

**CITY OF CENTRAL POINT
City Council Meeting Agenda
February 12, 2015**

**Central Point
City Hall
541-664-3321**

City Council

Mayor
Hank Williams

Ward I
Bruce Dingler

Ward II
Michael Quilty

Ward III
Brandon Thueson

Ward IV
Allen Broderick

At Large
David Douglas
Rick Samuelson

Administration
Chris Clayton, City
Manager
Deanna Casey, City
Recorder

**Community
Development**
Tom Humphrey,
Director

Finance
Bev Adams, Director

Human Resources
Barb Robson, Director

**Parks and Public
Works**
Matt Samitore,
Director
Jennifer Boardman,
Manager

Police
Kris Allison Chief

Next Res. 1416
Next Ord. 2003

I. REGULAR MEETING CALLED TO ORDER – 7:00 P.M.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PUBLIC APPEARANCES – *Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization.*

V. SPECIAL PRESENTATION

VI. CONSENT AGENDA

Page 2 - 7 A. Approval of January 22, 2015 Council Minutes
8 - 10 B. Approval of OLCC Change of ownership for Chevron

VII. ITEMS REMOVED FROM CONSENT AGENDA

VIII. PUBLIC HEARING, ORDINANCES, AND RESOLUTIONS

12 - 23 A. Ordinance No. _____, Amending the Central Point Comprehensive Plan (MAP) from Residential Low Density to Civic and the City Zoning Map from R-1-6 and Park to Civic for Approximately Five Acres Located East of South Fourth Street and Between Bush and Ash Streets (37S2W11BA, TL 2200 and 37S2W11BB, TLs 6300, 8200, 8300 & 8301) (Humphrey)

25 - 43 B. Resolution No. _____, Adopting the 2015 Rules of the City Council and Code of Ethics (Clayton)

45 - 50 C. Resolution No. _____, A Resolution of the City of Central Point Setting Water Rates (Samitore)

IX. BUSINESS

- 52 - 54 A. Budget Committee Appointment (Clayton)
- 56 - 62 B. Approval of Mid-year Budget Report (Adams)
- 64 C. Planning Commission Report (Humphrey)
- 66 - 95 D. Discussion of General Franchise Ordinance (Clayton)

X. MAYOR’S REPORT

XI. CITY MANAGER’S REPORT

XII. COUNCIL REPORTS

XIII. DEPARTMENT REPORTS

XIV. EXECUTIVE SESSION

The City Council may adjourn to executive session under the provisions of ORS 192.660. Under the provisions of the Oregon Public Meetings Law, the proceedings of an executive session are not for publication or broadcast.

XV. ADJOURNMENT

Consent Agenda

CITY OF CENTRAL POINT
City Council Meeting Minutes
January 22, 2015

I. REGULAR MEETING CALLED TO ORDER

Mayor Williams called the meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL: Mayor: Hank Williams
Council Members: Allen Broderick, Bruce Dingler, Brandon Thueson, Rick Samuelson, and Mike Quilty were present.

City Manager Chris Clayton; City Attorney Sydnee Dreyer; Police Chief Kris Allison; Community Development Director Tom Humphrey; Finance Director Bev Adams; Human Resource Director Barb Robson; Parks and Public Works Director Matt Samitore; and City Recorder Deanna Casey were also present.

IV. PUBLIC APPEARANCES

Bill Walton – Central Point Citizen

Mr. Walton explained that his wife was attacked recently by a dog in Central Point. The recently adopted Ordinance does not explain who is clearly responsible for damages that happen during an attack like what happened to his wife. It is unclear if a person staying with the dog owner could be held responsible for the actions of the dog if the animal attacks and causes harm. The ordinance doesn't put the responsibility on the dog owner, it puts it on any person who happens to be around the dog. In his situation an 80 year old woman was cited for the actions of her son-in-laws dog. At the time of the attack an 80 year old and a 15 year old were at home.

Chief Allison explained that two people were cited. She explained the process and stated that it will be up to the judge to determine who will be at fault and what the outcome will be. City Attorney Dryer will research the Ordinance to see if any changes should to be made.

Caleb LaPlante, Outreach Coordinator for Abolish Child Trafficking (ACT)

Mr. LaPlante explained that with approval of the Proclamation tonight all of the cities along the I-5 Corridor in the Rogue Valley will be on board to abolish child trafficking. ACT teaches sex trafficking awareness classes 101 throughout the state. This is a big problem along I-5. He shared some of their success stories.

V. CONSENT AGENDA

- A. Approval of January 8, 2015 City Council Minutes
- B. Approval of Child Trafficking Proclamation
- C. Acceptance of 2nd Quarter Financial Report

Mike Quilty moved to approve the Consent Agenda as presented. Rick Samuelson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

VI. ITEMS REMOVED FROM CONSENT AGENDA - None

VII. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

A. Ordinance No. 2000, An Ordinance Amending the Comprehensive Plan Map (Minor) to Add Approximately 48 Acres to the Central Point Urban Growth Boundary East of Interstate 5, North of Upton Road to the Seven Oaks Interchange (Exit 35) Including Dean Creek Road

Community Development Director Tom Humphrey explained that this was the second reading of an Ordinance to amend the Comprehensive Plan Map. There were no recommended changes at the first reading and public hearing on January 8, 2015. This is one more step towards expanding the Urban Growth Boundary towards the Tolo area.

Mike Quilty moved to approve Ordinance No. 2000, An Ordinance Amending the Comprehensive Plan Map (Minor) to Add Approximately 48 Acres to the Central Point Urban Growth Boundary East of Interstate 5, North of Upton Road to the Seven Oaks Interchange (Exit 35) Including Dean Creek Road. Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

B. Ordinance No. 2001, An Ordinance Amending an Agreement Between the City of Central Point, Oregon and Jackson County, Oregon for the Joint Management of the Central Point Urban Growth Boundary

Mr. Humphrey explained that this is the second reading of an Ordinance to revise the Urban Growth Boundary Management Agreement between the City and Jackson County to improve consistency with the Greater Bear Creek Valley Regional Plan and the City's Regional Plan Element. Principal revisions add Forrest/Gibbon Acres and Jackson County Expo and Fairgrounds as areas of mutual planning concern. This will help with coordinated land use preservation and development. There were no recommended changes at the first reading on January 8, 2015.

Bruce Dingler moved to approve Ordinance No. 2001, An Ordinance Amending an Agreement between the City of Central Point, Oregon and Jackson County, Oregon for the Joint Management of the Central Point Urban Growth Boundary. Allen Broderick seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

C. Ordinance No. 2002, An Ordinance Amending the Central Point Zoning Ordinance, Chapter 17.08.010 Definitions; 17.64.040, Land Use – TOD District; 17.65.050 Zoning Regulations – TOD District; 17.65.070 Zoning Regulations – TOD Corridor

Mr. Humphrey explained this is the second reading of an Ordinance to set up congregate housing in the TOD Corridor. This is a type of senior housing that is not defined currently. There were no recommended changes at the first reading on January 8, 2015.

Allen Broderick moved to approve Ordinance No. 2002, An Ordinance Amending the Central Point Zoning Ordinance, Chapter 17.08.010 Definitions; 17.64.040, Land Use – TOD District; 17.65.050 Zoning Regulations – TOD District; 17.65.070 Zoning Regulations – TOD Corridor. Bruce Dingler seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

D. First Reading of an Ordinance Amending the Central Point Comprehensive Plan (MAP) from Residential Low Density to Civic and the City Zoning Map from R-1-6 and Park to Civic for Approximately Five Acres Located East of South Fourth Street and Between Bush and Ash Streets

Mr. Humphrey explained that during the course of evaluating properties owned by the city for a prospective Community Center and other possible uses, it came to our attention that the zoning does not allow that use. The current zoning and the current use are inconsistent with one another, and the Parks Maintenance yard is a legally non-conforming use in a residential zone. If these properties continue with their current use or the city wishes to develop them for use as a Community Center, the 'Civic' zoning would be more compatible and appropriate.

The Central Point Planning Commission has reviewed and discussed the issues and unanimously recommended approval of the zone change. This is a Public Hearing and notices were sent to surrounding property owners.

Mayor Williams opened the public hearing. No one came forward and the public hearing was closed.

Mike Quilty moved to second reading an Ordinance Amending the Central Point Comprehensive Plan (MAP) from Residential Low Density to Civic and the City Zoning Map from R-1-6 and Park to Civic for Approximately Five Acres Located East of South Fourth Street and Between Bush and Ash Streets. Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

VIII. BUSINESS

A. Water Rate Increase – Medford Water Commission

Parks and Public Works Director Matt Samitore explained that the Medford Water Commission (MWC) recently updated their rate model which will have an impact on the City of Central Point rates. According to our current rate plan, the city also needs to increase rates to accommodate for recent construction related to inflation. Inflationary

cost increases of both construction materials and labor are now impacting the City's adopted Capital Improvement Plan (CIP).

The MWC sent notice that they will be increasing the bulk water rates to other cities, including Central Point, by 5%. The winter rate will increase from \$0.46 to \$0.48 and the summer rate from \$0.64 to \$0.67. This increase will equate to an additional \$30,000 in costs. In order to cover these costs we will need to increase our costs by \$0.38 per customer per month. This increase would only cover the MWC increase and does not take into consideration the scheduled increase that the Council had already discussed at previous meetings to help cover CIP inflation costs.

He presented five options: A) increase to adjust for the MWC increase only by \$0.38 to the base rate of the Central Point water bill. B) MWC increase and Central Point increase split evenly would be \$0.50 increase to the base rate and a \$0.01 increase to the three top tier rates. C) MWC and Central Point Increases base charges only would be the \$0.80 increase to the base rate only and the tier rates would stay the same. D) the MWC increase to the base rate, with \$0.02, \$0.03, and \$0.04 increase to the top tier rates. E) MWC increase and three years' worth of Central Point increases spread over the base rate and the top three tiers for a total of \$0.91.

Mr. Samitore explained that we are still very competitive with other cities around the state and the valley for water rates. We cannot compare to Medford because they refuse to raise the rates on their customers and prefer to pass the rates onto the outside customers and cities.

There was discussion of the importance of conservation in mind when we discuss rate increases. We shouldn't just put increases on the base rate and not the tier rates. However if we only put the increase on the tier rates and customers don't use the water the city still pays the increase to the MWC. There was also discussion regarding a back flow fee being added to the water bills. A recent survey about the new back flow billing option indicates citizens would be willing to have a monthly fee and have the city manage the program.

Council directed staff to bring back a structure that includes the back-flow fee option.

B. Main Street Revitalization Act Endorsement/Resolution

City Manager Chris Clayton explained that the city has received information that could help with our downtown revitalization. Central Point could be eligible for funding to help improve some of the historical buildings in town. This would be one more tool that the Council could use to encourage business owners to repair buildings that qualify. He presented a map of buildings that may qualify for the program.

There was discussion regarding the options for Urban Renewal or the City in order to take advantage of this program. Mr. Clayton explained that the funds would be available in 2016. He asked the Council for a motion authorizing the Mayor to sign a letter encouraging State Representatives to support the Revitalize Main Street Act.

Allen Broderick moved to direct the City Manager to prepare a letter for the Mayor's signature in support of the Revitalize Main Street Act. Mike Quilty seconded. Roll call: Hank Williams, yes; Bruce Dinger, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

IX. MAYOR'S REPORT

Mayor Williams reported that:

- He attended the Medford Water Commission meeting.
- He attended the Medford Chamber forum.
- He received the letter of resignation from David Douglas. The City has posted the vacant position on the website and Facebook and will be accepting applications until February 28th.

X. CITY MANAGER'S REPORT

City Manager Chris Clayton reported that:

- OLCC will be holding meetings throughout the state regarding Measure 91 rulemaking. Communities are welcome to attend these public meetings.
- The Council will be reviewing the Council Rules very soon. There are changes that need to be updated.
- There are two vacancies on the Budget Committee this year. Please spread the word to any citizens you think would be interested.
- There are some chronic nuisance properties around town that the Police Department is working on.
- Staff will be meeting with the developers for the Walmart property next week.
- The Study Session on Tuesday will be to discuss the Draft Long Term Financial Plan.

XI. COUNCIL REPORTS

Council Member Allen Broderick reported that he attended the Parks and Recreation meeting on Tuesday where State Representative Esquivel was in attendance to get support for the Vietnam Memorial they would like to put in Don Jones Memorial Park.

Council Member Rick Samuelson went on a ride-a-long with Officer Grissom.

Council Member Mike Quilty reported that:

- He attended the RVACT meeting last week.
- RVTD is having problems keeping services available; they may have to cut routes.
- He will be attending an MPO Consortium in Albany to talk to legislators regarding street funds.

XII. DEPARTMENT REPORTS

Parks and Public Works Director Matt Samitore reported that:

- There is some construction on Pine Street in front of Walgreens to remove some of old lines, it should be completed in a day or two depending on the weather.
- Preparation for the Twin Creeks rail crossing is coming along, they have been working in the flood way.

Police Chief Kris Allison reported that:

- The call volume at 966 Covington has increased to the point of putting this property on the Chronic Nuisance Property list. They will be contacting neighbors and bringing the issue before the Council in the near future.
- There is another Chronic Nuisance Property on Cherry Street that MADGE served a warrant on the other day.
- Rob Patridge will be in the area for Measure 91 discussions, staff will keep the Council informed of the rule making process.
- They will be partnering with United Way to dispose of stolen and abandoned bikes that are not claimed within a certain amount of time.

Finance Director Bev Adams reported that the Budget kick off is February 5th for staff. The Budget Committee meeting dates will be April 13th, 20th, and 27th.

Community Development Director Tom Humphrey reported that:

- The city has received plans for expansion of the FEDEX facility. This is a type 2 land use and can be approved in house.
- There will be an article in AARP magazine regarding Twin Creeks and Life Long Housing that they offer and encourage.

City Attorney Sydnee Dryer reported that the hearing date for RVSS verses the City of Phoenix is scheduled for February 4, 2015. We should know more about a franchise option with them after that hearing.

XIII. EXECUTIVE SESSION - None

XIV. ADJOURNMENT

Bruce Dingler moved to adjourn, Brandon Thueson seconded, all said "aye" and the Council Meeting was adjourned at 9:10 p.m.

The foregoing minutes of the January 22, 2015, Council meeting were approved by the City Council at its meeting of February 12, 2015.

Dated:

Mayor Hank Williams

ATTEST:

City Recorder



155 South Second Street • Central Point, OR 97502

Ph: (541) 664-5578 • Fax: (541) 664-2705 • www.centralpointoregon.gov

Kristine Allison
Chief

Date: 01/26/2015

From: Chief Kristine Allison
To: Honorable Mayor Williams
Subject: Request for OLCC License

RE: Fairgrounds Chevron / Persons associated therewith

Files of the Central Point Police Department contain no information pertinent to the request.

Respectfully,

A handwritten signature in black ink that reads "Kristine Allison".

Chief Kristine Allison
Central Point Police Department



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

DEC 30 2014

<p>Application is being made for:</p> <p>LICENSE TYPES</p> <input type="checkbox"/> Full On-Premises Sales (\$402.60/yr) <input type="checkbox"/> Commercial Establishment <input type="checkbox"/> Caterer <input type="checkbox"/> Passenger Carrier <input type="checkbox"/> Other Public Location <input type="checkbox"/> Private Club <input type="checkbox"/> Limited On-Premises Sales (\$202.60/yr) <input checked="" type="checkbox"/> Off-Premises Sales (\$100/yr) <input checked="" type="checkbox"/> with Fuel Pumps <input type="checkbox"/> Brewery Public House (\$252.60) <input type="checkbox"/> Winery (\$250/yr) <input type="checkbox"/> Other: _____		<p>ACTIONS</p> <input checked="" type="checkbox"/> Change Ownership <input type="checkbox"/> New Outlet <input type="checkbox"/> Greater Privilege <input type="checkbox"/> Additional Privilege <input checked="" type="checkbox"/> Other <u>CITY</u>	<p>CITY AND COUNTY USE ONLY</p> <p>Date application received: <u>1/22/15</u></p> <p>The City Council or County Commission: <u>Central Point</u> (name of city or county)</p> <p>recommends that this license be:</p> <input type="checkbox"/> Granted <input type="checkbox"/> Denied
<p>90-DAY AUTHORITY</p> <input checked="" type="checkbox"/> Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority <p>APPLYING AS:</p> <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Individuals		<p>OLCC USE ONLY</p> <p>Application Rec'd by: <u>[Signature]</u></p> <p>Date: <u>12/30/14</u></p> <p>90-day authority: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	

- Entity or Individuals applying for the license: [See SECTION 1 of the Guide]
 ① COWIN OIL COMPANY, INC ② _____
 ③ _____ ④ _____
- Trade Name (dba): CENTRAL POINT CHEVRON
- Business Location: 1570 E. PINE ST CENTRAL POINT, OR 97502
(number, street, rural route) (city) (county) (state) (ZIP code)
- Business Mailing Address: 2520 FOOTHILL BLVD GRANTS PASS, OR 97526
(PO box, number, street, rural route) (city) (state) (ZIP code)
- Business Numbers: (541) 479-5343
(phone) (fax)
- Is the business at this location currently licensed by OLCC? Yes No
- If yes to whom: FAIRGROUNDS CHEVRON Type of License: OFF PREMISES
- Former Business Name: _____
- Will you have a manager? Yes No Name: SHAWN SENEY
(manager must fill out an Individual History form)
- What is the local governing body where your business is located? CITY OF CENTRAL POINT
(name of city or county)
- Contact person for this application: SCOTT REED (541) 479-5343
(name) (phone number(s))
2520 FOOTHILL BLVD scott@colvinoil.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Scott E. Reed Date: 12/24/14 ② _____ Date _____
 ③ _____ Date _____ ④ _____ Date _____



Oregon

Liquor Control Commission

John A. Kitzhaber, MD, Governor
December 30, 2014

Colvin Oil Company, Inc.
ATTN: SCOTT REDD
2520 Foothill Blvd
Grants Pass, OR 97526

**RE: Colvin Oil Company, Inc.
CENTRAL POINT CHEVRON
1510 E. Pine Street
Central Point, Oregon 97502**

Dear Scott:

Congratulations on receiving your 90 Day Authority-To-Operate Off-Premises Sales license. In order to issue your final liquor license, the following documentation is required:

1. Liquor license application endorsed by the City of Central Point located at Central Point City Hall, City Recorder, 140 S. 3rd Street in Central Point, Oregon. Their telephone number is (541)664-3321.
2. Final purchase agreement with schedules, exhibits and signatures of buyer and seller.
3. Copy of Grant Deed to confirm purchase of property.

Upon receipt of the above information, the annual liquor license will be issued. In the event you have any questions or concerns, please give me a call at (541)776-6191 to discuss.

I thank you in advance Scott for your attention in this matter.

Sincerely,

Eddie Gonzalez License Investigator
7 Crater Lake Avenue, Ste. A
Medford, Oregon 97504
(541)776-6191 – telephone
(541)776-6188 - fax
Email - eddie.gonzalez@state.or.us



Ordinance

**Comp Plan
Amendment Zone
Change**



STAFF REPORT

February 12, 2015

AGENDA ITEM: File No. 14020

Second Reading of a Comprehensive Plan (map) Amendment from Residential Low Density to Civic and a Zoning (map) Amendment from R-1-6 and Park to Civic zoning for approximately five (5) acres located east of South Fourth Street, between Bush Street and Ash Street. The Project Site is identified on the Jackson County Assessor's map as 37S2W 11BA, Tax Lot 2200 and 37S2W11BB, Tax Lots 6300, 8200, 8300 and 8301. **Applicant:** City of Central Point.

STAFF SOURCE:

Tom Humphrey AICP, Community Development Director

BACKGROUND:

During the course of evaluating the above referenced properties as the site for a prospective Community Center and/or other uses, it came to City staff's attention that the zoning would not only restrict the development of such uses but that the zoning and land use designations were inconsistent with one another. Furthermore, the Parks maintenance yard is a legally non-conforming use in 'Park' zoning and the Public Works maintenance yard is a legally non-conforming use in R-1-6, Residential Single Family zoning. Should these uses continue or should the properties be redeveloped for a use like a Community Center, the 'Civic' zoning would be more compatible and appropriate. A public hearing was conducted by the City Council at its last meeting and one of the **actions** listed at the end of this report can be taken at this meeting.

ISSUES & NOTES:

There are 4 issues/Notes relative to this application as follows:

1. **Zoning Map and Zoning Code Text Amendments, CPMC Chapter 17.10.** This municipal code section provides standards and procedures for major and minor amendments to the Central Point city zoning map. In this case, the application was initiated by the City for property in its ownership and the action is considered a 'minor' amendment and a Type III process. The amendment should be based on the following criteria; 1) its consistency with the City's Comprehensive Plan, 2) findings demonstrating that adequate public services and transportation networks will serve the property and 3) compliance with the State's Transportation Planning Rule.
2. **Comprehensive Plan Compliance.** Approval of the proposed zone change must be found consistent with the City's Comprehensive Plan Land Use Plan Map. If the Comprehensive Plan designation is changed to Civic on the five lots in question, then Tax Lot 2200 would immediately be compliant (the skate park is already zoned civic) and the other four lots will become compliant when they are rezoned from R-1-6 and Park to a 'Civic' zoning (refer to Attachment A).

3. **Compatibility with Surrounding Land Uses and Zoning.** The proposed land use designation to the west is Jackson County School District #6 property (CPE and District Administration) which is already designated 'Civic' in the City's Comprehensive Plan Map. Land to the north, south and east is designated residential and is typically compatible with schools, churches, parks and other public uses.
4. **Transportation Planning Rule (TPR) Compliance, OAR 660-012-0060.** Criteria for TPR compliance is addressed in the City findings (Attachment B) demonstrating adequate public services and transportation networks. In this case, Plan Amendments will legitimize existing uses on the properties involved and which are already receiving public services and are part of a transportation network. Public facility master plans identify various future public improvements including the replacement of a traffic signal at Fourth and Pine Streets.

CONDITIONS OF APPROVAL:

Although a decision to approve a minor amendment may include conditions, staff has not identified the need to impose any conditions at this time. This item was reviewed and discussed by the City Planning Commission on January 6, 2015 and their unanimous recommendation of approval is attached in Resolution No. 813 with findings (Attachment B).

ATTACHMENTS:

Attachment "A" – Planning Commission Resolution No. 813 and Findings

Attachment "B" – Ordinance No. ____ An Ordinance Amending The Central Point Comprehensive Plan (Map) From Residential Low Density To Civic And The City Zoning Map From R-1-6 And Park To Civic For Approximately Five Acres Located East Of South Fourth Street And Between Bush And Ash Streets.

ACTION:

Conduct the second reading of the proposed amendment to the Comprehensive Plan (Map) and Zoning map, and 1) approve the ordinance; 2) approve the ordinance with revisions; or 3) deny the proposal.

RECOMMENDATION:

Adopt the ordinance and approve amendments to the Comprehensive Plan (Map) and zoning map.

Attachment A

PLANNING COMMISSION RESOLUTION NO. 813

**A RESOLUTION FORWARDING A FAVORABLE RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE COMPREHENSIVE PLAN (MAP) AMENDMENT AND REZONING OF APPROXIMATELY FIVE (5) ACRES EAST OF SOUTH FOURTH STREET BETWEEN BUSH AND ASH STREETS FROM LOW DENSITY RESIDENTIAL TO CIVIC
FILE NO. 14020**

Applicant: City of Central Point;

WHEREAS, the proposed Comprehensive Plan (Map) designation and zone change constitute a *minor* amendment; and

WHEREAS, Section 17.50.400 of the municipal code dictates that the City Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment; and

WHEREAS, the Plan Amendment and Zone Change from Residential to Civic uses will make existing legal non-conforming uses, permitted uses in the zone and will also be more compatible with long range plans the City has discussed relative to other community-related uses; and

WHEREAS, As evidenced in findings and conclusions, the proposed plan amendment and zone change are consistent with applicable standards and criteria in the Central Point Municipal Code, including the Statewide Planning Goals (where applicable), the Comprehensive Plan, and Statewide Transportation Planning Rule.

NOW, THEREFORE, BE IT RESOLVED, that the City of Central Point Planning Commission, by this Resolution No. 813, does recommend that the City Council approve the Comprehensive Plan (Map) amendment and zone change from Low Density Residential to Civic. This decision is based on the Staff Report dated January 6, 2015 attached hereto by reference and incorporated herein.

PASSED by the Planning Commission and signed by me in authentication of its passage this 6th day of January, 2015.

Planning Commission Chair

ATTEST:

City Representative

Approved by me this 6th day of January, 2015

**FINDINGS OF FACT
AND CONCLUSIONS OF LAW
File No.: 14020**

Before the City of Central Point Planning Commission

Consideration of a Comprehensive Plan (Map) and Zone Change (Map) Amendment Application on approximately five (5) acres located east of South Fourth Street, north of Bush Street and South of Ash Street. The property is identified on the Jackson County Assessor's map as 37S2W11BA, Tax Lot 2200 and 37S2W11BB, Tax Lots 6300, 8200, 8300 and 8301.

Applicant:)	Findings of Fact
City of Central Point, Oregon)	and
)	Conclusion of Law

**PART 1
INTRODUCTION**

It is requested that the above referenced tax lots be redesignated and rezoned to a Civic use to reflect current land use activities and to minimize land use limitations for future uses contemplated by the City. These findings have been prepared with the understanding that both the Comprehensive Plan (Map) and Zoning Map will be changed to become consistent with one another.

The zone change request is a quasi-judicial map amendment, which is processed using Type III application procedures. Type III procedures set forth in Section 17.05.400 provide the basis for decisions upon standards and criteria in the development code and the comprehensive plan, when appropriate.

Applicable development code criteria for this Application include:

1. Statewide Planning Goals
2. Comprehensive Plan
3. State Transportation Planning Rule
4. CPMC, Chapter 17.10

Findings will be presented in four (4) parts addressing the requirements of Section 17.05.300 as follows:

1. Introduction
2. Statewide Planning Goals
3. Comprehensive Plan
4. Summary Conclusion

**PART 2
STATEWIDE PLANNING GOALS**

A finding of consistency with the applicable statewide planning goals is generally reserved for major amendments only (reference CPMC, Chapter 17.10.400 Approval criteria).

Finding: The proposed Comprehensive Plan (Map) designation and zone change constitute a *minor* amendment and are consequently not subject to the Statewide Planning Goals. The Oregon Department of Land Conservation and Development was notified and has chosen not to comment on this amendment.

Conclusion: Consistent with Statewide Planning Goals.

PART 3 COMPREHENSIVE PLAN

The Comprehensive Plan Land Use Map currently designates five acres of land as Low Density Residential this is being used for Civic purposes (City Corporation Yard, Parks Maintenance Yard, Skate Park and soccer field). The Civic land use designation will legitimize these legal non-conforming uses and be more consistent with plans that the City has discussed relative to a Community Center.

Finding: The project site consists of approximately five (5) acres of Low Density Residential land being used for various civic purposes. The Plan Amendment and Zone Change to Civic uses will make legal non-conforming uses, permitted uses and will also be more compatible with long range plans the City has discussed relative to other community-related uses.

Conclusion: Consistent.

PART 4 STATEWIDE TRANSPORTATION RULE

Section 660-012-0060(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- a) Change the functional classification of an existing or planned transportation facility;*
- b) Change standards implementing a functional classification system; or*
- c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow types or levels of land uses that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Finding 660-012-0060(1)(a): The proposed plan amendment and zone change does not change the functional classification of an existing or planned transportation facility. The proposed zone change may increase Average Daily Trip (ADT) generation over time, as shown in Table 1. The current trips being generated by the City-related uses provide the minimum ADT while a heavier use (i.e. a community center or school campus) provide the maximum ADT. The proposed zone change will not cause any changes to the functional classification of any existing or planned transportation facilities.

Table 1. Proposed Zone Change Impact to Average Daily Trips							
Zoning	Site Acreage	Min Density	Min Units	Min ADT	Max Density	Min Units	Max ADT
Civic	5.00	N/A	N/A	389.5	N/A	60K GFA	1649.4
R-1-6	5.00	4	20.0	190.4	6	30.0	285.6

Conclusion 660-012-0060(1)(a): No significant affect.

Finding 660-012-0060(1)(b): The proposed plan amendment and zone change could increase the ADTs over time (Table 1). However, the proposed amendments will not cause a change to standards implementing the City’s transportation system.

Conclusion 660-012-0060(1)(b): No significant affect.

Finding 660-012-0060(1)(c)(A): The proposed plan amendment and zone change will not cause an increase in land uses that would result in levels of travel or access that would be inconsistent with the City’s functional street classification system for existing and planned transportation facilities. As shown in Table 1, the proposed changes may increase ADTs over time but not significantly more than those non-conforming uses already generating trips.

Conclusion 660-012-0060(1)(c)(A): No significant affect.

Finding 660-012-0060(1)(c)(B): The proposed plan amendment and zone change may result in a gradual increase in ADTs over time and as property redevelops as demonstrated in Table 1. The proposed zone change will not reduce the performance of any existing or planned transportation facilities below the minimum acceptable performance standard identified in the Master Plan, or in the City’s Transportation System Plan.

Conclusion 660-012-0060(1)(c)(B): No significant affect.

Finding 660-012-0060(1)(c)(C): The proposed plan amendment and zone change will not cause the worsening of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Master Plan or Comprehensive Plan. Captital improvements are scheduled in the City’s TSP that are anticipated to mitigate the impacts of redevelopment in this sector of the community.

Conclusion 660-012-0060(1)(c)(C): No significant affect.

**PART 5
ZONING ORDINANCE**

17.10.300 Quasi-judicial amendments.

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial zoning map amendments shall follow the Type III procedure, as governed by Section 17.05.400, using standards of approval in subsection B of this section. The approval authority shall be as follows:

- 1. The planning commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;*
- 2. The planning commission shall make a recommendation to the city council on an application for a comprehensive plan map amendment. The city council shall decide such applications; and*
- 3. The planning commission shall make a recommendation to the city council on a land use district change application that also involves a comprehensive plan map amendment application. The city council shall decide both applications.*

Finding 17.10.300(A): A plan amendment and zone change application has been submitted to redesignate five acres from Low Density Residential to Civic and to rezone R-1-6, SF Residential to Civic District. The proposal will be considered by the planning commission and a recommendation will be made to the City Council for final decision.

Conclusion 17.10.300(A): Consistent.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- 1. Approval of the request is consistent with the applicable statewide planning goals;*

Finding 17.10.300(B)(1): See Part 2, Statewide Planning Goals findings and conclusions.

Conclusion 17.10.300(B)(1): Consistent

- 2. Approval of the request is consistent with the Central Point comprehensive plan;*

Finding 17.10.300(B)(2): See Part 3, Comprehensive Plan findings and conditions.

Conclusion 17.10.300(B)(2): Consistent.

- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and*

Finding 17.10.300(B)(3): Public facilities, services and transportation networks have been established pursuant to the City's TSP and are sufficient to serve the allowable uses. The proposal will not significantly increase the demand on public facilities over the current uses.

Conclusion 17.10.300(B)(3): Consistent.

4. *The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.*

Finding 17.10.300(B)(4): The proposed plan amendment and zone change are consistent with Strategic Planning goals, are in the interest of the community, are compatible with surrounding land uses and correct inconsistencies in the Comprehensive Plan and zoning maps.

Conclusion 17.10.300(B)(4): Consistent.

17.10.600 Transportation planning rule compliance.

Section 660-012-0060(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- a) *Change the functional classification of an existing or planned transportation facility;*
- b) *Change standards implementing a functional classification system; or*
- c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - (A) *Allow types or levels of land uses that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

Finding 17.10.600(1): See Part 4, Statewide Transportation Planning Rule findings and conclusions.

Conclusion: Consistent.

Summary Conclusion: As evidenced in findings and conclusions, the proposed plan amendment and zone change are consistent with applicable standards and criteria in the Central Point Municipal Code, including the Statewide Planning Goals (where applicable), Comprehensive Plan, and Statewide Transportation Planning Rule.

Attachment B

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CENTRAL POINT COMPREHENSIVE PLAN (MAP) FROM RESIDENTIAL LOW DENSITY TO CIVIC AND THE CITY ZONING MAP FROM R-1-6 AND PARK TO CIVIC FOR APPROXIMATELY FIVE ACRES LOCATED EAST OF SOUTH FOURTH STREET AND BETWEEN BUSH AND ASH STREETS. (37S2W11BA, TL 2200 and 37S2W11BB, TLs 6300, 8200, 8300 & 8301)

Recitals:

- A. The City of Central Point (City) is authorized under Oregon Revised Statute (ORS) Chapter 197 to prepare, adopt and revise comprehensive plans and implementing ordinances consistent with the Statewide Land Use Planning Goals.
- B. The City has coordinated its planning efforts with the State in accordance with ORS 197.040(2)(e) and OAR 660-030-0060 to assure compliance with goals and compatibility with City Comprehensive Plans.
- C. Pursuant to authority granted by the City Charter and the ORS, the City may amend the Central Point Zoning Map which was originally adopted on August 29, 1980 and has been amended at various times since.
- D. Pursuant to the requirements set forth in CPMC Chapter 17.10.100 Zoning Map and Zoning Code Text Amendments – Purpose and Chapter 17.05.010, Applications and Development Permit Review Procedures, the City has accepted an application and conducted the following duly advertised public hearings to consider the proposed amendment(s):
 - a) Planning Commission hearing on January 6, 2015
 - b) City Council hearings on January 22, 2015 and February 12, 2015.

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

Section 1. Based upon all the information received, the City Council adopts the findings of fact and conclusions of law set forth in the City staff report; determines that changing community conditions, needs and desires justify the amendments and hereby adopts the changes entirely.

Section 2. The City Comprehensive Plan (Map) is hereby amended as set forth in Exhibit 1 which is attached hereto and by this reference incorporated herein.

Section 3. The City zoning map is hereby amended as set forth in Exhibit 2 which is attached hereto and by this reference incorporated herein.

Section 4. The City Manager is directed to conduct post acknowledgement procedures defined in ORS 197.610 et seq. upon adoption of the changes to the zoning and Comprehensive Plan maps.

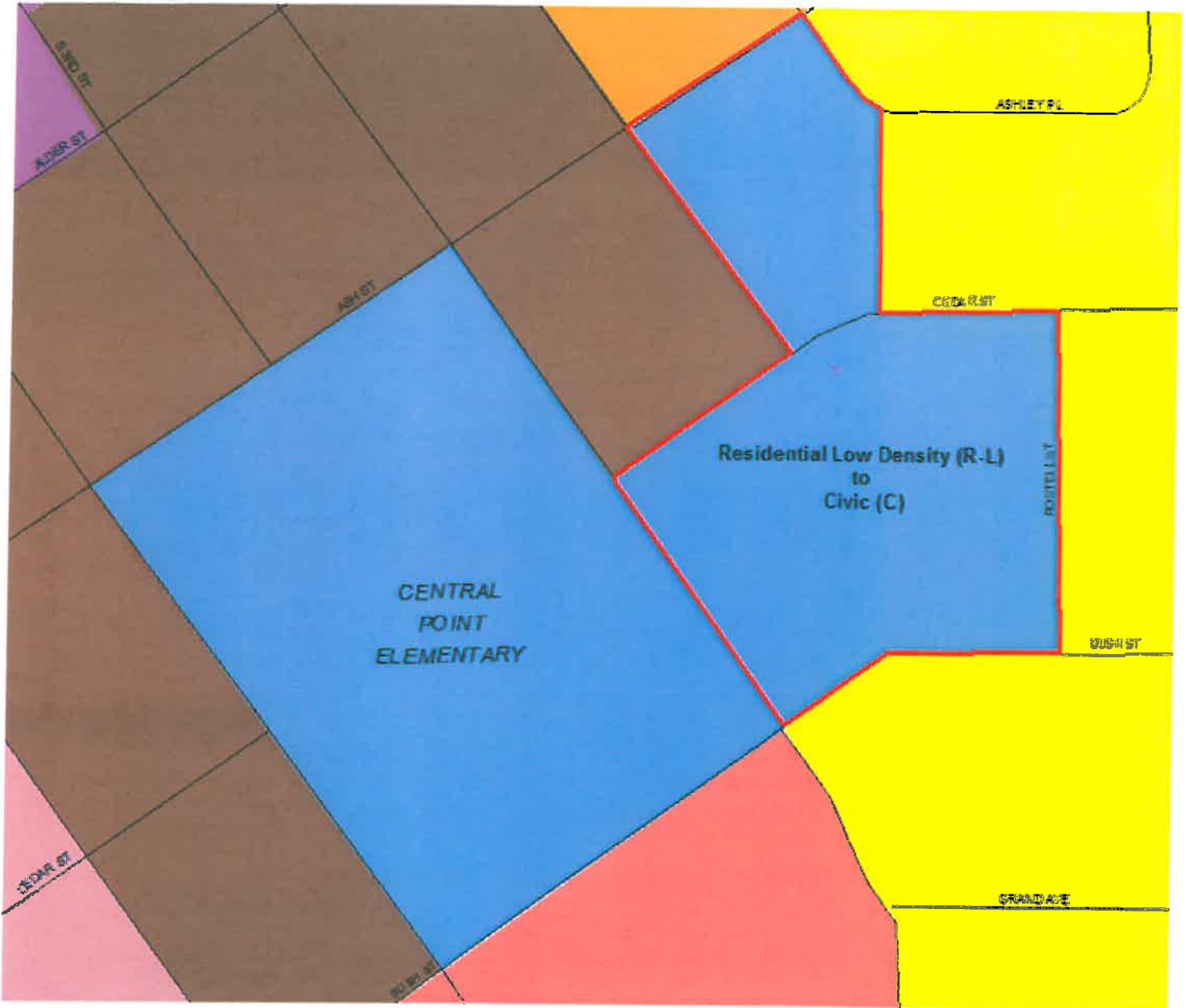
Section 5. Effective date. The Central Point City Charter states that an ordinance enacted by the council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

Passed by the Council and signed by me in authentication of its passage this _____ day of _____, 20____.

Mayor Hank Williams

ATTEST:

City Recorder



Legend

as of UGB

Mixed Use

- TOD Center
- TOD District

East Side TOD

- Civic* (C)
- Low Mix* (LMR)
- Medium Mix* (MMR)

Residential

- Very Low Density
- Low Density
- Medium Density
- High Density

Commercial

- Neighborhood Convenience Center
- Tourist and Office Professional
- Thoroughfare Commercial

Industrial

- Light
- General

Civic and Open Space

- Paris and Open Space
- Civic

*All development within the ETOD subject to special conditions per CPMD Section 17.69.65(A), ETOD Tip Cap.

**Comprehensive Land Use Plan
2008-2030**

Map Version: Dec. 15, 1999; Aug. 2010
Dec. 16, 1999; May 2010

This map is intended for graphic display and planning purposes only.
Current UGB boundaries for parcels are represented on the map.
Scale: Plan, 2008 1:25000
DWD 28 APRIL 2010



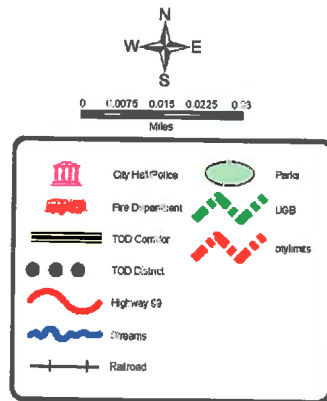
CENTRAL POINT Zoning Map

Population 17,235

City of Central Point Planning Department
Jackson County SmartMap

This map is intended for graphic display and reference only. Some parcels are not represented in this map.
MWD 29 OCT 2012
C:\zoning\2010_2012

Legend	
	BCO - Bear Creek Overway
	C-2 (M) - Commercial - Medical District
	C-4 - Towne and Office
	C-6 - Townsquare Commercial
	DN - Neighborhood Commercial
	Civic (TOD)
	EC - Employment Commercial (TOD)
	CC - Central Commercial (TOD)
	HMR - High Mile Residential Commercial (TOD)
	LMR - Low Mile Residential (TOD)
	M-1 - Industrial
	M-2 - Industrial General
	MWR - Midway Residential (TOD)
	OS - Open Space (TOD)
	R-3 - Multiple Family Residential
	R-2 - Two-Family Residential
	R-1-S - SF Residential - 5,000
	R-1-B - SF Residential - 8,000
	R-1-L - SF Residential - 10,000
	RL - Low Density Residential



Resolution

2015 Council Rules

Update



ADMINISTRATION DEPARTMENT

140 South 3rd Street · Central Point, OR 97502 · (541) 664-7602 · www.centralpointoregon.gov

STAFF REPORT
February 12th, 2015

AGENDA ITEM: Briefing, discussion and adoption of amended city council rules and code of ethics.

STAFF SOURCE:

Chris Clayton, City Manager

BACKGROUND/SYNOPSIS:

Per the 2010 city charter (chapter III, section 10), the City Council must adopt, via resolution, rules governing city council meetings. The attached **draft** council rules and code of ethics are revised to reflect consistency with the 2010 charter.

ATTACHMENTS:

1. Draft council rules and code of ethics.

RECOMMENDATION:

1. Council discussion, amendments as necessary, and adoption of the attached council rules and code of ethics.

PUBLIC HEARING REQUIRED:

No – Public Comment can be accepted on this discussion item, but no public hearing is required.

SUGGESTED MOTION:

I move to approve resolution _____ adopting city council rules as proposed.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE 2015 RULES OF THE
CITY COUNCIL AND CODE OF ETHICS**

WHEREAS, the City Council of the City of Central Point owes to the residents and tax payers the highest degree of loyalty, integrity and good faith; and

WHEREAS, the City Council is responsible for administering the affairs of the City honestly and economically, exercising their best care, skill and judgment for the benefit of the taxpayers and residents of the City; and

WHEREAS, the City Council has the inherent right to make and enforce its own rules to ensure compliance with those laws generally applicable to public bodies; and

WHEREAS, required by the 2010 city charter; and

WHEREAS, it is established policy of the City Council of the City of Central Point, Oregon, does hereby adopt the 2015 Rules of the City Council and the Code of Ethics.

AND, BE IT FURTHER RESOLVED that each member of the City Council shall complete a Conflict of Interest acknowledgment statement after each General Election giving that member the opportunity to declare any existing or potential conflict of interest.

Passed by the Council and signed by me in authentication of its passage this _____ day of February, 2015.

Mayor Hank Williams

ATTEST:

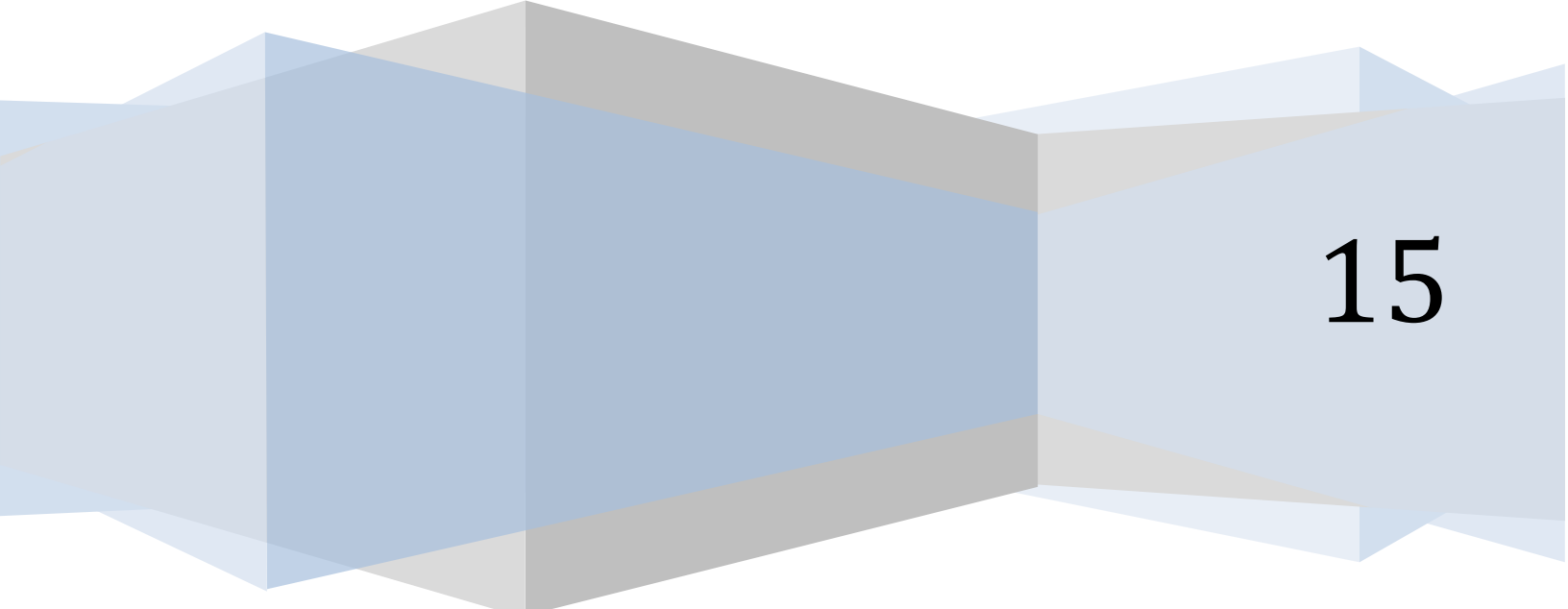
City Recorder

Approved by me this _____ day of February, 2015.

Mayor Hank Williams

City of Central Point

Rules of the City Council



15

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RULES OF THE CITY COUNCIL OF CENTRAL POINT, OREGON

COUNCIL MEETINGS

1. Regular Council Meetings. The Council shall hold two regular meetings on the second and fourth Thursdays of each month, except in those cases where the Council finds it necessary to designate another date, due to conflicts. Regular meetings shall be convened in the City Council Chambers in City Hall, shall be called to order at 7:00 p.m., and shall adjourn no later than 10:00 p.m. unless extended by a majority vote of the Council or the meeting may be continued to a later designated date, but in no event shall meetings extend beyond eleven p.m.
2. Executive Sessions. Executive sessions may be called by the Mayor, City Manager or by majority consent of all members of the Council. Only Council Members, the City Manager and persons specifically invited by the Council or the City Manager shall be allowed to attend executive sessions. Representatives of recognized news media may attend executive sessions in accordance with applicable law. No matter discussed during executive session may be disclosed by any person present during such session.
3. Special Meetings. Special Meetings may be called by the Mayor or by unanimous consent of the Council. Written notice of all special meetings shall be given at least 24 hours in advance of the scheduled meetings. Notice shall be given to each Council Member, the City Manager, and the business office of each local newspaper, radio and television station which has a written request on file for notice of special meetings, and may be delivered by mail, electronic facsimile (FAX), E-mail, or by personal delivery.
4. Public Attendance. All regular and special meetings shall be open to the public.

THE PRESIDING OFFICER

5. The Mayor. The Mayor shall preside at all regular and special meetings and executive sessions of the Council and shall be the recognized head of the City for all ceremonial purposes. The Mayor shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.
6. Council President. At the first meeting of each odd-numbered year, the Council shall, by vote of the Council, elect a President from its membership. In the Mayor's absence from any Council meeting, the President shall act as the presiding officer. Whenever the Mayor is unable, on account of absence, illness, or other cause, to perform the functions of the office, the President shall act as Mayor Pro Tem.

7. Temporary Chairperson. In event of the absence of the Mayor and Council President, the City Administrator shall call the Council to order and call the roll of the members. If a quorum is present, those Councilors present shall elect, by majority vote, a Temporary Chairperson for that meeting. Should the Mayor or Council President arrive, the Temporary Chairperson shall relinquish the chair immediately upon the conclusion of the item of business then under consideration before the Council.

EMPLOYEE DUTIES

8. City Recorder. The City Recorder shall be the Clerk for the Council and shall keep minutes of meetings and shall perform such other duties at the meetings as ordered by the Presiding Officer or the Council. The City Recorder shall furnish each Council Member with a copy of the minutes of each preceding meeting in the agenda packet for the next meeting.
9. City Attorney. The City Attorney shall attend meetings of the Council. At any Council meeting any member of the Council may, at any time, call upon the City Attorney for an informal, oral opinion. Written opinions shall be authorized by a majority of the Council.
10. The Chief of Police. Unless otherwise directed by the Council, the Chief of Police or his/her designee may attend each Council meeting to serve as the Sergeant-at-Arms, and shall carry out all orders or instructions upon direction of the Presiding Officer or upon any other procedure specifically provided by these rules.
11. Officers and Employees. Any member of the City Council may request that the City Administrator direct any employee to attend regular, special or executive meetings to confer with the Council on matters relating to the City.

DECORUM AND ORDER

12. Mayor. The Mayor, or presiding officer, shall preserve decorum and decide all points of order, subject to appeal by the Council.
13. Council Members. Council Members shall preserve order and decorum during Council meetings, and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Mayor, Presiding Officer, or these rules. Council Members shall, when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker, and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office. Council Members shall request administrative directives for staff through the City

- Manager for compliance.
14. Staff and Public. Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.
 15. Removal of any person. Any person who makes personal, impertinent, slanderous or who fails to comply with reasonable rules of conduct or who causes a disturbance while addressing the Council or attending a Council meeting shall be removed from the room if the Sergeant-at-Arms is so directed by the Presiding Officer. In case the Mayor or Presiding Officer should fail to act, any member of the Council may obtain the floor and move to require enforcement of this rule and upon affirmative vote of the majority of the Council present, the Sergeant-at-Arms shall be authorized to remove the person or persons, as if the Mayor or Presiding Officer so directed.
 16. Censure.
 - 16.1 The Council has the inherent right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies. Should any Council Member act in any manner constituting a substantial violation of these rules or other general laws, the Council, acting as the whole, may discipline that Council Member to the extent provided by law, including public reprimand.
 - 16.2 To exercise such inherent right, the Council has the right to investigate the actions of any member of the Council. Such investigation shall be referred to the Committee of the Whole upon a finding that reasonable grounds exist that a substantial violation has occurred.
 - 16.3 The Committee of the Whole shall investigate the actions and present a report to the Council. Neither the Committee of the Whole nor the Council or any member thereof shall have the right to make public any information obtained through such investigation.
 - 16.4 Any member accused of a substantial violation of the Council rules or any other general law shall have the right to present a defense to the allegations, including the right to present rebuttal evidence, and to have representation by Council. Upon finding, by clear and convincing evidence that a substantial violation has occurred and that such violation affects the Council Member's ability to represent the interest of the City as a whole, the Council may, upon unanimous vote of Council Members, other than the Council Member subject to censure proceedings, impose a proper sanction.

DUTIES AND PRIVILEGES OF MEMBERS

17. Code of Ethics. Council Members shall conduct themselves so as to bring credit upon the City as a whole, and to set an example of good ethical conduct for all citizens of the community. Councilors should constantly bear in mind these responsibilities to the entire

electorate and refrain from actions benefitting any individual or special interest group at the expense of the City as a whole. Council Members should likewise do everything in their power to insure impartial application of the law to all citizens and equal treatment of each citizen before the law, without regard to race, national origin, sex, social status or economic position.

18. Debate.

18.1 Any Council Member who has the floor shall confine himself or herself to the question under debate and refrain from impugning the motives of any member's argument or vote. No member shall address the chair or demand the floor while a vote is being taken.

18.2 Council Members shall limit their remarks on a subject to five minutes unless granted additional time by the majority of the Council. No Council Member shall be allowed to speak more than once upon any one subject until every other member choosing to speak thereon has spoken.

18.3 A Council Member, once recognized, shall not be interrupted while speaking, unless called to order by the Mayor or Presiding Officer, or unless a point of order is raised by any Council Member while he or she is speaking, in which case he or she shall cease speaking immediately until the point is determined. If ruled to be in order he or she shall be permitted to proceed; if ruled to be out of order he or she shall remain silent or shall alter his or her remarks to comply with the ruling.

19. Right to Appeal. Any member may appeal a ruling of the Mayor or Presiding Officer to the Council. If the appeal is seconded, the member making the appeal may briefly state the reason for the appeal and the Mayor or Presiding Officer may briefly explain his ruling; but there shall be no debate on the appeal and no other question other than, "Shall the decision of the chair stand as the decision of the Council?" If the majority of the members vote Aye, the ruling of the chair is sustained; otherwise it is overruled.

20. Dissent and Protest. Any Council Member shall have the right to express dissent from or protest against any Ordinance, Resolution or decision of the Council and have the reason therefore entered upon the Council minutes. Such dissent or Protest must be filed in writing, couched in respectful language, and presented to Council not later than the next regular meeting following the date of passage of the Ordinance, Resolution or decision objected to.

21. Excusal During the Meeting. No member may leave the Council meeting while in regular session without permission from the Mayor or Presiding Officer.

22. Personal Privilege. The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character or motives are assailed, questioned or impugned.

ORDER OF BUSINESS AND AGENDA

23. Order of Business. The business of all regular meetings of the Council shall be transacted as follows; provided, however, that when it appears to be in the best interest of the public, the Mayor or Presiding Officer may change the Order of Business:

- I. Regular Meeting Call to Order 7:00 p.m.**
- II. Pledge of Allegiance**
- III. Roll Call**
- IV. Special Recognition (when appropriate)**
- V. Public Appearances**
- VI. Consent Agenda**
- VII. Items Removed from Consent Agenda**
- VIII. Public Hearings, Ordinances & Resolutions**
- IX. Business**
- X. Mayor's Report**
- XI. City Manager's Report**
- XII. Council Reports**
- XIII. Department Reports**
- XIV. Executive Session**
- XV. Adjournment**

24. Agendas. Staff shall prepare an agenda for every regular, and if requested, for every special Council meeting. Items may be placed on the agenda by any person, but such items shall be presented to the City Manager, in writing, at least seven days prior to the meeting in which they are to be discussed. Upon approval by the Mayor, City Manager, or Council Member, the item shall be placed on the agenda for consideration.

Agendas and informational material for regular meetings shall be distributed to the Council at least three days prior to the meeting.

New business brought before the Council in a meeting may be referred to the City Administrator for a report at a future Council meeting.

25. Additions to the Agenda. A request to add an item for Council consideration to the Council may be presented at the Council meeting but shall require a majority concurrence of the members present to be so added. These items should be limited to emergency items.
26. Special Orders of Business. Agenda items that are of special importance to the Council may be treated as Special Orders of Business. Special Orders of Business agenda items

take precedence over all other items except Pledge of Allegiance.

27. Consent Agenda. Items of a routine and non-controversial nature are placed on the Consent Agenda. The Mayor or any Councilor may request an item be removed from the Consent Agenda if discussion is requested. Presentations or questions of staff may be requested by the Mayor or any Councilor prior to voting on the Consent Agenda and without removing these items from the Consent Agenda. Items removed from the Consent Agenda will be placed on the “Items removed from the Consent Agenda” portion of the Regular Agenda. Consent Agenda items are approved by one motion. Possible items for the Consent agenda would be, but not limited to:

- Council/Committee Minutes
- OLCC Requests
- Committee Appointments
- Temporary Street Closures
- Surplus Property requests
- Grant Requests
- Annual Proclamations
- Routine housekeeping items

CONSIDERATION OF BUSINESS

28. Quorum. A majority of the Council shall constitute a quorum to do business.
29. Voting. Unless otherwise provided by statute, ordinance or resolution, upon any question before the Council a roll call vote shall be made, provided, however, upon demand by any member of the Council, the topic may be tabled until further information, deemed necessary before a vote, has been provided to the Council for consideration. No Council Member may explain the reasons for his or her vote during the roll call. After a vote has been taken the Mayor or Presiding Officer shall announce the results of the vote.
30. Voting Required. Every member present when a question is called shall vote either Aye or Nay, unless the Council, by unanimous consent, excuse’s a member for a special reason or unless a member has a conflict of interest under applicable law, in which case no consent is required. There shall be no debate on such a request.
31. Minimum Votes Required in Certain Situations. Any action or direction of the Council shall require the affirmative vote of a majority of those Council persons in attendance at a meeting for which a quorum is present to conduct business.
32. Ayes and Nays. On the passage of every Ordinance the vote shall be taken by Ayes and Nays and entered into the record.

33. Tie Vote. Per the city charter, a majority of a quorum is required for the approval of an ordinance, resolution, order or motion. In the event of a tie, the motion fails.

PUBLIC COMMENT

34. Policy. The Council recognizes that public input unto the governmental process is an invaluable aid to informed decision making. Therefore, it is the policy of the Council that all citizens shall have the right to speak before the Council on matters of public concern, but each citizen shall be responsible for abuse of such right. Consequently, to ensure that the greater public interest is fostered, each citizen or group of citizens who desires to speak before the Council shall have the duty to exercise this right in a manner which furthers the greater public interest.
35. Public Comment Generally. Any member of the general public wishing to address the Council on a matter of public concern may do so at the time set for public comments during each regular session of the Council. Any member so addressing the Council shall be limited to a period of five minutes within which to make themselves heard. The Council, in its sole discretion, may extend this time, or may request further information be presented to the Council on such date and in such manner as it deems appropriate.
36. Persons Sharing Common Concerns. If any group of three or more persons sharing a common viewpoint on any subject wishes to address the Council during the time for public comment, the group shall select a spokesperson, who shall present the views of the group to the Council. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., may be presented to the Council for consideration at the conclusion of the spokes person's remarks.
37. Request to address the Council. All persons or groups wishing to address the Council during the time set for public comments shall, prior to the convening of the meeting, fill out a written request form provided by the City Administrator, indicating the name of the person, the residence of the person, and the subject of public concern on which the persons or groups wishes to address the Council.
38. Complaints and suggestions to the Council. When any citizen brings a complaint before or makes a suggestion to the Council, other than for items already on the agenda, the Mayor or Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:
- 38.1 If legislative, and the complaint is about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to the City Attorney, a committee, the City Manager or the Committee of the Whole for study and recommendation.

38.2 If administrative, and the complaint is regarding administrative staff performance, administrative execution of interpretation of legislative policy, or administrative policy within the authority of the City Administrator, the Mayor or Presiding Officer shall then refer the complaint directly to the City Administrator for review. The City Manager shall direct the report to the Council when the review has been made.

PROCEDURE FOR COUNCIL MEETINGS

39. Rules of Order. Unless otherwise provided by law or by these rules, the procedure for Council meetings shall be governed by Robert's Rules of Order.
40. Construction of Rules of Order. The Council has an obligation to the citizens to be clear and simple in its procedures and in the consideration of the questions coming before it.

Therefore, the rules of procedure should be liberally construed to that purpose, and Council Members should avoid invoking the fine points of parliamentary procedure when such points serve only to obscure the issues before the Council as a whole and confuse the audience at public meetings and the citizens in general.

41. Convening the Meeting. At the time appointed, the Mayor or Presiding Officer shall take the chair at the hour appointed for the Council to meet and shall immediately call the members to order. The Deputy Recorder shall enter in the minutes of the meeting names of the members present.
42. Recognition. Every Council Member desiring to speak shall first address the chair, and await recognition to obtain the floor. No persons other than members of the Council and the person having the floor shall enter into any discussion, either directly or through a member of the Council without the permission of the Mayor or Presiding Officer.
43. Requirement of a Second Before Debate. No motion shall be debated until it has been seconded and announced by the Mayor or Presiding Officer.
44. Motions Reduced to Writing. Any Council Member may request that a motion be reduced to writing and read by the City Administrator.
45. Council Questions to Staff. Every Council Member desiring to question the administrative staff shall address his or her question to the City Manager, who shall be entitled to either answer the inquiries or designate some member of the staff for that purpose.
46. Citizen Participation. Except as specified in Section 36 herein, citizens desiring to address the Council shall first be recognized by the chair and shall limit remarks to the

question then under discussion. All remarks and questions shall be addressed to the Council as a whole and not to any individual Council Member thereof. Any remarks and questions regarding administration of the City shall be referred to the City Manager by the Mayor or Presiding Officer.

47. Precedence of Motions. When a question is before the Council no motion shall be entertained except:
- a) To abide by the rules
 - b) To adjourn
 - c) To lay on the table
 - d) For the previous question postpone to a certain date
 - e) To refer
 - f) To amend
 - g) To postpone indefinitely

These motions shall have precedence in the order indicated. Any such motion, except a motion to amend, shall be put to a vote without debate.

48. Motion to be Stated by Mayor or Presiding Officer/Withdrawal. When a motion is made and seconded it shall be stated by the originator or the Mayor or Presiding Officer before debate. A motion may not be withdrawn without the consent of the member seconding it.
49. Motion to Adjourn – When not in Order – When not Debatable. A motion to adjourn will be in order at any time except as follows:
- a) When made as an interruption of a member while speaking
 - b) When the previous question has been ordered
 - c) While a vote is being taken

A motion to adjourn is debatable only as to the time at which the meeting is adjourned.

50. Motion to Lay on the Table. A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, consideration of the subject may be resumed only upon motion of a member voting with the majority and with the consent of two-thirds of the members present.
51. Division of Question. If the question contains two or more dividable propositions the Mayor or Presiding Officer may upon request of the members, divide the same.
52. Motion to Postpone. All motions to postpone, excepting to postpone indefinitely, may be amended as to time. If a motion to postpone indefinitely is carried, the principal question shall be declared defeated.

53. Suspension of Rules. No rule shall be suspended except by the vote of the majority of Council Members present at the meeting. A motion to suspend a rule is not debatable.
54. Adjourned Meetings. Upon motion and majority vote of Council Members present, any meeting of the Council may be continued or adjourned from day to day or for more than one day, provided that no adjournment shall be for a period longer than the next regular meeting thereafter.

CITY BOARDS, COMMISSION, LAY COMMITTEES AND COUNCIL COMMITTEES

55. City Boards, Commissions, and Lay Committees. Unless otherwise provided by statute, ordinance or resolution, the following shall be the procedure for the creation of and appointments to all City Boards, Commissions, and Lay Committees:
- a. Creation and Dissolution. At any time, the Council may, by ordinance or resolution, establish any City Board, Commission or Lay Committee deemed necessary and in the best interests of the City, other than the Planning Commission. Any committee so created may contain one or more Council Members as members, and unless otherwise provided, all City Boards, commissions, and Lay Committees so created shall sunset at the end of their mission, but in all events shall be reviewed yearly from the date of initial creation, and at such time shall either be preauthorized or dissolved.
 - b. Qualifications. All appointees to City Boards, Commissions, and Lay Committees shall be registered electors and shall have resided in the City of Central Point for a minimum period of one year. No appointee may serve on more than two City Boards, Commissions, and Lay Committees at any one time.
 - c. Term. The term of all appointments shall be for one year or less, unless otherwise stated, beginning with the first Council meeting in January. Appointments may be renewed for any number of terms.
 - d. Vacancies. Any qualified citizen may submit a letter of interest for any open position on a City Board, Commission, or Lay Committee. Vacancies shall be advertised in the local media and letters of interest shall be received only during the time set forth in the advertisement.
 - e. Nomination and Confirmation. Nominations for positions on City Boards, Commissions, and Lay Committees may be made by the Mayor or by any two Council Members, and shall be subject to confirmation by the Council.
 - f. Notification of Expiration of Terms. The City Administrator shall give written notice to the Council of the expiration of the term of office of all members of City

Boards, Commissions, and Lay Committees at least thirty (30) days prior to expiration date of any appointee's term of office.

- g. Removal. All lay members of City Boards, Commissions, and Lay Committees serve at the pleasure of the Council and may be removed at any time for any reason whatsoever upon motion and vote by a majority of the Council.

All Council Member seats on the City Boards, Commissions, and Lay Committees are reserved for sitting Council Members and upon expiration of any Council Members term, or upon resignation, removal, or death, the Council Member's seat on any City Boards, Commissions, and Lay Committees occupied by that person shall be immediately declared vacant, and a sitting Council Member appointed as a replacement.

56. Council Committees.

56.1 Creation and Dissolution. Council Committees may be created at any time by resolution or motion. All Council Committees shall have a Chairperson and Secretary, who may be either appointed by the Mayor, or by a majority vote of the members of the committee in the absence of such appointment. Such committee shall report to the Council without unnecessary delay upon matters referred to them. All Council Committees, so created, shall sunset at the end of their mission, but in all events shall be reviewed at the first Council meeting of January each year for preauthorization, and at such time shall either be preauthorized or dissolved.

56.2 Membership. Membership on such Council Committees shall include only sitting Council Members, who shall be appointed by the Mayor or Presiding Officer, subject to confirmation by the Council. Council Committee appointments shall be for a term of one year, unless otherwise stated, and Councilors may be reappointed for an indefinite number of terms.

56.3 Meetings. Council Committee meetings may be called by the Chairman, or by any two members. A majority of the members of a Committee shall constitute a quorum to do business.

- 57. Meetings Subject to Oregon Open Meetings Law. All meetings of any City Boards, Commissions, and Lay Committees or Council Committees shall be subject to and comply with the Oregon Public Meetings Law, ORS 192.610-192.710, (or as such provisions are hereafter amended).

- 58. Quorums. A majority of the sitting members of any City Boards, Commissions, and Lay Committees or Council Committees shall constitute a quorum to do business.

- 59. Registry. The City Manager shall prepare, keep current, and retain on file in the Office of the City Recorder a list of all appointees to all City Boards, Commissions, and Lay

Committees, the date of their appointment, the length of their unexpired term, and their addresses and phone numbers. All Council Members shall be given a copy of this list at least once yearly, or upon any substantial change in membership of any City Board, Commission, and Lay Committee.

MISCELLANEOUS

60. Amendments to Council Rules. Amendments to these rules shall be made by resolution.
61. Anonymous Communications. Anonymous and unsigned communications shall not be introduced in Council meetings.

Adopted by Resolution No._____, on February_____, 2015.

CENTRAL POINT CITY COUNCIL CODE OF ETHICS

The Central Point City Council (hereinafter referred to as “Council”) believes that it is expedient and proper to adopt a Code of Ethics in order to clarify the authority exercised by the Council, or individual Council Members, and general rules applicable to Council Members’ conduct of City business.

The Council is committed to excellence in leadership that results in the highest quality of service to its residents and taxpayers.

This Code of Ethics is subject to annual review and re-adoption. A copy will be furnished each December to allow persons who will be holding office effective the following January 1 time to review the document. Amendments (if desired) and re-adoption will occur annually.

1. We, as a Council, shall attempt to maintain an environment emphasizing the dignity of each individual Council Member, the importance of respect for the style, values and opinions of one another, and encouraging responsiveness and attentive listening in our communications.
2. We, as a Council, recognize that our primary responsibility is the formulation and evaluation of policy; the employment of a City Manager to be in charge of the city business under the direction of the Council; and to discharge other duties as directed by policy of the council. Matters concerning the operational aspects of the City shall be the responsibility of the professional staff members of the City.
3. We, as a Council, commit ourselves to the highest standards of ethical conduct and behavior. We shall hold no secret meeting, have no hidden agendas, nor engage in gossip. We shall conduct the business affairs of the City before the general public in accordance with Oregon Law.
4. We, as a Council, commit ourselves to focusing on issues rather than personalities. We wish to encourage the presentation of others’ opinions. We will avoid cliques and voting blocks based on personalities rather than on issues.
5. We, as a Council, shall be committed to supporting Council action. The Council agrees that while an individual Council Member may disagree with a policy or action adopted by a majority vote of the Council, he/she should support said policy or action as being the considered judgment of the Council. The individual member shall have the right and duty to present further evidence and argument to the Council, and the Council shall have the duty of reconsidering upon proper evidence. We acknowledge the right of individuals to disagree with ideas, without being disagreeable.

6. We, as a Council, shall practice the following procedures in:
 - a. Seeking Clarification on Informal Items.
 - Council Members may directly approach professional staff members to obtain additional information needed to supplement, upgrade or enhance their knowledge to improve decision making.
 - b. Handling Complaints.
 - Complaints made to members of the Council should be directly referred to the Office of the City Administrator for processing.
7. We, as a Council, shall recognize the work of the City as a team effort. All Council Members shall work together in a collaborative process, assisting each other the Mayor or Presiding Officer in conducting the affairs of the City.
8. We, as a Council, when responding to citizen requests or concerns, shall be courteous, respond to individuals in a positive manner and may, when appropriate, route their concerns and interests through City Staff.
9. We, as a Council, are encouraged to work with the City Manager at our mutual convenience, to discuss current issues, policies, concerns, and City projects.
10. We, as a Council, will operate as a whole. Issues of concern to individual Council Members will be brought to the attention of the Council as a unit for review and consideration. Ex parte communications will be disclosed to all Council business.
11. We, as a Council, shall be responsible for monitoring the City's progress in attaining established goals and objectives.
12. We, as a Council, acknowledge that each Council Member has the right to agree or disagree with any council action or policy and to discuss his or her position on an issue with their constituents. We further agree that such discussions should be conducted with decorum and with the goal of informing the citizenry and fostering confidence in the operation of the City.
13. We, as a Council, shall be prepared by reviewing City materials and will engage in a program of development toward improving our policy and decision making capabilities.
14. We, as a Council, shall be committed to developing short and long range planning goals for the future needs of the City.

STATEMENT OF ACKNOWLEDGMENT
CONFLICT OF INTEREST/CODE OF ETHICS

I, _____, am a member of the City of Central Point City Council.

I acknowledge that I have received a current copy of the Central Point City Council Code of Ethics and will be prepared to discuss any modifications or changes to it for the next fiscal year. I am in conceptual agreement with the contents and agree to conduct myself as a member of the Council in a manner reflecting high ethical standards.

I also acknowledge that I have received a copy of the Conflict of Interest Resolution adopted by the Council. I am not involved in any situation which could be construed as placing me in the position of having a potential conflict of interest with the City, except possibly the following:

Signature: _____

Date: _____

Resolution

Setting Water Rates



STAFF REPORT

To: City Council
From: Matt Samitore, Director, Parks & Public Works
Subject: 2015 Water Rate Adjustment Resolution
Date: February 2, 2015

AGENDA ITEM:

Water Rate Increase 2015

STAFF SOURCE:

Matt Samitore, Director

SUMMARY:

Following the decision of the Medford Water Commission to increase bulk rates by 5%, the City needs to amend its current rate schedule. Additionally, the City's 2009 and updated 2013 version, water rate study indicates a need for a 1% inflationary increase. At the January 22, 2015 City Council meeting, various options to cover the costs associated with both the Medford Water Commission's 'pass-along' increase and the recommended inflationary increase were discussed. Ultimately, the council instructed the Public Works Director to bring back options for a rate increase with the following parameters: increase the base rate by \$0.50 and the consumptive/volume rate by \$0.01/per rate block.

On a related matter, in a recent survey, having the City take over the required backflow testing program received an overwhelming positive response. At the time of this staff report, the response was 255 yes and 4 no votes. Staff is proposing two options for implementing a special backflow rate to cover the cost of providing this service.

Backflow Option 1:

A charge of \$0.75 per month to each water utility account customer, regardless of whether they have a backflow device or not. Pros on this are that we can get all the backflows that are not registered into the system without forcing it onto the customer base. We anticipate, based on surveys in Central Point East, New Haven Estates, Jackson Creek Estates and Twin Creeks, that currently only 30% of the residences requiring backflow devices have registered backflows. This option would solve that problem by allowing the City to get them located, registered, tested and fixed on an annual basis.

Cons: Residents who do not have in ground sprinklers would have to pay for a service they do not use.

Backflow Option 2:

A charge of \$1.25 per water customer for those with registered backflows.

Pros: This solves the immediate issue of getting testing compliance with the residences that have registered backflows within the system, and only those who use the service would be charged.

Cons: We would still have to force homeowners that have unregistered backflow devices to get them initially registered, tested and fixed. Until the devices is verified, these homeowners would not have to pay the new fee. This option would do little to encourage compliance with backflow registration or testing requirements, and may actually reduce compliance.

FURTHER CONSIDERATIONS:

The adjustment of Medford Water Commission rates is currently beyond the control of the City of Central Point Council. Understandably, there is little option but to pass these increased costs along to Central Point water customers. In terms of our own rate adjustments, the recommended inflationary cost increase is the minimum recommended by our 10-year water rate analysis. This cost increase would keep water department staffing at current levels, allow for general operational maintenance, and meet debt service requirements, but requires deferral of some of the capital construction projects suggested in our long-term infrastructure master plan.

The recently presented long-term financial plan draft validates a need to regularly adjust water rates according to inflationary cost indexes. Additionally, the city’s strategic plan identifies a value/need for modern and efficient infrastructure, which requires periodic adjustments to water rates.

PUBLIC HEARING REQUIRED:

No – Public Comment can be accepted on this discussion item, but no public hearing is required.

SUGGESTED MOTION:

I move to direct staff as follows.....

1. Approve Medford Water Commission rate adjustment and Central Point inflationary rate adjustment increasing the base rate by \$0.50 and the consumptive/volume rate by \$0.01/per rate block.

2. Approval of Medford Water Commission rate adjustment increasing the base rate by \$0.50 and the consumptive/volume rate by \$0.01/per rate block, Central Point inflationary rate adjustment and backflow option #1.
3. Approval of Medford Water Commission rate adjustment increasing the base rate by \$0.50 and the consumptive/volume rate by \$0.01/per rate block, Central Point inflationary rate adjustment and backflow option #2.
4. Redirect Staff.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF CENTRAL POINT SETTING WATER RATES
WITH BACKFLOW RATE OPTION _____

Recitals:

- A. In March 2013, the City of Central Point conducted an update to the 2009 water rate study. Based on the findings of that study it was determined that in the best interest of the City's water utility service business water rates will be amended annually based upon annual growth, Capital Improvement needs and loan requirements.
- B. The March 2013 a study by Financial Consultant Services (FCS) Group, Inc. determined rates that are needed to stabilize the fund is equal to 1% based upon 2013/2014 water consumption.
- C. In September of 2014 the City Council agreed to send a survey to residents to inquire about a city initiated system to test all backflow prevention devices within the city. The majority of residents responded that the City should initiate a rate to have residents pay for the program thru their rates.
- D. In January 2015 the Medford Water Commission agreed to increase rates to their customers, including the City of Central Point by 5%. This equates to over a \$30,000 increase costs for bulk water.

The City of Central Point resolves as follows:

Section 1. Effective April, 2015, the City of Central Point Water Rates shall be as set forth on the attached schedule

Residential							
Meter Size	Monthly Base Charge	Monthly R & R Charge	Total Monthly Fixed Charge	Volume Charge First 8 ccf	Volume Charge 8 - 22 ccf	Volume Charge Over 22 ccf	
5/8"	12.50	1.00	13.50	0.87	1.68	2.76	
1"	17.50	2.45	19.95	0.87	1.68	2.76	
1.5"	22.50	8.15	30.65	0.87	1.68	2.76	
2"	32.50	11.15	43.65	0.87	1.68	2.76	
3"	52.50	25.25	77.75	0.87	1.68	2.76	
4"	72.50	43.85	116.35	0.87	1.68	2.76	
6"	137.50	86.00	223.50	0.87	1.68	2.76	
8"	212.50	139.50	352.00	0.87	1.68	2.76	

Commercial & Standby						
Meter Size	Monthly Base Charge	Monthly R & R Charge	Total Monthly Fixed Charge	Volume Charge First 8 ccf		
5/8"	9.00	1.00	11.50	1.41		
1"	12.00	2.10	15.60	1.41		
1.5"	17.00	4.00	22.50	1.41		
2"	22.00	7.15	30.65	1.41		
3"	37.00	14.10	52.60	1.41		
4"	54.00	21.70	77.20	1.41		
6"	100.50	44.00	146.00	1.41		
8"	158.50	68.00	228.00	1.41		

Multi-Family Residential						
Units	Monthly Base Charge	Monthly R & R Charge	Total Monthly Fixed Charge	Volume Charge First 8 ccf		
3	18.75	4.50	22.50	1.52		
4	25.00	6.00	30.00	1.52		
5	31.25	7.50	37.50	1.52		
6	37.50	9.00	45.00	1.52		
7	43.75	10.50	52.50	1.52		
8	50.00	12.00	60.00	1.52		
9	56.25	13.50	67.50	1.52		
10	62.50	15.00	75.00	1.52		

Irrigation						
Meter Size	Monthly Base Charge	Monthly R & R Charge	Total Monthly Fixed Charge	Volume Charge First 8 ccf	Volume Charge 8 - 22 ccf	Volume Charge Over 22 ccf
5/8"	11.50	1.50	13.00	0.87	1.68	2.76
1"	17.50	4.15	21.65	0.87	1.68	2.76
1.5"	27.50	8.65	36.15	0.87	1.68	2.76
2"	39.50	14.00	53.50	0.87	1.68	2.76
3"	72.50	28.00	100.50	0.87	1.68	2.76
4"	108.50	44.00	152.50	0.87	1.68	2.76
6"	208.50	88.00	296.50	0.87	1.68	2.76
8"	330.50	139.00	469.50	0.87	1.68	2.76
Hydrant	25.50	20.00	47.00	3.04		
Hidden Grove	2,376.00	198.00	2,574.00	1.51		
Expo	0.00	0.00	0.00	1.47		
Backflow Rate Option A	0.75					
Backflow Rate Option B	1.25					
Hardship Discount			50%	50%		
Outside City Factor			200%	200%		

Passed by the Council and signed by me in authentication of its passage this _____ day of February, 2015.

Mayor Hank Williams

ATTEST:

City Recorder

Business

**Budget Committee
Appointment**



ADMINISTRATION DEPARTMENT

140 South 3rd Street · Central Point, OR 97502 · (541) 664-3321 · www.centralpointoregon.gov

STAFF REPORT

February 12, 2015

AGENDA ITEM: 2015 Budget Committee Appointment

STAFF SOURCE:

Chris Clayton, City Manager
Deanna Casey, City Recorder

BACKGROUND/SYNOPSIS:

There are currently two vacancies on the Budget Committee and one term that expired in December. The City has advertised for these vacancies and received one application. Karen Huckins has agreed to serve another term on the Budget Committee.

Current Budget Committee Members

Elected Officials:

Hank Williams, Mayor
Allen Broderick
Bruce Dingler
Mike Quilty
Brandon Thueson
Rick Samuelson
Vacant

Appointed Members:

Steven Weber (term expires 12/31/15)
Kay Harrison (term expires 12/31/15)
Karen Huckins (term expires 12/21/14)
Randy Sparacino (term expires 12/31/16)
Bill Stults (term expires 12/31/16)
Vacant (term expires 12/31/16)
Vacant (term expires 12/31/14)

If the Council reappoints Karen Huckins and approves the appointment of Rob Hernandez to a 3 year term there will only be one vacancy on the Budget Committee once the vacant Council seat is filled.

FISCAL IMPACT:

There is no financial impact to the City.

RECOMMENDATION:

Reappoint Karen Huckins for a 3 year term to end December 31, 2017.
Appoint Rob Hernandez to the Budget Committee for a 3 year term.

PUBLIC HEARING REQUIRED:

No Public Hearing Required – Public Testimony may be taken.

SUGGESTED MOTION:

I move to appoint Karen Huckins and Rob Hernandez to the Budget Committee with terms expiring December 31, 2017.



**APPLICATION FOR APPOINTMENT TO
CITY OF CENTRAL POINT COMMITTEE**

Name: Rob Hernandez Date: 2/5/15

Address: [REDACTED] Central Point, OR 97502

Home Phone: [REDACTED] Business Phone: [REDACTED] Cell Phone: [REDACTED]

Fax: _____ E-mail: [REDACTED]

Are you a registered voter with the State of Oregon? Yes X No _____

Are you a city resident? Yes X No _____

Which committee(s) would you like to be appointed to: Budget Committee ?
(Please make sure the dates below work with your schedule before applying. Council and Planning Commission members are required to file an Annual Statement of Economic Interest to the State of Oregon.)

Meeting Dates (All meeting dates are subject to change or additions, times vary for each committee):

- Budget Committee: Meetings vary in April Annually
- Citizens Advisory Committee: 2nd Tuesday of every quarter
- Council Study Sessions: 3rd Monday of each month
- Multicultural Committee: 2nd Monday of every quarter
- Planning Commission: 1st Tuesday of each month
- Parks and Recreation Committee/Foundation: Meeting dates vary

Employment, professional, and volunteer background:

1995 To Present	Co-Owner President	S&B James Construction Co
2006 To Present	Co-Owner Vice President	S&B James Construction Management Co.
1974 thru 1994	Regional Purchasing Manager	Boise Cascade Corp. Western Oregon
2008 thru 2011	Board Member and Board Chair Oregon Construction Contractors Board.	
2002 thru Present	Board Member Oregon-Columbia Chapter Associated General Contractors	

Community affiliations and activities:

2005/2006	President Central Point Rotary Club
1994 thru 2005	Budget Committee Member School District #6 Central Point
2011 To Present	Budget Committee Member Jackson County Fire District 3

As additional background for the Mayor and City Council, please answer the following questions.

1. Please explain why you are interested in the appointment and what you would offer to the community.

I have lived in Central Point for over 50 years. My wife and I have grown up here and graduated from Crater High School, as did our 3 children. We are planning to continue living in Central Point and I would like to contribute some of my time to the community. I feel that the administrative and decision making skills learned over the past 40 years in corporate management and business ownership would be beneficial to the City of Central Point.

2. Please describe what you believe are the major concerns of the City residents and businesses that this committee should be concerned about.

Maintain the "uncomplicated livability" of Central Point.

3. Please provide any additional information or comments which you believe will assist the City Council in considering your application.

My previous Budget Committee and Board of Directors experiences.

4. Do you anticipate that any conflicts of interest will arise if you are appointed; and if so, how would you handle them?

Police Chief Kris Allison is my wife's younger sister. I would not anticipate any conflict of interest.

My signature affirms that the information in this application is true to the best of my knowledge. I understand that misrepresentation and/or omission of facts are cause for removal from any council, advisory committee, board or commission I may be appointed to. All information/documentation related to service for this position is subject to public record disclosure.

Signature: _____

Bob Hemming

Date: _____

2/5/15

Business

Mid-year budget report



To: Mayor & Council
From: Chris Clayton, City Manager
Bev Adams, Finance Director
Date: February 12, 2015
Subject: Mid-year budget report

Background:

In budget considerations last budget season (April 2014), the budget committee requested that some “add on” budget requests be set aside and reconsidered at midyear this fiscal year. The stated desire of the budget committee was that, depending on the strength of the actual carryover and revenues received in the first half of 2014/15 fiscal year, these “add-on” budget requests may be approved mid-year.

The delayed add-on packages consist of:

1. \$50,000 for phase I of a parks master plan
2. \$87,000 for an additional police officer
3. \$45,000 for pedestrian beacon on 6th street
4. \$18,000 for playground equipment installation at Van Horn Park

This mid-year budget report is to inform the Council of the City’s current financial status and to provide the information necessary to consider any or all of the above budget additions.

The information contained in this report is primarily from the December financial statement which includes the first six months of financial activity from July 1 thru December 31, 2014. When possible, the most current information is used even though we do not have all the information necessary to complete January financial statements.

Note: Ending fund balance estimates are done in recap here, whereas it will be done in detail by line item as part of the proposed budget process

General Fund

We began the fiscal year with \$2,635,169; a \$536,000 higher carryover than our estimate of \$2,098,460. \$166,000 of the \$536,000 was additional revenue, and \$370,000 was from expenditure constraints made by all departments. This approximately 4.5% reduction in departmental spending was the result of a directed effort to keep the general fund ending balance from being eroded until economic growth could stabilize revenues.

Interestingly enough, the \$166,000 in additional revenue did not come from current property taxes or from one significant source. Much like the savings from reduced expenses was derived from across all departments, the additional revenue was also spread across many revenue sources. Some of the most significant additions were

\$38,600 from electrical franchise, \$38,000 from delinquent taxes, \$11,000 in business license and liquor fees, \$8,000 in planning fees, \$7,000 in municipal court fees, \$6,000 in park & recreation fees, and \$18,000 in miscellaneous revenue.

Current property tax collection thru January is at 86.77% of the levy, and 92.84% of what we budgeted to receive. Historically we receive a large turnover in March and another in May. Based on years of historical data, we can reasonably expect to collect 100% of the taxes budgeted for this fiscal year (\$4.5 million), which is approximately 93% of the full tax levy of \$4.8 million.

In addition to current property tax revenue, all other general fund resources are coming in exactly as expected for the time period. General Fund departmental expenses are also on track at 47.4% of budget at the end of December.

General Fund ending balance

The budgeted ending balance for the general fund is \$1.62 million. Based on historical averages using an estimate of 98% of total revenues received and 96% of budgeted expenses, the additional beginning carryover will bring the estimated ending fund balance to \$2.3 million, prior to any additions to the budget.

General Fund		2014/15	Revised
Revenues		Budget	Estimate
	Taxes	\$6,125,000	\$6,075,000
	Licenses & Fees	59,500	59,865
	Intergovernmental	497,100	497,100
	Charges for Service	994,500	994,500
	Fines and Forfeitures	105,000	75,000
	Interest Income	32,500	25,500
	Miscellaneous	137,000	75,000
	Total Revenues	7,950,600	7,801,965
Expenditures			
	Administration	701,100	687,078
	City Enhancement	198,500	194,530
	Technical Services	548,400	537,432
	Mayor & Council	61,250	60,025
	Finance	775,600	760,088
	Parks & Recreation - Parks	783,350	767,683
	Parks & Recreation - Recreation	522,740	512,285
	Planning	403,850	395,773
	Police	4,130,910	4,048,292
	Interdepartmental	95,000	127,468
	Transfers Out	44,000	44,000
	Contingency	160,000	0
	Total Expenditures by Department	8,424,700	8,134,654
	Beginning Fund Balance	2,098,460	2,635,169
	Ending Fund Balance	1,624,360	2,302,480
	Ending Fund Balance including loan to Street Fund		2,142,480
	Ending Fund Balance including loan & add-on's		1,987,480

However, there is a strong possibility that the General Fund will need to make a short term loan to the Street Fund for the Freeman Road project. With a loan to the Street Fund of around \$160,000, the ending fund balance is more likely to be in the \$2.1 million range before any other additions to expenses.

The General Fund information (shown above) lists three projected ending fund balances:

1. With no budget additions
2. With the addition of a \$160,000 Street Fund loan
3. With the addition of \$315,000; the total of a \$160,000 Street Fund loan and \$155,000 of "add-on" items

High Tech Crime Fund

At December 31st, the cash balance of this fund was \$130,000. The high tech crime lab has been dispersed, along with all equipment and personnel. It is possible that the cash remaining in this fund belongs to the City of Central Point, or a portion of it may be allocated to the various agencies previously participating in the crime lab. The decision on the allocation is under consideration now, and the plan is to disperse the balance and close this fund prior to the end of the fiscal year.

Street Fund

The Street Fund began the year with a carryover of \$1,737,201; \$142,471 more than budgeted. Other street revenue expectations have not changed significantly since the budgeting process. There will be some variance in the state highway gas tax revenue if gas prices continue to remain low. Operating expenses will remain within budget and have been estimated to be spent at 95% of budget. The Freeman Road project came in significantly higher than was anticipated in our budget proposal. Several line items budgeted for other projects will be used toward this project, and an additional \$160,000 of revenue and expense has been used in this estimate to ensure we have accounted for every contingency. A supplemental budget request for a loan to the Street Fund for the Freeman Road project will be brought to Council for consideration in the spring.

Street Fund		2014/15	Revised
Revenues		Budget	Estimate
Franchise Tax		\$240,000	\$240,000
Charges for Services		550,000	522,500
Intergovernmental Revenue		990,000	980,000
Interest Income		11,000	8,000
Miscellaneous		5,000	165,000
Total Revenues		1,796,000	1,915,500
Expenditures			
Operations		1,772,200	\$1,932,200
SDC		253,000	253,000
Contingency		100,000	0
Total Expenditures		2,125,200	2,185,200
Beginning Fund Balance		1,594,730	1,737,201
Ending Fund Balance		1,265,530	1,467,501
Ending Fund Balance including add-on			1,422,501

The Street Fund information above shows two projected ending fund balances:

1. Includes revenue of \$160,000 loan from General Fund, and \$160,000 in additional expense for the Freeman Road project. Otherwise, no additions to expenses.
2. With the addition of the revenue and expense of #1, plus the \$45,000 for 6th Street pedestrian beacon.

Capital Improvement Fund

Capital Improvement Fund budgeted revenues are primarily the parks system development fees, which are tied to building activity. Due to increased building activity, we have already collected almost 95% of what was anticipated for this year. There is also a \$33,000 state grant that was budgeted in the last fiscal year, but not received until this fiscal year.

For expenses, other than a small portion budgeted for developer credits, the majority of this fund (shown as a transfer out to Debt Service Fund) is used in paying the annual debt service on Don Jones Park.

Reserve Fund

Established five years ago to accumulate and save for future capital needs, the Reserve Fund now has a cash fund balance of over \$571,000. There is \$40,000 in facility improvements that were budgeted for this year and have not yet been expensed.

Debt Service Fund

We concluded the Series 2014 refinance last December. The new Series 2014 debt service payments very closely follow the budgeted payments on the retired debt. If not possible to cover the debt payments as already budgeted, changes for the new debt service will need to be included in the supplemental budget process. More specifically, because there are no discretionary funds in debt service, even a small increase would require a supplemental budget.

Building Fund

The Building Fund’s actual carryover of \$182,632 was \$49, 137 more than expected. Revenue for this fund is entirely derived from building activity. For years, expenses have been held to the absolute minimum necessary to maintain building services and sustain the department through the recession.

Building Fund		2014/15	Revised
Revenues		Budget	Estimate
	Charges for Service	\$144,500	\$212,000
	Interest Income	1,500	1,300
	Total Revenues	146,000	213,300
Expenditures			
	Personnel Services	156,300	153,174
	Materials and Services	16,300	15,485
	Contingency	3,000	0
	Total Expenditures	175,600	168,659
	Beginning Fund Balance	133,495	182,632
	Ending Fund Balance	103,895	227,273

After a long lull, residential and commercial development has begun a steady increase from the prior 4 – 5 years. In 2014, the City received 68 single family dwelling and duplex permits, and 17 commercial permits (Walgreens being the

main commercial permit of that fiscal year). Already in the first six months of fiscal year 2015, the City has received 28 residential permits, and 5 commercial permits (Dairy Queen being the main commercial permit so far). In the month of January we received 13 additional residential permits (4 issued so far) with a large commercial permit pending with the planned FedEx expansion. All permit activity, whether received or known and expected but not yet issued, has been included in the revised estimate of "charges for service" shown above. Other commercial plans have been discussed, but are not yet known and therefore are not included in this estimate.

In addition to the boost in building activity, the building official completed a review of building fees and received Council approval to adjust fees which will also assist in reestablishing the health of this fund.

Water Fund

The Water Fund carryover of \$1,697,619 was (\$96,541) less than budgeted – but \$398,000 more than the previous year. Charges for services, which includes water sales and connect fees, penalty charges, public works fees, system development charges, and system repair and replacement fees, are slightly higher than expected, and estimated to be higher at year end due the water rate adjustment in April, new building activity, and additional water usage due to what may be a dry spring and early summer.

Water Fund		2014/15	Revised
Revenues		Budget	Estimate
Charges for Services		\$2,885,500	\$3,050,000
Interest Income		6,000	6,500
Miscellaneous		10,000	5,000
Total Revenues		2,901,500	3,061,500
Expenditures			
Operations		3,038,300	3,007,917
SDC Improvements		16,000	15,000
Contingency		145,000	0
Total Expenditures		3,199,300	3,022,917
Beginning Fund Balance		1,794,160	1,697,619
Ending Fund Balance		1,496,360	1,736,202

Based on prior years’ operational costs and conservative budgeting practices, we estimate using 99% of the operations budgeted funds. Based on these revenue and expense estimates, the year ending balance of \$1.7 million is over \$200,000 more than originally estimated for the water fund ending balance.

Stormwater Fund

Stormwater Fund carryover of \$850,205 was \$118,000 more than budgeted. The stormwater fund is operated from a flat monthly rate which provides a consistent and dependable revenue source. Expenses to operate the fund are also fairly consistent, with capital projects providing the main variance in expenses from year to year.

The stormwater portion of the Freeman Road project is approximately \$70,000. The money for Freeman Road will be acquired from projects originally budget between stormwater operations and the stormwater quality budget.

Based on the information available at this time, the estimated ending balance is \$914,433; approximately \$200,000 more than budgeted.

Stormwater Fund		2014/15	Revised
Revenues		Budget	Estimate
Charges for Services		\$84,1150	\$850,000
Interest Income		4,000	4,000
Miscellaneous		0	5,546
Total Revenues		845,150	859,546
Expenditures			
Operations		826,650	785,318
SDC		25,000	10,000
Contingency		43,000	0
Total Expenditures		894,650	795,318
Beginning Fund Balance		731,390	850,205
Ending Fund Balance		681,890	914,433

Internal Services Fund

The Internal Services Fund carryover of \$239,394 was \$100,394 more than budgeted. Internal service operations are supported by city facilities rental fees, equipment rental fees, public works overhead fees, and with a small portion of public works fees charged for services to the public. Therefore, revenue sources and expenses for this fund are very dependable without fluctuation.

Expenses for the Internal Service operations are also consistent and easily estimated due to the nature of the services provided for public works administrative overview, facilities maintenance, and fleet maintenance, primarily for public works equipment and vehicles.

		2014/15	Revised
Internal Services Fund		Budget	Estimate
Revenues			
Charges for Services		\$1,115,800	\$1,093,484
Interest Income		2,000	1,600
Miscellaneous		10,000	2,500
Total Revenues		1,127,800	1,097,584
Expenditures			
Facilities Maintenance		254,000	241,300
PW Administration		674,200	653,974
PW Fleet Maintenance		307,100	305,565
Total Expenditures		1,235,300	1,200,839
Beginning Fund Balance		139,000	239,394
Ending Fund Balance		31,500	136,140

The purpose of the Internal Services Fund is primarily to serve internal administration services; therefore, maintaining services without a large reserve is the main focus of the fund, not having a carryover from year to year. Any reserve realized from savings in operations is budgeted for transfer into the Reserve Fund and kept for future capital needs.

Recommended Actions:

That Council accept the mid-year budget report and direct the City Manager to implement the following budget add-on options:

1. **\$50,000 for Phase I of a parks master plan**
2. **\$87,000 for an additional police officer**
3. **\$45,000 for pedestrian beacon on 6th street**
4. **\$18,000 for play-ground equipment/installation at Van Horn Park**

Additional options include funding no mid-year budget proposals; funding some, but not all, options; funding only 'one-time' expenditures; or lastly, funding 'on-going' general fund expenses via the upcoming budget process and matching them with proportional streams of revenue.

After receiving the draft presentation on the long-range financial plan, obviously, any general fund expenditures have future implications.

Recommended Motions:

1) I move to accept the Midyear Budget Report and authorize the City Manager to implement add on packages ____, ____, ____, and ____.

2) I move to accept the Midyear Budget Report without add on packages.

Business

**Planning Commission
Report**



PLANNING DEPARTMENT MEMORANDUM

Date: February 12, 2015
To: Honorable Mayor & Central Point City Council
From: Tom Humphrey AICP, Community Development Director
Subject: Planning Commission Report

The following items were presented by staff and discussed by the Planning Commission at a regularly scheduled meeting on February 3, 2015.

- A. **Consideration of Resolution No. 814 forwarding a favorable recommendation to the City Council to approve a Conceptual Land Use and Transportation Plan for CP-1B, An Urban Reserve Area of the City of Central Point, File No. 14009.** The Planning Commission conducted a final review the CP-1B Conceptual Plan in order to make a favorable recommendation to the City Council. The Commission previously reviewed this document in at least one draft form and directed staff to make revisions based on input from affected agencies and property owners. The revisions were agreed to by staff and the Commission unanimously supported the document, recommending approval by the City Council.
- B. **Discussion of the Gebhard Road Analysis.** The Commission was introduced to the Gebhard Road project and informed and invited to participate in the public meetings. The Commission will ultimately conduct a public hearing on this item when technical memoranda and road alignments are produced. No action was required for this item.
- C. **Annual Tree/Vegetation Maintenance Update and Tree City USA Update.** The Planning Commission was given its annual update of each program since they are designated the City's Tree Committee and authorize work in the Bear Creek Greenway according to CPMC, Section 17.54.060. Commission members were complimentary of the work being done by Jennifer Boardman and the Parks Department as it relates to tree and vegetation maintenance in the City. A motion was made to authorize the maintenance plan for 2015.

Discussion Item

Proposed General Franchise Ordinance



ADMINISTRATION DEPARTMENT

140 South 3rd Street · Central Point, OR 97502 · (541) 664-7602 · www.centralpointoregon.gov

STAFF REPORT
February 12th, 2015

AGENDA ITEM: Briefing and discussion on a draft General Utility License Fee ordinance – Central Point Municipal Code Chapter 12.40 – Franchises and Utility Fees.

STAFF SOURCE:

Sydnee Dreyer, City Attorney
Chris Clayton, City Manager

BACKGROUND/SYNOPSIS:

While Central Point has a number of franchised utilities operating within public right-of-way, we are attempting to address any ‘non-franchised’ utility operations via a general utility license fee ordinance. The draft ordinance would not be directed at any specific utility and would envelop utilities using public right-of-way for their business operations. The proposed ordinance includes provisions that allow for pending legal questions in the area of telecommunications to be accommodated via ordinance amendment or specific franchise agreement language.

ATTACHMENTS:

1. General Utility License Fee briefing memorandum
2. General Utility License Fee draft Ordinance (CPMC 12.40)

RECOMMENDATION:

1. Council discussion on future policy direction related to a general utility licensing ordinance and utility franchise agreements.

PUBLIC HEARING REQUIRED:

No – Public Comment can be accepted on this discussion item, but no public hearing is required.

SUGGESTED MOTION:

I move to direct staff as follows.....



MEMORANDUM

TO: City Council Members
c/o Chris Clayton

FROM: Sydnee Dreyer

RE: **Proposed Utility License Fee Ordinance**

DATE: February 3, 2015

Pursuant to your direction to staff to prepare a “general franchise ordinance” a draft Utility License Fee ordinance has been drafted for your consideration.

The general purpose and intent of the Utility License Fee is as follows:

- 1) Set forth standards for use, construction, and safety in the right-of-way;
- 2) Establish registration requirements for all utilities, cable companies and telecommunication carriers providing facilities or services within the City;
- 3) Establish reasonable compensation for the use of right of way, regardless of whether the parties have entered into a franchise agreement;
- 4) Ensure standards and fees are established across the line for all entities providing facilities or services within the City.

In drafting this ordinance, much of CPMC 12.40 Telecommunications Infrastructure was utilized, particularly with respect to construction and permit standards and general franchise terms. In the past the City only had requirements for telecommunications infrastructure. The purpose of this ordinance is to apply broadly to all Utility Companies, Cable Providers and/or Telecommunications Carriers. A Utility Provider is defined as: any public, private, cooperative or special district or other entity formed for the purpose of providing electric, gas, steam heat, water, wastewater treatment and disposal service. If this ordinance is adopted, the Council would also need to repeal CPMC 1.240.

The structure of the proposed ordinance is as follows: All Utility Companies, Cable Companies, and Telecommunications Carriers including Resellers (defined as any person that provides Telecommunications Service using a Telecommunications Facility for which service a separate charge is made by such Reseller, where such Reseller does not own, control, or manage the Telecommunications Facility used to provide the service) must register with the City. This will aid the City in maintaining information as to who is providing services, help with the collection of any fees, and ensure compliance with the code.

Any such company offering services within the City (with the exception of Resellers) must pay a utility license fee to help offset the cost to the City for the use of the right of way. However, once a franchise agreement is entered into, such license fee will no longer be owed and the franchise fee will be paid instead. The benefit of this language is that it assures that any entity with facilities or services within the City's right of way must pay a reasonable fee to help offset the cost to the City.

While the ordinance provides that all such entities (except Resellers) must enter into franchise agreements, it essentially grandfathers in any entity providing such services without a franchise agreement (such as RVSS) and will only apply prospectively.

With respect to construction standards and location of facilities, the primary difference is that these provisions would apply to any entity with facilities in the right-of-way rather than simply to Telecommunications Carriers.

Section 12.40.060 details the requirements of a franchise agreement and requires that any new Telecommunications Carrier, Cable Operator or Utility Provider desiring to occupy city rights-of-way must enter into a franchise agreement, effective upon adoption of the ordinance. Thus companies currently in the right-of-way could continue under the provisions of the Utility License Fee rather than enter into a franchise agreement. Additionally, this section also makes clear that any entity offering a new service not previously included in the prior franchise would be subject to a new franchise for that additional service. This may apply in the context of internet, cable and telecommunications, and is limited by the evolving law in that area.

The Utility License Fee also applies when a franchise agreement has expired and not yet been renewed. It enables the City to continue collecting the fee, and hold the user subject to the City's laws regarding safety, permits, insurance, and indemnity. There are also provisions to collect unpaid fees with interest at 10% per annum.

While this ordinance does not cover every issue, for example whether a cable company can be charged for both cable and telecommunications services, it does set in place the authority for the City to do so in the event such fees are permitted under federal and state law. Additionally, this ordinance places all entities on equal footing with respect to construction standards, registration, fees, insurance and indemnity. It also grants the City legal authority to regulate the entity's work in the right of way regardless of whether a party has entered into a franchise agreement with the City.

Chapter 12.40

FRANCHISES AND UTILITY FEES

Sections:

- [12.40.010](#) Purpose and intent.
- [12.40.020](#) Definitions.
- [12.40.030](#) Registration.
- [12.40.040](#) Construction standards.
- [12.40.050](#) Location of Facilities.
- [12.40.060](#) Franchise Agreements.
- [12.40.070](#) General franchise terms.
- [12.40.075](#) Utility License Fee.
- [12.40.080](#) General provisions.

12.40.010 Purpose and intent.

A. Purpose. The purpose and intent of this chapter is to:

1. Secure fair and reasonable compensation to the city and its residents for permitting private use of the public right-of-way;
2. Assure that all Telecommunications Carriers, Cable Operators and Utility Providers providing facilities and/or services within the city, or passing through the city, register and comply with the ordinances, rules and regulations of the city;
3. Assure that the city's current and ongoing costs of granting and regulating private access to and the use of the public rights-of-way are fully compensated by the persons seeking such access and causing such costs;
4. Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
5. Enable the city to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

6. Comply with the provisions of federal and state law as they apply to local governments, Telecommunications Carriers, Cable Operators and Utility Providers, and the services those carriers offer.

7. Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to businesses, institutions and residents of the city;

8. Permit and manage reasonable access to the public rights-of-way of the city and conserve the limited physical capacity of those public rights-of-way held in trust by the city;

B. Jurisdiction and Management of the Public Rights-of-Way.

1. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

2. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, city easements and all other public ways or areas, including the subsurface under and air space over these areas.

3. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

4. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits and through the provisions of this ordinance.

5. The exercise of jurisdiction and regulatory management over each public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

6. The city retains the right and privilege to cut or move any Telecommunications, Cable or Utility facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

C. Regulatory Fees and Compensation not a Tax.

1. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the public rights-of-way provided for in this chapter, are separate from, and in addition to, any and all federal, state, local, and city charges as may be levied, imposed, or due from a Telecommunications Carrier, Cable Operator or Utility Provider, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of telecommunications services.
2. The city has determined that any fee provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners, and these fees are not new or increased fees.
3. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

12.40.020 Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996. If not defined there, the words shall be given their common and ordinary meaning.

Aboveground Facilities. See “Overhead facilities.”

“Affiliated interest” shall have the same meaning as ORS [759.010](#).

“Cable Act” means the Cable Communications Policy Act of 1984, 47 U.S.C. subsection 521, et seq., as now and hereafter amended.

“Cable Operator” means any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

“Cable Service” is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“City” means the city of Central Point, an Oregon municipal corporation, and individuals authorized to act on the city’s behalf.

“City Council” means the elected governing body of the city of Central Point, Oregon.

“City property” means and includes all real property owned by the city, other than public rights-of-way and utility easements as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter.

“Conduit” means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholds, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more public utilities.

“Construction” means any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

“Control” or “controlling interest” means actual working control in whatever manner exercised.

“Days” means calendar days unless otherwise specified.

“Duct” means a single enclosed raceway for conductors or cable.

“Emergency” has the meaning provided for in ORS [401.025](#).

“Federal Communication Commission” or “FCC” means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

“Franchise” means an agreement between the city and a grantee which grants a privilege to use public right-of-way and utility easements within the city for a dedicated purpose and for specific compensation.

“Grantee” means the person to which a franchise is granted by the city.

“Oregon Public Utilities Commission” or “OPUC” means the statutorily created state agency in the state of Oregon responsible for licensing, regulation and administration of certain telecommunications carriers as set forth in Oregon Law, or its lawful successor.

“Overhead or aboveground facilities” means utility poles, utility facilities and telecommunication facilities above the surface of the ground, including the underground supports and foundations for such facilities.

“Person” means an individual, corporation, company, association, joint stock company or association, firm, partnership, or limited liability company.

“Private telecommunications network” means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. “Private telecommunications network” includes services provided by the state of Oregon pursuant to ORS [190.240](#) and [283.140](#).

“Public rights-of-way” include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city’s right, title, interest or authority to grant a franchise to occupy and use such areas for Telecommunications, Cable and/or Utility facilities. “Public rights-of-way” shall also include utility easements as defined below.

“Reseller” means any person that provides Telecommunications Service using a Telecommunications Facility for which service a separate charge is made by such Reseller, where such Reseller does not own, control, or manage the Telecommunications Facility used to provide the service.

“State” means the state of Oregon.

“Telecommunication” means the transmission between and among points specified by the user, of information of the user’s choosing.

“Telecommunications Act” means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. subsection 151 et seq.) and as hereafter amended.

“Telecommunications Carrier” means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city.

“Telecommunications Facilities” means the fixed, mobile, or transportable structures, property or equipment, including electrical wiring, cabling, and transmission pathways, other than customer premises equipment, used by a Telecommunications Carrier to provide Telecommunications Services.

“Telecommunications service” means transmission for rent, sale, lease or in exchange for other value received, information in electromagnetic frequency, electronic or optical form, including but not limited to voice, video or data, whether or not the transmission medium is owned by the provider itself, and whether or not the transmission medium is wireline or wireless. Telecommunications service includes all forms of telephone services and voice, data and video transport, but does not include: 1) cable service; 2) OVS service; 3) private communications system services; 4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and 5) direct-to-home satellite service within the meaning of the Telecommunications Act of 1996.

Telecommunication System. See “Telecommunications Facilities.”

“Telecommunication Utility” has the same meaning as ORS [759.005\(1\)](#).

“Underground facilities” means utility, cable and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for “overhead facilities.”

“Usable space” means all of the space on a pole, except the portion below ground level, the twenty feet of safety clearance above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

“Utility Provider” means any public, private, cooperative or special district or other entity formed for the purpose of providing electric, gas, steam heat, water, wastewater treatment and disposal service.

“Utility Easement” means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

“Utility Facilities” means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the public right-of-way of the city and used or to be used for the purpose of providing utility or telecommunications services. (Ord. 1820 §1(4), 2001).

12.40.030 Registration.

A. Purpose. The purpose of registration is:

1. To assure that all Telecommunications Carriers, Cable Operators and Utility Providers who have facilities and/or provide services within the city comply with the ordinances, rules and regulations of the city;
2. To provide the city with accurate and current information concerning the Telecommunications Carriers, Cable Operators and/or Utility Providers who offer to provide services within the city, or that own or operate such facilities within the city;
3. To assist the city in the enforcement of this chapter and the collection of any city franchise fees or charges that may be due the city.

B. Registration Required. Except as provided in subsection D of this section, all Telecommunications Carriers, Cable Operators and/or Utility Providers having Telecommunications Facilities, Cable Facilities, and/or Utility Facilities within the corporate limits of the city, and/or Resellers and other such entities that offer or provide such services to customer premises within the city, shall register. The appropriate application and license from: (a) the Oregon Public Utility Commission (PUC); or (b) the Federal Communications Commission (FCC), where applicable, qualify as necessary registration information. Applicants have the option of providing the following information:

1. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information;
2. The name, address, and telephone number for the duly authorized officer, agent or employee to be contacted in the case of emergency;
3. A description of the registrant's existing or proposed facilities within the city, a description of the facilities that the registrant intends to construct, and a description of the service that the registrant intends to offer or provide to persons, firms, businesses, or institutions within the city;
4. Information sufficient to determine whether the transmission, origination or receipt of the services provided, or to be provided by the registrant constitutes an occupation or privilege

subject to any business license requirements. A copy of the business license or the license number must be provided.

C. Registration Fee. Each application for registration shall be accompanied by a nonrefundable registration fee in an amount to be determined by resolution of the city council. Such fee is designed to defray the costs of City administration of this section.

D. Exceptions to Registration. The following Telecommunications Carriers, Cable Operators and/or Utility Providers are exempted from registration:

1. Telecommunication Carriers, including internet service providers, Cable Operators and/or Utility Providers that are owned and operated exclusively for its own use by the state or a political subdivision of this state;
2. A private telecommunications network. Provided that such network does not occupy any public rights-of-way of the city. (Ord. 1820 §1(5)--(8), 2001).

12.40.040 Construction standards.

A. General. No person shall commence or continue with the construction, installation or operation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities within a public right-of-way except as provided in subsections D through O of this section and Section [12.40.050](#), and with all applicable codes, rules, and regulations.

B. Construction Codes. Telecommunication Facilities, Cable Facilities and/or Utility Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

C. Construction Permits. No person shall construct or install any Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the city without first obtaining a construction permit, and paying the construction permit fee established in subsection G of this section. No permit shall be issued for the construction or installation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities:

1. Unless the Telecommunications Carrier, Cable Operator or Utility Provider has first filed a registration statement with the city pursuant to Section [12.40.030](#); and if applicable;

2. Unless the Telecommunications Carrier, Cable Operator or Utility Provider has satisfied the requirements of the Central Point Municipal Code.

D. Permit Applications. Applications for permits to construct Telecommunication Facilities, Cable Facilities and/or Utility Facilities shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the facilities will be constructed in accordance with all applicable codes, rules and regulations;
2. That the facilities will be constructed in accordance with the franchise agreement, if any;
3. The location and route of all facilities to be installed aboveground or on existing utility poles;
4. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;
5. The location of all of applicant's existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross-section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way;
6. The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the public rights-of-way, and description of any proposal to temporarily or permanently remove or relocate.

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the planning, building and public works departments.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount to be determined by resolution of the city council. Such fees shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this chapter and the franchise agreement, the planning, building and public works departments shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they deem necessary or appropriate.

I. Notice of Construction. Except in the case of an emergency, the permittee shall notify the public works department not less than two working days in advance of any excavation or construction in the public rights-of-way. Utility locates by the Oregon Utility Notification Center shall be completed prior to notification of the public works department.

J. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The planning, building and public works departments and their representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

K. Noncomplying Work. Subject to the notice requirements in subsection D of Section [12.40.050](#), all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The city is authorized to stop work in order to assure compliance with the provisions of this chapter.

L. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city's rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved by the appropriate city official as contemplated by subsection F of this section.

M. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all Telecommunication Facilities, Cable Facilities and/or Utility Facilities pursuant to the permit. These plans shall be submitted to the

public works director or designee within sixty days after completion of construction, in a format mutually acceptable to the permittee and the city.

N. Restoration of Public Rights-of-Way and City Property.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to good order and condition unless otherwise directed by the city and as determined by the public works director.

2. If weather or other conditions do not permit the complete restoration required by this subsection N, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the city.

3. If the permittee fails to restore rights-of-way or property in good condition, the city shall give the permittee written notice and provide permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee.

4. A permittee or other acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property.

O. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred (100%) percent of the estimated cost of constructing permittee's Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the public rights-of-way of the city shall be provided before construction is commenced.

1. The surety shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

- a. Timely completion of construction;
- b. Construction is in compliance with applicable plans, permits, technical codes and standards;
- c. Proper location of the facilities as specified by the city;
- d. Restoration of the public rights-of-way and other property affected by the construction;
and
- e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.40.050 Location of Facilities.

A. Location of Facilities. Placement of Telecommunication Facilities, Cable and Utility Facilities within the city shall be subject to zoning code, Title [17](#). All facilities located within the public right-of-way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

- 1. Whenever all new or existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities are located or relocated underground within a public right-of-way of the city, a grantee with permission to occupy the same public right-of-way must also locate its facilities underground.
- 2. Whenever all new or existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities are located or relocated underground within a public right-of-way of the city, a grantee that currently occupies the same public right-of-way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right-of-way, absent extraordinary circumstances or undue hardship as determined by the city and consistent with applicable state and federal law.

B. Interference with the Public Rights-of-Way. No grantee may locate or maintain its Telecommunication Facilities, Cable Facilities and/or Utility Facilities so as to unreasonably interfere with the use of the public rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances and regulations.

C. Relocation or Removal of Facilities. Except in the case of an emergency, within ninety (90) days following the written notice by the city, a grantee shall, at no expense to city, temporarily or permanently remove, relocate, change or alter the position of any Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the public rights-of-way whenever the city shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

1. The construction, repair, maintenance or installation of any city or other public improvement in or upon the public rights-of-way;
2. The operations of the city or other governmental entity in or upon the public rights-of-way;
3. The public interest.

D. Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the city, any Telecommunications Carrier, Cable Operator, Utility Provider or other person that owns, controls or maintains any unauthorized Telecommunications, Cable or Utility system, facility or related appurtenances within the public rights-of-way of the city shall, at its own expense, remove such facilities and/or appurtenances from the public rights-of-way of the city. A Telecommunications, Cable or Utility system or facility is unauthorized and subject to removal in the following circumstances:

1. One year after the expiration or termination of the grantee's franchise;
2. Upon abandonment of a facility within the public rights-of-way of the city. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety days or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced;
3. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation;

4. If the system or facility was constructed or installed at a location not permitted by the grantee's franchise or other legally sufficient permit.

E. Coordination of Construction Activities. All grantees are required to make a good faith effort to cooperate with the city.

1. By January 1st of each year, grantees shall provide the city with a schedule of their proposed construction activities in, around or that may affect the public rights-of-way.

2. If requested by the city, each grantee shall meet with the city annually or as determined by the city, to schedule and coordinate construction in the public rights-of-way. At that time, the city will provide available information on plans for local, state, and/or federal construction projects.

3. All construction locations, activities and schedules shall be coordinated, as ordered by the public works director or designee, to minimize public inconvenience, disruption or damages. (Ord. 1823 §1, 2001; Ord. 1820 §1(24)--(28), 2001).

12.40.060 Franchise Agreements.

A. Franchise. As of the effective date of this ordinance, a franchise agreement shall be required of any Telecommunications Carrier, Cable Operator or Utility Provider who desires to occupy public rights-of-way of the city.

B. Application. Any person that desires a franchise must register as a Telecommunications Carrier, Cable Operator or Utility Provider as provided in 12.40.030 herein, and shall file an application with the Central Point planning department which includes the following information:

1. The identity of the applicant;

2. A description of the services that are to be offered or provided by the applicant over its facilities;

3. Engineering plans, specifications, and a network map in a form customarily used by the applicant of the facilities located or to be located within the public rights-of-way in the city, including the location and route requested for applicant's proposed Telecommunication Facilities, Cable Facilities and/or Utility Facilities;

4. The area or areas of the city the applicant desires to serve and a preliminary construction schedule for build-out to the entire franchised area;
5. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the services proposed;
6. An accurate map showing the location of any existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities in the city that applicant intends to use or lease.

C. Application and Review Fee.

1. Subject to applicable state law, applicant shall reimburse the city for such reasonable costs as the city incurs in entering into the franchise agreement.
2. An application and review fee of one thousand dollars shall be deposited with the city as part of the application filed pursuant to subsection B of this section. Expenses exceeding the deposit will be billed to the applicant or the unused portion of the deposit will be returned to the applicant following the determination granting or denying the franchise. Additional building, public works and planning department fees may be required by the Central Point Municipal Code.

D. Determination by the City. The city shall issue a written determination granting or denying the application in whole or part. If the application is denied, the written determination shall include the reasons for denial.

E. Rights Granted. No franchise granted pursuant to this chapter shall convey any right, title or interest in the public rights-of-way, but shall be deemed a grant to use and occupy the public rights-of-way for the limited purposes and term, and upon the conditions stated in the franchise agreement.

F. Term of Grant. Unless otherwise specified in a franchise agreement, a franchise granted hereunder shall be in effect for a term of five years.

G. Franchise Territory. Unless otherwise specified in a franchise agreement, a franchise granted hereunder shall be limited to a specific geographic area of the city to be served by the franchise grantee, and the public rights-of-way necessary to serve such areas, and may include the entire city.

H. Franchise Fee. Each franchise granted by the city is subject to the city's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the privileges granted; provided, nothing in this chapter shall prohibit the city and a grantee from agreeing to the compensation to be paid. The compensation shall be subject to the specific payment terms and conditions contained in the franchise agreement and applicable state and federal laws.

I. Amendment of Grant. Conditions for amending a franchise:

1. A new application and grant shall be required of any Telecommunications Carrier, Cable Operator or Utility Provider that desires to extend or locate its Telecommunication Facilities, Cable Facilities and/or Utility Facilities in public rights-of-way of the city which are not included in a franchise previously granted under this chapter, or to provide a service not previously included in a franchise previously granted under this chapter.

2. If ordered by the city to locate or relocate its Telecommunication Facilities, Cable Facilities and/or Utility Facilities in public rights-of-way not included in a previously granted franchise, the city shall grant an amendment without further application.

3. A new application and grant shall be required of any Telecommunications Carrier, Cable Operator or Utility Provider that desires to provide a service which was not included in a franchise previously granted under this chapter.

J. Renewal Applications. A grantee that desires to renew its franchise under this chapter shall, not less than one hundred eighty (180) days before expiration of the current agreement, file an application with the city for renewal of its franchise which shall include the following information:

1. The information required pursuant to subsection B of this section;

2. Any information required pursuant to the franchise agreement between the city and the grantee.

K. Renewal Determinations. Within ninety (90) days after receiving a complete application under subsection J of this section, the city shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for nonrenewal.

1. The financial and technical ability of the applicant;
2. The legal ability of the applicant;
3. The continuing capacity of the public rights-of-way to accommodate the applicant's existing and proposed facilities;
4. The applicant's compliance with the requirements of this chapter and the franchise agreement;
5. Applicable federal, state and local laws, rules and policies;
6. Such other factors as may demonstrate that the continued grant to use the public rights-of-way will serve the community interest;

L. Obligation to Cure as a Condition of Renewal. No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the city.

M. Assignments or Transfers of System or Franchise. Ownership or control of a majority interest in a Telecommunication Carrier, Cable Operator or Utility Provider subject to a franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the proper consent of the city, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

1. Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.
2. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the Telecommunications System, Cable System or Utility System pursuant to this chapter.
3. Unless otherwise provided in a franchise agreement, the grantee shall reimburse the city for all direct and indirect fees, costs and expenses reasonably incurred by the city in considering a request to transfer or assign a franchise.

4. Any transfer or assignment of a Telecommunications, Cable or Utility franchise, system or integral part of a system without prior approval of the city under this section or pursuant to a franchise agreement shall be void and is cause for revocation of the franchise.

N. Revocation or Termination of Franchise. A franchise to use or occupy public rights-of-way of the city may be revoked for the following reasons:

1. Construction or operation in the city or in the public rights-of-way of the city without a construction permit;
2. Construction or operation at an unauthorized location;
3. Failure to comply with subsection M of this section with respect to sale, transfer or assignment of a system or franchise;
4. Misrepresentation by or on behalf of a grantee in any application to the city;
5. Abandonment of Telecommunication Facilities, Cable Facilities and/or Utility Facilities in the public rights-of-way;
6. Failure to relocate or remove facilities as required in this chapter;
7. Failure to pay taxes, compensation, fees or costs when and as due the city under this chapter;
8. Insolvency or bankruptcy of the grantee;
9. Violation of material provisions of this chapter;
10. Violation of the material terms of a franchise agreement.

O. Notice and Duty to Cure. In the event that the city believes that grounds exist for revocation of a franchise, the city shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty (30) days, to furnish evidence that:

1. Corrective action has been taken, or good faith and active efforts to expeditiously remedy the violation or noncompliance are taking place; and/or
2. Requesting a hearing before the city council to rebut the alleged violation or noncompliance; and/or present evidence that it would be in the public interest to impose some penalty or sanction less than revocation.

P. Public Hearing. Upon receipt of the franchisee's response, or in the event no response is received within thirty (30) days of the date of receipt of the notice, the city manager shall refer the apparent violation or noncompliance to the city council. In the event a request for hearing is made by the franchisee, the city manager shall fix a time and place for hearing the matter, and shall give the appellant fifteen days written notice of the time and place of the hearing before the city council.

1. The parties shall be entitled to appear personally and by counsel and to present such facts, evidence and arguments as may tend to support the respective positions on appeal.
2. The city council shall afford the parties an opportunity to be heard at an appeal hearing after reasonable notice. The city council shall take such action upon the appeal it sees fit. The city council shall at a minimum:
 - a. At the commencement of the hearing, explain the relevant issues involved in the hearing, applicable procedures and the burden of proof.
 - b. At the commencement of the hearing place on the record the substance of any written or oral ex parte communications concerning any relevant and material fact in issue at the hearing which was made outside the official proceedings during the pendency of the proceeding. The parties shall be notified of the substance of the communication and the right to rebut the communication. Notwithstanding the above, the parties are prohibited from engaging in ex parte communications with the members of the city council.
 - c. Testimony shall be taken upon oath or affirmation of the witnesses.
 - d. The city council shall ensure that the record developed at the hearing shows a full and fair inquiry into the relevant and material facts for consideration for the issues properly before the hearings officer.
 - e. Written testimony may be submitted under penalty of false swearing for entry into the record. All written evidence shall be filed with the City recorder no less than (5) five working days before the date of the hearing.

f. The city council shall hear and consider any records and evidence presented bearing upon the alleged violation or nonconformance.

3. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.

Q. Standards for Revocation or Lesser Sanctions. If persuaded that the grantee has violated or failed to comply with the material provisions of this chapter, or of a franchise agreement, the city council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:

1. The misconduct was egregious;
2. Substantial harm resulted;
3. The violation was intentional;
4. There is a history of prior violations of the same or other requirements;
5. There is a history of overall compliance;
6. The violation was voluntarily disclosed, admitted or cured.

7. The findings of the city council shall be final and conclusive, and shall be served upon the grantee in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

R. Other City Costs. All grantees shall, within thirty (30) days after written demand therefor, reimburse the city for all reasonable direct and indirect costs and expenses incurred by the city in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement consistent with applicable state and federal laws. (Ord. 1969 §1(part), 2013; Ord. 1820 §1(29)--(46), 2001).

12.40.070 General franchise terms.

A. Facilities. Upon request, each grantee shall provide the city with an accurate map or maps certifying the location of all facilities within the public rights-of-way. Each grantee will provide updated maps annually.

B. Damage to Grantee's Facilities. Unless directly and proximately caused by willful, intentional or malicious acts by the city, the city shall not be liable for any damage to or loss of any Telecommunications, Cable or Utility facility within the public rights-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the public rights-of-way by or on behalf of the city, or for any consequential losses resulting directly or indirectly therefrom.

C. Duty to Provide Information. Within ten (10) business days of a written request from the city, each grantee shall furnish the city with the following:

1. Information sufficient to demonstrate that grantee has complied with all requirements of this chapter;

2. All books, records, maps, and other documents, maintained by the grantee with respect to its facilities within the public rights-of-way shall be made available for inspection by the city at reasonable times and intervals.

D. Service to the City. If the city contracts for the use of Telecommunication, Cable or Utility facilities, services, installation, or maintenance from the grantee, the grantee shall charge the city the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for similar volume of service, subject to any of grantee's tariffs or price lists on file with the OPUC. With the city's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the city and grantee.

E. Compensation for City Property. If any right is granted, by lease, franchise, or other manner, to use and occupy city property for the installation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities, the compensation to be paid for such right and use shall be fixed by the city.

F. Multiple Facility Franchises. A facility used for multiple purposes requires separate franchises. By way of illustration and not limitation, a Cable Operator of a Cable System to provide Cable Services must obtain a separate franchise to provide Telecommunication Services over the same facilities.

G. Resellers. Resellers must register with the city pursuant to section 12.40.030 herein. So long as Resellers register pursuant to section 12.40.030 herein and pay the Utility License Fee provided in section 12.40.075 below, a Reseller may use another entity's facilities to engage in telecommunications activities in the right-of-way without obtaining a franchise, providing the Reseller does not, either itself or through an affiliate, own or

lease, control or manage the facilities in the right-of-way and is not involved in the construction or repair of facilities in the right-of-way. For purposes of calculating the registration and privilege tax to be paid by the Reseller, the amount of compensation paid by the Reseller to the owner of manager of the facilities in the right-of-way for the services it resells shall be deducted from the Reseller's gross revenues before applying the percentage rates described in sections 12.40.075.

H. Leased Capacity. A grantee shall have the right, without prior city approval, to offer or provide capacity or bandwidth to its customer; provided that the grantee shall notify the city that such lease or agreement has been granted to a customer of lessee.

I. Grantee Insurance. Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the grantee and the city, and its elected and appointed officers, officials, agents and employees as coinsured:

1. Comprehensive general liability insurance with limits not less than:
 - a. Three million dollars for bodily injury to death to each person,
 - b. Three million dollars for property damage resulting from any one accident, and
 - c. Three million dollars for all other types of liability;
2. Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars for each person and three million dollars for each accident;
3. Worker's compensation within statutory limits and employer's liability insurance with limits not less than one million dollars;
4. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits not less than three million dollars;
5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of Telecommunication Facilities, Cable Facilities and/or Utility Facilities. Each such insurance policy shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew.”

6. Within sixty (60) days after receipt by the city of such notice and in no event later than thirty (30) days prior to such cancellation, the grantee shall obtain and furnish to the city evidence that the grantee meets the requirements of this section.

7. As an alternative to the insurance requirements contained herein, a grantee may provide evidence of self-insurance subject to review and acceptance by the city.

J. General Indemnification. Each franchise agreement shall include, to the extent permitted by law, grantee’s express undertaking to defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its Telecommunication Facilities, Cable Facilities and/or Utility Facilities, and in providing or offering Telecommunications, Cable or Utility Services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter, or by a franchise agreement made or entered pursuant to this chapter.

K. Performance Surety. Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the grantee shall provide a performance bond, in form and substance acceptable to the city, as security for the full and complete performance of a franchise granted under this chapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to the performance surety required by subsection O of Section [12.40.040](#) for construction of facilities. (Ord. 1820 §1(47)--(56), 2001).

12.40.075 Utility License Fee Required.

A. The terms of the Utility License Fee shall not apply to any holder of a current, valid, franchise granted or issued by the city council.

B. Any Cable Operator or Utility Provider using or occupying public rights-of-way within the city without a franchise for a period of thirty (30) days or longer shall pay for the use and occupancy of such public rights of way. The fee imposed under this subsection shall be in the amount of five percent (5%) of the Cable Operator or Utility Provider's Gross Revenues as defined herein, for each consecutive three (3) month period. The Utility License Fee shall be computed as of 30-days after the commencement of business or 30-days after the expiration of any franchise or other authority under which the Utility Provider or Cable Operator operated. The license fee shall be due and payable so long as the Cable Operator or Utility Provider operates within the city limits and uses or occupies the public rights-of-way.

C. Any Telecommunications Carrier using or occupying public rights-of-way within the city without a franchise for a period of thirty (30) days or longer shall pay a Utility License Fee for the use and occupancy of such public rights of way. The license fee imposed under this subsection shall be in the amount of seven percent (7%) of the Telecommunication Carrier's Gross Revenues as defined herein, for each consecutive three (3) month period. The license fee shall be computed as of 30-days after the commencement of business or 30-days after the expiration of any franchise or other authority under which the Telecommunications Carrier operated. The fee shall be due and payable so long as the Telecommunication Carrier operates within the city limits and uses or occupies the public right of way.

D. In the event a franchise is granted to any Telecommunications Carrier, Cable Operator or Utility Provider subject to the Utility License Fee under this chapter, and the franchise becomes effective, then the fee shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the Utility License Fee for the current quarterly period. The license fee shall in such cases become immediately due and payable, and if not paid, collectible as provided in subsection G herein.

E. Each Telecommunications Carrier, Cable Operator or Utility Provider subject to the Utility License Fee as provided in this section shall file with the Director of the Finance Department a report of the revenues earned within the corporate limits of the city for each consecutive 3-month period in the form and manner specified by the Finance Department ("Quarterly Report").

1. The first quarterly report shall be filed on or before the first payment date of the license fee. Subsequent reports shall be filed on or before February 15, May 15, August 15 and November 15 of each year.

2. If a franchise is granted to an entity otherwise subject to the license fee, the Telecommunications Carrier, Cable Operator or Utility Provider shall file a report with the Director within 10-days after the franchise becomes effective showing the Gross Revenues earned for the proportionate period of the quarter prior to the franchise being granted.

F. Telecommunication Carriers, Cable Operators and Utility Providers shall submit quarterly payments of Privilege Taxes under this subsection on or before February 15, May 15, August 15 and November 15 of each year which shall be accompanied by the Quarterly Report for that payment period as provided in subsection E above.

G. If the Telecommunication Carrier, Cable Operator or Utility Provider fails to pay the Utility License Fee under this section, the City Attorney may institute an action in the Circuit Court of the State of Oregon for Jackson County to recover the amount of the utility license fee due the city, together with applicable penalties and accrued interest.

1. Interest will be assessed on any unpaid utility license fee at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of payment.

2. For the purpose of calculating interest under this subsection G, the amount of the utility license fee due shall be reduced the amount of any Utility License Fee payments received by the Director on or before the due dates established herein.

3. Interest amounts properly assessed in accordance with this section may not be waived or reduced by the Director.

H. Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30-days after the statement is required to be filed with the Director, fails, neglects, or refuses to file with the Director the Quarterly Report of such person, association or corporation shall be subject to the penalties, including any criminal penalties, provided for in Section

I. Any person subject to the provisions of this 12.40.75 shall provide the city evidence of the insurance on the amounts specified in 12.40.070 and is subject to the indemnification requirements of 12.40.070 herein.

12.40.080 General provisions.

A. Governing Law. Any franchise granted under this chapter is subject to the provisions of the Constitution and laws of the United States, and the state of Oregon and the ordinances and charter of the city.

B. Written Agreement. No franchise shall be granted hereunder unless the agreement is in writing.

C. Nonexclusive Grant. No franchise granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights-of-way of the city for delivery of telecommunications services or any other purpose.

D. Severability and Preemption. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulation or decision, the remainder of the chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this chapter shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this chapter, then the provision shall be read to be preempted only to the extent required by the law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall be thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the city.

E. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any provisions of this chapter shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs.

F. Other Remedies. Nothing in this chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this chapter.

G. Captions. The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this chapter.

H. Compliance with Laws. Any grantee under this chapter shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the city heretofore or hereafter adopted or established during the entire term of any franchise granted under this chapter, which are relevant and relate to the construction, maintenance and operation of a telecommunication system.

I. Consent. Whenever the consent of either the city or of the grantee is specifically required by this chapter or in a franchise granted, such consent will not be unreasonably withheld.

J. Application to Existing Ordinance and Agreements. To the extent that this chapter is not in conflict with and can be implemented with existing ordinance and franchise agreements, this chapter shall apply to all existing ordinance and franchise agreements for use of the public right-of-way for telecommunications.

K. Confidentiality. The city agrees to use its best efforts to preserve the confidentiality of information as requested by a grantee, to the extent permitted by the Oregon Public Records Law. (Ord. 1820 §1(57)--(67), 2001).