville Zoning Ordinance.

In 2017, the Historic Landmarks Committee reviewed 5 land use applications related to historic preservation activities:

- DDW 1-17 – Downtown Design Review and Waiver for Atticus Hotel

The HLC reviewed the proposed architectural design of the Atticus Hotel to ensure that the project met the Downtown Design Standards and Guidelines and to ensure that the new building would blend in with the surrounding historic buildings in the Downtown Historic District.



- HL 1-17 – Façade Alteration to the Union Block Building

The HLC reviewed and approved a proposed alteration to the ground floor façade of the Union Block building, which will allow for the incorporation of an additional door and glazing to allow the restaurant tenant (The Oak) to utilize a mezzanine space within the building. The use of this mezzanine space will help to maximize the adaptive reuse of this existing historic building.



- HL 2-17 – Reclassification of Existing Historic Resource at 738 SW Edmunston Street

The HLC reviewed a proposed reclassification of an existing historic resource. The resource was a historic home that was previously located on the Linfield College campus, but has now been moved to a different location on SW Edmunston Street. The resource is still designated on the Historic Resources Inventory, but is now designated at a lower classification due to its relocation.



- HL 3-17 – Review of Proposed Demolition of Historic Resource

The HLC reviewed and delayed the approval of a demolition permit for an existing historic resource to allow for the City to gather more information and document the resource prior to its demolition.



- HL 4-17 – Designation of a Historic Sign to the Historic Resources Inventory

The HLC reviewed and designated a historic landmark sign to the Historic Resources Inventory. The sign is associated with Farnham Electric and has been located on multiple buildings throughout McMinnville, dating back to the late 1930s at the business's original location on 3rd Street. The sign still exists today, albeit in a different location on NE Lafayette Avenue, but is now protected from future removal or alteration that would remove its historic characteristics.



2018 Projects and Plans:

The HLC's biggest undertaking in 2018 will be the completion of an Intensive Level Survey and Historic Preservation Plan. As mentioned above, the City has recently selected a consultant to complete those activities over the coming year. The consultant that has been selected is Northwest Vernacular Historic Preservation (<https://www.nwvhp.com/>). The consultant will first be completing an Intensive Level Survey of one of two historic residential areas in close proximity to the Downtown Historic District. The survey will include 6-12 properties and will provide detailed historical and architectural information on each property. The survey will also result in an update of the City's Historic Resources Inventory and could potentially lead to the development of an additional historic district in the city. The consultant will then complete a Historic Preservation Plan, which will provide recommendations and an implementation plan for the future of the City's historic preservation program. The HLC will be providing guidance and oversight of the project and will review draft versions of the Intensive Level Survey and Historic Preservation Plan as they are developed.

The HLC will also be moving forward with other activities from the 2017-2018 work plan that were not able to be completed in 2017. Specifically, the HLC will be working on the following projects:

- Promote National Preservation Month in May of 2018
- Reestablish an Annual Historic Preservation Award Program
- Develop Walking Tour of Intensive Level Survey Area with Walking Tour Brochure
- Use Findings from Intensive Level Survey to Explore Potential Historic District
- Explore Potential Zoning Text Amendments to Preserve Existing Historic Residential Structures Surrounding the Downtown Historic District

What to Expect in 2018:

The City Council should expect to see recommendations and additional information coming from the HLC throughout the coming year, and the Council will also have an opportunity to be involved in some of the upcoming historic preservation activities described above. Some of the items that the Council is invited to participate in or will be coming to the Council as recommendations from the HLC are as follows:

- Two public meetings will be held during the development of the Historic Preservation Plan to gather public input on the future of the City's historic preservation program. These meetings will tentatively be held in February and June of 2018.
- The HLC will review and then recommend to City Council a final draft of the Historic Preservation Plan for Council consideration and adoption. The final draft of the plan is due from the consultant by the end of July 2018.
- The HLC will promote Historic Preservation Month in May 2018 by supporting the Council and Mayor in reading a proclamation to proclaim May 2018 as Historic Preservation Month in McMinnville.
- The HLC will be reestablishing an annual Historic Preservation Award Program. This program will highlight and recognize property owners that have completed projects that preserved or enhanced historic resources in the city. The awards will be presented during the same Council meeting as the proclamation for Historic Preservation Month. Nominations can be made for historic preservation projects, and the nomination forms will be made available during the first quarter of 2018.

Fiscal Impact:

The Planning Department has budgeted \$12,000 in consultant services to provide the required 50% local match for the \$12,000 Certified Local Government (CLG) grant secured by the City to hire the consultant for the Intensive Level Survey and Historic Preservation Plan..

Alternative Courses of Action:

None.

Recommendation/Suggested Motion:

No specific motion is required.

McMinnville Historic Landmarks Committee - 2017 Work Plan

GOAL : Preserve McMinnville’s Historic Resources

| Strategy | Action | Priority | Timeframe | Cost | Responsibility |
|---|---|----------|-----------|-------|--|
| Create and Adopt Historic Preservation Plan | Develop RFP and Scope of Work for Plan Development (Also Include Intensive Level Survey Work) | High | 2/28/17 | Staff | City of McMinnville (City)/ Historic Landmarks Committee (HLC) |
| | Oversee the Development of Historic Preservation Plan and Adopt Final Plan | High | 6/30/18 | \$ | City/HLC/Consultant |
| Explore Viability of National Register Historic Districts | Consider Residential Historic Districts Using Findings from ILS | Medium | 12/31/18 | Staff | City/HLC |

GOAL: Evaluate and Improve the Protection of McMinnville’s Historic Resources

| Strategy | Action | Priority | Timeframe | Cost | Responsibility |
|---|---|----------|-----------|-------|---------------------|
| Complete an Intensive Level Survey (ILS) of Properties from Former City Surveys | Revisit Reconnaissance Level Survey and Identify Areas to Conduct ILS | High | 4/30/17 | Staff | City/HLC |
| | Oversee the Completion of ILS | High | 6/30/18 | \$ | City/HLC/Consultant |
| Revisit and Update the Historic Preservation Ordinance | Update any Necessary Provisions in Ordinance 4401 and Develop Certificate of Approval Process | High | 2/28/17 | Staff | City/HLC |

GOAL: Increase Awareness and Appreciation of McMinnville’s Historic Resources

| Strategy | Action | Priority | Timeframe | Cost | Responsibility |
|--|--|----------------------|-----------|-------|-----------------------|
| Educate Community on Historic Resources and Historic Preservation | Actively Promote National Preservation Month (May) by Participating in “This Place Matters” and Other Events | High | 4/30/17 | \$ | City/HLC |
| | Partner with School or College to Develop Plaques for Historic Properties | Medium | 12/31/17 | \$ | City/HLC |
| | Develop and Promote Walking Tours of Historic Areas | Medium | 4/30/17 | \$ | City/HLC |
| Acknowledge Property Owners that Preserve Historical Resources | Reestablish an Annual Historic Preservation Award Program | High | 2/28/17 | \$ | City/HLC/City Council |
| | Present Awards at City Council Meeting in May | High | 5/23/17 | Staff | City/HLC/City Council |
| Make Information on McMinnville’s Historic Resources Readily Available | Create One-Stop Shop on City Website for Historical Resources Information | ¹¹ Medium | 9/30/17 | Staff | City |

CITY OF McMinnville
MINUTES OF THE WORK SESSION
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 14, 2017, at 4:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, Recording Secretary

| | | |
|-------------|---------------------------------|-------------------------|
| Councilors: | <u>Present</u> | <u>Excused Absences</u> |
| | Remy Drabkin | Adam Garvin |
| | Kellie Menke, Council President | Kevin Jeffries |
| | Wendy Stassens | Alan Ruden |

Also present were City Manager Jeff Towery, City Attorney David Koch, Police Chief Matt Scales, Fire Chief Rich Leipfert, Community Development Director Mike Bisset, Information Systems Director Scott Burke, Parks and Recreation Director Jay Pearson and Planning Director Heather Richards.

Damema Mann, Senior Survey Associate from the National Research Center presented the key findings of the 2016 National City Survey. She explained that the survey covered the following facets of Community Livability: Safety, Natural Environment, Mobility, Built Environment, Economy, Education and Enrichment, Recreation and Wellness, and Community Engagement.

Ms. Mann stated that the survey is a scientific sample of 3,000 randomly selected households. McMinnville received 831 returned surveys which was a 29% response rate with a margin of error of +/- 3%. The survey included an expanded sample (which helps lower the margin of error), an open-ended question, an option to complete the survey online, an option to complete the survey in Spanish and a geographic comparison. The 2016 National Benchmark Comparisons were explained. She stated that three responses received higher ratings, ten received lower ratings and ninety-two received similar ratings. The three higher ratings were for McMinnville's vibrant downtown and commercial area, McMinnville as a place to visit, and more residents recycled than in other communities. She noted that variety of housing options and affordable quality housing were ranked lower in the results.

She reviewed the comparisons from 2016 to 2011. The two most important facets identified were safety and economy which is a typical result for most communities.

Ms. Mann stated that based on the survey McMinnville residents enjoy an overall high quality of life. The majority of respondents rated the quality of life as excellent or good. 81% ranked McMinnville as an excellent or good place to raise kids, 80% ranked overall appearance as excellent or good, 76% ranked overall image as excellent or good and 75% ranked their neighborhoods as excellent or good.

At least four in five respondents were very or somewhat likely to recommend McMinnville as a place to live or play and plan on remaining in McMinnville for at least the next five years.

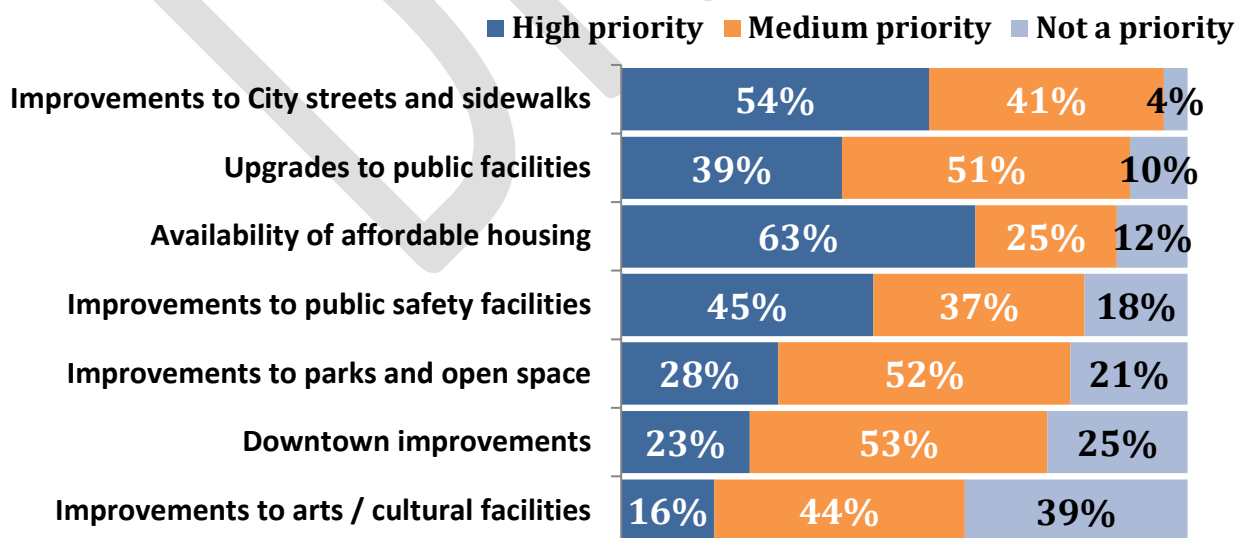
Ms. Mann noted that safety was identified as a top priority for the community. Eight in ten respondents felt safe in their neighborhoods and in downtown. She noted that feelings of safety in the downtown area has slightly decreased since the 2011 survey. With regards to the overall feeling of safety 18% felt it was excellent, 59% responded good, 14% responded fair and 9% responded poor. Responses for safety services were also reviewed. The following percentages ranked the respective services as excellent or good: Fire – 86%, Ambulance/ EMS – 85%, Fire prevention – 77%, Police – 73%, Crime prevention – 55%, and Emergency Preparedness – 47%.

Ms. Mann stated that based on the survey the economy was found to be one of the most important facets for the community to focus on. Seven in ten respondents gave excellent ratings for McMinnville standing out as a place to visit and for a vibrant downtown area. Responses for the aspects of the economy were reviewed. The following percentages ranked the respective services as excellent or good: place to visit – 79%, vibrant downtown area – 74%, Business and services – 64%, overall economic health– 57%, place to work – 56%, cost of living – 42%, shopping opportunities – 38%, and employment opportunities – 28%.

The final key finding was related to built environment. Ms. Mann reviewed aspects related to built environment noting that housing options and affordable quality housing were ranked lower than the national benchmark.

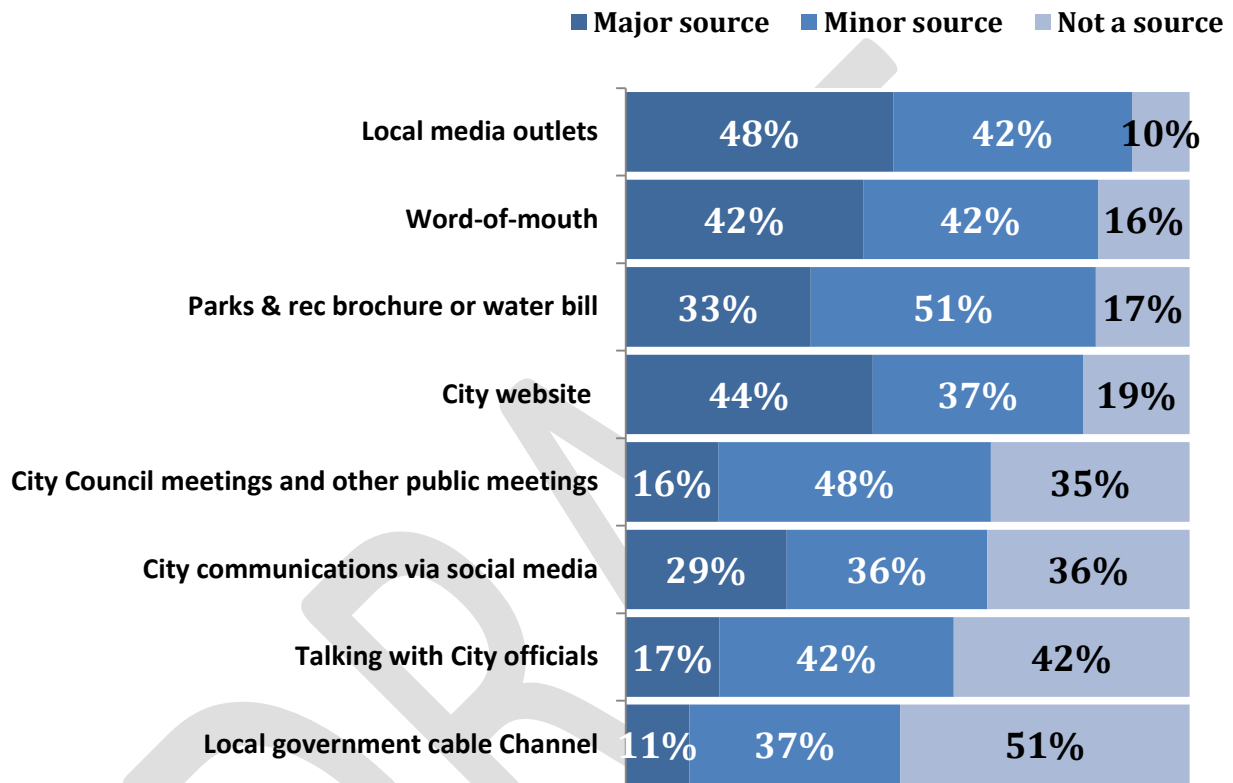
One question asked in the survey that was unique to McMinnville was: “To increase the availability of housing within McMinnville, how strongly would you support or oppose increasing the density of housing through apartment, condo or townhome developments. 45% responded with somewhat support, 25% responded strongly support, 15% responded somewhat oppose, 16% responded strongly oppose.

Another question asked that was unique to McMinnville was related to City priorities. The results were displayed.



The following question asked “Of this list which of the following projects would you be willing to fund via additional taxes”. Respondents were allowed to select more than one option. The results were as follows: street and traffic improvements – 52%, police services – 48%, increasing affordable housing – 46%, fire/ ambulance services – 45%, library services – 25%, creating more recreation facilities – 24%, downtown improvements – 16%, none of the above – 16%.

A question related to information sources was reviewed. The following chart was displayed showing the results.



The final evaluative question on the survey was: “What single community need or issue would you like the City Council to prioritize in the next five years?” Infrastructure, Safety and Health and Human Services were themes found in the responses. Some of the responses included: “fixing city streets and sidewalks”, “improve streets”, “hiring more police officers”, “safety-gang issues”, “homeless people”, and “more resources for the homeless/ needy”.

Jody Christensen, Executive Director of the McMinnville Economic Development Partnership, shared that the MEDP is currently in the data collection mode and looking for ways to grow family wage jobs. She noted the affordable/ attainable housing aspect of the survey. She also shared that they are exploring the live, walk, play concept and she was happy to see that there was an appetite for looking at housing. She noted that in order to attract and retain talent a good mix of housing options. Ms. Christensen noted that the data shows that citizens feel they have a good quality of life in McMinnville.

Mayor Hill stated that there was an increased perception of the economic outlook and growth. He noted that speaks to the ongoing efforts. He also mentioned the affordable housing and homeless concerns are being addressed.

Discussion ensued regarding increased or positive perception of economic development services.

Gioia Goodrum, President of the Chamber of Commerce stated that the survey seems like it echoes what is already known, for example, the need for affordable housing and the tight labor market. She felt that there wasn't anything surprising in the results.

Jeff Knapp, Executive Director for Visit McMinnville, explained the goal of Visit McMinnville to attracting visitors, spurring economic growth and hopefully interest visitors in moving to McMinnville. He asked about the national benchmarks of McMinnville with regards to McMinnville as a place to visit. Ms. Mann responded that out of 195 communities that asked the same question, McMinnville ranked 53rd overall. It was noted that affordable housing can be a symptom of success.

Discussion ensued regarding the results as they pertain to each department and facet. Community needs were discussed and it was stated that the survey can help inform decisions.

Councilor Stassens asked about the demographics of the data. Ms. Mann explained that weights and adjustments are made and directed Council to the technical appendices.

City Manager Towery stated that the survey will help inform work that is being done.

Discussion ensued regarding the Latino response rate and the importance of offering the survey in Spanish.

Discussion continued regarding next steps.

Thank Mayor thanked the community partners for attending.

ADJOURNMENT: Mayor Hill adjourned the Work Session at 5:09 p.m.

Melissa Grace, Recording Secretary

CITY OF McMinnville
MINUTES OF DINNER MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 14, 2017, at 6:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, Recording Secretary

Councilors: Present
Remy Drabkin
Adam Garvin
Kevin Jeffries
Kellie Menke, Council President
Alan Ruden
Wendy Stassens

Also present were City Manager Jeff Towery, City Attorney David Koch, Finance Director Marcia Baragary, Senior Court Clerk Christine Watts, and Senior Court Clerk Shawn Branson.

DINNER MEETING: Mayor Hill called the Dinner Meeting to order at 6:12 p.m. and welcomed all in attendance.

The City Council agenda for the evening was reviewed.

Senior Court Clerk Shawn Branson reviewed the proposed new rate schedule for Municipal Court fees. She noted that the Fix-It Fee is one of the biggest changes. Ms. Branson stated that the City is in line with the Circuit Court.

Senior Court Clerk Christine Watts explained the amnesty program that will run from April 3, 2017 – September 29th, 2017. Discussion ensued regarding the promoting program and the amount of debt currently being held.

City Council goals and objectives were discussed as well as Budget Committee appointments.

ADJOURNMENT: Mayor Hill adjourned the Dinner Meeting at 6:58 p.m.

Melissa Grace, Recording Secretary

CITY OF McMinnville
MINUTES OF REGULAR MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 14, 2017, at 7:00 p.m.

Presiding: Scott A. Hill, Mayor
Recording: Melissa Grace, Recording Secretary
Councilors: Present
Remy Drabkin
Adam Garvin
Kevin Jeffries
Kellie Menke, Council President
Alan Ruden
Wendy Stassens

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, Police Chief Matt Scales, Tom Henderson of the *News Register*, and Dave Adams of KLYC Radio.

AGENDA ITEM

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:02 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE: Council President Menke led in the recitation of the Pledge of Allegiance.
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill asked for comments from citizens on topics not on the evening's agenda.

Mark Davis, McMinnville resident, commented on the most recent Planning Commission interviews. He stated that there was no spontaneity or back and forth. He suggested having a screening process to narrow it down to a couple of citizens to bring before Council for interviews instead of rushing everyone through. He also stated that it seemed awkward running the incumbents with the new applicants.

JW Milligan, McMinnville resident, stated that he watched the Planning Commission interview process and thought that it was good to have the incumbents included. It was a long process that took too much time.

Councilor Drabkin responded that the Council and Department Heads were striving for a fair and productive process that gave more citizens a chance to apply.

4. CONSENT AGENDA

4.a. Consider the Minutes of the January 24, 2017 Dinner and Regular Meeting.

Council President Menke MOVED to adopt the consent agenda; SECONDED by Councilor Garvin. Motion PASSED unanimously.

5. NEW BUSINESS

5.a. Request from Mr. Foley for noise variance waiver for July 8, 2017.

Jasper Abyeta, 459 SW Howard, stated that he had applied for waivers several times. He stated that this was a community event on a Saturday afternoon and there had not been any issues with the neighbors in the past. The event would be over by 9 p.m. There was not a lot of through traffic and there should be no impact. He clarified it would be an outdoor concert and Galloway would be closed between 2nd and 3rd.

Councilor Stassens MOVED to approve the noise variance waiver request; SECONDED by Councilor Ruden. Motion PASSED unanimously.

6. RESOLUTIONS

6.a. Resolution No. 2017-18: A Resolution approving Task Orders No. 4 and 5 to the Personal Services Contract with Murray, Smith & Associates, Inc. for the design of the Oregon Route 99W at 2nd Street signal replacement and the 1st and 2nd Street pedestrian improvements transportation bond measure projects.

Community Development Director Bisset shared that the resolution amended the contract with Murray, Smith and Associates for two bond measure projects, the 2nd Street signal replacement and the 1st and 2nd Street pedestrian improvements. The signal replacement would take place this summer and the pedestrian improvements would be done in summer 2018. Task Order No. 4 included additional design services for the pedestrian improvements project. The cost associated with the Task Order was \$46,265. Task Order No. 5 amended the design work and added construction engineering services for the signal replacement project. The cost for this Task Order was \$175,589. He recommended approval.

Councilor Ruden MOVED to adopt Resolution No. 2017-18; SECONDED by Councilor Stassens. Motion PASSED unanimously.

- 6.b. Resolution No. 2017-19: A Resolution approving the acquisition of property from First Federal Savings & Loan for the OR 99W at 2nd Street Signal Replacement transportation bond project.

Community Development Director Bisset said this project was related to the 2nd Street signal replacement project. It was necessary to acquire property along First Federal's frontage to complete the project. This resolution would complete the purchase of the property for \$17,729 plus closing and escrow costs. He recommended approval.

Council President Menke MOVED to adopt Resolution No. 2017-19; SECONDED by Councilor Garvin. Motion PASSED unanimously.

- 6.c. Resolution No. 2017-20: A Resolution approving the dedication of right-of-way from City properties for the OR 99W at 2nd Street Signal Replacement transportation bond project.

Community Development Director Bisset stated there were two City owned pieces of property that needed to be dedicated as right-of-way so the 2nd Street signal project could be completed. One was located at the northwest corner of 2nd and Adams and the other was on the northeast corner of 2nd and Baker. He displayed a map of the two locations and recommended approval.

Councilor Garvin MOVED to adopt Resolution No. 2017-20; SECONDED by Council President Menke. Motion PASSED unanimously.

- 6.d. Resolution No. 2017-21: A Resolution awarding the contract for the 2017 Steel Mill Cured-In-Place-Pipe (CIPP) Project, Project 2017-1.

Community Development Director Bisset explained this project was related to the City's wastewater inflow and infiltration reduction efforts contained in the Wastewater Master Plan. This project would rehab 2,700 linear feet of public sewer line located on the Cascade Steel Mill site. They had received two bids for the project and the bid from Michaels Corporation in the amount of \$99,770 was deemed the lowest responsible bid. The work was expected to be completed prior to July 1. He recommended approval.

Discussion ensued regarding publicly owned and maintained lines on easements on private property. Community Development Director stated there was this kind of situation in a number of places in town where the City maintained public assets that were on easements on private property. He shared that the City had worked closely with Cascade Steel to identify sewer connections to the City's sewer system. They were currently a certified non-discharger of industrial waste.

Cascade Steel only had a domestic waste connection to the City's system. This was a chance to rehab the public asset on their property.

Councilor Ruden MOVED to adopt Resolution No. 2017-21; SECONDED by Councilor Stassens. Motion PASSED unanimously.

- 6.e. Resolution No. 2017-22: A Resolution adopting a new rate schedule for Municipal Court fees and revoking Resolution No. 2015-31.

City Attorney Koch shared that every few years Municipal Court reviewed the fee structure to determine whether fees were keeping pace with the cost of providing services and matched with Circuit Court fees. Several fees were proposed to be changed. Most of the fees were going up, but some would be reduced, such as probation fees for those cases that could be resolved in six months or less and for the fix-it-ticket program fee for violations that were correctable. The proposed change was to charge 30 percent of what the minimum fine would be, based on the severity of the infraction. The goal of this was to gain compliance and effect driver behavior.

Police Chief Scales explained his philosophy was that traffic contacts were for traffic safety and education.

Mr. Koch also noted the change of fees for trials which would only be assessed if the defendant was found guilty.

Court Appointed Attorney fees and Court Ordered Investigator Fees were explained. Mr. Koch noted the City provided a reduced rate for a court appointed attorney and other legal fees depending on a defendant's financial situation and the amount of time it would take an attorney to represent the client. It would be \$45 per hour for the attorney and \$25 for the investigator. These rates might be waived, or the defendant might only have to pay some of the rates which would be determined by the judge.

Mayor Hill clarified there were 49 fees on the schedule, 14 that were increased and 4 that were reduced.

Councilor Ruden MOVED to adopt Resolution No. 2017-22; SECONDED by Council President Menke. Motion PASSED unanimously.

7. ADVICE / INFORMATION ITEMS

- 7.a. REPORTS FROM COUNCILORS ON COMMITTEE AND BOARD ASSIGNMENTS

Councilor Ruden announced there would be an Affordable Housing Task Force meeting tomorrow. He noted great progress was being made.

Councilor Drabkin reported that the subcommittee focusing solely on homelessness met yesterday. They were hoping to identify micro-populations within the homeless community to help overcome the issues people were facing. It was new, exciting, and challenging to work with the County on this topic. There were a few more positions on the subcommittee that they still had invitations out for, such as representatives from Linfield College, the high school and someone who was currently experiencing homelessness.

Councilor Stassens discussed the last Urban Renewal Advisory Committee meeting where the grant and loan programs and grant applications were discussed. They also received a presentation on the Atticus Hotel.

Councilor Garvin stated the YCOM executive meeting was cancelled and the preliminary budget information was sent out.

Council President Menke said Visit McMinnville was looking at their goals, strategic plan, and budget to make a presentation Inclusionary zoning would be discussed at the next Affordable Housing Task Force meeting.

7.b.

REPORTS FROM DEPARTMENT HEADS

Police Chief Scales provided an update on the recruitment for police officers. He was recently at a UNIDOS gathering this past week and he encouraged the Council to attend these functions.

Community Development Director Bisset reported that the 5th Street corridor project signal work was nearing completion. The reconstruction of 5th Street between Evans and Lafayette was yet to be done. He expected to be done with the project by May. He was working with ODOT on the right time to activate the signals. Alpine Avenue work was set to start next Monday. Construction notices had gone out and a reminder and press release would go out tomorrow regarding the groundbreaking scheduled for Monday. Bids would be advertised tomorrow for the 2017 summer overlay projects that were part of the transportation bond. The 2nd Street signal project would go out to bid on Friday. The bid award would come to Council in April and construction would begin in June. Construction project notice was sent and there would be continued outreach for the project. It would be a six month construction project. Work was continuing on the Ford Street sidewalk project. Construction was anticipated for this summer. They were nearing completion of the design of the Hill Road project.

City Attorney Koch said staff was undertaking a Clean Slate program starting April 1 and ending September 30. This was a program to address outstanding Municipal Court fines or fees that were more than two years old. The City would take \$0.50 per every \$1 owed to clean up old accounts. After that date, these fines would go into collections.

Councilor Stassens stated staff would be giving a tour on Thursday of the Huber building and Alpine Avenue. The Landscape Review Committee would be meeting tomorrow.

City Manager Towery said he had been City Manager for one month and he thanked the Council for his appointment. He would be out of town next Thursday and Friday on professional association business.

8. EXECUTIVE SESSION

Mayor Hill recessed the Regular Meeting to go into Executive Session pursuant to ORS 192.660(2)(d) labor negotiations.

9. RETURN FROM EXECUTIVE SESSION TO TAKE ACTION

Mayor Hill reconvened the Regular Meeting.

9.a. Resolution No. 2017-24: A Resolution ratifying a collective bargaining agreement between the City of McMinnville and the International Association of Fire Fighters, Local 3099 (IAFF) for wages only for the period starting July 1, 2017.

Council President Menke MOVED to adopt Resolution No. 2017-24; SECONDED by Councilor Garvin. Motion PASSED unanimously.

10. ADJOURNMENT: Mayor Hill adjourned the Regular Meeting at 8:49 p.m.

Melissa Grace, City Recorder

CITY OF McMinnville
MINUTES OF DINNER MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, July 25, 2017 at 6:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, City Recorder

| | | |
|-------------|---------------------------------|------------------------|
| Councilors: | <u>Present</u> | <u>Excused Absence</u> |
| | Remy Drabkin | Kevin Jeffries |
| | Adam Garvin | Alan Ruden |
| | Kellie Menke, Council President | |
| | Wendy Stassens | |

Also present were City Manager Jeff Towery, City Attorney David Koch, Fire Chief Rich Leipfert, Community Development Director Mike Bisset, and members of the news media, Tom Henderson of the *News Register*, and Dave Adams of KLYC radio.

DINNER

CALL TO ORDER: Mayor Hill called the Dinner Meeting to order at 6:25 p.m. and welcomed all in attendance.

DISCUSSION:

Mayor Hill asked for a volunteer to lead the Pledge of Allegiance and Councilor Drabkin volunteered.

Mayor Hill reviewed the agenda for the evening.

Community Development Director reviewed the two resolutions on the agenda.

It was noted that Councilor Jeffries would like a resolution against the use of the Riverbend Landfill by the City.

ADJOURNMENT: The Dinner Meeting was adjourned at 6:43 p.m.

Melissa Grace, City Recorder

CITY OF McMinnville
MINUTES OF REGULAR MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, July 25, 2017, at 7:00 p.m.

Presiding: Scott A. Hill, Mayor

Recording: Melissa Grace, City Recorder

Councilors:

| | |
|--|--|
| <u>Present</u> Remy Drabkin Adam Garvin Kellie Menke, Council President Wendy Stassens | <u>Excused Absence</u> Kevin Jeffries Alan Ruden |
|--|--|

Also present were City Manager Jeff Towery, City Attorney David Koch, Community Development Director Mike Bisset, Police Chief Matt Scales, Fire Chief Rich Leipfert, Planning Director Heather Richards, Parks and Recreation Director Susan Muir, Library Director Jenny Berg, Information Systems Director Scott Burke, and members of the news media, Tom Henderson of the *News Register*, and Dave Adams of KLYC radio.

AGENDA ITEM

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:00 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE: Councilor Drabkin led the Pledge of Allegiance.
3. PRESENTATION

a. Citizen and Employee Recognition

Fire Chief Leipfert noted that a variety of people were being recognized for an event that occurred on June 2. A group of students were participating in soccer practice at the High School. One of the teammates collapsed and the coach started CPR along with a few other bystanders. Another person called 911 and dispatch sent out units to the call. The patient was transported to the hospital and the patient survived and was

now home. Advanced life support measures were taken warranting official recognition. He recognized the civilians who helped, Dr. Topping, Jory Shene, Nicole Boyer, Josh Eitzen and Fausto Gomez. He presented them with the Lifesaving Award. This was an award for actions that were directly responsible for saving a life.

Police Chief Scales called Officer Justin Zemlicka forward. He explained that three minutes after the call, Officer Zemlicka arrived on scene. He utilized the defibrillator from his patrol car to shock the patient and restarted his heart. Because of his quick, decisive actions this person's life was saved. He presented Officer Zemlicka with the Lifesaving Award.

Fire Department members who were involved in the incident were recognized next. They were Lieutenant Amy Hanifan, Firefighter Lucas Slavens, Firefighter Dan Sparrow, Firefighter Dave Barsotti, Firefighter Chris Carnett, Lieutenant Daniel Cummins, and Battalion Chief Luke Loomis. They were awarded the Unit Combination Ribbon for performing services in a highly commendable manner.

Emergency Medical Dispatcher Stephanie Jensrud, and Communications Supervisor Chris Featherston were presented with a Fire Department Chain of Survival Coin. This was for individuals involved in successful resuscitation of cardiac arrest victims. Communications Trainer Lindy Labunski, Josh Tyson, who made the 911 call, and the family of the patient, were also recognized.

4. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill invited the public to comment.

It was noted that there would be a five-minute limit per speaker.

Rebecca Quandt, Executive Director of the McMinnville Downtown Association, stated that the MDA was not attacking or criminalizing homelessness. She noted the following concerns: unsanitary conditions, urban blight, graffiti, skateboarding and biking on sidewalks, public defecation and urination, public use of illegal drugs, verbal and physical harassment and intimidation, public nudity, camping in public spaces, vandalism, trespassing, public safety, littering, disrespect for public spaces, condoms and syringes in public places, and overtaking of public right-of-ways by either sleeping or obstructing wheelchair access on sidewalks. They wanted to approach this issue as a partnership with the City.

Sylla McClellan was representing the Downtown Association and herself as a business and property owner. She noted that 3rd Street Books was currently running a program called Where's Waldo. Participating

businesses on Third Street got a Waldo to hide in their store for customers to find. This was an annual program and it was the sixth year of the program. This was the first year she had people who were reluctant to participate and did not want their kids to walk around Third Street alone due to safety concerns. A few weeks ago she had an employee at another business she owned, Yamhill Valley Dry Goods, that was harassed in the store. She had been asked by locals and tourists about what was being done to address the issue. The back of her building smelled of urine and multiple washings with bleach was not making a difference. Some of her employees were uncomfortable walking to their cars in the evenings after work. When she parked by City Hall, she was often asked for money, sometimes in an aggressive manner. She no longer parked there to avoid the interactions. They had all worked hard to create a wonderful, vibrant downtown corridor. These behaviors needed to be addressed.

Patrick Vala, owner of Tommy's Bikes and member of the Downtown Association, stated that he had owned the bicycle shop for 39 years. He noted that in the past two years he had physically put himself between drunken, belligerent, and panhandling men and women and his customers. His daughter was verbally harassed and threatened when handing out candy this past Halloween. Something needed to be done to protect their co-workers, friends, and livelihoods. The business owners could use some help. He suggested a police officer to walk 3rd Street on a regular beat. He noted that in Houston, Texas they had a no smoking ordinance downtown. If they did not want to do something like that, he suggested designating the covered benches as City parks that would be subject to park ordinances where no smoking and no camping were allowed. They needed to deal with the threatening and unacceptable behaviors now.

Ms. Quandt noted that many Oregon cities had ordinances such as no overnight camping, no smoking ordinance downtown, panhandling ordinance, etc. She thought they should look at what other cities were doing and what had worked and had not worked for them. She suggested looking into a loitering ordinance, no overnight camping within 1,000 feet of where children congregated, code violations for rubbish or blight, no smoking ordinance downtown, expansion of the exclusionary zone, panhandling ordinance, and disorderly conduct ordinance. She also asked for increased police presence downtown. The Park Rangers were a help, but they did not have the ability to cite or arrest for any illegal behaviors. She asked for a task force to be established to research ordinance possibilities and to educate the public on the legalities behind the City's ordinances. She also asked that the Council establish a work plan and timeframe to address these concerns. She would like any roadblocks to be

shared and to keep the public informed of the progress and decisions. They were the Council's champion, and were asking to be given something to champion.

Councilor Drabkin shared her concerns about creating ordinances that targeted a micro population like the homeless. There was a meeting last year where these safety concerns were brought up. At that time a number of recommendations were provided by the Police Department. In addition to the Park Ranger program, they suggested increasing natural surveillance and using better lighting, landscaping, and walkways. The Park Ranger program was increased to address First, Second, and Third Streets. MDA could help fund that program. She also noted that Officer Heidt had been assigned to the downtown areas where people were congregating. She thought that some of the work that was being done was not being acknowledged. The Council was working on establishing a task force to deal with these public safety concerns. The City had been working very diligently on reducing homelessness in McMinnville. The homeless numbers per the 2017 Yamhill Count Point had gone down approximately 10% over the last year. She added that homelessness was more visible in the spring and summer.

Mayor Hill noted that the Council and City was listening and this was a partnership.

Jason Willoughby, representing pastors in McMinnville and Creekside Community Church, was an MDA member and had an office across the street from the bike shop. He noted that there were a lot of new leaders in the community and some of the progress that had been made did not make it through the transition. When the merchants met with the Police Department, they asked for a list of things that were constitutionally protected behaviors and things not to call the police about. He thought that list should be publicized again. Also the community was lacking a point person who was leading this effort. He noted that communication was critical. It would have been nice to have a heads up that the parking garage was going to be cleaned up and to have a plan for where the squatters would go. They could also eliminate certain beverages that combined alcohol and high energy drinks from being sold in the City limits.

Mary Marten, Hillside Manor resident, stated that there seemed to be a division of them versus us mentality. She served the homeless at the First Baptist Church, which was about 65-75 people. There was a criminal element among the homeless, but she did not want to label all homeless. She noted that the minimum wage did not provide enough money for a

place to live. The community needed to find a place where people could find safety and shelter. She asked for a different outlook on the homeless.

Phyllice Bradner, McMinnville resident, stated that she was a co-owner of a business on 3rd Street. She had suffered no financial hardship or disturbances by the homeless. As a resident near the homeless gatherings, it was different. Cars had been broken into, she heard loud fighting and police activity, and things were strewn along the street. There needed to be multiple solutions that worked for the diverse needs of the people on the streets. She described different populations of homeless and provided solutions including low income or fully subsidized housing, a community jobs program, using unoccupied buildings for shelters, and designate a campground for the homeless with bathrooms, showers, and cooking facilities and a designated overseer. They needed to keep all citizens safe and to remember these were members of the community and should be treated with compassion.

Caleb Livka, GM of the Oaks, stated that terming these as nuisance behaviors was disingenuous. The behaviors were more than nuisances, especially late at night. Also they needed to recognize that comorbidity was rampant in the homeless population.

Linda Hays, owner of Hopscotch Toys, noted that the neighborhood had changed a lot in the last 10 years. The churches in the area had made a huge effort to provide outreach and services to the most at risk people in the community and she was in full support of their work. She was currently converting some of the upper units in her building to rental accommodations and the outside perception of the vagrancy issue was of concern. She planned to make one unit a low income unit. She shared a story of a homeless couple that she helped by allowing them to pitch a tent behind her property. They were there while they waited for transitional housing to become available and were eventually placed in shelters. They believed the free meals were a disservice because they allowed people not to be desperate and do what needed to be done to better their situation. She thought that was probably true for some, but not for others. She was looking for solutions that addressed the needs of the individuals as the blanket support for the homeless as a population was contributing to the problem. The concept of ordinances seemed like a tidy cleanup, but when you talked to those on the streets some were in town because they were charged with petty crimes and had to stay for court dates. They needed to figure out how to get them through the court system faster. She gave a story of her sister who with mental health issues compounded with drug abuse led her to a life on the streets. Another thing to be addressed was the

predatory individuals that hung around encampments. She didn't feel threatened but was concerned about the harm homeless people perpetuated on each other. She would like to see these folks get the help that they needed individually. Many homeless were traumatized and continued to traumatize each other. The visual impact of the vagrant population and the perception of danger that they represented to families and seniors that supported her business had a negative impact to her staying in business.

Rick Weidner, soon to be McMinnville resident, stated that from an outsider's perspective Third Street was unique with its development as a sense of place. He visited Third Street two years ago and bought a piece of land there that was being developed. He had been a volunteer with the Salvation Army for 35 years and had more recently helped those who had been on the street or had been convicted felons. He thought the word homeless was derogatory to those who were in temporary need of help. Downtown McMinnville was fragile and tourism was important to creating jobs as jobs were what kept the community vibrant. He did not think giving everyone a home was the solution. He thought temporary facilities that required clean and sober behavior was the better solution. He was willing to help as he was retiring to McMinnville.

Anthony Bell, McMinnville resident, wanted to introduce the idea that there were services that were essential to the homeless. One of those was sanitation. They needed to provide sanitation services for homeless. He suggested that the City provide port-o-potties scattered throughout the City. He had been hosting two homeless people for about a year.

Joan Drabkin, McMinnville resident, brought an article from the *Oregonian* regarding homelessness and the business community working together with City government to shelter them on a temporary basis with unoccupied buildings. She stated that the City of Portland was partnering with local business owners to help solve the homeless problem. The City of Portland was also hiring homeless to clean up the business corridors. They could team up with a social service agency or business owners or find money in the budget to create a similar program in McMinnville. Dealing with mental health and addictions would require a different solution. Those who allowed their unoccupied buildings to be used for shelters could receive development waivers when it came time to redevelop the building in exchange for the use of their buildings. It stabilized people when they had a shelter.

Mark Riche, McMinnville resident, stated he started a petition three years ago to ban fortified liquor in downtown McMinnville and it still had not been done. He had also come to the Council regarding the homeless issue

and how they needed a place to be. Homelessness must be treated constitutionally. They could not be told where to go, how to go, and what time to go there. They could give them a place to be and set up a permanent homeless camp with 100 beds and move them from downtown. Once they had a place with showers and beds and a place to cook, he thought they would be willing to stay there. They must be treated like human beings.

Renee Carr, McMinnville resident, stated she had worked for 25 years with WIC, DHS, Oregon Food Bank, SNAP, and the Salvation Army. She was a cheerleader to encourage the Council to continue having open dialogue on this issue. She delivered a letter to Mayor Hill and Council President Menke as well as the Yamhill County Commission. McMinnville was known for its efforts to help the homeless. She tried to visit the Farmers Market and was not able to go because she was harassed. The County Commissioners and the City needed to work together to find solutions to this situation. She asked to keep the dialogue open and let citizens know how they could help.

Amanda Pewonka, McMinnville resident, was a new business owner, the owner of the Blue Quail. A few weeks ago some boys came into her store and threw a product across the room and ran out laughing. They were not homeless. She thought a police presence on the street would be beneficial. This was not just a homeless problem downtown.

Michael Lee stated that he was in between housing at the moment and was homeless. He knew from experience that people could change if they wanted to as he was 18 years clean. He had been in contact with several churches regarding ideas on how to get rid of negative situations. He was fighting for a better place for the people around him. He noted that he had to move his car away from downtown because he was being victimized for sharing information with police. He also donated his time to various organizations. He was trying to show how someone from the streets could try to be a better person. If they wanted to know what it was like, then they should join the homeless on the streets for a time.

Gerry Hunter, McMinnville resident, owned Third Street Pizza and stated that he was concerned with his daughter walking a few streets between his home and business. While the homeless might not be the root cause of the problems, their gathering places were the center of the behaviors that were the issue. He had tried to help many of these individuals gain an understanding of acceptable public behaviors in his business. He had been vandalized many times in return. He did not want to have to be an intimidator or enforcer to protect his employees. He had not seen Officer

Heidt walking downtown. He thought that a downtown police presence would be beneficial. He was in full support of a no-smoking ordinance.

Erin Hunter, McMinnville resident, stated that young people should not be growing up in fear of their own streets. She had been verbally harassed and the portion of the population that was troublesome had a negative effect on the younger people of this community. The situation needed to be corrected immediately while still lending a compassionate hand to those who needed it. These people needed individual help and could not be swept under the rug by being given a place to hang out and talk about their problems instead of fixing them.

Israel Sanchez was homeless and had been homeless for seven years. He had been volunteering to help the homeless at the First Baptist Church. He also cleaned the church and he treated everyone the same there. They needed to find ways to help people think differently and to understand that they could get better and could get a job and a place to live. There was a solution and we needed to work together. He was trying to be a role model to the people he was helping. He asked for more help from the community. He stated that there were more people in McMinnville than there was housing for. He asked for the community to show love.

Scott Cunningham, owner of Community Plate and president of the McMinnville Downtown Association (MDA), stated that the Park Ranger program was a partnership between the City and the MDA. The MDA had contributed thousands of dollars to help support the program including \$6,000 this year. He noted that he had seen a roll-back of Park Ranger services even though they were still paying their share. The business community was supported by the citizens and visitors. In return, the businesses gave back to the community including Community Plate. They were committed to creating a vibrant downtown. He was asking for a plan to deal with the safety issues. The plan needed to include ways to raise more funds to give the police and fire departments the support they needed. There also needed to be a cap on VRBOs to help with more housing for community needs.

Councilor Drabkin had been told the \$6,000 from the MDA had not been received for FY16-17. The Council had tried to communicate about this issue. They held a Work Session on their action plan and timeframe on affordable housing and homelessness and only one person came. They were working on these things diligently and wisely. They were working with the County and working on finding additional revenue sources to increase police staffing. In 2016, there were 1,200 homeless in McMinnville and in 2017 that number had been reduced to 1,000.

Mr. Cunningham stated that he was concerned about safety and the roadblocks to doing business. He was asking for solutions from Council for the roadblocks.

Laura Van Houte was one of the homeless due to decisions her husband had made. She was working with services and it took time. The shelter was only open two nights per week. The places where people were camping were deemed illegal and they had come downtown. It was scary being downtown as a single woman. If there was a place for them to be then there wouldn't be a need for additional policing. It was not just homeless who were drinking downtown and being rude. She was asking for a place to stay until she was able to get housing.

Howie Harkaman, McMinnville resident, was an advocate for the homeless. He thanked Council for the interaction and explained that there were many different types of solutions and that it took the whole community to rally together to make them happen. They all wanted a peaceful environment to live, play, and work. Every sizable town and city across the US was dealing with this issue. Oregon was not supporting the homeless population as there was a lack of sheltering programs in the state. Everyone needed to come together with the State, County, and City to find solutions that would work. Division would not allow this to happen. There were many factions within the homeless population and all needed to be addressed.

Will Rogers, McMinnville resident, noted that in 2002 they had the same issues as they did in 2017.

Roselyn Stone had an office across from Red Fox Bakery. She agreed this had been an issue for a long time and every time they would get close to solutions there would be a roadblock. She had been interviewing people and getting their stories. She encouraged them not to harden themselves. She thought there should be a plan. They needed to have courage and help make a difference. She provided a handout for the Council that had some of the stories she compiled.

Brenda Flanders, McMinnville resident, stated that people should be able to enjoy their businesses and homes and there should be a certain level of respect for one another. She was concerned about the poor behaviors that affected her sense of safety and quality of life. They had fixed up their house and raised their children there. She and her family had worked with the homeless and different social programs. People had parked their cars in front of her house and camped in their cars for ten days at a time. They did drug deals out of their car. She had found needles in the grass. She was

awakened in the middle of the night with fighting and foul language. This was a multi-faceted problem and she appreciated the help provided by the church. This was a much bigger problem than the church could handle. If this problem went away from Third Street where commerce happened, it was still in the community and people would still be affected.

Laurie, Yamhill County resident, volunteered for the Saturday morning breakfast at the co-op. She worked in disability services. One of the best reinforcers for behaviors was positive reinforcement. Creating ordinances and regulations and increased police presence was not the way to go about it. She spent three weeks living with the homeless population to see what was going on. A lot of the issues the business community were facing were not coming from the homeless living on the streets. They needed to provide opportunities for them to rise to whatever level they were capable of. It would make a huge difference for businesses on Third Street. The issue was organization. There were a lot of opportunities to get involved and they needed to connect those opportunities with the people who cared. She suggested that the City create a social media forum to provide information about meetings, ways to help, and how to get involved.

Mayor Hill thanked the audience for coming out and speaking. He shared that there were several committees that had brought more players to the plate that would get to the root of the problems. He noted that the City would need to be careful about separating behavior and homelessness. The Council had been involved in many community organizations and in giving back to the community. There was no all-in-one solution. It was an individual approach and he was confident they would solve this. There had been a lot of learning from listening. The Council tried to be transparent and communicate. By the end of the year Yamhill County Rescue Gospel Mission would have 70 beds. The Mayor listed the areas the Council was working on with partners to address the issues. They would continue the process and try to communicate more with the public about what was being done.

There was a ten minute recess that began at 9:20 pm. The meeting was reconvened at 9:31 p.m.

5. CONSENT AGENDA

5.a. Consider request from Allegory Brewing for a Brewery Public House license at 777 NE 4th Street.

Council President Menke MOVED to adopt the consent agenda;
SECONDED by Councilor Drabkin. Motion PASSED unanimously.

6. RESOLUTIONS

- 6.a. **Resolution No. 2017-54**: A Resolution awarding the Personal Services Contract for design services for the Old Sheridan Road Improvements Project, Project 2017-6.

Community Development Director Bisset said staff recommended awarding the contract to Harper Houf Peterson Righellis in the amount of \$284,120.

Councilor Stassens MOVED to adopt Resolution No. 2017-54 awarding the Personal Services Contract for design services for the Old Sheridan Road Improvements Project, Project 2017-6; SECONDED by Council President Menke. Motion PASSED unanimously.

- 6.b. **Resolution No. 2017-55**: A Resolution approving the acquisition of property for the Hill Road transportation bond project.

Community Development Director Bisset noted that the proposed properties needed to be purchased for the Hill Road project. It would be five parcels totaling \$43,650 plus closing and escrow costs.

Councilor Garvin MOVED to adopt Resolution No. 2017-55 approving the acquisition of property for the Hill Road transportation bond project; SECONDED by Council President Menke. Motion PASSED unanimously.

7. ORDINANCE

- 7.a. First reading with possible second reading of **Ordinance No. 5033**: An Ordinance amending Ordinance 4904, relating to the Solid Waste Collection Franchise.

City Attorney Koch said this item would be considered at the next Council meeting.

8. ADVICE/ INFORMATION ITEMS

- 8.a. Reports from Councilors on Committee and Board Assignments

Councilor Garvin said at the August YCOM meeting they should have all of the numbers for the new system.

Council President Menke announced Visit McMinnville would be launching a feasibility study.

Councilor Drabkin stated that the Affordable Housing Task Force would meet tomorrow at the Community Development Center at 10 a.m. Mayor Hill said MEDP moved into the Community Development office last week. He had attended a Greeters Open House. He noted that the legislative session produced a \$21 million award for Phase 2 of the Bypass. There was still \$90 million needed for right-of-way acquisition and design work.

8.b. Department Head Reports

Police Chief Scales announced the National Night Out on August 1.

Planning Director Richards reminded Council that a design charrette was being hosted at Evergreen on Saturday. The Wayfinding Committee Public Forum would be held on Thursday.

8.c. Cash Investment Report

9. ADJOURNMENT: Mayor Hill adjourned the Regular City Council Meeting at 9:39 p.m.

Melissa Grace, City Recorder

MEMORANDUM

DATE: November 14, 2017
TO: Jeff Towery, City Manager
FROM: David Koch, City Attorney
SUBJECT: Recology Work Session

Manage and Plan to Meet Demand for City Services; Plan For and Manage Financial Resources; and Promote Sustainable Growth and Development.

Report in Brief:

Recology, Inc., the City's exclusive franchisee for the collection of Solid Waste, has responded to the City's request for information relating to the possible alternatives available for the disposal of solid waste beyond Yamhill County. Recology will present the results of its analysis, which indicates that solid waste collected under the City of McMinnville Franchise Agreement could be transported to other facilities, including but not limited to Headquarters Landfill in Cowlitz County, Washington. The cost of such a diversion away from the local Riverbend Landfill would require a 10% adjustment on all cart and container rates as well as debris box service rates.

Background:

On June 27, 2017, the City Council reviewed Recology, Inc.'s annual financial report and approved a request from Recology to increase its rates for most services by 5% for fiscal year 2017-18, in recognition of, among other things, the additional costs involved with Recology's enhanced curbside recycling program.

On August 8, 2017, the City Council adopted Ordinance 5033, which amended Article IV of the Franchise Agreement to increase the Franchise Administration Fee that Recology pays to the City from 3% to 5%, to be phased in through July 1, 2018. At the same meeting, a request was made by the Council for Recology to provide further information regarding the impact of its recent expansion of curbside recycling options as well as the potential impact that Recology's new Transfer Station with the City of McMinnville would have in the possible diversion of Solid Waste outside of Yamhill County.

On September 26, 2017, Recology gave a presentation to the City Council, addressing the matters previously raised by the Council. At that time, Recology indicated that the construction

of its new McMinnville Transfer Facility was nearing completion and that, upon completion, Recology could implement a change in disposal destinations. Recology proposed that such a change could become effective January 1, 2018, but would require Recology to request for an out-of-calendar rate adjustment of 10%, to be effective that same date. The Council directed Recology to formally prepare an out-of-calendar rate adjustment request for consideration by the Council.

On October 27, 2017, Recology submitted a rate review packet to the City Manager for the re-direction of solid waste to the McMinnville Transfer Station and then to Headquarters Landfill in Cowlitz County, Washington, effective January 1, 2018. The proposal includes a requested out-of-calendar rate adjustment of 10% for most services, effective January 1, 2018. In addition, Recology's proposal indicates that no further rate adjustment would be sought for the upcoming 2018-19 fiscal year, effectively locking rates in place until July 1, 2019, at which time they would be reviewed against the criteria set forth in the Franchise Agreement. Finally, the rate increase would allow Recology to accelerate the effective date of the City's Franchise Administration Fee adjustment by 6 months, to become effective January 1, 2018.

Discussion:

Carl Peters, General Manager for Recology Northern Oregon and Recology Oregon Compost will attend the work session to present the proposal and answer any questions the Council may have.

If the Council chooses to proceed with taking formal action on this matter, a public hearing will be scheduled for November 28, 2017, to consider: (1) a Resolution approving the Recology proposal and rate adjustment, and (2) and Ordinance changing the effective date of the City's Franchise Administration Fee adjustment to 5%.

Attachments:

Recology Rate Review Packet and Proposal, dated October 27, 2017.

Recommendation:

Move to schedule a Public Hearing on the matter of the Recology Proposal to re-direct the disposal of solid waste and to accelerate the implementation of the Franchise Administration Fee adjustment.

Mr. Jeff Towery
City Manager
City of McMinnville
230 E. 2nd St.
McMinnville, OR 97128

October 27th, 2017

Dear Jeff:

Thank you for the opportunity to provide you with the rate review package for the re-direction of solid waste to the McMinnville Transfer Station (MTS), and from there to Headquarters Landfill in Cowlitz County, Washington. Enclosed are the schedules that make up the Rate Review Report and Out-of-Calendar Rate Request, as outlined in our Solid Waste Collection Franchise Agreement.

As presented at the September 26, 2017 meeting, this proposal includes a 10.0% adjustment on all cart and container rates, and a 10% increase in the rates for debris box services. Debris Box disposal rates would increase based on the material type. These rate changes would be effective January 1st, 2018. This would mean that a customer with a 96 gallon roll-cart for trash and weekly service, the increase of \$3.72 would bring their rate to \$40.94 per month. For a commercial customer with a 2 yard front-load container for trash and 1x/week service, the increase of \$23.65 would bring their rate to \$260.15 per month. If this proposal is approved by the council, we will submit a full rate sheet to the city prior to the implementation date, showing all the rates for all the services.

I look forward to meeting with you to discuss any questions or points for clarification so that the public hearing is scheduled at the earliest opportunity.

Please call my office at 503-474-4839 if I can be of further assistance.

Respectfully,

Carl Peters
General Manager
Recology – Northern Oregon and Recology Oregon Compost



City of McMinnville

| Re-Direct Waste to Headquarters Landfill via McMinnville Transfer Station | | | | | | |
|---|----------------------------------|-----------------------------------|--------------------------------------|--------------------------------------|--------------------------|---------------------|
| Allocation Factors & Notes | 2017 Projected Year as of 6/1/17 | Adjustments and Projected Changes | 2017 Projected including 7/1/17 adj. | Projected Changes Effective 1/1/2018 | 2018 Projected Rate Year | |
| REVENUE | | 7/1 rate adj: | Adj. % >>> | 10.00% | | |
| Collection Services - Residential | \$2,851,524 | \$ 142,576 | \$ 2,994,100 | \$ - | \$ 2,994,100 | \$ 2,994,100 |
| Collection Services - Commercial | \$2,014,840 | \$ 100,742 | \$ - | \$ - | \$ 2,115,582 | \$ 2,115,582 |
| Collection Services - Debris Box | \$ 496,393 | \$ 11,417 | \$ 507,810 | \$ - | \$ 507,810 | \$ 507,810 |
| COLLECTION SERVICES: | Actual | | \$ 5,617,492 | | \$ 5,617,492 | \$ 5,617,492 |
| Proposed Rate Adjustment | Calc. OR % \$ 243,318 | (see above) | Rate Adj. >>> | \$ 561,749 | \$ 561,749 | \$ 561,749 |
| Revenue - DB Disposal | Incr. tip fee \$ 294,047 | | \$ 294,047 | \$ 184,213 | \$ 478,259 | \$ 478,259 |
| Revenue - Medical Waste | Actual \$ 118,227 | | \$ 118,227 | \$ - | \$ 118,227 | \$ 118,227 |
| Revenue - Other (fees & related) | Actual \$ 51,526 | | \$ 51,526 | \$ - | \$ 51,526 | \$ 51,526 |
| Non-Franchised Revenue | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Total Revenue | \$ 6,069,875 | | \$ 6,069,875 | \$ 757,379 | \$ 6,827,254 | \$ 6,827,254 |
| LABOR EXPENSES | | | | | | |
| Operational Personnel | Labor Hours \$ 632,232 | | \$ 632,232 | \$ - | \$ 632,232 | \$ 632,232 |
| New Labor Costs (YD & Glass) | Program \$ 87,958 | | \$ 87,958 | \$ - | \$ 87,958 | \$ 87,958 |
| Payroll Taxes | Labor Hours \$ 57,948 | | \$ 57,948 | \$ - | \$ 57,948 | \$ 57,948 |
| Medical Insurance | Labor Hours \$ 143,097 | | \$ 143,097 | \$ - | \$ 143,097 | \$ 143,097 |
| Other Benefits | Labor Hours \$ 58,866 | | \$ 58,866 | \$ - | \$ 58,866 | \$ 58,866 |
| Total Labor Expense | \$ 980,100 | | \$ 980,100 | \$ - | \$ 980,100 | \$ 980,100 |
| DISPOSAL | | | | | | |
| Disposal Charges | Incr. tip fee \$ 708,827 | | \$ 708,827 | \$ 435,913 | \$ 1,144,740 | \$ 1,144,740 |
| New Disposal Costs (YD & Glass) | Program \$ 10,230 | | \$ 10,230 | \$ - | \$ 10,230 | \$ 10,230 |
| Yard Debris/wood & Other Funding | Program \$ 820,734 | | \$ 820,734 | \$ - | \$ 820,734 | \$ 820,734 |
| Medical Waste & Supplies | Med. Waste \$ 54,871 | | \$ 54,871 | \$ - | \$ 54,871 | \$ 54,871 |
| Total Disposal Expense | \$ 1,594,662 | | \$ 1,594,662 | \$ 435,913 | \$ 2,030,575 | \$ 2,030,575 |
| OPERATIONAL EXPENSES | | | | | | |
| Fuel | Fran. Labor \$ 198,413 | | \$ 198,413 | \$ - | \$ 198,413 | \$ 198,413 |
| Repairs and Maintenance | Fran. Labor \$ 695,503 | | \$ 695,503 | \$ - | \$ 695,503 | \$ 695,503 |
| New Ops Costs (YD & Glass) | Program \$ 86,564 | mid-year Δ | \$ 86,564 | \$ - | \$ 86,564 | \$ 86,564 |
| Business Taxes and PUC | Fran. Labor \$ 79,324 | to new FrFee% | \$ 79,324 | \$ - | \$ 79,324 | \$ 79,324 |
| Franchise Fees | 5.0% of rev \$ 161,791 | \$ 94,378 | \$ 256,169 | \$ 85,194 | \$ 341,363 | \$ 341,363 |
| Supplies & Uniforms | Labor Hours \$ 12,000 | | \$ 12,000 | \$ - | \$ 12,000 | \$ 12,000 |
| Operational Supplies/Safety | Labor Hours \$ 22,595 | | \$ 22,595 | \$ - | \$ 22,595 | \$ 22,595 |
| Contract Labor | Labor Hours \$ - | | \$ - | \$ - | \$ - | \$ - |
| Depreciation and Amortization | Fran. Labor \$ - | | \$ - | \$ - | \$ - | \$ - |
| Operational Lease and Rent | Fran. Labor \$ 325,241 | | \$ 325,241 | \$ - | \$ 325,241 | \$ 325,241 |
| Insurance Expense | Labor Hours \$ 59,208 | | \$ 59,208 | \$ - | \$ 59,208 | \$ 59,208 |
| Recycling Expense | Recycling \$ 420,645 | | \$ 420,645 | \$ - | \$ 420,645 | \$ 420,645 |
| Purchase Recyclables | Recycling \$ - | | \$ - | \$ - | \$ - | \$ - |
| Operational Lease and Rent - N/F | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Fuel - Non-Franchised (N/F) | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Repairs and Maintenance - N/F | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Business Taxes and PUC - N/F | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Depreciation and Amortization N/F | Actual \$ - | | \$ - | \$ - | \$ - | \$ - |
| Other Operational | Labor Hours \$ 6,341 | | \$ 6,341 | \$ - | \$ 6,341 | \$ 6,341 |
| Total Operations Expense (inc. Disposal) | \$ 2,067,626 | | \$ 2,162,004 | \$ 85,194 | \$ 2,247,197 | \$ 2,247,197 |
| SUBTOTAL | | | \$ 1,333,109 | \$ 236,271 | \$ 1,569,381 | \$ 1,569,381 |



Re-Direct Waste to Headquarters Landfill via McMinnville Transfer Station

| | | 2017 Projected Year as of 6/1/17 | Adjustments and Projected Changes | 2017 Projected including 7/1/17 adj. | Projected Changes Effective 1/1/2018 | 2018 Projected Rate Year |
|--------------------------------------|---------------|---|--|---|---|-----------------------------------|
| ADMINISTRATIVE EXPENSES | | | | | | |
| Management Services | 3.0% of rev | \$ 182,096 | | \$ 182,096 | \$ 22,721 | \$ 204,818 |
| Administrative Services | 9.0% of rev | \$ 546,289 | | \$ 546,289 | \$ 68,164 | \$ 614,453 |
| Non-Admin. Labor | Fran. Labor | \$ 6,596 | | \$ 6,596 | \$ - | \$ 6,596 |
| Office Supplies | Customers | \$ 7,551 | | \$ 7,551 | \$ - | \$ 7,551 |
| Postage | Customers | \$ 8,931 | | \$ 8,931 | \$ - | \$ 8,931 |
| Billing services | Customers | \$ 28,401 | | \$ 28,401 | \$ - | \$ 28,401 |
| Dues and Subscriptions | Customers | \$ 10,475 | | \$ 10,475 | \$ - | \$ 10,475 |
| Telephone | Customers | \$ 38,413 | | \$ 38,413 | \$ - | \$ 38,413 |
| Bank Service Charges | Customers | \$ 18,883 | | \$ 18,883 | \$ - | \$ 18,883 |
| Professional fees | Customers | \$ 11,757 | | \$ 11,757 | \$ - | \$ 11,757 |
| Travel | Customers | \$ 6,991 | | \$ 6,991 | \$ - | \$ 6,991 |
| Advertising and Promotions | Customers | \$ 4,442 | | \$ 4,442 | \$ - | \$ 4,442 |
| Business Meals & Entertainment | Customers | \$ 2,990 | | \$ 2,990 | \$ - | \$ 2,990 |
| Education & Training | Customers | \$ 7,052 | | \$ 7,052 | \$ - | \$ 7,052 |
| Contributions | Customers | \$ 8,439 | | \$ 8,439 | \$ - | \$ 8,439 |
| Bad Debt | Customers | \$ 29,470 | | \$ 29,470 | \$ - | \$ 29,470 |
| Other Administrative | Customers | \$ 364 | | \$ 364 | \$ - | \$ 364 |
| Total Admin Expense | | \$ 919,139 | | \$ 919,139 | \$ 90,885 | \$ 1,010,025 |
| EARNINGS FROM OPERATIONS | | \$ 508,348 | | \$ 508,348 | \$ 508,348 | \$ 559,356 |
| Interest Income | Not Allocated | \$ - | | \$ - | \$ - | \$ - |
| Loss on Asset Disposal | Not Allocated | \$ - | | \$ - | \$ - | \$ - |
| NET INCOME BEFORE TAX | | \$ 508,348 | | \$ 413,970 | \$ 145,386 | \$ 559,356 |
| Calc. Operating Ratio | | 91.25% | | 92.73% | 10.00% | 91.25% |
| Operating Ratio Calculation | | | | | | |
| Total Expenses: | | | | | | |
| Total Labor | | \$ 980,100 | | \$ 980,100 | | \$ 980,100 |
| Total Disposal | | \$ 1,594,662 | | \$ 1,594,662 | | \$ 2,030,575 |
| Total Operational | | \$ 2,067,626 | | \$ 2,162,004 | | \$ 2,247,197 |
| Total Administrative | | \$ 919,139 | | \$ 919,139 | | \$ 1,010,025 |
| Total | | \$ 5,561,527 | | \$ 5,655,905 | | \$ 6,267,898 |
| Less Non Allowable Expenses: | | | | | | |
| Contributions | | \$ (8,439) | | \$ (8,439) | | \$ (8,439) |
| Less "Pass Through Expenses: | | | | | | |
| Franchise Fees | | \$ (161,791) | | \$ (256,169) | | \$ (341,363) |
| Allowable Expenses | | \$ 5,391,297 | | \$ 5,391,297 | | \$ 5,918,096 |
| Revenue | | | | | | |
| Revenue | | \$ 6,069,875 | | \$ 6,069,875 | | \$ 6,827,254 |
| Less "Pass Through Expenses: | | | | | | |
| Franchise Fees | | \$ (161,791) | | \$ (256,169) | | \$ (341,363) |
| Revenue (net of Pass Through) | | \$ 5,908,084 | | \$ 5,813,706 | | \$ 6,485,891 |
| Operating Ratio: | | | | | | |
| Allowable Expenses | | \$ 5,391,297 | | \$ 5,391,297 | | \$ 5,918,096 |
| divided by | | | | | | |
| Revenue (net of Pass Through) | | \$ 5,908,084 | | \$ 5,813,706 | | \$ 6,485,891 |
| Calculated Operating Ratio | | 91.25% | | 92.73% | | 91.25% |



**Re-Direct Waste to Headquarters Landfill
via McMinnville Transfer Station**

City of McMinnville

| Proposed Rates, Effective 1/1/2018 | | | | |
|---|----------------------------|--------------|-----------------|-----------------------------|
| Collection Svc. Examples SERVICE DESC. | CURRENT RATE/MO | VAR % | VAR \$\$ | PROPOSED RATE/MO |
| 32gal cart weekly curbside | \$ 23.32 | 10.0% | \$ 2.23 | \$ 24.55 |
| 90gal every-other-week curbside | \$ 24.20 | 10.0% | \$ 2.42 | \$ 26.62 |
| 90gal cart weekly curbside | \$ 37.22 | 10.0% | \$ 3.72 | \$ 40.94 |
| 2yd container 1x/week | \$ 236.50 | 10.0% | \$ 23.65 | \$ 260.15 |
| 4yd container 1x/week | \$ 386.62 | 10.0% | \$ 38.66 | \$ 425.28 |
| | \$ 536.73 | 10.0% | \$ 53.67 | \$ 590.40 |

| Debris Box Example SERVICE DESC. | CURRENT RATE/UNIT | UNIT | VAR \$\$ | PROPOSED RATE/UNIT |
|---|------------------------------|-------------|-----------------|-------------------------------|
| 20 Yard Box Haul | \$ 159.67 | EACH | \$ 15.97 | \$ 175.64 |
| Disposal - Garbage | \$ 41.92 | TONS | \$ 26.26 | \$ 68.18 |



Discussion:

During the budget process for fiscal year 2017-18, the need for Police Department replacement vehicles was identified. Chief Scales recommended, to maintain the Department fleet and minimize the cost of repairs, that two patrol cars and one car with a K9 upfit be acquired.

Staff discussed entering into a lease/purchase financing agreement with Ford Credit Municipal Finance ("Ford Credit") for the three vehicles, including installation of all necessary equipment. The total amount to be financed by the agreement is \$136,899, repaid in five annual payments of \$30,360, with an APR of 5.45 percent. The agreement includes an option allowing the City to purchase the vehicles on the last day of the lease term or at any time with at least 30 days prior written notice, at a price equal to the sum of the remaining lease payments plus accrued interest.

Leasing of public safety vehicles is a common practice and allows the City to reduce the up-front costs of acquiring police vehicles, while setting aside funds for other unmet capital needs.

The City's bond counsel, Hawkins, Delafield & Wood, LLP, has reviewed the financing agreement and other documents for the purpose of assisting in the execution of the financing agreement.

Upon adoption of the authorizing resolution by the City Council, staff will submit a credit application and appropriate documentation to Ford Credit. Assuming the application is approved, the City will work with Ford Credit, the auto dealership, and a local auto body shop to coordinate delivery and acceptance of the three vehicles. It is anticipated that the vehicles would be delivered to the City by the end of December.

Attachment: Resolution No. 2017-68, a Resolution of the City of McMinnville, Oregon, authorizing the execution and delivery of one or more lease purchase, loan or similar financing agreements

Action: A motion is needed to approve Resolution No. 2017-68.

RESOLUTION NO. 2017-68

**A RESOLUTION OF THE CITY OF MCMINNVILLE, OREGON
AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE
LEASE PURCHASE, LOAN OR SIMILAR FINANCING AGREEMENTS.**

WHEREAS, the City Council (the “City Council”) of the City of McMinnville, located in Yamhill County, Oregon (the “City”) has deemed it necessary and advisable to finance the costs of purchasing certain vehicles and improvements thereto (the “Project”) and to pay a portion of the costs of issuance through one or more lease purchase, loan or similar financing agreements (the “Agreement”); and

WHEREAS, the City desires to enter into one or more lease purchase, loan or similar financing agreements in an aggregate principal amount not to exceed \$160,000; and

WHEREAS, the City is authorized pursuant to the Constitution and laws of the State of Oregon, namely Oregon Revised Statutes Section 271.390, to enter into such agreements to finance real and personal property projects; and

WHEREAS, the City anticipates incurring expenditures (the “Expenditures”) to finance the costs of the Project, described herein, and wishes to declare its official intent to reimburse itself for any Expenditures it may make from its available funds on the Project from the proceeds of the Agreement, the interest on which shall be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City Council has determined that those moneys advanced to pay the Expenditures prior to the issuance of the Agreement are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of the Agreement.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Authorization. The City hereby authorizes the City Manager (an “Authorized Representative”), on behalf of the City and without further action by the City Council, to negotiate the terms of the Agreement, in an aggregate principal amount not to exceed \$160,000, with one or more banks or other financial institutions or vendors, to further select and delineate the particulars of the Project, to secure the borrowing as provided in the Agreement, including provision of a security interest in the Project and any amounts appropriated to pay the Agreement, and to execute and deliver the Agreement and any related documentation necessary to carry out this Resolution to complete the financing.

The estimated weighted average life of the Agreement does not exceed the dollar weighted average life of the Project being financed with the Agreement, as required by ORS 271.390. The City hereby determines that the Project is needed for City purposes.

2. Declaring Intent to Reimburse Expenditures. The City hereby declares its official intent pursuant to Treasury Regulation Section 1.150-2 to reimburse itself for Expenditures of the Project paid prior to the issuance of the Agreement with proceeds of the Agreement.

3. Appointment of Special Counsel. The City Council appoints the law firm of Hawkins Delafield & Wood LLP of Portland, Oregon, as Special Counsel for the purpose of assisting in the

preparation and execution of the Agreement and related documentation necessary to carry out this Resolution and to complete the financing.

5. Effective Date. This resolution is effective immediately upon adoption.

ADOPTED by the Common Council of the City of McMinnville at the regular meeting held the 14th day of November, 2017 by the following votes:

Ayes: _____

Nays: _____

Approved this 14th day of November, 2017.

By: _____
Mayor

Approved as to form:

By: _____
City Attorney

STAFF REPORT

DATE: November 14, 2017
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: **Ordinance No. 5041** – Amending the McMinnville City Code to amend Section 2.32, City Planning Commission.

Council Goal:

Promote Sustainable Growth and Development.

Report in Brief:

This action is the consideration of Ordinance No. 5041, an ordinance amending Chapter 2.32 (City Planning Commission), of the McMinnville City Code to update the enabling language for the McMinnville Planning Commission relative to the establishment, structure and responsibilities of the city planning commission.

Background:

Chapter 2.32 is the enabling code for the Planning Commission. This language first originated in Ordinance No. 3688, adopted on December 4, 1973. Attached are proposed amendments to that language to bring the code up to date with Oregon Revised Statute 227 which governs planning commissions in the state of Oregon and the City of McMinnville's new standard for city codes relative to commissions and committees.

The proposed amendments include many of the original covenants from the 1973 Ordinance as well as an expanded Responsibilities and Power section to reflect the amendments made to ORS 227 since 1973.

Additionally the following items have been added to reflect the City's recent initiative to broaden its community outreach efforts and programs.

- Residency – Added language to reflect language in ORS 227 relative to make-up of the commission.
- Terms – establishes terms of four years and term limits of three full terms.
- Youth Ex-Officio – allows for the appointment of a youth ex-officio under the age of 21 years old. This provides the opportunity for a young person to participate on the committee and not only

gain knowledge about planning but also the structure of city government. And it allows for the committee to benefit from the perspective of a different representative age group in their discussions.

- Establishes the need for an annual report to the City Council. In this way the commission can share with the City Council their past year's accomplishments and work plan for the following year. And it allows the City Council to engage with the volunteer committee and provide direction if necessary.

Discussion:

The Planning Commission reviewed the proposed amendments July 20, 2017, and again on October 19, 2017. At their meeting on October 19, 2017, they voted unanimously to recommend the amendments to the City Council for adoption.

Fiscal Impact:

There is no anticipated fiscal impact to the City of McMinnville with this decision.

Council Options:

1. **ADOPT** Ordinance No. 5041
2. **REQUEST** more information.
3. **DO NOT ADOPT** Ordinance No. 5041.

Recommendation/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5041.

“I MOVE TO ADOPT ORDINANCE NO. 5041.”

ORDINANCE NO. 5041

AN ORDINANCE AMENDING THE MCMINNVILLE CITY CODE, CHAPTER 2.32, SPECIFIC TO THE MCMINNVILLE URBAN AREA PLANNING COMMISSION.

RECITALS:

Planning is the hallmark of municipal government; and

The State of Oregon requires all cities and counties to address the State Land-Use Planning Goals; and

Oregon Revised Statute 227 provides for the authority and guiding principles for a city to create a planning commission for the city and provide for its organization and operations; and

Chapter 2.32 of the McMinnville City Code provides the enabling language for the City of McMinnville Planning Commission; and

Chapter 2.32 was last substantially updated by Ordinance 3688 in 1973; and

In an effort to continue to update its governing codes and programs, the McMinnville Planning Commission reviewed Oregon Revised Statute 227 and Chapter 2.32 of the McMinnville City Code at a work session on July 20, 2017 and October 19, 2017; and

After considerable due diligence, evaluation and discussion, the McMinnville Planning Commission voted to recommend that the City Council amend Chapter 2.32 of the McMinnville City Code to more accurately represent the role and operations of the Planning Commission; and

The City Council, being fully informed about said request, found that the requested amendments conformed to the applicable state and local regulations, goals and policies based on the material submitted; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated;

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That Chapter 2.32 (City Planning Commission) is amended in the McMinnville City Code as provided in Exhibit A to this Ordinance.
2. That this Ordinance shall take effect 30 days after its passage by the Common Council.

Passed by the Council this 14th day of November, 2017, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Approved as to form:

Attest:



CITY OF MCMINNVILLE
PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE

New proposed language is represented by **bold underline font**, deleted language is represented by ~~strikethrough font~~.

Chapter 2.32

CITY PLANNING COMMISSION

Sections:

- 2.32.000 Establishment**
- 2.32.010 Purpose. Re-establishment.**
- 2.32.020 Responsibilities and Power.**
- 2.32.030 Membership.**
- 2.32.040 Officers.**
- 2.32.050 Meeting/Quorum**
- 2.32.060 Expenses / Reimbursements**
- 2.32.070 Special Provisions**
- 2.32.080 Staff Support**

2.32.000 Establishment. The McMinnville Planning Commission shall be the planning commission for the City of McMinnville as authorized in ORS 227.020.

2.32.010 Purpose. The purpose of the McMinnville Planning Commission is to serve in an advisory role to the City Council on the development and implementation of the City of McMinnville’s Comprehensive Plan and its associated planning documents. The Planning Commission also serves in a quasi-judicial capacity on land-use decisions for the City of McMinnville, in order to ensure that the City of McMinnville grows and develops in an orderly fashion with adequate resources for housing, business, industry, transportation, recreation, culture, comfort, health and welfare of its population so that residents and businesses enjoy a high quality of life.

2.32.020 Responsibilities and Power. The City Council of McMinnville delegates to the McMinnville Planning Commission such powers and duties as are now or may hereafter be provided by U.S. or Oregon state law, city charter or ordinances as may pertain to planning and subdivision matters, including but not limited to:

A. Per ORS 227, the Commission shall have the following powers and duties:

1. Recommend and make suggestions to the City Council and to all other public authorities concerning
 - a. The laying out, widening, extending, parking and locating of streets; sidewalks, bike paths, and boulevards, relief of traffic congestion; and
 - b. Betterment of housing and sanitation conditions; and
 - c. Establishment of zones of districts limiting the use, height, area and bulk of buildings and structures; and
 - d. Protection and assurance of access to incident solar radiation; and
 - e. Protection and assurance of access to wind for potential future electrical generation or mechanical application.
2. Recommend to the City Council and all other public authorities plans for regulation of all future growth, development and beautification of the City in respect to its public and private buildings and works, streets, parks, grounds and vacant lots and plans consistent with future growth and development of the City in order to secure to the City and its inhabitants sanitation, proper service of public utilities and telecommunications utilities, including appropriate public incentives for overall energy conservation, shipping and transportation facilities.
3. Recommend to the City Council and all other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged in economic and industrial development pursuits.
4. Encourage industrial and economic development within the city.
5. Make economic surveys of potential possibilities of the municipality with a view of ascertaining its economic and industrial development needs.
6. Study needs of existing local industries with view to strengthening and developing local industries and stabilizing employment conditions.
7. Recommend to the City Council and all other public authorities plans for promotion, development and regulation of amenities which improve the quality of life for city residents.
8. Do and perform all other acts and things necessary or proper to carry out the provisions of [ORS 227.010 \(Definition for ORS 227.030 to 227.300\)](#) to [227.170 \(Hearing procedure\)](#), [227.175 \(Application for permit](#)

or zone change) and 227.180 (Review of action on permit application).

9. Study and propose such measures as are advisable for promotion of the public interest, health, safety, comfort, convenience and welfare of the city and of the area within the urban growth boundary.
- B. The Commission shall serve in a quasi-judicial capacity on land development proposals, conducting public hearings and issuing decisions per federal, state and local regulations.
- C. The Commission shall serve in an advisory capacity to the City Council to recommend and make suggestions regarding preparation and revision of plans (land use goals and policies, comprehensive plan text and plan map, amendments to the urban growth boundary, amendments to the urban growth management agreement, zoning ordinance and zone map, implementation ordinances, etc.) for growth, development, and beautification of areas within the city limits and areas within the city's urban growth boundary, including but not limited to economic development (commercial and industrial), housing, transportation (all modes), parks and open space, public facilities (transportation, water, wastewater and drainage), institutions, quality of life initiatives, etc.
- D. The Commission shall serve as the City of McMinnville's Committee for Citizen Involvement in accordance with the State of Oregon Land Conservation and Development Land Use Goal No. 1 and Oregon Administrative Rule (OAR) 660-015-0000(1), with the following responsibilities:
 1. Evaluate the effectiveness of the citizen involvement program annually at its October meeting.
 2. Recommend and make suggestions to the City Council regarding revisions in the citizen involvement program, as the Commission deems appropriate.
- E. The Commission shall coordinate its activities with other jurisdictions, planning bodies and districts as appropriate.
- F. The Commission shall do such other tasks as may be requested by the City Council.

2.32.030 Membership

- A. Number of Members. The Planning Commission shall be composed of nine members.
- B. Residency/Representation. The planning commission shall have at least two representatives from each ward. Appointment to the planning commission to secure this representation by ward shall occur as resignations are received or as current members' terms are completed. Subsequent appointments shall maintain this distribution and representation. Those

individuals appointed to represent a particular ward must reside within that ward. In the event that a representative moves from his ward, then the position shall become vacant and the council will appoint a new member. If the boundaries of a ward are adjusted as required by the Charter or state election laws, then the individual may continue to hold office until his term expires. Three members of the planning commission shall be residents appointed at large from within the city or the urban growth boundary. In the event that a representative moves outside the urban growth boundary, then the position shall be declared vacant and the council shall appoint a new member.

- C. Qualifications. The City Council shall strive to appoint members who represent a cross-section of the citizens of McMinnville, and who will provide the planning commission with expertise in the area of planning, who possess broad areas of interest, and general concern with the planning process which is required for the functioning of this body. No more than two members shall be engaged principally in the buying, selling of real estate for profit as individuals, or be members of a partnership, or officers or employees of a corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than three members shall be engaged in the same kind of business, trade or profession.
- D. Appointments. The City Council will appoint the commission members.
- E. Terms. All terms are for four years commencing with January of each year. Any vacancy which may occur shall be filled by the City Council for the unexpired portion of the term. Members shall not serve more than three full terms.
- F. Removal. A commission member may be removed by the City Council for misconduct, nonperformance of duty, or three successive unexcused absences from regular meetings. The commission may, by motion, request that a member be removed by the appointing body. If the appropriate governing body finds misconduct, nonperformance of duties or three successive unexcused absences from regular meetings by the member, the member shall be removed.
- G. Ex-Officio Members. One ex-officio youth (21 years of age and under) may be appointed by the City Council, to serve a two year term. The ex-officio youth shall not be a voting member.

2.32.040 Officers

- A. Chairperson / Vice-Chairperson. At its first meeting of each year, the Planning Commission shall elect from its membership a chairperson and vice-chairperson. The chairperson or vice-chairperson, acting as chairperson, shall have the right to make or correct motions and vote on all matters before the commission. A majority of the commission may replace its chairperson or vice-chairperson with another member at any time during the calendar year.

- B. Secretary. The City shall provide a secretary who shall keep an accurate record of all Commission proceedings.
- C. Annual Report to City Council. The Chairperson of the commission shall make an annual report to the City Council by December 31 of each year. The annual report shall include a survey and report of the Commission's activities during the preceding year, in addition to specific recommendations to the City Council not otherwise requested by the City Council, relating to the planning process, plan implementation measures within the City, or the future activities of the Commission.

2.32.050 Meeting/Quorum

- A. Meeting Schedule. The Commission shall meet as required to accomplish their responsibilities.
- B. Meeting Conduct. The Rules of Parliamentary Law and Practice as in Roberts Rules of Order Revised Edition shall govern each commission meeting.
- C. Open to the Public. All meetings shall be open to the public.
- D. Quorum. A majority of the members of the commission shall constitute a quorum. Quorum will be based on the number of people officially appointed to the commission at the time and should not include vacancies.
- E. The City Council shall assign to the city planning commission an office or headquarters in the City Hall, if possible, in which to hold its meetings, transact its business and keep its records. The city planning commission shall have the power and authority to employ consulting advice on municipal problems, a secretary, and such other clerks as may be necessary and to pay for their service and for such other expenses as may be lawfully incurred, including the necessary disbursements incurred by the members in the performance of their duties as members of said commission as may be specifically authorized by the City Council.

2.32.060 Expenses / Reimbursements. Commission members shall receive no compensation. Any expense incurred by a commission member that will need to be reimbursed by the City of McMinnville must be pre-authorized by the City Manager or designee.

2.32.070 Special Provisions.

- A. The Planning Commission shall operate within the laws and guidelines of the federal government, the state government, Yamhill County and the City of McMinnville.
- B. The City Council may appoint an ad-hoc committee to address issues that are not under the purview of the existing commission.

2.32.080 Staff Support. Staffing shall be determined by the City Manager or City Manager designee.

Sections:

- ~~2.32.010 — Re-establishment.~~
- ~~2.32.020 — Membership—Qualifications for appointment.~~
- ~~2.32.025 — Representatives from each ward.~~
- ~~2.32.030 — Terms of office.~~
- ~~2.32.040 — Officers.~~
- ~~2.32.050 — Compensation—Secretary.~~
- ~~2.32.060 — Powers and duties—Meetings—Quorum.~~
- ~~2.32.070 — Delegation of authority.~~

~~2.32.010 — Re-establishment. The city recreates and reestablishes the city planning commission. Members of the planning commission shall be appointed by the common council in accordance with the terms as set forth in this chapter. (Ord. 3688 §1, 1973).~~

~~2.32.020 — Membership—Qualifications for appointment. The city planning commission shall consist of nine members who shall be appointed by the council. The common council shall strive to appoint members who represent a cross-section of the citizens of McMinnville, and who will provide the planning commission with expertise in the area of planning, who possess broad areas of interest, and general concern with the planning process which is required for the functioning of this body. (Ord. 3688 §2, 1973).~~

~~2.32.025 — Representatives from each ward.~~

~~A. Commencing January 1, 1980 the planning commission shall have at least two representatives from each ward (established by the McMinnville Charter 1970 amended 1978). Appointment to the planning commission to secure this representation by ward shall occur as resignations are received or as current members' terms are completed. Subsequent appointments shall maintain this distribution and representation.~~

~~B. Those individuals appointed to represent a particular ward must reside within that ward. In the event that a representative moves from his ward, then the position shall become vacant and the council will appoint a new member. If the boundaries of a ward are adjusted as required by the Charter or state election laws, then the individual may continue to hold office until his term expires.~~

~~C.~~

~~2.32.030 — Terms of office. The terms of office of the appointed members shall be four years except as this chapter may otherwise provide. Any vacancy which may occur shall be filled by the common council for the unexpired portion of the term. Those members presently occupying positions on the city planning commission are reappointed and shall serve for the duration of their original term of office. At such time as the common council appoints the new planning commission members in January, 1974, they shall choose two individuals to serve for three-year terms and two individuals to serve for four-year terms. (Ord. 3688 §3, 1973).~~

~~2.32.040 — Officers. The city planning commission at its first meeting of each calendar year shall elect a chairman and vice-chairman who shall hold office during the remainder of said year. (Ord. 3688 §4, 1973).~~

~~2.32.050 — Compensation—Secretary.~~

- A. ~~Members of the city planning commission shall receive no compensation.~~
- B. ~~The city planning commission shall elect a secretary who need not be a member of the commission. Such secretary shall keep an accurate record of all proceedings of said commission, and the commission shall regularly make and file a monthly report with the common council of all transactions of the commission. (Ord. 3688 §5, 1973).~~

~~2.32.060 — Powers and duties — Meetings — Quorum. Five members of the city planning commission shall constitute a quorum. The city planning commission, with two-thirds of its members concurring, may make and alter rules and regulations for its government and procedure consistent with the laws of the state and with the city charter and ordinances, and shall meet at least once a month. The common council shall assign to the city planning commission an office or headquarters in the City Hall, if possible, in which to hold its meetings, transact its business and keep its records. The city planning commission shall have the power and authority to employ consulting advice on municipal problems, a secretary, and such other clerks as may be necessary and to pay for their service and for such other expenses as may be lawfully incurred, including the necessary disbursements incurred by the members in the performance of their duties as members of said commission as may be specifically authorized by the common council. (Ord. 3688 §6, 1973).~~

~~2.32.070 — Delegation of authority. The common council of the city delegates to the city planning commission such powers and duties as are now or may hereafter be provided by U.S. or Oregon state law, city charter or ordinances as may pertain to planning and subdivision matters. (Ord. 3688 §7, 1973).~~

OREGON REVISED STATUTES

Chapter 227 — City Planning and Zoning

2015 EDITION

CITY PLANNING AND ZONING

CITIES

CITY PLANNING COMMISSION

227.020 Authority to create planning commission

227.030 Membership

227.090 Powers and duties of commission

227.095 Definitions for ORS 227.100 and 227.110

227.100 Submission of plats for subdivisions and plans for street alterations and public buildings to commission; report

227.110 City approval prior to recording of subdivision plats and plats or deeds dedicating land to public use within six miles of city; exception

227.120 Procedure and approval for renaming streets

PLANNING AND ZONING HEARINGS AND REVIEW

227.160 Definitions for ORS 227.160 to 227.186

227.165 Planning and zoning hearings officers; duties and powers

227.170 Hearing procedure; rules

227.172 Siting casino in incorporated city

227.173 Basis for decision on permit application or expedited land division; statement of reasons for approval or denial

- 227.175 Application for permit or zone change; fees; consolidated procedure; hearing; approval criteria; decision without hearing
- 227.178 Final action on certain applications required within 120 days; procedure; exceptions; refund of fees
- 227.179 Petition for writ of mandamus authorized when city fails to take final action on land use application within 120 days; jurisdiction; notice of petition
- 227.180 Review of action on permit application; fees
- 227.181 Final action required within 120 days following remand of land use decision
- 227.182 Petition for writ of mandamus authorized when city fails to take final action within 120 days of remand of land use decision
- 227.184 Supplemental application for remaining permitted uses following denial of initial application
- 227.185 Transmission tower; location; conditions
- 227.186 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost
- 227.187 Public sale of copies of city comprehensive plan and land use regulations

SOLAR ACCESS ORDINANCES

- 227.190 Solar access ordinances; purpose; standards
- 227.195 Effect of land use regulations and comprehensive plans

DEVELOPMENT ORDINANCES

- 227.215 Regulation of development
- 227.280 Enforcement of development legislation
- 227.286 City ordinances applicable to public property
- 227.290 Building setback lines established by city council; criteria
- 227.300 Use of eminent domain power to establish setback lines

WETLANDS DEVELOPMENT

227.350 Notice of proposed wetlands development; exception; approval by city

TRUCK ROUTES

227.400 Truck routes; procedures for establishment or revision; notice; hearing

RECYCLING CONTAINERS

227.450 Recycling containers; recommendations for new construction

CLUSTERED MAILBOXES

227.455 Clustered mailboxes in city streets and rights-of-way

PERMITTED USES IN ZONES

227.500 Use of real property for religious activity; city regulation of real property used for religious activity

227.505 Solar energy systems on residential and commercial structures

PLANNING AND ZONING PREAPPLICATION PROCESS

227.600 Land use approval preapplication review

CITY PLANNING COMMISSION

227.010 Definition for ORS 227.030 to 227.300. As used in ORS 227.030 to 227.300, “council” means a representative legislative body. [Amended by 1975 c.767 §1]

227.020 Authority to create planning commission. (1) A city may create a planning commission for the city and provide for its organization and operations.

(2) This section shall be liberally construed and shall include the authority to create a joint planning commission and to utilize an intergovernmental agency for planning as authorized by ORS 190.003 to 190.130. [Amended by 1973 c.739 §1; 1975 c.767 §2]

227.030 Membership. (1) Not more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.

(2) A member of such a commission may be removed by the appointing authority, after hearing, for misconduct or nonperformance of duty.

(3) Any vacancy in such a commission shall be filled by the appointing authority for the unexpired term of the predecessor in the office.

(4) No more than two voting members of the commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the

same kind of occupation, business, trade or profession. [Amended by 1969 c.430 §1; 1973 c.739 §2; 1975 c.767 §3]

227.035 [1973 c.739 §5; renumbered 244.135 in 1993]

227.040 [Repealed by 1973 c.739 §13]

227.050 [Amended by 1969 c.430 §2; repealed by 1975 c.767 §16]

227.060 [Repealed by 1975 c.767 §16]

227.070 [Amended by 1969 c.430 §3; 1973 c.739 §3; repealed by 1975 c.767 §16]

227.080 [Repealed by 1973 c.739 §13]

227.090 Powers and duties of commission. (1) Except as otherwise provided by the city council, a city planning commission may:

(a) Recommend and make suggestions to the council and to other public authorities concerning:

(A) The laying out, widening, extending and locating of public thoroughfares, parking of vehicles, relief of traffic congestion;

(B) Betterment of housing and sanitation conditions;

(C) Establishment of districts for limiting the use, height, area, bulk and other characteristics of buildings and structures related to land development;

(D) Protection and assurance of access to incident solar radiation; and

(E) Protection and assurance of access to wind for potential future electrical generation or mechanical application.

(b) Recommend to the council and other public authorities plans for regulating the future growth, development and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of public utilities and telecommunications utilities, including appropriate public incentives for overall energy conservation and harbor, shipping and transportation facilities.

(c) Recommend to the council and other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to industrial pursuits.

(d) Advertise the industrial advantages and opportunities of the city and availability of real estate within the city for industrial settlement.

(e) Encourage industrial settlement within the city.

(f) Make economic surveys of present and potential industrial needs of the city.

(g) Study needs of local industries with a view to strengthening and developing them and stabilizing employment conditions.

(h) Do and perform all other acts and things necessary or proper to carry out the provisions of ORS 227.010 to 227.170, 227.175 and 227.180.

(i) Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area within six miles thereof.

(2) For the purposes of this section:

(a) “Incident solar radiation” means solar energy falling upon a given surface area.

(b) “Wind” means the natural movement of air at an annual average speed measured at a height of 10 meters or at least eight miles per hour. [Amended by 1975 c.153 §3; 1975 c.767 §4; 1979 c.671 §3; 1981 c.590 §8; 1987 c.447 §118]

227.095 Definitions for ORS 227.100 and 227.110. As used in ORS 227.100 and 227.110, “subdivision” and “plat” have the meanings given those terms in ORS 92.010. [1955 c.756 §28]

227.100 Submission of plats for subdivisions and plans for street alterations and public buildings to commission; report. All subdivision plats located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets or plans for public buildings shall first be submitted to the commission by the city engineer or other proper municipal officer, and a report thereon from the commission secured in writing before approval is given by the proper municipal official. [Amended by 1955 c.756 §26]

227.110 City approval prior to recording of subdivision plats and plats or deeds dedicating land to public use within six miles of city; exception. (1) All subdivision plats and all plats or deeds dedicating land to public use in that portion of a county within six miles outside the limits of any city shall first be submitted to the city planning commission or, if no such commission exists, to the city engineer of the city and approved by the commission or engineer before they shall be recorded. However, unless otherwise provided in an urban growth area management agreement jointly adopted by a city and county to establish procedures for regulating land use outside the city limits and within an urban growth boundary acknowledged under ORS 197.251, if the county governing body has adopted ordinances or regulations for subdivisions and partitions under ORS 92.044, land within the six-mile limit shall be under the jurisdiction of the county for those purposes.

(2) It shall be unlawful to receive or record such plat or replat or deed in any public office unless the same bears thereon the approval, by indorsement, of such commission or city engineer. However, the indorsement of the commission or city engineer of the city with boundaries nearest the land such document affects shall satisfy the requirements of this section in case the boundaries of more than one city are within six miles of the property so mapped or described. If the governing bodies of such cities mutually agree upon a boundary line establishing the limits of the jurisdiction of the cities other than the line equidistant between the cities and file the agreement with the recording officer of the county containing such boundary line, the boundary line mutually agreed upon shall become the limit of the jurisdiction of each city until superseded by a new agreement between the cities or until one of the cities files with such recording officer a written notification stating that the agreement shall no longer apply. [Amended by 1955 c.756 §27; 1983 c.570 §5; 1991 c.763 §25]

227.120 Procedure and approval for renaming streets. Within six miles of the limits of any city, the commission, if there is one, or if no such commission legally exists, then the city engineer, shall recommend to the city council the renaming of any existing street, highway or

road, other than a county road or state highway, if in the judgment of the commission, or if no such commission legally exists, then in the judgment of the city engineer, such renaming is in the best interest of the city and the six mile area. Upon receiving such recommendation the council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing published in a newspaper of general circulation within the municipality and the six mile area not less than once within the week prior to the week within which the hearing is to be held. After such opportunity for hearing has been afforded, the city council by ordinance shall rename the street or highway in accordance with the recommendation or by resolution shall reject the recommendation. A certified copy of each such ordinance shall be filed for record with the county clerk or recorder, and a like copy shall be filed with the county assessor and county surveyor. The county surveyor shall enter the new names of such streets and roads in red ink on the county surveyor's copy of any filed plat and tracing thereof which may be affected, together with appropriate notations concerning the same. The original plat may not be corrected or changed after it is recorded with the county clerk.
[Amended by 2001 c.173 §4]

227.130 [Repealed by 1975 c.767 §16]

227.140 [Repealed by 1975 c.767 §16]

227.150 [Repealed by 1975 c.767 §16]

PLANNING AND ZONING HEARINGS AND REVIEW

227.160 Definitions for ORS 227.160 to 227.186. As used in ORS 227.160 to 227.186:

(2) "Permit" means discretionary approval of a proposed development of land, under ORS 227.215 or city legislation or regulation. "Permit" does not include:

- (a) A limited land use decision as defined in ORS 197.015;
- (b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;
- (c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or
- (d) An expedited land division, as described in ORS 197.360. [1973 c.739 §6; 1975 c.767 §5; 1991 c.817 §8a; 1995 c.595 §13; 2015 c.260 §5]

227.165 Planning and zoning hearings officers; duties and powers. A city may appoint one or more planning and zoning hearings officers, to serve at the pleasure of the appointing authority. Such an officer shall conduct hearings on applications for such classes of permits and zone changes as the council designates. [1973 c.739 §7; 1975 c.767 §6]

227.170 Hearing procedure; rules. (1) The city council shall prescribe one or more procedures for the conduct of hearings on permits and zone changes.

(2) The city council shall prescribe one or more rules stating that all decisions made by the council on permits and zone changes will be based on factual information, including adopted comprehensive plans and land use regulations. [1973 c.739 §8; 1975 c.767 §7; 1997 c.452 §3]

227.172 Siting casino in incorporated city. (1) As used in this section:

(a) “Casino” means a facility in which casino games, as defined in ORS 167.117, are played for the purpose of gambling.

(b) “Tribal casino” means a facility used for:

(A) Class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act of October 17, 1988 (25 U.S.C. 2701 et seq.);

(B) Class III gaming conducted under a tribal-state compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(8)); or

(C) Gaming conducted in accordance with the Indian Gaming Regulatory Act and federal regulations.

(2) A casino may not be sited on land in an incorporated city unless the electors of the city approve the development.

(3) Before a permit, as defined in ORS 227.160, can be approved authorizing a proposed development of land in an incorporated city as a site for a casino, the governing body of the city that contains the site shall submit the question of siting the casino to the electors of the city for approval or rejection.

(4) Subsections (2) and (3) of this section do not apply to a tribal casino. [2007 c.724 §2]

227.173 Basis for decision on permit application or expedited land division; statement of reasons for approval or denial. (1) Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.

(2) When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(3) Approval or denial of a permit application or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(4) Written notice of the approval or denial shall be given to all parties to the proceeding. [1977 c.654 §5; 1979 c.772 §10b; 1991 c.817 §16; 1995 c.595 §29; 1997 c.844 §6; 1999 c.357 §3]

227.175 Application for permit or zone change; fees; consolidated procedure; hearing; approval criteria; decision without hearing. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4) The application shall not be approved unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport” if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an “instrument airport.”

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway “approach surface” as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this

subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828. [1973 c.739 §§9,10; 1975 c.767 §8; 1983 c.827 §24; 1985 c.473 §15; 1987 c.106 §3; 1987 c.729 §18; 1989 c.648 §63; 1991 c.612 §21; 1991 c.817 §6; 1995 c.692 §2; 1997 c.844 §5; 1999 c.621 §2; 1999 c.935 §24; 2001 c.397 §2]

227.178 Final action on certain applications required within 120 days; procedure; exceptions; refund of fees. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section does not apply to a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The period set forth in subsection (1) of this section and the period set forth in subsection (5) of this section may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated. [1983 c.827 §27; 1989

c.761 §16; 1991 c.817 §15; 1995 c.812 §3; 1997 c.844 §8; 1999 c.533 §8; 2003 c.150 §1; 2003 c.800 §31; 2009 c.873 §16; 2011 c.280 §12]

227.179 Petition for writ of mandamus authorized when city fails to take final action on land use application within 120 days; jurisdiction; notice of petition.

(1) Except when an applicant requests an extension under ORS 227.178 (5), if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.

(2) The governing body shall retain jurisdiction to make a land use decision on the application until a petition for a writ of mandamus is filed. Upon filing a petition under ORS 34.130, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.

(3) A person who files a petition for a writ of mandamus under this section shall provide written notice of the filing to all persons who would be entitled to notice under ORS 197.763 and to any person who participated orally or in writing in any evidentiary hearing on the application held prior to the filing of the petition. The notice shall be mailed or hand delivered on the same day the petition is filed.

(4) If the governing body does not take final action on an application within 120 days of the date the application is deemed complete, the applicant may elect to proceed with the application according to the applicable provisions of the local comprehensive plan and land use regulations or to file a petition for a writ of mandamus under this section. If the applicant elects to proceed according to the local plan and regulations, the applicant may not file a petition for a writ of mandamus within 14 days after the governing body makes a preliminary decision, provided a final written decision is issued within 14 days of the preliminary decision.

(5) The court shall issue a peremptory writ unless the governing body or any intervenor shows that the approval would violate a substantive provision of the local comprehensive plan or land use regulations as those terms are defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the local comprehensive plan or land use regulations. [1999 c.533 §10; 2003 c.150 §2]

227.180 Review of action on permit application; fees. (1)(a) A party aggrieved by the action of a hearings officer may appeal the action to the planning commission or council of the city, or both, however the council prescribes. The appellate authority on its own motion may review the action. The procedure for such an appeal or review shall be prescribed by the council, but shall:

(A) Not require that the appeal be filed within less than seven days after the date the governing body mails or delivers the decision of the hearings officer to the parties;

(B) Require a hearing at least for argument; and

(C) Require that upon appeal or review the appellate authority consider the record of the hearings officer's action. That record need not set forth evidence verbatim.

(b) Notwithstanding paragraph (a) of this subsection, the council may provide that the decision of a hearings officer or other decision-making authority in a proceeding for a discretionary permit or zone change is the final determination of the city.

(c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall allow any party to an appeal proceeding held on the record to prepare a transcript of relevant portions of the proceedings conducted at a lower level at the party's own expense. If an appellant prevails at a hearing or on appeal, the transcript fee shall be refunded.

(2) A party aggrieved by the final determination in a proceeding for a discretionary permit or zone change may have the determination reviewed under ORS 197.830 to 197.845.

(3) No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(4) A communication between city staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearings officer. [1973 c.739 §§11,12; 1975 c.767 §9; 1979 c.772 §12; 1981 c.748 §43; 1983 c.656 §2; 1983 c.827 §25; 1991 c.817 §12]

227.181 Final action required within 120 days following remand of land use decision. (1)

Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a city, the governing body of the city or its designee shall take final action on an application for a permit, limited land use decision or zone change within 120 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS 197.830, the 120-day period established under this subsection shall not begin until final resolution of the judicial review.

(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the city proceed with the application on remand, but if the city does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the city shall deem the application terminated.

(b) The 120-day period established under subsection (1) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The city shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.

(3) The 120-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the governing body of the city.

(4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. [1999 c.545 §5; 2011 c.280 §13; 2015 c.522 §3]

227.182 Petition for writ of mandamus authorized when city fails to take final action within 120 days of remand of land use decision. (1) If the governing body of a city or its designee fails to take final action on an application for a permit, limited land use decision or zone change within 120 days as provided in ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised by the parties that the matter has been settled.

(2) A writ of mandamus issued under this section shall order the governing body of the city or its designee to make a final determination on the application. The court, in its discretion, may order such remedy as the court determines appropriate.

(3) In a mandamus proceeding under this section the court shall award court costs and attorney fees to an applicant who prevails on a petition under this section. [1999 c.545 §6; 2015 c.522 §4]

227.184 Supplemental application for remaining permitted uses following denial of initial application. (1) A person whose application for a permit is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

(2) The governing body of a city or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the city's comprehensive plan and land use regulations.

(4) The governing body of a city or its designee shall adopt specific findings describing the reasons for approving or denying:

(a) A use for which approval is sought under this section; and

(b) A rezoning or variance requested in the application. [1999 c.648 §4]

227.185 Transmission tower; location; conditions. The governing body of a city or its designate may allow the establishment of a transmission tower over 200 feet in height in any zone subject to reasonable conditions imposed by the governing body or its designate. [1983 c.827 §27a]

227.186 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (1) As used in this section, "owner" means the owner of the

title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number _____. The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, (city) has proposed Ordinance Number _____. (City) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047 or resulting from an order of a court of competent jurisdiction.

(11) The governing body of the city is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse a city for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section. [1999 c.1 §3; 1999 c.348 §11; 2003 c.668 §3]

227.187 Public sale of copies of city comprehensive plan and land use regulations. A city shall maintain copies of its comprehensive plan and land use regulations, as defined in ORS 197.015, for sale to the public. [1991 c.363 §3]

SOLAR ACCESS ORDINANCES

227.190 Solar access ordinances; purpose; standards. (1) City councils may adopt and implement solar access ordinances. The ordinances shall provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities. The city council shall consider for inclusion in any solar access ordinance, but not be limited to, standards for:

(a) The orientation of new streets, lots and parcels;

- (b) The placement, height, bulk and orientation of new buildings;
 - (c) The type and placement of new trees on public street rights of way and other public property; and
 - (d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.
- (2) The State Department of Energy shall actively encourage and assist city councils' efforts to protect and provide for solar access.
- (3) As used in this section, "solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21. [1981 c.722 §5]

227.195 Effect of land use regulations and comprehensive plans. Solar access ordinances shall not be in conflict with acknowledged comprehensive plans and land use regulations. [1981 c.722 §6]

227.210 [Repealed by 1975 c.767 §16]

DEVELOPMENT ORDINANCES

227.215 Regulation of development. (1) As used in this section, "development" means a building or mining operation, making a material change in the use or appearance of a structure or land, dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to 92.285, and creating or terminating a right of access.

(2) A city may plan and otherwise encourage and regulate the development of land. A city may adopt an ordinance requiring that whatever land development is undertaken in the city comply with the requirements of the ordinance and be undertaken only in compliance with the terms of a development permit.

(3) A development ordinance may provide for:

- (a) Development for which a permit is granted as of right on compliance with the terms of the ordinance;
- (b) Development for which a permit is granted discretionarily in accordance and consistent with the requirements of ORS 227.173;
- (c) Development which need not be under a development permit but shall comply with the ordinance; and
- (d) Development which is exempt from the ordinance.

(4) The ordinance may divide the city into districts and apply to all or part of the city. [1975 c.767 §11 (enacted in lieu of 227.220 to 227.270); 1977 c.654 §3]

227.220 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.220)]

227.230 [Amended by 1971 c.739 §2; 1975 c.153 §4; repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.230)]

227.240 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.240)]

227.250 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.250)]

227.260 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.260)]

227.270 [Repealed by 1975 c.767 §10 (227.215 enacted in lieu of 227.270)]

227.280 Enforcement of development legislation. The council may provide for enforcement of any legislation established under ORS 227.215. [Amended by 1975 c.767 §14]

227.285 [1959 c.601 §1; repealed by 1969 c.460 §2 (227.286 enacted in lieu of 227.285)]

227.290 Building setback lines established by city council; criteria. (1) The council or other governing body of any incorporated city, under an exercise of its police powers, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway or other public way in such city. It may make it unlawful and provide a penalty for erecting after said establishment any building or structure closer to the street line than such setback line, except as may be expressly provided by ordinance. The council or body shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons owning property affected before establishing any such setback line. Such setback lines may be established without requiring a cutting off or removal of buildings existing at the time.

(2) The council may consider, in enacting ordinances governing building setback lines, the site slope and tree cover of the land with regard to solar exposure. The council shall not restrict construction where site slope and tree cover make incident solar energy collection unfeasible, except an existing solar structure's sun plane shall not be substantially impaired.

(3) The council may consider, in enacting ordinances governing building setback lines and maximum building height, the impact on available wind resources. The ordinances shall protect an existing wind energy system's wind source to the extent feasible.

(4) The powers given in this section shall be so exercised as to preserve constitutional rights. [Amended by 1979 c.671 §4; 1981 c.590 §9]

227.300 Use of eminent domain power to establish setback lines. The council or other governing body of any incorporated city, under an exercise of the power of eminent domain, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway, or other public way in such city in cases where the establishment of such setback lines is for street widening purposes, and in cases where the establishment of such setback lines affects buildings or structures existing at the time. The council or other governing body of the city shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons whose property is affected by such establishment. In case of the exercise of the power of eminent domain, provision shall be made for ascertaining and paying just compensation for any damages caused as the result of establishing such setback lines.

227.310 [1957 c.67 §1; 1975 c.767 §13; repealed by 1977 c.766 §16]

WETLANDS DEVELOPMENT

227.350 Notice of proposed wetlands development; exception; approval by city. (1) After the Department of State Lands has provided the city with a copy of the applicable portions of the Statewide Wetlands Inventory, the city shall provide notice to the department, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory:

- (a) Subdivisions;
- (b) Building permits for new structures;
- (c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
- (d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
- (e) Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the department has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

- (a) Issuance of a permit under ORS 196.600 to 196.905 by the department required for the project before any physical alteration takes place within the wetlands;
- (b) Notice from the department that no permit is required; or
- (c) Notice from the department that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the department fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the city approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The city may issue local approval for parcels identified as or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the department with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the department within five days following local approval.

(7) Failure by the city to provide notice as required in this section will not invalidate city approval. [1989 c.837 §31; 1991 c.763 §26]

TRUCK ROUTES

227.400 Truck routes; procedures for establishment or revision; notice; hearing. (1) A city council shall not establish a new truck route or revise an existing truck route within the city unless the council first provides public notice of the proposed truck route and holds a public hearing concerning its proposed action.

(2) The city council shall provide notice of a public hearing held under this section by publishing notice of the hearing once a week for two consecutive weeks in some newspaper of general circulation in the city. The second publication of the notice must occur not later than the fifth day before the date of the public hearing.

(3) The notice required under this section shall state the time and place of the public hearing and contain a brief and concise statement of the proposed formation of the truck route, including a description of the roads and streets in the city that will form the truck route.

(4) As used in this section:

(a) "Truck" includes motor truck, as defined in ORS 801.355, and truck tractor, as defined in ORS 801.575.

(b) "Truck route" means the roads or streets in a city which have been formally designated by the city council as the roads or streets on which trucks must travel when proceeding through the city. [1985 c.564 §1]

RECYCLING CONTAINERS

227.450 Recycling containers; recommendations for new construction. (1) Each multifamily residential dwelling with more than 10 individual residential units that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(2) Each commercial building and each industrial and institutional building that is constructed after October 4, 1997, should include adequate space and access for collection of containers for solid waste and recyclable materials.

(3) As used in this section, "commercial," "recyclable material" and "solid waste" have the meanings given in ORS 459.005. [1997 c.552 §32]

227.455 Clustered mailboxes in city streets and rights-of-way. Each city in this state shall adopt standards and specifications for clustered mailboxes within the boundaries of city streets and rights-of-way that conform to the standards and specifications for such mailboxes contained in the State of Oregon Structural Specialty Code. [2011 c.488 §2]

Note: 227.455 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PERMITTED USES IN ZONES

227.500 Use of real property for religious activity; city regulation of real property used for religious activity. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations. [2001 c.886 §4]

227.505 Solar energy systems on residential and commercial structures. (1) The installation and use on a residential structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which residential structures are an allowed use.

(2) The installation and use on a commercial structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which commercial structures are an allowed use.

(3) Approval of a permit application under ORS 227.160 to 227.186 is, notwithstanding the definition of “permit” in ORS 227.160, a ministerial function if:

(a) The installation of a solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed; and

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof.

(4) As part of the permit approval process, a city:

(a) May not charge a fee pursuant to ORS 227.175 for processing a permit;

(b) May not require extensive surveys or site evaluations including, but not limited to, vegetation surveys, contour maps and elevation drawings; and

(c) May charge building permit fees pursuant to ORS 455.020, 455.210 and 455.220.

(5) Subsections (3) and (4) of this section do not apply to a permit application for a residential or commercial structure that is:

(a) A federally or locally designated historic building or landmark or that is located in a federally or locally designated historic district.

(b) A conservation landmark designated by a city or county because of the historic, cultural, archaeological, architectural or similar merit of the landmark.

(c) Located in an area designated as a significant scenic resource unless the material used is:

(A) Designated as anti-reflective; or

(B) Eleven percent or less reflective.

(6) As used in this section, “solar photovoltaic energy system” has the meaning given that term in ORS 757.360. [2011 c.464 §2]

Note: 227.505 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PLANNING AND ZONING PREAPPLICATION PROCESS

227.600 Land use approval preapplication review. (1) As used in this section:

(a) “Compost” has the meaning given that term in ORS 459.005.

(b) “Disposal site” has the meaning given that term in ORS 459.005.

(c) “Local government” has the meaning given that term in ORS 174.116.

(2) Before an applicant may submit an application under ORS 227.160 to 227.186 for land use approval to establish or modify a disposal site for composting that requires a permit issued by the Department of Environmental Quality, as provided in subsection (3) of this section, the applicant shall:

(a) Request and attend a preapplication conference described in subsections (4) to (6) of this section; and

(b) Hold a preapplication community meeting described in subsections (7) to (9) of this section.

(3) Subsection (2) of this section applies to an application to:

(a) Establish a disposal site for composting that sells, or offers for sale, resulting product; or

(b) Allow an existing disposal site for composting that sells, or offers for sale, resulting product to:

(A) Accept as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste; or

(B) Increase the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

(4) During the preapplication conference:

(a) The applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

(b) The city with land use jurisdiction over the proposed disposal site for composting and the other representatives described in subsection (5) of this section shall inform the applicant of permitting requirements to establish and operate the proposed disposal site for composting and provide all application materials to the applicant.

(5) The applicant shall submit a written request to the city with land use jurisdiction to request a preapplication conference. A representative of the planning department of the city and a representative of the Department of Environmental Quality shall attend the conference along with representatives, as determined necessary by the city, of the following entities:

(a) Any other state agency or local government that has authority to approve or deny a permit, license or other certification required to establish or operate the proposed disposal site for composting.

(b) A state agency, a local government or a private entity that provides or would provide to the proposed disposal site for composting one or more of the following:

(A) Water systems.

(B) Wastewater collection and treatment systems, including storm drainage systems.

(C) Transportation systems or transit services.

(c) A city or county with territory within its boundaries that may be affected by the proposed disposal site for composting.

(d) The Department of Land Conservation and Development.

(e) The State Department of Agriculture.

(6) The city with land use jurisdiction may use preapplication procedures, if any, in the acknowledged land use regulations of the city, consistent with the requirements that the city shall:

(a) Provide notice of the preapplication conference to the entities described in subsection (5) of this section by mail and, as appropriate, in any other manner that ensures adequate notice and opportunity to participate;

(b) Hold the preapplication conference at least 20 days and not more than 40 days after receipt of the applicant's written request; and

(c) Provide preapplication notes to each attendee of the conference and the other entities described in subsection (5) of this section for which a representative does not attend the preapplication conference.

(7) After the preapplication conference and before submitting the application for land use approval, the applicant shall:

(a) Hold a community meeting within 60 days after the preapplication conference:

(A) In a public location in the city with land use jurisdiction; and

(B) On a business day, or Saturday, that is not a holiday, with a start time between the hours of 6 p.m. and 8 p.m.

(b) Provide notice of the community meeting to:

(A) The owners of record, on the most recent property tax assessment roll, of real property located within one-half mile of the real property on which the proposed disposal site for composting would be located;

(B) The resident or occupant that receives mail at the mailing address of the real property described in subparagraph (A) of this paragraph if the mailing address of the owner of record is not the mailing address of the real property;

(C) Neighborhood and community organizations recognized by the governing body of the city if a boundary of the organization is within one-half mile of the proposed disposal site for composting;

(D) A newspaper that meets the requirements of ORS 193.020 for publication;

(E) Local media in a press release; and

(F) The entities described in subsection (5) of this section.

(8) During the community meeting, the applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.

(9) The applicant's notice provided under subsection (7)(b) of this section must include:

(a) A brief description of the proposed disposal site for composting;

(b) The address of the location of the community meeting; and

(c) The date and time of the community meeting. [2013 c.524 §2]

Note: 227.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 227 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

CHAPTERS 228 TO 235
[Reserved for expansion]

MEMORANDUM

DATE: November 14, 2017
TO: Jeff Towery, City Manager
FROM: David Koch, City Attorney
SUBJECT: Recology – Solid Waste Collection Franchise Amendment

Council Goal:

Plan For and Manage Financial Resources

Report in Brief:

The City's exclusive Solid Waste Collection Franchise Agreement with Recology Western Oregon provides for the payment of a Franchise Administration Fee to the City to be increased from 4% to 5%, effective July 1, 2018. The proposed action would change the effective date of the fee increase to January 1, 2018.

Background:

On January 27, 2009, the City adopted Ordinance 4904, granting an exclusive franchise to Western Oregon Waste (WOW) for the collection of all Solid Waste generated within the city limits of the City of McMinnville (Franchise Agreement). On October 12, 2010, the City Council approved the transfer of the rights granted under the Franchise Agreement from WOW to Recology, Inc. (Recology).

On August 8, 2017, the City Council adopted Ordinance 5033, which amended Article IV of the Franchise Agreement to increase the Franchise Administration Fee that Recology pays to the City from 3% to 5% to be phased in through July 1, 2018.

Discussion:

City staff has had further discussions with Recology the potential timing of a fee increase and the impact that such action would have on Recology's operations. Based on those discussion, it is staff's recommendation that the phased implementation schedule for the fee increase be revised as follows:

- Change from 4% to 5%, effective January 1, 2018.

The potential fiscal impact of changing the effective date of the Franchise Fee is approximately \$30,000 of additional annual revenue for Fiscal Year 2017-18. Franchise fee payments will be

based on the actual services provided and revenues received, which may vary from this estimate.

Attachments:

None

Recommendation:

Approve Ordinance 5042, amending Ordinance 4904 and 5033, relating to the Solid Waste Collection Franchise.

ORDINANCE NO. 5042

An Ordinance amending Ordinances 4904 and 5033, relating to the Solid Waste Collection Franchise.

RECITALS:

On January 27, 2009, the City adopted Ordinance 4904, granting an exclusive franchise to Western Oregon Waste (WOW) for the collection of all Solid Waste generated within the city limits of the City of McMinnville (Franchise Agreement). On October 12, 2010, the City Council approved the transfer of the rights granted under the Franchise Agreement from WOW to Recology, Inc. (Recology).

On August 8, 2017, the City Council adopted Ordinance 5033, which amended Article IV of the Franchise Agreement to increase the Franchise Administration Fee that Recology pays to the City from 3% to 5% to be phased in through July 1, 2018.

Following discussions with Recology regarding the potential impact of an increase to the Franchise Fee, City staff that the full fee increase to 5%, be effective January 1, 2018.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. Ordinance 4904 and 5033 are amended as provided in the attached Exhibit 1.
2. This Ordinance shall take 30 days after approval.

Passed by the Council on November 14, 2017, by the following votes:

Ayes: _____

Nays: _____

Approved on November 14, 2017.

MAYOR

Approved as to form:

Attest:

CITY ATTORNEY

CITY RECORDER

EXHIBIT 1

Article IV of the Franchise Agreement adopted by the City through Ordinance 4904 and amended by Ordinance 5033, is further amended as follows:

ARTICLE IV – Franchise Administration Fee

As consideration for the granting of this Franchise and to reimburse the City for the administration thereof, effective October 1, 2017, Franchisee shall collect and pay to the City quarterly a fee equal to four percent (4%) of Cash Receipts, and effective ~~January~~July 1, 2018, Franchisee shall collect and pay to the City quarterly a fee equal to five percent (5%) of Cash Receipts. The Franchise Fee may be amended from time to time at the sole option of the City Council.

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND
August 2017

| FUND # | FUND NAME | GENERAL OPERATING | | TOTAL |
|-------------|-------------------------------------|-------------------|----------------|----------------|
| | | CASH IN BANK | INVESTMENT | |
| 01 | General | \$198,535.07 | \$4,893,374.03 | \$5,091,909.10 |
| 05 | Special Assessment | 894.53 | 174,618.82 | 175,513.35 |
| 07 | Transient Lodging Tax | 688.35 | 7,000.00 | 7,688.35 |
| 10 | Telecommunications | 798.34 | 1,030.00 | 1,828.34 |
| 15 | Emergency Communications | 189.88 | 141,094.81 | 141,284.69 |
| 20 | Street (State Tax) | 357.59 | 1,777,219.02 | 1,777,576.61 |
| 25 | Airport Maintenance | 224.42 | 404,749.03 | 404,973.45 |
| 40 | Public Safety Facility Construction | 79.97 | 2,805.24 | 2,885.21 |
| 45 | Transportation | 280.78 | 10,543,188.70 | 10,543,469.48 |
| 50 | Park Development | 744.53 | 1,258,518.71 | 1,259,263.24 |
| 58 | Urban Renewal | 985.46 | 1,237,703.68 | 1,238,689.14 |
| 59 | Urban Renewal Debt Service | 732.46 | 301,721.60 | 302,454.06 |
| 60 | Debt Service | 568.03 | 181,840.35 | 182,408.38 |
| 70 | Building | 466.92 | 967,000.00 | 967,466.92 |
| 75 | Sewer | 824.97 | 838,666.22 | 839,491.19 |
| 77 | Sewer Capital | 728.10 | 20,433,103.65 | 20,433,831.75 |
| 79 | Ambulance | 967.50 | (155,164.72) | (154,197.22) |
| 80 | Information Systems & Services | 875.94 | 217,713.61 | 218,589.55 |
| 85 | Insurance Reserve | 48.75 | 1,563,290.54 | 1,563,339.29 |
| CITY TOTALS | | 208,991.59 | 44,789,473.29 | 44,998,464.88 |

| MATURITY DATE | INSTITUTION | TYPE OF INVESTMENT | INTEREST RATE | CASH VALUE |
|---------------|----------------------------|---|---------------|-------------------------|
| N/A | Key Bank of Oregon | Checking & Repurchase Sweep Account | 0.20% | \$ 208,991.59 |
| N/A | Key Bank of Oregon | Money Market Savings Account | 0.02% | 7,004,536.60 |
| N/A | State of Oregon | Local Government Investment Pool (LGIP) | 1.45% | 24,390,524.82 |
| N/A | State of Oregon | Park Improvement Bonds (LGIP) | 1.45% | 694,138.61 |
| N/A | State of Oregon | Transportation Bond (LGIP) | 1.45% | 10,427,539.41 |
| N/A | State of Oregon | Urban Renewal Loan Proceeds (LGIP) | 1.45% | 1,599,006.97 |
| N/A | MassMutual Financial Group | Group Annuity | 3.00% | 673,726.88 |
| | | | | <u>\$ 44,998,464.88</u> |