

**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
Rick Samuelson
Tanea Browning

Administration
Chris Clayton, City
Manager
Deanna Casey, City
Recorder

**Community
Development**
Tom Humphrey,
Director

Finance
Steven Weber,
Director

Human Resources
Elizabeth Simas,
Director

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

Police
Kris Allison Chief

**CITY OF CENTRAL POINT
City Council Meeting Agenda
July 28, 2016**

Next Res. 1470
Next Ord. 2028

- 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 – You have Options from Central Point Police.**
- VI. **CONSENT AGENDA**

Page 2 - 9 A. Approval of June 23, 2016 Council Minutes
10 - 11 B. Approval of July 11, 2016 Council Special Meeting
- VII. **ITEMS REMOVED FROM CONSENT AGENDA**
- VIII. **PUBLIC HEARING, ORDINANCES, AND RESOLUTIONS**

13 - 30 A. Second Reading, Ordinance No. _____, An Ordinance Amending Central Point Municipal code Chapter 17 Zoning Sections to Better Define Signs, Clarify Permitted Uses in the C-N District, and Eliminate Redundancy in Parking Requirements between Zoning and Building Codes (Clayton)

32 - 51 B. Resolution No. _____, A Resolution of the City of Central Point, Oregon, Granting A Non-Exclusive Franchise Agreement to Falcon Cable Systems Company III, L.P., Locally Known as Charter Communications (Clayton)

53 - 93 C. Public Hearing/First Reading. An Ordinance Adopting Multiple Code Amendments to the Central Point

Municipal Code Sections 11.04, 11.16, 11.20, 13.04 and
Adding a New Section 3.40 Liens and Collections
(Clayton/Weber)

IX. BUSINESS

- 95 - 108 A. Local Improvement District Assessment Relief Request (Clayton)
- 110 - 120 B. Medford Water Agreement Review (Samitore)
- 122 C. Approving Bid Award for 2016 Street Inlay Preservation Projects (Samitore)
- 124 - 127 D. Approval of Sole Source Contract with Wellburn Electric (Samitore)
- 129 E. Planning Commission Report (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

Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 72 hours prior to the City Council meeting. To make your request, please contact the City Recorder at 541-423-1026 (voice), or by e-mail at: Deanna.casey@centralpointoregon.gov.

Si necesita traductor en español o servicios de discapacidades (ADA) para asistir a una junta publica de la ciudad por favor llame con 72 horas de anticipación al 541-664-3321 ext. 201

Consent Agenda

CITY OF CENTRAL POINT
City Council Meeting Minutes
June 23, 2016

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, Tanea Browning, 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 Steven Weber; Human Resource Director Elizabeth Simas; Parks and Public Works Director Matt Samitore; and City Recorder Deanna Casey were also present.

IV. PUBLIC APPEARANCES

Don McGeary from the Rogue Valley Heritage District
Mr. McGeary explained that the Jackson County Commissioners are requiring each jurisdiction to approve a Resolution of Support allowing their citizens to vote and be part of the proposed district. The Heritage District would take over and maintain the Southern Oregon Historical Society. History is important to everyone and we do not want it to go away. Losing the history and investment that we have put into the museums is not an option. It is important to have information for future generations. We are trying to preserve the history of our valley with this historic district. He encourages the Council to pass a resolution supporting the history of our valley.

Alice Molally, supporting the Rogue Valley Heritage District
Ms. Molally wanted to point out two things of particular interest to Central Point in preservation of funding. This allows cities to apply for a large block of funds to preserve historic structures, and a project fund to apply for expanding large historic projects.

Larry Malally, support of the Rogue Valley Heritage District
Mr. Malally stated that Central Point helps support Hanley Farms which is a historical farm in our valley. The City also helps promote the heritage fair at the farm. All the cities have young people who attend this event and it would be a shame to lose that opportunity.

City Manager Chris Clayton explained that the Council will hold a special meeting on July 11, 2016 at 5:30 to vote on a resolution of support.

V. CONSENT AGENDA

- A. Approval of June 9, 2016 City Council Minutes
- B. Approval of Street Closures for DARE Cruise on August 6, 2016

- C. Authorization to Cancel the July 14, 2016 City Council Meeting
- D. Approval of Maker Space Letter of Support

Mike Quilty moved to approve the Consent Agenda as presented. Allen Broderick seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Taneea Browning, 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. Public Hearing and First Reading, An Ordinance Amending Central Point Municipal Code Chapter 17 Zoning Sections to Better Define Signs, Clarify Permitted Uses in the C-N District and Eliminate Redundancy in Parking Requirements between Zoning and Building Codes.**

Community Development Director Tom Humphrey stated that the proposed code amendments to Chapter 17 clarify definitions and uses, updating it and making the code consistent with the state building code. These changes are intended to address “scoreboards’ in the Civic Zoning District. The sign code changes address letter dimensions and the way those dimensions are calculated. Sidewalk “A-Board” signs and banners are removed from the prohibited signs list and allowed with conditions. External illumination language is expanded to reflect what new businesses in the TOD have been allowed to do with back-lit or halo lighting.

The changes recommended for the Neighborhood Commercial zoning district are intended to relax outdated standards and permit restaurants which may choose to serve alcohol. There are several examples of family oriented restaurants in Central Point that are in the vicinity of residential neighborhoods and serve wine and beer. The existing language in the code does not permit this in the C-N District.

There are additional changes to replace zoning code language with references to the Oregon Structural Specialty Code and its language which is applied and enforced by the Building Division.

There was discussion regarding backlit and internally lit lights. Mr. Humphrey stated that the designs are always changing and the city has to take a careful approach to satisfy the community. The city received a specific request from the school board regarding a new score board to be able to show replays at games and events at the football stadium. The type of sign they are requesting would not be available to businesses and will not be an advertising tool. Advertising would be fixed squares on the side of the score board.

Mayor Williams stated that the Fair Board is looking to update the sign at the Expo. These changes would not limit what the county can do on their property.

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

Allen Broderick moved to second reading An Ordinance Amending Central Point Municipal Code Chapter 17 Zoning Sections to Better Define Signs, Clarify Permitted Uses in the C-N District and Eliminate Redundancy in Parking Requirements between Zoning and Building Codes. Tanea Browning seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

B. Resolution No. 1463, Scheduling Biennial Election of Central Point City Officers on November 8, 2016

City Manager Chris Clayton explained that the proposed resolution is required to set the candidate filing window. City Recorder Deanna Casey has prepared packets for citizens wishing to run for office. The time period for filing for an elected position will be from July 5, 2016 to August 23, 2016.

Mike Quilty moved to approve Resolution No. 1463, Scheduling Biennial Election of Central Point City Officers on November 8, 2016. Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

C. Resolution No. 1464, A Resolution Adopting General Procedures for Fiscal Year 2016-2017

Mr. Clayton explained the general procedures resolution which appoints specific individuals or firms to represent the city in the capacity of City Attorney, City Engineer, City Auditor, Municipal Judge, and Insurance Agent of Record. The resolution also establishes and regulates a variety of procedural policies for the year. There are no significant changes for this fiscal year. In the future, the contracts/agreements for general services will be procured in an effort to gain consistency with the city's biennial budget cycle.

Mike Quilty moved to approve Resolution No. 1464, A Resolution Adopting General Procedures for Fiscal Year 2016-2017. Rick Samuelson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

D. Resolution No. 1465, Approving An Intergovernmental Agreement Between the City of Central Point and the City of Talent for Information Technology Services

Mr. Clayton stated the proposed agreement will allow the City of Talent and the City of Central Point to work together to cover staff vacations and time away from the office for their Information Technology Department. The City of Talent has one person to cover this position and it is difficult for them to get away from the

city. In order to ensure no fiscal impact to the City of Central Point the IT Department will bill for serves at a rate of \$145 per hour.

There was discussion regarding the maximum amount of hours our IT staff may be asked to help Talent. It was explained that the agreement specifies a two week notice and a 30 day termination notice. If it becomes an issue we can terminate at any time with a 30 day notice.

Allen Broderick moved to approve Resolution No. 1465, Approving Intergovernmental Agreement between the City of Central Point and the city of Talent for Information Technology Services. Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

E. Resolution No. 1466, A Resolution Extending Workers' Compensation Coverage to Volunteers of the City of Central Point

Human Resources Director Elizabeth Simas explained the annual resolution providing worker's compensation coverage for our volunteer workers. The only change to this year's resolution is the reclassification of CERT Volunteers to public safety volunteers. Workers' compensation coverage for volunteers accounts for a small portion of the city's total workers' comp premium.

Rick Samuelson moved to approve Resolution No. 1466, A Resolution Extending Workers' Compensation Coverage to Volunteers of the City of Central Point. Mike Quilty seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

F. Resolution No. 1467, Revising the Classification Pay Plan

The proposed pay plan reflects changes for all employee groups since the last pay plan was approved in June, 2015.

Part A of the pay plan covers the General Service Bargaining Unit and reflects a 1.4% cost of living adjustment pursuant to the collective bargaining contract. Part B covers the Police Bargaining Unit with updates to reflect an increase of 2.5% as agreed to in the bargaining agreement approved in May 2016. Part C of the pay plan covers the management/non-represented group and has no changes.

Allen Broderick moved to approve Resolution 1467, A Resolution Revising the Classification Pay Plan. Tanea Browning seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

G. Resolution No. 1468, A Resolution Revising Miscellaneous Water Fee Schedule

Parks and Public Works Director Matt Samitore stated that the city has been approached by residents who currently do not have city water and have asked if there is a financing option for hook up to city water. In most circumstances the property owners are experiencing water issues with their water pump. In these situations a city waterline is in front of the property.

Currently if a property wants to hook up to city water they have to pay a total of \$6,226.09. Citizens have expressed interest in a city financed option. The Medford Water Commission SDC cannot be financed, leaving an amount of \$4,502 in city fees. Finance staff has come up with options for self-financing these unique circumstances allowing the owners to pay off the amount in 36 months at \$156.04 per month.

We have seen an increase in requests for water hauling in the city. In order to come up with a uniform way of maintaining the special meters required for water haulers it is suggested that we purchase and maintain them. Staff is suggesting any new haulers would be required to pay a setup fee for the new meter and an individual location for fill up. Any existing hauler that has a privately owned fire hydrant meter would be allowed one year to obtain a new meter based upon the passage of this resolution.

There was discussion about an increase in the cost of water for these water haulers. Staff would like to try the recommendation for a year and review when it is time to adjust water fees in 2017.

Mike Quilty moved to approve Resolution No. 1468, A Resolution Revising Miscellaneous Water Fee Schedule. Rick Samuelson seconded. Roll call: Hank Williams, yes; Bruce Dinger, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

H. Resolution No. 1469, A Resolution Updating the Regulations for Special Events in City Parks

Mr. Samitore explained that because of an increase in requests for hard alcohol at events in our city parks and limited city resources staff recommends limiting alcohol to Twin Creeks Park only. The City Council discussed options at the Study Session in May and decided that hard alcohol would be permitted in one park. Events could still be reserved for Pfaff Park but no alcohol would be allowed in that park. It was also decided that any special event with alcohol and attendance over 200 people would be required to provide security at their expense.

Mike Quilty moved to approve Resolution No. 1469, A Resolution Updating the Regulations for Special Events in City Parks. Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dinger, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

VIII. BUSINESS

A. Discussion of Legislative Priorities

Mr. Clayton explained that the League of Oregon Cities is requesting each city provide their top 4 items they would like to see the league concentrate on for the upcoming legislative session. He provided the list of 29 topics. Council discussed the the list and decided that 1) restoring recreational immunity; 2) Mental Health Investments; 3) Transportation funding and policy package; and 4) needed housing assistance program were the top priorities in Central Point. Staff was directed to return the list to LOC.

B. Discussion of Chronic Nuisance at 75 Bush Street

Police Chief Kris Allison explained the ongoing issue regarding 75 Bush Street. She provided background information regarding the chronic nuisance and the attempts by the city to get the owners to clean up the accumulation of junk. It is recommended by the City Attorney and the Police Chief that the city begins the chronic nuisance abatement process. She would like to bring back a resolution to council at the next meeting to begin this process. If needed, the city will put a lien on the property.

Once the notices have been given to the property owner on record, the city will contract with someone to clean up the property and take care of the accumulation of tires. There have been over 41 calls for service at this property by the Police Department. There is sufficient documentation to consider this property a chronic nuisance. Council directed staff to proceed with the abatement process.

IX. MAYOR'S REPORT

Mayor Williams reported that he attended:

- The Medford Chamber Forum.
- The Medford Water Commission meeting. The Medford City Council did not approve their budget and will be hiring a consultant to evaluate their general manager. They also discussed the issue of lead in the older sections of Medford.

X. CITY MANAGER'S REPORT

City Manager Chris Clayton reported that:

- Staff will be preparing a Resolution for the Heritage District to be discussed on July 11, 2016. The city did not receive notice that the resolution was required by Jackson County in order to allow our citizens to vote on the issue if it makes it to the ballot in November. The Resolution is due to the County by July 15, 2016 which is the reason for a special meeting.
- He will provide information in his weekly report regarding a Memorandum of Understanding between the City of Central Point and the Fair Board regarding the Country Crossing Festival.
- He explained that the City of Central Point does not have a problem with lead in the water. We will be providing information to the citizens in the newsletter and on our website.

XI. COUNCIL REPORTS

Council Member Mike Quilty reported that:

- He spent time in Portland looking at Connect Oregon Applications and prioritizing projects.
- Several new projects in Reedsport will be creating family wage jobs.
- There is a new facility in Lake County that will take in wood waists to create diesel and jet fuel.
- He attended his last Airport Advisory Committee meeting. Tom Humphrey will be representing Central Point.

Council Member Rick Samuelson reported that:

- He attended the business boot camp.
- He attended an RVCOG meeting. They discussed the concerns about lead in the water for Medford Water Commission.
- The Rooster Crow Festival is this weekend in Rogue River.
- Gold Hill is going to move forward without having a City Manager.
- Jacksonville employees will be moving into their new city hall in the very near future.

Council Members Brandon Thueson, Allen Broderick and Bruce Dinger had no report.

Council Member Tanea Browning reported that:

- The Saturday market tripled in attendance for June. The Grange Co-op is a sponsor so all vendor fees can be waived.
- She attended the June Greeters at Rogue Jet Boats.
- She has been working on the 4th of July Freedom Festival and updated the Council on the events for the festival.

XII. DEPARTMENT REPORTS

Parks and Public Works Director Matt Samitore reported that:

- The BOB BBQ competition has increased to 12 teams. They are also increasing the price of the tasting tickets to \$15.
- Construction has begun on the Stryman Park Arboretum.
- The State requires cities to test water for lead annually. He explained that the city is going to test our own main lines in addition to the state requirements of testing inside homes.

Police Chief Kris Allison reported that:

- They have been working on the operations plan for the 4th of July parade.
- Staff has been working with the Grange Coop regarding loss prevention system and what they can do to help with community issues.
- The Department was given some puppies this week that were found abandoned. She is happy to say they have all found loving homes, and a list was started for additional families if the current ones do not work out.

Human Resources Director Elizabeth Simas reported that:

- She attended an OSHA accident investigation class this week.
- The city has initiated a longevity torch which was presented to Donna Beyer. When she leaves the city service the torch will be passed on to the next person who has been at the city the longest.
- She has been busy with eight new employees over the last couple of weeks.
- The contract changes have been implemented for the Police Bargaining Unit.

Community Development Director Tom Humphrey reported that:

- They have hired a new Community Planner for his department. He is happy to have Molly Bradley on board.
- This month was a small boot camp meeting but it was productive.
- He has been working with a cellular company who is interested in putting an antenna on the McDonalds property. Staff is working with them to find a better location.
- There will be a Planning Commission and a Citizens Advisory Commission meeting in July.
-

City Attorney Sydnee Dryer updated the Council on the LUBA case, it is moving forward but we have not been told of a hearing date.

XIII. ADJOURNMENT

Mike Quilty moved to adjourn, Rick Samuelson seconded, all said "aye" and the Council Meeting was adjourned at 9:00 p.m.

The foregoing minutes of the June 23, 2016, Council meeting were approved by the City Council at its meeting of July 28, 2016.

Dated:

Mayor Hank Williams

ATTEST:

City Recorder

CITY OF CENTRAL POINT
City Council Meeting Minutes
SPECIAL MEETING
July 11, 2016

I. REGULAR MEETING CALLED TO ORDER

Mayor Williams called the meeting to order at 5:30 p.m.

II. PLEDGE OF ALLEGIANCE

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

Bruce Dingler left early, he was not feeling well.

City Manager Chris Clayton; Police Chief Kris Allison; Community Development Director Tom Humphrey; Parks and Public Works Director Matt Samitore; and City Recorder Deanna Casey were also present.

VII. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

A. Resolution No. 1470, A Resolution Approving a Jackson County Order to Initiate Formation of the Rogue Valley Heritage Special District and Consenting to the Inclusion of City Territory within the Boundaries of the District

City Manager Chris Clayton explained that Jackson County Commissioners have requested the Heritage District get Resolutions of Support in order to let their citizen's vote on the District in November. If the City decides not to pass the resolution of support the citizens would not vote on inclusion and if the measure passes the city would not be eligible for any of the benefits of the district.

Mr. Clayton explained his concern regarding tax compression and the formation of another district. Currently the city has a \$1.70 gap, the district if approved would take .05 cents of that gap. This is not a concern at the moment but the smaller the gap the more concern the city could have in the future. He explained Urban Renewal and how it plays into the gap.

Tam Moore addressed the Council in support of the Rogue Valley Heritage Special District. He complimented Mr. Clayton on the explanation of the tax gap issue and feels that no other city has had this knowledge. He explained the reasons that the Council should allow the citizens to vote on the district.

Council members asked how the city of Central Point would benefit by the district because we have no museums in town and there are no projects planned. Mr. Moore explained that the benefit would be largely to the School District in

allowing their students to take field trips and learn about the history of the Rogue Valley. There could be projects in the future for Central Point. There are old buildings that could benefit from funding through the Heritage District.

There was discussion about getting the word out regarding the district and a letter of support from the school district.

Council discussed the importance of giving the citizens a voice in the district. Without the resolution they have no voice. Central Point has not done any surveys asking citizens if the preservation of historical structures would be of importance to them.

Council also stated that they are not in favor of additional taxes to the citizens of Central Point.

Brandon Thueson moved to approve Resolution No. 1470, A Resolution Approving a Jackson County Order to Initiate Formation of the Rogue Valley Heritage Special District and Consenting to the Inclusion of City Territory within the Boundaries of the District. Tanea Browning seconded. Roll call: Hank Williams, yes; Tanea Browning, yes; Brandon Thueson, yes; Allen Broderick, yes; and Rick Samuelson, yes. Motion approved.

XIV. ADJOURNMENT

Brandon Thueson moved to adjourn, Rick Samuelson seconded, all said "aye" and the Council Meeting was adjourned at 6:06 p.m.

The foregoing minutes of the July 11, 2016, Council meeting were approved by the City Council at its meeting of July 28, 2016.

Dated:

Mayor Hank Williams

ATTEST:

City Recorder

Ordinance

Chapter 17 Code Amendments



STAFF REPORT

July 28, 2016

AGENDA ITEM: File No. 16011

Second Reading of miscellaneous amendments to the City's Zoning Ordinance (Sections 17.08.410 TOD Definitions; 17.32.020 Neighborhood Commercial (C-N) District Permitted Uses; 17.64.040(C), Off-Street Parking Requirements - Accessible Parking; and 17.67.050(M), TOD Site Design Standards - Signs.

Applicant: City of Central Point

STAFF SOURCE:

Tom Humphrey AICP, Community Development Director

BACKGROUND:

The purpose of the proposed amendments are to modify the following code sections:

- 17.08.410 (H. Sign-Related Definitions), TOD District and Corridor Definitions and Uses by adding definitions for “Reader Board” and “Scoreboard”. Currently, the zoning code (17.67.050(M)(4). Prohibited Signs) prohibits Reader Boards, but does not define what constitutes a Reader Board. This proposed amendment is for clarification.

The question of allowing an electronic scoreboard at Crater High School has been asked. Currently, the zoning code does not define scoreboards and as such they are prohibited. The proposed amendment provides a definition of scoreboard thus acknowledging scoreboards as a type of sign, which then may, or may not be allowed elsewhere in the zoning ordinance.

- 17.32.020, C-N District Permitted Uses; modifies and removes restrictions placed on eating and drinking establishments in the Neighborhood Commercial (C-N) zoning district. Convenience stores in this zoning district are allowed the sale of beer and wine and an argument can be made that an eating establishment in this commercial zone should have the same privilege. Additionally, small craft breweries have expressed the desire to locate in Central Point in this zone.
- 17.64.040, (C. Accessible Parking Requirements), Off-Street Parking Requirements by replacing zoning language and Table 17.64.03 with standards in the Oregon Structural Specialty Code. The Building Division implements and regulates Accessible (ADA) Parking Requirements and it is not necessary to repeat these standards in the zoning code. This also removes the possibility of error or the inconvenience of updating the land use code when changes are made to standards in the Specialty Code.

- 17.67.050(M. Signs), Site Design Standards. This proposed amendment updates the table in Section M (17.67.050(1)) and subsections 1-4, establishing standards for signs in the TOD district or corridor. Revisions are made to accommodate scoreboards in the Civic zoning district, improve building/sign proportionality and to clarify uses of temporary signs such as A-frame signs and commercial banners.

ISSUES:

The Planning Commission was presented with selected changes to Chapter 17 to either clarify definitions and uses in the code or to update it and make the document consistent with the state building code. Changes proposed in Chapter 17.08.410(H) and Chapter 17.67.050(M) are intended to address ‘scoreboards’ in the Civic zoning district but also to make changes to sign standards in general, following focus group discussions with local sign makers.

Proposed changes address sign and letter dimensions and the way those dimensions are calculated. Sidewalk “A-Board” Signs and banners are proposed to be removed from the prohibited signs list and allowed with conditions. External illumination language is expanded to reflect what new businesses in the TOD have been allowed to do with ‘back lit’ or ‘halo’ lighting.

Changes in the Neighborhood Commercial zoning district (Chapter 17.32.020) are intended to relax outdated standards and permit restaurants which may choose to serve alcohol. There are several examples of family oriented restaurants in Central Point (Abby’s, Bobbio’s, etc.) that are in the vicinity of residential neighborhoods and serve wine and beer. The existing language in the code does not permit this in the C-N District. According to the Sustainable City Network e-newsletter, *“The neighborhood pub ... is coming back as millennials ditch their cars and demand amenities of urban life that include shopping, restaurants and bars within walking distance of their high-density homes.”*

Changes that are proposed in Chapter 17.64.040(C) simply replace zoning code language with references to the Oregon Structural Specialty Code and its language which is applied and enforced by the Building Division.

The City Council held a public hearing and invited comment on the code amendments. It was determined that the language in the amendments is flexible enough to address business owner concerns about new signs and signage updates. The Council moved the Ordinance to a second reading and adoption.

FINDINGS:

The Planning Commission, when initiating amendments to the municipal code, makes their recommendation to the City Council in the form of a resolution. Findings and conclusions for arriving at their recommendation can be found in Attachment B. The Commission’s Resolution (831) is included as Attachment C.

EXHIBITS/ATTACHMENTS:

Attachment “A” – Ordinance No. ____ An Ordinance Amending Central Point Municipal Code Chapter 17 Zoning Sections to Better Define Signs, Clarify Permitted Uses in the C-N District and Eliminate Redundancy in Parking Requirements Between the Zoning and Building Codes.

Attachment “B” – Findings of Fact and Conclusions of Law

ACTION:

Consider the second reading of the proposed amendments to CPMC, Chapter 17, and 1) approve the ordinance; 2) approve the ordinance with revisions; 3) deny the ordinance.

RECOMMENDATION:

Approve Ordinance No. ___ An Ordinance Amending Central Point Municipal Code Chapter 17 Zoning Sections to Better Define Signs, Clarify Permitted Uses in the C-N District and Eliminate Redundancy in Parking Requirements Between the Zoning and Building Codes.

**FINDINGS OF FACT
AND
CONCLUSIONS OF LAW
File No: 16011**

INTRODUCTION

The text amendments to Sections 17.08.410; 17.32.020; 17.64.040 and 17.67.050 constitute major text amendments to the Central Point Municipal Code because they are legislative policy decisions and not an application of policy to a specific development application. The amendments are intended to add clarity in some sections and remove redundancy in others.

These findings are prepared in four (4) parts to address the statewide planning goals, the applicable elements of City's Comprehensive Plan, public facilities and the Transportation Planning Rule as required by CPMC 17.05.500 and 17.10.600.

PART 1 CPMC LEGISLATIVE AMENDMENT

17.10.200 Legislative amendments.

Legislative amendments are policy decisions made by city council. They are reviewed using the Type IV procedure in Section 17.05.500 and shall conform to the statewide planning goals, the Central Point comprehensive plan, the Central Point zoning ordinance and the transportation planning rule provisions in Section 17.10.600, as applicable.

Finding: The Central Point Planning Commission initiated the proposed code amendments by resolution to clarify language in the zoning chapter relative to signs in the TOD district; permitted uses in the C-N, Neighborhood Commercial district and requirements for Accessible Parking.

Conclusion: A text amendment is reviewed as a Type IV, Legislative decision.

17.05.500 Type IV procedure (legislative).

G. Decision-Making Criteria. The recommendation by the planning commission and the decision by the city council shall be based on the following factors:

- 1. Whether the request is consistent with the applicable statewide planning goals;*
- 2. Whether the request is consistent with the comprehensive plan; and*
- 3. If the proposed legislative change is particular to a particular site, 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 concurrently with the development of the property.*

PART 2 STATEWIDE PLANNING GOALS:

17.05.500 G. 1. *Whether the request is consistent with the applicable statewide planning goals;*

GOAL 1. CITIZEN INVOLVEMENT - *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Finding, Goal 1: The proposed text amendment does not enhance, or detract, from citizen participation in the City's planning process. A duly noticed public hearing is scheduled for June 7, 2016 to review the proposed text amendment.

Conclusion, Goal 1: Consistent.

GOAL 2. LAND USE PLANNING - *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Finding Goal 2: Element I of the Central Point Comprehensive Plan addresses the Goal 2 requirement that plans and implementing ordinances be revised on a periodic cycle to take into account changing public policies, community attitudes and other circumstances; as such the proposed code amendment provides a process and policy framework as a basis for land use decisions.

Finding Goal 2: The proposed text amendment is in accordance with CPMC Section 17.10.200 and therefore, does not modify or otherwise affect the City's planning process as set forth in the Comprehensive Plan. The proposed text amendments serve to provide clarity and design flexibility and are complimentary to the policy direction of the use of both mixed-use zoning and conventional zoning.

Conclusion Goal 2: Consistent.

Goal 3. AGRICULTURAL LANDS - *To preserve and maintain agricultural lands.*

Finding Goal 3: The proposed text amendment does not involve, or otherwise affect lands designated for agricultural use.

Conclusion Goal 3: Not applicable.

Goal 4. FOREST LANDS - *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

Finding, Goal 4: The proposed text amendment does not involve, or otherwise affect lands designated for forest use.

Conclusion, Goal 4: Not applicable.

GOAL 5. OPEN SPACE, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES - *To protect natural resources and conserve scenic and historic areas and open spaces.*

Finding Goal 5: The proposed text amendment does not involve, or otherwise affect lands designated as natural, scenic, or historic resources.

Conclusion Goal 5: Not applicable.

GOAL 6. AIR, WATER, AND LAND RESOURCES QUALITY - *To maintain and improve the quality of the air, water and land resources of the state.*

Finding Goal 6: The proposed text amendment does not involve, or otherwise affect regulations managing the quality of air, water and land resources.

Conclusion Goal 6: Not applicable.

GOAL 7. AREAS SUBJECT TO NATURAL HAZARDS AND DISASTERS - *To protect people and property from natural hazards.*

Finding Goal 7: The proposed text amendment does not involve, or otherwise affect regulations protecting the citizens of Central Point from natural hazards.

Conclusion Goal 7: Consistent.

GOAL 8. RECREATION NEEDS - *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Finding Goal 8: The proposed text amendment does not involve, or otherwise affect the City's provision of necessary recreational facilities.

Conclusion Goal 8: Not applicable.

GOAL 9. ECONOMY OF THE STATE - *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Finding Goal 9: The proposed text amendments do not alter the City's provision of adequate economic opportunities. The text amendment as a choice, affords design options that can be better suited to the city and the available market.

Conclusion Goal 9: Consistent.

GOAL 10. HOUSING - *To provide for the housing needs of citizens of the state.*

Finding Goal 10: Aside from providing a choice of existing and adopted development standards, the proposed text amendment does not involve, or otherwise affect regulations that address the City's housing needs.

Conclusion Goal 10: Consistent.

GOAL 11. PUBLIC FACILITIES AND SERVICES - *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

Finding Goal 11: The proposed text amendment does not involve, or otherwise affect the City's provision of timely, orderly and efficient public facilities and services. The proposed text amendment does not cause an increase in the demand for public facilities. Water service is available within the City.

Conclusion Goal 11: Consistent.

GOAL 12. TRANSPORTATION - *To provide and encourage a safe, convenient and economic transportation system.*

Finding Goal 12: The proposed text amendment does not involve, or otherwise affect the City of Central Point Transportation System Plan or modify CPMC Section 17.05.900, Traffic impact analysis.

Conclusion Goal 12: Consistent.

GOAL 13 ENERGY - *To conserve energy.*

Finding Goal 13: The proposed text amendment does not involve, or otherwise affect and development standards or regulations that address conservation of energy.

Conclusion Goal 13: Not applicable.

GOAL 14. URBANIZATION - *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

Finding Goal 14: The proposed text amendment does not involve, or otherwise affect, regulations addressing and regulating the transition from rural to urban lands.

Conclusion Goal 14: Not applicable.

PART 3 CITY OF CENTRAL POINT COMPREHENSIVE PLAN

17.05.500 (G) (2)(m) *The request is consistent with the Central Point comprehensive plan;*

Finding: The amendments to Sections 17.08.410; 17.32.020; 17.64.040 and 17.67.050 are consistent with CPMC and the comprehensive plan. This modification is complimentary to the policy direction of the use of both mixed-use zoning and conventional zoning.

Conclusion: Consistent

1. Transportation

Finding: The City of Central Point Transportation System Plan 2030 (TSP) replaces Chapter XI, Circulation/Transportation of the Comprehensive Plan. The TSP provides an inventory of the City’s existing transportation system, including street standards. This element of the Comprehensive Plan addresses Statewide Planning Goal 12, Transportation.

Finding: The proposed text amendment 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.

Conclusion: Consistent

PART 4 TRANSPORTATION PLANNING RULE

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 660-012-0060(1)(a): The proposed text amendment serves to provide CPMC consistency, review process and measurable code standards. The proposed text amendment will not cause any changes to the functional classification of any existing or planned transportation facilities.

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

Finding 660-012-0060(1)(b): The proposed text amendment serves to maintain the density standard of residential property consistent with the Comprehensive Plan. The proposed text amendment 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 text amendment 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.

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

Finding 660-012-0060(1)(c)(B): The proposed text amendment will not cause a reduction in the performance of any existing or planned transportation facilities below the minimum acceptable performance standard identified in the TSP or Comprehensive Plan.

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

Finding 660-012-0060(1)(c)(C): The proposed text amendment 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 TSP or Comprehensive Plan.

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

Summary Conclusion: As proposed, the text amendments are in conformance with the acknowledged Comprehensive Plan, Transportation System Plan and Central Point Municipal Code.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CENTRAL POINT MUNICIPAL CODE CHAPTER 17 ZONING SECTIONS TO BETTER DEFINE SIGNS, CLARIFY PERMITTED USES IN THE C-N DISTRICT AND ELIMINATE REDUNDANCY IN PARKING REQUIREMENTS BETWEEN ZONING AND BUILDING CODES.

RECITALS:

- A. Words ~~lined through~~ are to be deleted and **words in bold** are added.
- B. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- C. On June 7, 2016, the Central Point Planning Commission recommended approval of code amendments to CPMC Chapters 17.08; Chapter 17.32; Chapter 17.64 and Chapter 17.67. (zoning).
- D. On June 23, 2016, the City of Central Point City Council held a property advertised public hearing; reviewed the Staff Report and findings; heard testimony and comments, and deliberated on approval of the Municipal Code Amendment.

THE PEOPLE OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Amendments to Sections 17.08 Definitions adds language to the zoning code that is currently being used or being considered but not listed.

Section 17.08.410 TOD District and Corridor Definitions and Uses

H. Sign-Related Definitions

20. Reader Board. A sign that conveys information about a variety of subjects, including advertising for products or services, travel, news or event information.

21. Scoreboard. A large internally illuminated sign located within a sports stadium or in conjunction with a sporting event field on which the score of the sporting event is shown and intended for viewing primarily by persons participating in such sporting events and/or spectators of such sporting events.

SECTION 2. Amendments to Title 17.32.020 C-N District clarifies language to the zoning code regarding permitted uses.

17.32.020 Permitted uses.

The following uses and their accessory uses are permitted outright, subject to compliance with all applicable municipal, state and federal environmental, health, and safety regulations as well as the requirements for site plans in Chapter [17.72](#):

- A. Professional and financial offices and personal service establishments;
- B. Retail stores, shops and offices supplying commodities or performing services other than vehicle and fuel sales;
- C. Eating and drinking establishments ~~that do not possess a liquor license~~;
- D. Desktop publishing, xerography, copy centers;
- E. Temporary tree sales, from November 1st to January 1st;
- F. Public and quasi-public utility and service buildings, structures and uses;
- G. Neighborhood shopping centers, which may include any of the permitted uses in this section;
- H. Other uses not specified in this or any other district, if the planning commission finds them to be similar to the uses listed above and compatible with other permitted uses and with the intent of the C-4 district as provided in Section [17.60.140](#), Authorization for similar uses. (Ord. 2014 §4, 2015; Ord. 1881 (part), 2006; Ord. 1709 §1(part), 1994).

SECTION 3. Amendments to Title 17.64.040 Off-Street Parking Requirements eliminates redundancy between zoning and building codes.

Section 17.64.040, Off-Street Parking Requirements

C. Accessible Parking Requirements. Where parking is provided accessory to a building, accessible parking shall be provided, constructed, striped, signed and maintained as required by ORS [447.233](#), and Section ~~1104-1106~~ of the latest Oregon Structural Specialty Code as set forth in this section.

1. The minimum number of accessible parking spaces shall be provided for all uses in accordance with the standards in ~~Table 17.64.03~~ **Oregon Structural Specialty Code**, Minimum Number of Accessible Parking Spaces. ~~Parking spaces used to meet the standards in Table 17.64.03,~~

~~Minimum Number of Accessible Parking Spaces~~, shall be counted toward meeting off-street parking requirements in Tables 17.64.02A and 17.64.02B, Residential and Non-Residential Off-Street Parking Requirements. The accessible parking requirements ~~set forth in Table 17.64.03, Minimum Number of Accessible Parking Spaces~~, are minimum requirements and are not subject to reductions per subsection (B)(1) of this section;

~~2. Accessible parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway; and~~

~~3. Accessible spaces shall be grouped in pairs where possible.~~

~~Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than forty two inches and no more than seventy two inches above pavement level. Van spaces shall be specifically identified as such.~~

TABLE 17.64.03

~~MINIMUM NUMBER OF ACCESSIBLE PARKING SPACES~~

ORS 447.233

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7

TABLE 17.64.03

MINIMUM NUMBER OF ACCESSIBLE PARKING SPACES

ORS 447.233

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
501 to 1,000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1,001	20 plus 1 for each 100 over 1,000	1/8 of Column A**	7/8 of Column A***
<p>*vans and cars may share access aisles</p> <p>**one out of every eight accessible spaces</p> <p>***seven out of every eight accessible parking spaces</p>			

SECTION 4. Amendments to Title 17.67 TOD Districts Amends Tables in the TOD District zoning code.

Section 17.67.050 Site Design Standards.

M. Signs.

1. The provisions of this section are to be used in conjunction with the city sign regulations in the Central Point Sign Code, Chapter [15.24](#). The sign requirements in Chapter [15.24](#) shall govern in the TOD district and corridor with the exception of the following:

- a. The types of signs permitted shall be limited only to those signs described in this chapter.
- ~~b. All signs in the TOD district and corridor shall comply with the design standards described in this chapter.~~
- eb.** Decorative exterior murals are allowed and are subject to review and criteria by planning commission or architectural review committee appointed by city council.
- ec.** Signs that use images and icons to identify store uses and products are encouraged.

ed. Projecting signs located to address the pedestrian are encouraged.

2. Sign Requirements. **Signs within the TOD district or corridor shall comply with the standards in Table 17.67.050(1).**

Table 17.67.050 (1) Sign Requirements

Sign Type	ZONING DISTRICT			
	LMR and MMR	HMR (a)(b)	C and OS	EC and GC
Freestanding/Monument				
Permitted	Yes			
Internally Illuminated	Prohibited			
Max. Number	1			
Max. Height (measured from finished grade)	4 feet	8 feet	20 feet	
Sign Area/Building Face	16 sq. ft.	20 feet	50 sq. ft.	
Total Sign Area - all building faces	32 sq.ft.	48 feet	100 sq.ft.	
Location	At entry point to housing complex or subdivision			Outside of public right-of-way
Wall and Projecting				
Permitted	Yes			
Internally Illuminated	Prohibited			
Max. Number	1			No Limit
Max. Height	Lowest part not less than 8 feet above underlying finished grade for projecting signs			
Sign Area/Building Face	8 sq. ft.			Principal façade; 1.5 sq. ft. for each linear foot of business frontage, not to exceed 2 sq. ft. of frontage if 20' r-o-w.
Sign Area/Building Face	8 sq. ft.			Secondary façade; 2 sq. ft. of linear business frontage
Total Sign Area - all building faces	16 sq. ft.			Determined by linear distance of building frontage
Location	Signs shall not project more than 4 feet from a building wall unless attached to a canopy			
Temporary				
Permitted	Yes			
Internally Illuminated	Prohibited			
Max. Number	2		4	
Max. Height	3 feet			
Sign Area/Building Face	6 sq. ft.		32 sq. ft.	
Total Sign Area - all building faces	24 sq. ft.		64 sq. ft.	
Location	Outside of street right-of-way			
Time Limit	120 days			
Directional				
Permitted	Yes			
Internally Illuminated	Prohibited			
Max. Number	1 per driveway		2 per driveway	
Max. Height	3 feet			
Sign Area/Building Face	6 sq. ft.			
Total Sign Area - all building faces	24 sq. ft.			
Location	Adjacent to private driveway or side walk			
Scoreboard (c)				
Permitted	No	No	CUP	No
Internally Illuminated	NA	NA	Yes Per CUP	NA
Max. Number	NA	NA	Yes Per CUP	NA
Max. Height	NA	NA	30 feet	NA
Maximum Sign Area	NA	NA	525 sq. ft.	NA
Location	NA	NA	Per CUP	NA
Notes:				
	(a) For ground commercial uses in the HMR District			
	(b) For residential uses in the HMR District			
	(c) Scoreboards allowed only as a conditional use within the Civic District. Standards in Section 17.67.050(M)(3) may be waived at the discretion of the Planning Commission.			
	(d) Sidewalk A-Frame Boards (1) within fixed dimensions and not obstructing public right of way			
	(e) Temporary commercial banners to promote grand openings, 30-60 days per year maximum with planning permit			

Sign Type	LMR, MMR, HMR (a), (b), C, and OS Zones	EC and GC Zones
Freestanding		
Maximum Number	- 4	- 4
Height	4 feet.	20 feet.
Sign area per building face	16 square feet.	50 square feet.
Total sign area--all building faces	32 square feet.	100 square feet.
Location	At entry point(s) to housing complex or subdivision.	Outside of the public right-of-way.
Wall and Projecting		
Maximum Number	- 4	- No limit.
Height	Lowest part at least 8 feet above underlying grade for projecting signs.	Lowest part at least 8 feet above underlying grade for projecting signs.
Sign area per building face	8 square feet.	1-1/2 square feet with a maximum of 50 square feet per sign.
Total sign area--all building faces	16 square feet.	0.25 square feet per lineal foot of building perimeter.
Location	Signs shall not project more than 4 feet from a building wall unless attached to a canopy.	Signs shall not project more than 4 feet from a building unless attached to a canopy.
Temporary		
Maximum Number	- A maximum of 2 lawn signs are permitted. All other temporary signs are not permitted.	- 4
Height	3 feet maximum.	4 feet for freestanding signs and up to parapet or roof eaves for wall signs.
Sign area per face	6 square feet.	32 square feet.
Total sign area--all	24 square feet.	64 square feet.

Sign Type	LMR, MMR, HMR (a), (b), C, and OS Zones	EC and GC Zones
faces		
Location	Outside of the street right-of-way.	Outside of the street right-of-way.
Time limit	120 days.	120 days.
Directional		
Maximum	-	-
Number	1 sign per driveway.	2 signs per driveway.
Height	3 feet.	3 feet.
Sign area per building face	6 square feet.	6 square feet.
Total sign area--all building faces	24 square feet.	32 square feet.
Location	Adjacent to private driveway or sidewalk.	Adjacent to private driveway or sidewalk.
Total Sign Area Per Lot	8 square feet in LMR 32 square feet in MMR, HMR, C, and OS.	0.25 square feet per lineal foot of building perimeter.
All sign faces		

3. Sign Materials. **Unless otherwise exempt, or authorized by the Planning Commission, all signs must comply with the following design criteria:**

a. The base materials for a freestanding sign shall be natural materials including stone, brick, or aggregate.

b. Signs and supporting structural elements shall be constructed of metal or stone with wood or metal informational lettering. No plastics or synthetic material shall be allowed, except for projecting awning signs, which may be canvas or similar fabric.

eb.. Sign lettering shall be limited to sixteen inches maximum in height. Building/sign proportionality **as referenced in Table 17.67.050(1).**

dc. Sign illumination shall be limited to external illumination to include conventional lighting and neon, if neon is applied to the sign plane area. External illumination is understood to include 'back lit' or 'halo' lighting. Internally illuminated signs are prohibited **except as provided under Table 17.67.050(1) for scoreboards.**

4. Prohibited Signs.

- a. Internally illuminated signs;
- b. Roof signs;
- c. Reader boards;
- ~~d. Sidewalk A-board signs;~~
- ed. Flashing signs
- fe. Electronic message/image signs on which copy is created through the use of a pattern of lights in a dot matrix configuration, which may be changed intermittently;
- gf. Bench signs;
- hg. Balloons or streamers;
- ~~i. Temporary commercial banners.~~ (Ord. 1971 §4 (Exh. C) (part), 2013; Ord. 1815 §1(part), Exh. C(part), 2000).

SECTION 5. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word Ordinance may be changed to “code”, “article”, “section”, “chapter”, or other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be codified and the City Recorder is authorized to correct any cross references and any typographical errors.

SECTION 6. 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 _____, 2016.

Mayor Hank Williams

ATTEST:

City Recorder

Resolution

Charter Franchise Agreement



ADMINISTRATION DEPARTMENT

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

STAFF REPORT

July 28, 2016

AGENDA ITEM: Charter Communications/Cable Service Franchise Agreement

Consideration of Resolution No. _____ Recommending adoption of a resolution of the City of Central Point, Oregon granting a non-exclusive franchise to Falcon Cable Systems Company II, L.P. locally known as Charter Communications for purposes of the construction and operation of a cable system.

STAFF SOURCE:

Chris Clayton, City Manager
Sydney Dreyer, City Attorney

BACKGROUND:

The existing Cable System Franchise Agreement between the City of Central Point and Charter Communications expired on June 30, 2015, and was extended for one (1) year. That extension expired on June 30, 2016. The City and Charter have spent the past few months negotiating numerous franchise agreement revisions including the following:

1. Revisions to definition of Gross Revenues. (Section 1.0)
2. Modified term from 5-years to 10-years. (Section 2.2)
3. Added a new provision allowing the parties to renegotiate in the event federal and/or state law change. (Section 2.5)
4. Modified Indemnity provision. (Section 4.1)
5. Modified inspection/audit rights and fees. (Section 10.4)
6. Added provision allowing City to hold hearing to increase franchise fee in the event a change in the Cable Act during the term of the Agreement would permit such increase. (Section 10.6)
7. Modifies provisions for PEG Channel in the event City exercises its option to request a Channel. (Section 13)

FISCAL IMPACTS:

The previous Charter Communications Franchise Agreement sets the City's compensation level at 5% of Charter's gross revenue collected within Central Point's incorporated limits. The proposed franchise agreement between the City of Central Point and Charter Communications would not increase the percentage of gross revenues collected. However, the City included a provision to renegotiate the definition of gross revenue and/or cable service in the event the laws expand the definition of a cable service to include cable modem services. A recent case in the Oregon Supreme Court, Eugene v. Comcast leaves open the possibility of expanded franchise revenue.

In the current 2015-2017 City of Central Point biennial budget, projected revenue from the Charter Communications franchise agreement is scheduled at \$135,000. With the exception of the Pacific Power franchise agreement, which funds street lighting costs via the Public Works

Department Street Fund, franchise agreement generated revenue is dedicated to the City's General Fund.

FINDINGS:

1. Charter Communications is a cable service provider under the Cable Communication Policy Act of 1984, that provides cable services to the citizens of Central Point.
2. Cable Services to Central Point citizens requires the installation, operation and maintenance of cable systems and other related facilities to be located within Central Point public rights of way.
3. Charter Communications has requested a nonexclusive franchise to construct, install, maintain, extend and operate a cable system in the City as designated in this agreement (Attachment B).
4. The City desires to set forth the terms and conditions by which Charter may use the rights of way within the City.
5. The City of Central Point and Charter have agreed to terms as designated in the proposed agreement.

ATTACHMENTS:

Charter Communication/Cable System Franchise Resolution and Agreement.

RECOMMENDATION:

Approve Resolution No. _____ adopting a non-exclusive franchise agreement with Falcon Cable Systems Company II, L.P. locally known as Charter Communications for purposes of the construction and operation of a cable system.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF CENTRAL POINT, OREGON, GRANTING
A NON-EXCLUSIVE FRANCHISE AGREEMENT TO FALCON CABLE SYSTEMS
COMPANY II, L.P., LOCALLY KNOWN AS CHARTER COMMUNICATIONS.**

This Franchise Agreement (“Franchise”) is between the City of Central Point, Oregon, hereinafter referred to as the “Grantor” and Falcon Cable Systems Company II, L.P., locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the “Grantee.”

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

**NOW, THEREFORE, THE CITY OF CENTRAL POINT DOES HEREBY
RESOLVE:**

SECTION 1
Definition of Terms

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined 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 word “shall” is mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- B. “Board/Council” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq. and as hereafter amended, according to applicable law.

- D. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.
- E. “Franchise” shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Service Area.
- F. “Gross Revenues” shall mean any and all revenue, in accordance with generally accepted accounting principles, received by Grantee or Grantee’s Affiliates from the operation of the Grantee’s Cable System to provide Cable Services, in the Service Area. Gross revenue includes, by way of illustration and not limitation, amounts charged for basic service; home shopping commissions; optional premium services; event-based services (such as video-on-demand and pay-per-view); cable programming services; audio services; installation, disconnection, reconnection, wire maintenance fees and charges, and changes-in-service fees; equipment rentals; leased channel fees; and advertising revenue. Grantee shall not unlawfully allocate revenue between Cable Services and non-Cable Services where such services are bundled together in a discounted package offered to Subscribers for the purpose of evading its franchise fee obligations. Gross Revenues shall not include (1) any taxes, fees or assessments of general applicability, such as the FCC user fee and the franchise fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law; (5) any capital PEG support recovered from Subscribers; and (6) any barter, trade, or value of free or discounted services.
- G. “Person” shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- H. “Service Area” shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.
- I. “State” shall mean the State of Oregon.
- J. “Street” shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.
- K. “Subscriber” shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2
Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term *of ten (10) years*, commencing on the Effective Date of this Franchise as set forth in Section 16.10. This Franchise shall automatically extend for successive one (1) year terms, unless either party to this Franchise shall provide the other with written notice pursuant to Section 16.5 at least three (3) months prior to the end of the current term of this Franchise to discontinue automatic extensions and seek renewal of this franchise agreement. If such a notice is given, Grantor acknowledges that Grantee's full federal renewal rights under Section 626 of Title VI of the Communications Act of 1934, as amended, (47 U.S.C. § 546) shall be in effect.

2.3 Police Powers and Conflicts with Franchise. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation that is not generally applicable, this Franchise shall control.

2.4 Cable System Franchise Required. No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

2.5 State and Federal Regulations to Apply. This Franchise Agreement is subject to all applicable State of Oregon and federal statutes and regulations that are in effect upon the making of this Agreement. Grantee and Grantor acknowledge that this Franchise has been entered into by the parties under terms of the Cable Communications Policy Act of 1984 (47 U.S.C. 521 *et seq.*). Grantor and Grantee agree to negotiate in good faith toward the establishment of different material terms and conditions of this agreement to account for changes in state and federal law and regulations during the term of this franchise period. Such negotiations and resulting modifications must be consistent with applicable laws.

SECTION 3
Franchise Renewal

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

SECTION 4
Indemnification and Insurance

4.1 Indemnification. The Grantee shall, by acceptance of the Franchise granted herein, hold harmless, indemnify, and defend the Grantor, its officers, Councils, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify, defend and hold Grantor, its officers, Councils, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within fourteen (14) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to defend the Grantor, however, its duty to indemnify and hold harmless shall continue to exist, provided that Grantee agrees that the selection of separate representation is reasonable and that the outcome is reasonable. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System.

4.2 Insurance.

A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Limit (C.S.L.) [\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	

Umbrella Liability [\\$1,000,000] per occurrence C.S.L.

- B. The Grantor, its officers and employees shall be added as an additional insured, arising out of work performed by Grantee, or its operation, maintenance and use of the Cable System or Cable Service, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage. Such Insurance carrier will endeavor to provide advance written notice of cancellation to the City Manager or his designee. If the policy is cancelled, Grantee will provide a new certificate of insurance evidencing such coverage meeting the requirements of this franchise Agreement.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5
Service Obligations

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6
Service Availability

6.1 Service Area. The Grantee shall continue to provide Cable Service to all residences within the Service Area where Grantee currently provides Cable Service. Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Service Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

6.2 New Development Underground. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the (5) five day period, the cost of new trenching is to be borne by Grantee.

6.3 Annexation. The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Service Area. Any identified Subscriber addresses shall be included in Grantee's franchise fee calculations within ninety (90) days after receipt of the annexation notice which shall include the addresses that will be moved into the Service Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Service Area, Grantee shall include the identified Subscriber addresses in the franchise fee calculations within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 14.5 with a copy to the Director of Government Affairs. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

SECTION 7 **Construction and Technical Standards**

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code as well as generally applicable and nondiscriminatory provisions of the Central Point Municipal Code related to construction, excavation, street-cutting fees and other work related to the streets in the Service Area.

7.2 Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to the antenna site, headend and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 Network Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

7.5 Performance Monitoring. Grantee shall test the Cable System consistent with the FCC regulations.

SECTION 8
Conditions on Street Occupancy

8.1 General Conditions. Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8.2 Underground Construction. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Service Area. The reasonable payment of any cost based and generally applicable and non-discriminatory right-of-way permit fees, street cutting fees, or development permit fees is required in addition to payment of the franchise fee herein. Except in an emergency, no work affecting streets shall be done by Grantee without first obtaining the permits required by the Grantor, which may include plan submittal and approval before the work begins. In case of an emergency, Grantee shall notify Grantor at the earliest possible time.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of

the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8.6 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is give reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.10 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

8.11 Emergency Use. If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

SECTION 9 **Service and Rates**

9.1 Phone Service. The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

9.3 Rate Regulation. Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC.

9.4 Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee's rights under Section 16.1 of this Franchise.

SECTION 10 **Franchise Fee**

10.1 Amount of Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to **five percent (5%)** of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law.

10.2 Payment of Fee. Payment of the fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter. The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 16.10. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

10.4 Inspection of Books and Records. On an annual basis, no more frequently than every twelve (12) months, upon thirty (30) days prior written notice, the Grantor shall have the right to audit the books and records of Grantee to determine whether the Grantee has paid the franchise fees owed in accordance with generally accepted accounting principles. The audit shall not last longer than six (6) months. Grantee and Grantor agree to reasonably cooperate to complete the audit within the six (6) month period. Any undisputed additional amounts due to the Grantor as a result of the audit shall be paid within ninety (90) days following written notice to the Grantee by the Grantor, which notice shall include a copy of the audit findings. Reimbursements for underpayments as a result of audit findings are subject to late payment interest as set forth herein. In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, the Grantee, upon request from the Grantor, shall pay an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest

rate, plus one percent (1%) during the period such unpaid amount is owed. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

10.5 Late Payments to Grantor. The City may assess any late franchise fees due under this Franchise at an annual interest rate of prime plus one percent (1%).

10.6 Franchise Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to five (5 %) percent of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law. The parties acknowledge that, at present, the Cable Act limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the City to increase the Franchise Fee above five percent (5%), the City shall hold a public hearing and determine if the City should collect the additional amount. Following the determination, the City shall notify the Grantee of its intent to collect the increase Franchise Fee and Grantee shall have a reasonable time, not to be less than (90) days from receipt of notice from the City to effectuate any changes necessary to begin the collection of such increased Franchise Fee or notify the Grantee of its intent to not collect the increased fee. In the event that the City increases said Franchise Fee, the Grantee shall notify its Subscribers of the City's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

10.7 Tax Liability. Payment of Franchise Fees to the Grantor shall be subject to applicable law.

SECTION 11 **Transfer of Franchise**

11.1 Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

SECTION 12 **Records, Reports and Maps**

12.1 Reports Required. The Grantee's schedule of charges for regular Subscriber service, its policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and

reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon request.

12.2 Records Required.

The Grantee shall at all times maintain:

- A. A record of all written complaints received regarding interruptions or degradation of Cable Service, which record shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.3 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

SECTION 13

Public, Education and Government ("PEG") Access Programming

13.1 Channel. At the time of entering into this Franchise Agreement, Grantor does not utilize a channel on the Cable System for original, locally-produced, non-commercial, video programming for Public, Education and Government ("PEG") access programming. Should the Grantor determine such need develops during the term of this Agreement, the Grantor has the option to request, upon one hundred twenty (120) days prior written notice, that the Grantee provide, and the Grantee agrees it shall provide, one (1) channel on the Cable System for the use by the Grantor for PEG Programming which shall be locally produced in Central Point Oregon, for public and educational access purposes and programming. The PEG channel may be placed on any tier of service available to all subscribers, including the digital tier. The Grantor shall utilize the PEG channel as follows: the Grantor shall program, at a minimum, all City Council regular meetings and Planning Commission regular meetings. If the PEG channel provided pursuant to this section is occupied by non-local, substantially duplicated or character-generated

programming fifty (50%) percent of the time during “regular viewing hours” measured over any ten (10) consecutive week period, the Grantee shall have a right to a return of the PEG channel upon one hundred twenty (120) days’ notice to Grantor of its intent to reclaim the PEG channel. For purposes of this subsection, “regular viewing hours” shall be the hours between 1 p.m. and 11 p.m., Monday through Friday, and between noon and midnight on weekends. A program may be repeated up to two (2) times after its first run during regular viewing hours before it is deemed “duplicated.” The Grantor may request return of the PEG Channel used by the Grantee at any time, which request for return shall be accompanied by a showing that the Grantor's intended use for the PEG Channel will, or is reasonably likely to, meet the programming requirements set forth in this section. The Grantee shall, within ninety (90) days of the date of the written request cease use of and return the PEG Channel to the Grantor.

The Grantor agrees to provide the Grantee with a written annual report detailing PEG channel usage and efforts to increase the quality and quantity of video programming, due to the Grantee within one hundred twenty (120) days after the close of each calendar year.

13.2 Channel Viewing Area. In the event the Grantor exercises its option described in Section 13.1 herein, the Grantee shall use best efforts to make the PEG Channel available to Subscribers throughout the Service Area of the Grantor, as it exists on the Effective Date of the exercise of the Option.

13.3 PEG Access Grant. In the event the Grantor exercises its option to request a PEG channel and upon demonstrating that PEG capital support for PEG is reasonable to meet the demonstrated cable-related needs of the community considering the cost, the Grantor shall notify the Grantee in writing of these needs and the amount of capital support requested, at which time Grantor and Grantee will meet to discuss the amount of PEG capital support, which will not to exceed eleven thousand dollar \$11,000 in a one-time grant. Within ninety (90) days of such request, Grantee shall provide agreed upon payment. Grantor and Grantee acknowledge that PEG funds are only to be used for capital costs and not for operational costs. PEG capital support shall be for the exclusive use of the Grantor and shall not be used for purposes other than as described under Section 13 herein. The Grantor shall be responsible for installing, operating, maintaining and replacing the equipment purchased as necessary including, but not limited to transport from the Grantor’s PEG facility to Grantee’s headend, and any equipment at the Grantor’s headend used exclusively for PEG. The Grantee is entitled to recover such capital costs from Subscribers if allowed by law. Grantor shall, at least annually, provide Grantee with a report, detailing how the capital PEG support funds were used. Grantor shall permit any duly authorized representative of the Grantee, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis, any and all records and equipment to ensure the Grantor's compliance with this section.

SECTION 14 **Complimentary Cable Service to Public Schools and Libraries**

14.1 The Grantee may provide on a voluntary basis, without charge and within the Service Area, service activated for Basic Cable Service to all elementary and secondary public school classrooms and public libraries subject to Section 6.

SECTION 15
Enforcement or Revocation

15.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the “Violation Notice”).

15.2 Grantee’s Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

15.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Council shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 16.5 hereof. The Grantee shall have the right to present evidence and to question witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

15.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 15.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 15.5 below.

15.5 Revocation.

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to

revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

- B. At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Council *de novo*. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.
- C. Notwithstanding the above provisions, the Grantee does not waive any of its rights under federal law or regulation.
- D. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place. Upon termination of this Franchise and after all legal appeals procedures have been exhausted and upon sixty (60) day notice to Grantee, the Grantee shall, within one (1) year or such further time as may be allowed by the Grantor subject to applicable law, either effectuate a transfer of its Cable System pursuant to Section 11 or remove from the streets, bridges and public places all of its property and equipment, and forthwith shall replace and restore the streets, bridges and public places to as good a condition as before said work was commenced. If the Grantee removes its property and equipment but fails to replace and restore the streets to as good a condition as before said work was commenced, the Grantor may do so at the expense of the Grantee. If the Grantee fails to remove all its property and equipment within the required time, the property and equipment shall be deemed abandoned. The Grantor may remove the abandoned property and equipment and replace and restore the streets, bridges and public places to as good a condition as before said work, all at the expense of the Grantee; or, the City Council may, by adoption of a resolution, choose to take title to or interest in the abandoned property and equipment or portions thereof and title thereto shall thenceforth be vested in the Grantor, and thereafter the Grantee shall not remove the property or equipment or exercise dominion over it, except that the portion, if any, of the property and equipment to which the Grantor has not elected to take title may be removed by the Grantor, and the streets, bridges and public places restored to as good a condition as before said work, all at the expense of the Grantee.

SECTION 16 **Miscellaneous Provisions**

16.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were

caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

16.2 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

16.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.4 Equal Protection. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee's Franchise shall be deemed so modified thirty (30) days after the Grantee's initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.

16.5 Notices. Unless otherwise provided by federal, State or local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or channel positions using any reasonable written means. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City Manager
City of Central Point
140 South 3rd Street
Central Point, OR 97502
Chris.Clayton@centralpointoregon.gov

Grantee: Charter Communications
Attn: Director, Government Affairs
222 NE Park Plaza Drive, #231
Vancouver, WA 98684
Marian.Jackson@Charter.com

Copy to: Charter Communications
Attn: Vice President of
Government Affairs
12405 Powerscourt Drive
St. Louis, MO 63131

16.6 Public Notice. Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

16.6.1 Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 16.5 above.

16.7 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

16.8 Entire Agreement. This Franchise constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

16.9 Administration of Franchise. This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

16.10 Effective Date. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. **This Franchise shall expire on July 28, 2026**, unless extended in accordance with Section 2.2 of the Franchise or by the mutual agreement of the parties. If any fee passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee shall go into effect sixty (60) days after the Effective Date of this Franchise.

16.11 Renegotiation. In the event that any provision of this franchise becomes illegal, invalid, or unenforceable and the City Council or the Grantee expressly finds that such provision constituted a consideration material to this franchise, then the Grantor and the Grantee may mutually agree to renegotiate the terms of this franchise.

16.12 Remedies Not Exclusive. All remedies and penalties under this ordinance, including termination of the franchise, are cumulative, and the recovery or enforcement of one is not a bar to the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this ordinance, including termination of the franchise, are not exclusive, and the Grantor and Grantee reserve the right to avail themselves of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this ordinance shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation, or as a waiver of the term, condition or obligation itself. However, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

16.13 Governing Law; Venue. Except as to matters which are governed by federal law, this Franchise Agreement will be governed by and construed in accordance with the laws of the State of Oregon. Venue for any legal action arising under this Franchise Agreement shall be in the State Circuit Court of Jackson County or in the United States Court for the District of Oregon.

Considered and approved this ___ day of _____, 2016.

City of Central Point, Oregon

Signature: _____

Name/Title: _____

Accepted this ___ day of _____, 2016, subject to applicable federal, State and local law.

Falcon Video Communications, L.P.

By: Charter Communications VII, LLC, its General Partner

By: Charter Communications, Inc., its Manager

Signature: _____

Mark E. Brown, Vice President, Government Affairs

Ordinance

Collections/Lien Code Amendments



STAFF REPORT

July 28, 2016

AGENDA ITEM: Revisions to Collections/Lien and Water Shut-off Procedures for Delinquencies

Consideration of Ordinance No. _____ Recommending adoption of multiple code amendments to the Central Point Municipal Code Sections 11.04, 11.16, 11.20, 13.04 and adding a new Section 3.40 Liens and Collections.

STAFF SOURCE:

Chris Clayton, City Manager
Sydney Dreyer, City Attorney

BACKGROUND:

Over the last year, the City has begun to act on a number of delinquencies in utility payments and/or LID assessments. In reviewing and processing those delinquencies, it became apparent the City code did not provide City sufficient flexibility and/or consistency in remedying such delinquencies. Moreover, with the City's recent adoption of new water service rates for customers abutting City limits which the City may finance pursuant to financing agreements, the City Council expressed desire to ensure full enforcement capabilities for any delinquencies of such debt.

The proposed revisions will provide the ability to pursue collections or lien foreclosures in the event of delinquencies of LID assessments, financing agreements, or utility payments. The flexibility of the remedies will allow the City to determine the appropriate course of conduct given the size of the debt, value and marketability of the property, and other factors. Additionally, the amendments will allow the City to shut-off City water for delinquent utilities and delinquent financing agreements for water service upon compliance with the provisions therein. The revisions also further clarify the LID assessment process, when and how liens attach to the property, the ability to attach additional interest and collection fees, provides remedies for debt incurred by tenants, and defines when a bill for unpaid utilities becomes a lien that attaches to the property. A new Section 3.40 has been added which provides for liens and foreclosures generally for any and all delinquent payments due City by code, contract or resolution.

FISCAL IMPACTS:

These revisions will enable the City to better remedy delinquencies and to use processes that best serve the City's financial and administrative needs thereby reducing the amount of unpaid receivables.

ATTACHMENTS:

Exhibit "A" – Draft Code Amendments

RECOMMENDATION:

Approve Ordinance No. _____ adopting multiple code amendments to the Central Point Municipal Code Sections 11.04, 11.16, 11.20, 13.04 and adding a new Section 3.40 Liens and Collections.

ORDINANCE NO.

ADOPTING MULTIPLE CODE AMENDMENTS TO THE CENTRAL POINT MUNICIPAL CODE SECTIONS 11.04, 11.16, 11.20, 13.04 AND ADDING A NEW SECTION 3.40 LIENS AND COLLECTIONS.

RECITALS:

A. WHEREAS, Section 4 of the Central Point Charter provides: Powers of the City. The City shall have all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

B. WHEREAS, the City desires to clarify the process for attachment of liens and collections; and

C. WHEREAS, the City desires to provide flexibility in the remedies it pursues for collections of delinquent utilities, assessments and financing agreements.

Now therefore,

THE PEOPLE OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Chapters 11.04, 11.16, 11.20 and 13.04 of the Central Point Municipal Code are hereby amended as provided on the attached Exhibit "A" incorporated herein by reference.

SECTION 2. A new Chapter 3.40 is hereby added to the Central Point Municipal Code as provided on the attached Exhibit "A" incorporated herein by reference.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____ 2016.

Mayor Hank Williams

ATTEST:

City Recorder

Chapter 11.04 LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sections:

[11.04.010 Chapter application and definitions.](#)

[11.04.020 Commencement of process for local improvements.](#)

[11.04.030 Notice of hearing.](#)

[11.04.040 Hearing--Improvement resolution.](#)

[11.04.050 Notice of proposed assessment.](#)

[11.04.060 Notice of final assessment.](#)

[11.04.070 Attachment of lien.](#)

[11.04.080 Interest rates and penalty fees.](#)

[11.04.090 Installment application.](#)

[11.04.100 Interest of assessments.](#)

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[11.04.090 120 Segregation of assessments.](#)

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[11.04.150 Errors in Assessment Calculations.](#)

[~~11.04.120 Interest on assessments.~~](#)

[~~11.04.130 Foreclosure of liens.~~](#)

[11.04.140 160 Duties of finance director.](#)

[11.04.170 Bancrofted assessment remedies.](#)

[11.04.180 Non-Bancrofted assessment remedies.](#)

11.04.190 Collections/Foreclosure.

11.04.010 Chapter application and definitions.

This chapter applies to all city local public facility construction projects which are to be financed in whole or in part through special benefit assessments. As used in this chapter, the following terms are defined as follows unless a different meaning is clearly intended from the context:

A. “Actual cost” means all direct or indirect costs incurred by the city before assessment in order to undertake a local improvement. The term “actual cost” includes the portion of the total actual cost allocated to a particular lot. “Actual cost” includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, and repair or replacement. Actual cost may include the salaries, wages and benefits payable to employees of the city to the extent the same are reasonably allocable to the work or services performed by the employees in connection with a local improvement. However, as a condition to inclusion of any salaries, wages or benefits payable to employees of the city as costs of a local improvement, the city shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

B. “Bond issuance and administration costs” means all costs associated with issuance, registration, transfer and payment of bonds for long-term financing of assessments and systems development charges.

C. “Deferred improvement agreement” means an acknowledged and recorded agreement executed by a property owner which runs with the land in which the owner agrees that the city has jurisdiction to construct certain local improvements and assess a pro rata share of the cost against the owner’s property described therein. A “deferred improvement agreement” may also contain a nonremonstrance agreement.

D. “Estimated assessment” means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the city’s estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the costs to the property.

E. “Final assessment” means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property. Bond issuance costs shall be separately stated and shall not be entered on the lien docket unless and until the owner files an application to pay in installments. If bond issuance costs are added, the total amount shall then be deemed to comprise the “final assessment.”

F. “Finance director” means the department head designated by the city manager to keep records of assessments and installment payments.

G. “Financing” means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement. Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the city’s reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

H. “Local improvement” means an improvement constructed by the city for which a special assessment may be made on property specially benefitted.

I. “Lot” means a platted lot or other contiguous parcel of land to which a single tax lot number has been assigned.

J. “Owner” means the owner of title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor of Jackson County, Oregon.

K. “Remonstrance” means the ability of a property owner to object to the formation of a local improvement district. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.020 Commencement of process for local improvements.

A. Local improvement construction projects may be initiated in any of the following ways:

1. The city manager may initiate a local improvement project whenever in his or her judgment such project would be in the best interest of the city; or
2. The city council may initiate a local improvement project by motion passed at a regular or special meeting of the city council; or
3. Upon receipt of a petition signed by more than fifty percent of the owners of street frontage or area of real property in the proposed benefit district, filed with the city recorder, whereupon the city manager shall initiate the local improvement process.

B. After initiation of the local improvement process by one of the methods set forth above, the city manager shall direct city staff to prepare preliminary plans, specifications and estimates of costs for the proposed local improvement project. City staff may consult, as deemed necessary, with applicable professionals in preparing such preliminary findings.

C. Upon completion of the preliminary plans, specifications and cost estimates by city staff, the city manager shall present such findings to the city council. After reviewing the findings, the city council may, by resolution, declare its intention to pursue construction of a local improvement project and set a date for a public hearing to consider public input on the proposed local improvement.

D. No public hearing shall be required in the event that each and every property owner included in the area to be benefited and assessed in the local improvement area has signed the petition requesting construction of the local improvement. In that case, the city council may, by resolution and without a public hearing, order construction of the local improvement in the manner set forth in Section [11.04.040](#). (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.030 Notice of hearing.

A. Notice of the hearing on the proposed local improvement shall be given by publishing in a newspaper of general circulation within the city at least ten days prior to the date of the hearing.

B. The published notice shall:

1. Specify the time and place the council will hear and consider the views of parties who have an interest in or are aggrieved by the proposed improvement;
2. Describe the general location and nature of the improvement, the area within which property may be specially assessed as described in the resolution; and
3. Identify the place where the project documents are available for inspection and the requirements for submitting written materials for consideration by the council.

C. In addition to notice by publication, the city shall, at least ten days prior to the hearing, mail notice to the owners whose property is to be assessed at the addresses shown in the records of the county assessor.

D. The mailed notice shall:

1. State that the council is considering an assessment for local improvements,
2. Describe the general location and nature of the improvement,
3. Identify the place where the project documents are available for inspection,
4. State the formula for apportioning costs and the amount of the estimated assessment on the property of the owner to whom the notice is addressed, and
5. Specify the time and place the council will hear and consider objections or remonstrances to the proposed improvement and the requirements for submitting written materials for consideration by the council. (Ord. 1855 §3(part), 2005).

11.04.040 Hearing--Improvement resolution.

A. At the hearing, the council shall hear and consider objections and other representations made by owners, and shall hear and consider all other relevant information presented.

B. If the council determines that the proposed local improvement shall be made, it shall adopt a resolution ordering construction of the improvement. The resolution shall contain a legal description of the district and shall be recorded in the Official Records of Jackson County.

C. When the improvement has been so authorized, the city manager may invite bids or make other arrangements necessary for construction and any debt instruments may be issued for the cost thereof as provided by statute. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.050 Notice of proposed assessment.

A. After the work is done and the actual cost determined, the city manager shall prepare the proposed assessments to the respective lots within the assessed district and file them in the office of the city. Notice of the proposed assessment shall then be mailed to the owner of each lot proposed to be assessed not less than ten days prior to the last day for filing written objections. The notice shall state the amount of the assessment proposed on the property, the date of the final hearing and shall specify a date by which written objections shall be filed with the city.

B. Written objections and supporting documents must be filed no later than five p.m. the day before the city council hearing. Objections filed shall state the grounds for the objection. At the final hearing, the council shall consider the objections and may adopt, correct, modify or revise the proposed assessments and shall by resolution finally determine the amount of the assessment to be charged against each lot within the area according to the special benefit accruing to it from the improvement and shall levy the final assessments. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.060 Notice of final assessment.

Within fourteen (14) days after the final assessment has been levied by the council, the city shall cause notice of the final assessment to be mailed to the owner of each lot to be assessed. Publication of the notice is not required. The notice shall identify the local improvement for which the assessment was levied and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in [ORS 223.210](#). **The notice shall also state that if neither payment in full within 30-days, nor an application for installment payments is made within 10 days, from the date of the notice, interest will be charged on the assessment from the date of adoption of the assessment resolution and the property assessed will be subject to foreclosure. The notice shall be sent by certified and regular mail or personally delivered to the owner of each lot or parcel to be assessed. The city may also post the assessments in three public places and/or publish in the newspaper of record.**

11.04.070 Attachment of lien.

After enactment of the final assessment resolution, the finance director shall enter in the docket of city liens a statement of the amounts assessed against each lot, parcel of land, or portion of land, together with a description of the local improvement, the name of the owners, and the number and date of the assessment resolution. Upon entry in the city lien docket the amount

entered shall become a lien against the respective lots, parcels of land, or portions of land that have been assessed for the improvement. All assessment liens of the city shall be superior and prior to all other liens or encumbrances on property as permitted by state law. The finance director may also record the assessment resolution in the Jackson County deed records.

~~Assessments shall become liens upon the properties assessed after the passage of the resolution levying them and entry in the city lien docket and shall be immediately due and payable.~~

3.10.080 Interest Rates and Penalty Fees.

The council may establish, in the assessment resolution, or by other resolution, interest rates, penalties, late payment charges, and collection charges on bonded and unbonded assessments. The interest rate shall take into account the city's financial and administrative costs relating to assessments, issuance of bonds and collection and as further provided under 11.04.100.

11.04.090 Installment Application.

- A. A written application to pay in installments under the Bancroft Act shall be filed with the finance director within ten days after mailing of the notice of final assessment. However, an application may be accepted at the discretion of the finance director at any time unless the council has authorized foreclosure of the lien.
- B. Bond issuance and administration costs shall be added to an assessment when the installment application is filed. Interest and billing charges shall be added to each assessment as they accrue. The city may enforce collection of the assessments in the manner prescribed by law.
- C. Unless otherwise provided in the resolution levying the assessments, the application shall provide that the applicant agrees to pay the final assessment over a period of ten years from the date of assessment in equal semi-annual installments of principal plus interest on the unpaid balance, beginning six months after the date of assessment.
- D. The application shall provide that the applicant acknowledges and agrees to pay interest at the rate provided by resolution on all unpaid assessments.
- E. The application shall contain a statement, by lots or blocks, or other sufficient legal description, of the property of the applicant assessed for the improvement.
- F. The application shall state that the applicant does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the assessment is levied and in the apportionment of the actual cost of the local improvement.
- G. An owner who elects to file an application to pay in installments shall agree to pay an additional amount to be added to the assessment to recover bond issuance and administration costs. This amount shall be determined by the city council at the time it levies the assessment based on a reasonable estimate of bond issuance and administration costs.

H. An owner who elects to file an application to pay in installments shall agree to pay a billing charge to be added to each installment. The billing charge shall be a prorated share of the actual cost of billing and keeping records of installment payment accounts. The amount of the billing charge shall be determined from time to time by the finance director.

I. A payment schedule will not be issued for any lien under one thousand dollars.

11.04.100 Interest on assessments.

A. All nondelinquent assessments levied by the city upon real property for local improvements shall bear interest on the unpaid balance thereof from the date the assessment is due and payable at the rate specified as follows:

1. From the date of the assessment to the date of the Bancroft bonds, issued for the cost of the improvement, the rate shall not exceed the interim financing rate plus one and one-half percent.

2. From and after the date of the Bancroft bonds sold to finance the improvement, the rate shall not exceed the net effective interest rate on the Bancroft bond issue plus one and one-half percent.

B. Assessments in which no installment application has been filed, levied by the city upon real property for incurred charges, shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section.

C. An assessment shall be deemed delinquent if any payment is not made within one hundred eighty days after it becomes due and payable. Delinquent assessments shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section. (Ord. 1855 §3(part), 2005).

11.04.110 Mailing of notices.

When a notice is sent by mail to the owner of a lot affected by a proposed assessment or a final assessment, the notice shall be addressed to the owner or his agent according to the records of the county assessor. (Ord. 1855 §3(part), 2005).

11.04.120 Segregation of assessments.

A. The city may apportion a special assessment imposed upon a single tract or parcel of real property among all the parcels formed from a subsequent partition or other division of that tract or parcel, if the subsequent partition or division is in accordance with ORS [92.010](#) to [92.160](#) and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission under ORS [197.251](#). The proportionate distribution of a special assessment authorized under this subsection may be made whenever the special assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.

B. The city shall apportion a special assessment under this section when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the special assessment was originally levied.

C. Apportionment of a special assessment under this section shall be in accordance with an order or resolution of the city council. The order or resolution shall describe each parcel of real property affected by the apportionment, the amount of the assessment levied against each parcel, the owner of each parcel and such additional information as is required to keep a permanent and complete record of the assessments and the payments thereon. A copy of the order or resolution shall be filed with the finance director, who shall make any necessary changes or entries in the lien docket.

D. When a special assessment is being paid in installments under the Bancroft Bonding Act or ORS [268.485](#), [450.155](#), [450.897](#) or [451.530](#), if the special assessment is apportioned among smaller parcels of real property under this section, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. (Ord. 1855 §3(part), 2005).

11.04.130 Application for segregation.

A. Application to segregate shall be filed with the finance director on a form to be furnished by the finance director. The application shall include:

1. A lot book report from a title company showing copies of the deeds and other instruments evidencing all ownerships, other interests, and legal descriptions of the parcels to be segregated.
2. The original and segregated tax lot numbers, original and segregated assessed valuations, names and addresses of the owners and all others having an interest in the property, and any other relevant information requested by the finance director.
3. An express waiver of defects, jurisdictional or otherwise, in the original assessment.

B. The application shall be accompanied by a fee to be established by city council resolution.

C. If the finance director finds that the application is complete and proper, it shall be submitted to the city council along with a proposed resolution prepared in accordance with Section [11.04.060](#). Copies of the proposed resolution shall be mailed to all persons shown by the application to have an interest in the property at least ten days prior to the council meeting at which the resolution will be considered. The copy of the resolution shall be accompanied by a notice stating the date of the meeting and that all written objections filed with the finance director prior to the date of the meeting will be considered by the council. Oral objections will not be heard. (Ord. 1877 §1, 2006; Ord. 1855 §3(part), 2005).

11.04.140 Curative provisions.

An improvement assessment shall not be rendered invalid by any error, mistake, delay, omission, or irregularity in the proceedings, or because the declaring resolution, the assessment resolution, the lien docket or required notices do not contain the required information; or by the failure to list the name of, or mail notice to, the owner of any property as required by this Chapter; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps specified. The provisions of Sections [11.04.010](#) through [11.04.130](#) shall be directory and not jurisdictional. (Ord. 1855 §3(part), 2005).

11.04.150 Errors in Assessment Calculations.

Alleged errors in the calculation of assessments shall be brought to the attention of the manager, who shall determine whether there has been an error in fact. If the manager finds that there has been an error, the manager shall recommend to the council an amendment to the assessment resolution to correct the error. Upon adoption of the amendment, the manager shall make the necessary correction in the docket of city liens and mail correct notices of assessment to affected property owners.

11.04.130 Foreclosure of liens.

~~All city assessment liens may be foreclosed in accordance with the procedures of ORS [223.505](#) to [223.650](#). Notice by personal service upon the property owner is not required prior to foreclosure except as provided in ORS [223.635](#). (Ord. 1855 §3(part), 2005).~~

11.04.160 Duties of finance director.

The finance director shall be custodian of the lien dockets and shall be charged with keeping records concerning bonded liens and assessments. (Ord. 1855 §3(part), 2005).

11.04.170 Bancrofted Assessment Remedies.

A. Before property owners are issued property related permits, owners must make all Bancrofted assessment accounts current for all their accounts with the city. Bancrofted assessment accounts must be current prior to individual sales of property.

1. Property related permits include development permits, building permits, wastewater permits, water permits, stormwater permits, driveway permits, sidewalk permits, and street opening permits.

2. To make a Bancrofted assessment account current, all delinquent principal, interest, and penalties must be paid.

B. For a land division, if the assessment balance is made current, the remaining principal balance of the assessment may be apportioned among the newly created lots according to the percent of benefit to each lot. The finance director shall determine the percent of benefit to the newly created lots. A land division shall include a partition, subdivision, or condominium plat.

C. If property owners wish to divide parcels of land and to have assessment balances apportioned among the newly created lots, they must make such requests in writing.

D. The council may establish by resolution a breakout fee for apportioning the assessment balance among the newly created lots.

11.04.180 NonBancrofted Assessment Remedies.

A. NonBancrofted assessments are due in full 30 days after enactment of the assessing ordinance and are subject to foreclosure if not paid within that time. The city may bid for property at foreclosure sales, which shall be prior to all bids except those by persons entitled to redeem such property under state law.

B. The entire assessment balance on an unpaid, NonBancrofted assessment must be paid in full prior to sale of the property or before the city issues a property related permit. Property related permits are defined in CPMC 11.04.170(A)(1)

11.04.190 Collections/Foreclosure.

A. The city may implement collection procedures to collect payment of delinquent assessments. In the alternative to collection, or if collection efforts fail, the may initiate foreclosure proceedings in any manner provided by ORS 223.505 to ORS 223.650 or as otherwise provided by law.

B. Actual costs for materials and services, and personal services shall be charged to each foreclosure account. The costs shall be charged as they are incurred during the foreclosure process.

C. A purchaser of real property at a foreclosure sale may incur costs authorized by the city for maintaining or improving the property during the period allowed for redemption. If the property is subsequently redeemed, the finance director may return to the purchaser all or part of the penalty paid by the person redeeming the property.

Chapter 11.16 STORMWATER UTILITY FEES

Sections:

[11.16.010 Purpose.](#)

[11.16.020 Applicability.](#)

[11.16.030 Definitions.](#)

[11.16.040 Stormwater utility fee rate structure.](#)

11.16.045 Water quality utility fee rate structure.

11.16.050 Equivalent service unit.

11.16.060 Unit rate established for the stormwater utility fee.

11.16.065 Unit rate established for the water quality utility fee.

11.16.070 Service charge adjustments and appeals.

11.16.080 Stormwater or water quality rate discounts for extreme hardship.

11.16.090 Use of funds.

11.16.100 Commencement of charges.

11.16.110 Payment.

11.16.110—Delinquent charges. 120 Delinquency.

11.16.130 Property liens/collections.

11.16.140 Tenant Accounts.

11.16.150 Recovery of delinquent charges.

11.16.010 Purpose.

A. It is the purpose of this chapter to provide revenue for a stormwater program to plan, manage, construct, maintain, use, and carry out activities related thereto, and to provide revenues by fixing rates and charges. There is hereby created an enterprise fund known as the “city of Central Point stormwater fund.” All fees and charges imposed for the stormwater program shall be placed in this fund for the purpose of paying any and all expenses related to the acquisition, installation, addition, improvement, replacement, repair, maintenance, operation, or administration of stormwater program facilities and activities.

B. It is also the purpose of this chapter to provide revenue for a water quality program to pay for any and all expenses related to preventing and reducing water pollution generated within the city limits before it enters and is discharged from the municipal separate storm sewer system (MS4) to local waterways. The city of Central Point water quality program fund is created as an enterprise fund. All fees and charges imposed for the water quality program shall be placed in this fund for the purpose of paying any and all expenses related to the operation of the Central Point MS4 to meet the federal Clean Water Act’s National Pollution Discharge Elimination System Phase II permit requirements or administration of the water quality program. (Ord. 1961 §1, 2012; Ord. 1864 §1(part), 2005).

11.16.020 Applicability.

The requirements of this chapter shall apply to all parcels of real property in the city of Central Point, including publicly and privately owned property. (Ord. 1864 §1(part), 2005).

11.16.030 Definitions.

“Biofiltration” means the use of vegetation, including grasses and wetland plants, to filter and treat stormwater runoff as it is conveyed through an open channel or swale.

“City” means the city of Central Point, Oregon, or, as indicated by the context, may mean any official, officer, employee or agency representing the city in the discharge of his or her duties.

“City roads” means all roads, public and private, excluding state and county roads, in the city of Central Point.

“Developed parcel” means a parcel of real property which has been altered by development coverage.

“Drainage facilities” means the drainage systems comprised of stormwater control facilities and any other natural features which store, control, treat and/or convey storm and surface water. Storm drainage facilities shall include all natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable receiving body of water or location internal or external to the boundaries of the city. They include all publicly owned and maintained pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations, channels, streams, ditches, wetlands, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities whether or not the city shall have recorded rights-of-way or easements; it is presumed that the city has a prescriptive right of access to all storm drainage facilities for operation, maintenance, rehabilitation, or replacement.

“Equivalent service unit (ESU)” means a configuration of impervious surface estimated to contribute an amount of runoff to the city’s stormwater management system which is approximately equal to that created by the average single-family residential developed parcel in Central Point.

“Impervious surfaces” means hard-surfaced areas that prevent or hinder the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of stormwater, or runoff patterns existent prior to development.

“Manager” means the city manager or designee.

“Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.

“Service charges” means either the stormwater utility fee or the water quality utility fee, as the context may require, in an amount to be determined by applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

“Single-family residence” means a residential structure accommodating one dwelling unit, including duplex units and mobile homes, as defined by the city of Central Point land use codes.

“Stormwater control facilities” means all publicly owned and maintained manmade structures or natural watercourse facility improvements, developments, properties or interest therein, made, constructed or acquired for the conveyance of storm or surface water runoff for the purpose of improving the quality of, controlling, or protecting life or property from any storm, flood or surplus waters.

“Stormwater program” means the Central Point stormwater utility as defined in this chapter.

“Undeveloped land” means unimproved land and open space as defined by the city of Central Point land use codes.

“Undeveloped parcel” means any parcel of real property which has not been altered by construction of any improvement or other impervious surface area which affects the hydraulic properties of the parcel.

“Unit rate” means the dollar amount charged per ESU.

“Water quality program” means the Central Point water quality utility as defined in this chapter. (Ord. 1961 §2, 2012; Ord. 1873 §1, 2006; Ord. 1864 §1(part), 2005).

11.16.040 Stormwater utility fee rate structure.

A. Service charges for the stormwater utility fee are hereby authorized and imposed, in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the relative contribution of stormwater runoff from a given parcel to the stormwater control facilities. The estimated or measured impervious surface area will be used to determine the relative contribution of stormwater runoff from the parcel.

C. Service charges shall be determined as follows:

1. Undeveloped Parcels. Undeveloped parcels shall not be charged.
2. City Roads. City roads shall not be charged.

3. Single-Family Residences. The monthly service charge for each single-family residence shall be the unit rate for one equivalent service unit.

4. Other Developed Parcels. The monthly service charge for all other developed parcels, including publicly owned properties, shall be computed by multiplying the unit rate times the number of equivalent service units applicable to the parcel minus any approved rate adjustment for the parcel as determined under Section [11.16.060](#).

5. Minimum Charge. There shall be a minimum monthly service charge for all developed properties equal to the unit rate. (Ord. 1961 §3, 2012; Ord. 1864 §1(part), 2005).

11.16.045 Water quality utility fee rate structure.

A. Service charges for the water quality utility fee are authorized and imposed in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the total cost of water quality program implementation. The estimated or measured impervious surface area will be used to determine the relative contribution of stormwater runoff from the parcel.

Service charges shall be determined in the same manner as provided in Section [11.16.040](#)(C). (Ord. 1961 §4, 2012).

11.16.050 Equivalent service unit.

One equivalent service unit is established at three thousand square feet of impervious surface area. For the purpose of computation of service charges, the number of equivalent service units shall be rounded to the nearest tenth. (Ord. 1864 §1(part), 2005).

11.16.060 Unit rate established for the stormwater utility fee.

The unit rate per equivalent service unit for the stormwater utility fee is hereby established at six dollars and fifty cents and may be revised by resolution of the city council from time to time. (Ord. 1961 §5, 2012; Res. 1264, 2010; Ord. 1864 §1(part), 2005).

11.16.065 Unit rate established for the water quality utility fee.

The unit rate per equivalent service unit for the water quality utility fee is established at one dollar and may be revised by resolution of the city council from time to time. (Ord. 1961 §6, 2012).

11.16.070 Service charge adjustments and appeals.

A. Any person billed for service charges may file a “request for service charge adjustment” with the manager within thirty days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the manager only when one or more of the following conditions exist:

1. The amount charged is in error; however, no adjustment will be made unless the parcel is nonresidential and the city's calculation of the impervious surface area on the parcel is shown to be in error by at least ten percent, as demonstrated by a licensed surveyor or engineer;

2. The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements that adversely affect water quantity or quality; or

3. The parcel includes a constructed or natural on-site stormwater mitigation facility that meets all of the following conditions:

a. The constructed or natural facility provides storm or stormwater detention, retention, water quality treatment, and/or conveyance; and

b. The manager has determined that the property owner is capable of maintaining and operating the facility; and

c. The facility is maintained by the property owner to the city's design specifications; and

d. The facility is available for inspection by the city; and

e. Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and

f. The credit is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.

C. Credit Calculation. The amount to be credited shall be a fixed percentage reduction, based on the percentage of program costs directly related to managing surface water volumes. For water quantity migration, the formula is expressed mathematically as follows:

$$A = F \times 25\%$$

Where

A = The credit amount to be subtracted from the monthly fee;

F = The total monthly charge without credit;

For qualifying biofiltration, the formula is expressed mathematically as follows:

$$A = F \times 10\%$$

Where

A = The credit amount to be subtracted from the monthly fee; and

F = The total monthly charge without credit.

D. The following information may be required by the manager to determine eligibility for a service charge credit:

1. Approved drainage plan certified by a licensed and qualified professional;
2. Calculation of the credit amount;
3. Signature of the person responsible for the accuracy of the credit application material; and
4. Other information, as required by the manager, to determine that the property owner is willing and has the capacity to maintain the facility.

E. Service charge adjustments will only apply to the bill then due and payable, and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

F. Decisions on requests for service charge adjustment shall be made by the manager based on information submitted by the applicant and by the city within thirty days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the manager's decision.

G. Decisions of the manager on requests for service charge adjustments shall be final unless appealed to city council within thirty days of the date of the decision. (Ord. 1864 §1(part), 2005).

11.16.080 Stormwater or water quality rate discounts for extreme hardship.

A. Any household in the city with a combined total income falling below the federal poverty level shall be considered eligible to apply for a stormwater or water quality rate discount. Persons applying for a stormwater or water quality rate discount must be the person who receives the stormwater or water quality bill and the head of a household.

B. Any person desiring to receive the stormwater or water quality rate discount must submit an application to the city on forms to be provided by the city. Subsequent to initial qualifications for utility discount, any person must reapply on or before June fifteenth of each year thereafter. The city manager shall determine whether any applicant meets the qualifications and requirements for discount as set forth in this chapter.

C. The amount of stormwater or water quality rate discount for eligible persons, provided under this chapter, shall be equal to the percentage water rate discount for extreme hardship, as established in Section [13.16.030](#).

D. It is unlawful for any person to make, assist in making or to derive the benefits from any false application for discounts provided under this chapter. In addition to other penalties provided by law, the city shall be entitled to recover from any person or persons receiving the benefit of discounts as a result of any false statement made in any application the amount therefor, including interest at the rate of nine percent per year from the date such discounts were granted. (Ord. 1961 §7, 2012; Ord. 1864 §1(part), 2005).

11.16.090 Use of funds.

A. Service charges collected under this chapter for the stormwater utility shall be deposited into the city of Central Point stormwater utility fund or funds to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the stormwater program and drainage facilities.

B. Service charges collected under this chapter for the water quality utility shall be deposited into the city of Central Point water quality utility fund. (Ord. 1961 §8, 2012; Ord. 1864 §1(part), 2005).

11.16.100 Commencement of charges.

For new construction, service charges for either the stormwater utility or the water quality utility will commence with the issuance of a building permit, creation of an impervious surface area, or installation of a water meter, whichever comes first. For existing structures, service charges for the stormwater utility will commence on the effective date of the ordinance establishing this chapter and for the water quality utility on the effective date of the ordinance establishing the water quality utility. (Ord. 1961 §9, 2012; Ord. 1864 §1(part), 2005).

11.16.110 Payment.

A. When the customer changes, service charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the service charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

B. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

C. Stormwater service charges and water quality utility fee charges shall be paid within 30 days from the service period ending date on the regular bill.

D. Payments shall be applied as provided by CPMC 3.40.090.

E. Closing bills shall be computed within two weeks after the stormwater customer notifies the city that he or she is no longer the person responsible for the charge.

11.16.110 Delinquent charges.

~~Delinquent accounts shall be treated in the same manner as delinquent water service accounts under Section [13.04.120](#). (Ord. 1864 §1(part), 2005).~~

11.16.120 Delinquency.

- A. Stormwater service charges are delinquent if payment in full is not received by the city within 30 days from the service period ending date on the regular bill.
- B. If a customer account for stormwater or water quality service charges is delinquent, the city may discontinue any city provided water service billed to that customer. The city will follow the procedures identified in CPMC 13.04.120.
- C. The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.
- D. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.

11.16.130 Property Liens/Collections.

- A. If the stormwater customer is also the owner of the property, service charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city for cleaning, repair, or replacement work caused by violation of this chapter, and any other stormwater and water quality charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.
- B. When a bill for stormwater or water quality service charges remains unpaid for 60 days, after it has been entered in the customer's billing record or other city stormwater record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

11.16.140 Tenant Accounts.

- A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

11.16.150 Recovery of Delinquent Charges.

For those accounts where the city does not have the ability to collect stormwater charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the city may certify to the tax assessor of Jackson County the amount of any delinquent service charges, fees for collecting delinquent service charges, and billing service charges. When so certified, they shall be assessed against the premises served in the same manner as other taxes are certified, assessed, collected, and paid.

Chapter 11.20 TRANSPORTATION UTILITY FEES

Sections:

[11.20.010 Purpose.](#)

[11.20.020 Applicability.](#)

[11.20.030 Definitions.](#)

[11.20.040 Rate structure.](#)

[11.20.050 Unit rate established.](#)

[11.20.060 Service charge adjustments and appeals.](#)

[11.20.070 Transportation utility fee discounts for extreme hardship.](#)

[11.20.080 Use of funds.](#)

[11.20.090 Commencement of charges.](#)

~~[11.20.100 Delinquent charges.](#)~~

[11.20.100 Payment.](#)

11.20.110 Delinquency.

11.20.120 Property liens/collections.

11.20.130 Tenant accounts.

11.20.010 Purpose.

It is the purpose of this chapter to provide for the recovery of the costs of maintaining and operating the city of Central Point transportation system. There is hereby created an account within the street fund known as the “transportation utility fee.” All fees and charges imposed herein shall be placed in said account for the purpose of paying expenses related to the replacement, repair, maintenance, operation, or administration of the transportation system. (Ord. 1910 §1(part), 2008).

11.20.020 Applicability.

The requirements of this chapter shall apply to all parcels of real property in the city of Central Point, including publicly and privately owned property. (Ord. 1910 §1(part), 2008).

11.20.030 Definitions.

“City” means the city of Central Point, Oregon, or as indicated by the context may mean any official, officer, employee or agency representing the city in the discharge of his or her duties.

“City roads” means all roads, public and private, excluding state and county roads, in the city of Central Point.

“Developed parcel” means a parcel of real property which has been altered by development coverage.

“Gross square footage” shall mean the calculated area of all structures, located on a site, measured along the exterior walls of such structures, including but not limited to enclosed courtyards, stairwells, and square footage on each level of multi-story structures, but not including fences and parking areas which are not enclosed within a building.

“ITE Manual” means the Institute of Transportation Engineering Trip Generation Manual.

“Manager” shall mean the city manager or his or her designee.

“Multifamily residence” shall mean a residential structure accommodating two or more dwelling units.

“Parcel” shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.

“Residential land uses” shall mean ITE 200 series.

“Service charges” shall mean the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

“Single-family residence” shall mean a residential structure accommodating one dwelling unit.

“Unit rate” means the dollar amount charged per adjusted average daily trip. There shall be a unit rate applied to residential land uses, identified as the residential unit rate, and a unit rate applied to all other land uses, identified as the commercial unit rate. (Ord. 1969 §1(part), 2013; Ord. 1910 §1(part), 2008).

11.20.040 Rate structure.

A. Service charges for the transportation utility fee are hereby authorized and imposed, in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the relative usage of the city transportation system for a given parcel. The estimated or measured trip generated will be used to determine the relative usage of the parcel. The rate shall be calculated by multiplying the unit rate by the assigned average daily trip estimate.

Average daily trip estimates shall be as follows:

1. Undeveloped Parcels. Undeveloped parcels shall not be charged.
2. City Roads. City roads shall not be charged.
3. All Other Developed Parcels. The monthly service charge for all other developed parcels, including publicly owned properties, shall be computed by multiplying the unit rate times the number of average daily trips applicable to the parcel, as delineated in Appendix A.¹ For all customer classes not identified in Appendix A, Average Daily Trips, shall be applied as specified in the ITE Manual. (Ord. 1910 §1(part), 2008).

11.20.050 Unit rate established.

Rates shall be established by resolution of the city council in accordance to the provisions set forth in Section [11.20.040](#). (Ord. 1983 §1, 2014; Ord. 1910 §1(part), 2008).

11.20.060 Service charge adjustments and appeals.

A. Any person billed for service charges may file a “Request for Service Charge Adjustment” with the manager within thirty days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the manager only when one or more of the following conditions exist:

1. The amount charged is in error; or

2. The parcel is nonresidential and the actual trips generated by that parcel, as established by a licensed surveyor or engineer at the expense of the owner, would result in a trip generation total that is greater than or less than the applied average daily trip estimate used in determining the charge; or

3. The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements that would generate trips to or from the parcel.

C. Service charge adjustments will only apply to the bill then due and payable and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

D. Decisions on requests for service charge adjustment shall be made by the manager based on information submitted by the applicant and by the city within thirty days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the manager's decision.

E. Decisions of the manager on requests for service charge adjustments shall be final unless appealed to city council within thirty days of the date of the decision. (Ord. 1910 §1(part), 2008).

11.20.070 Transportation utility fee discounts for extreme hardship.

A. Pursuant to Chapter [13.16](#), the annual income for extreme hardship must fall below one hundred fifty percent of the published federal poverty level in order to qualify for this discount.

B. Any person desiring to receive the transportation utility fee discount must submit an application to the city on forms to be provided by the city. Subsequent to initial qualifications for utility discount, any person must reapply on or before June fifteenth of each year thereafter. The city manager shall determine whether any applicant meets the qualifications and requirements for discount as set forth in this chapter.

C. The amount of transportation utility fee discount for eligible persons, provided under this chapter, shall be equal to the percentage water rate discount for extreme hardship, as established in Central Point Municipal Code Section [13.16.030](#).

D. It is unlawful for any person to make, assist in making or to derive the benefits from any false application for discounts provided under this chapter. In addition to other penalties provided by law, the city shall be entitled to recover from any person or persons receiving the benefit of discounts as a result of any false statement made in any application the amount therefor,

including interest at the rate of nine percent per year from the date such discounts were granted. (Ord. 1969 §1(part), 2013; Ord. 1910 §1(part), 2008).

11.20.080 Use of funds.

Service charges collected under this chapter shall be deposited into the city of Central Point transportation utility fee account to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating the transportation system, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the transportation system. (Ord. 1910 §1(part), 2008).

11.20.090 Commencement of charges.

For new construction, service charges will commence with the issuance of a building permit or installation of a water meter, whichever comes first. For existing structures, service charges will commence on the effective date of the ordinance codified in this chapter. (Ord. 1910 §1(part), 2008).

~~11.20.100 Delinquent charges.~~

~~Delinquent accounts shall be treated in the same manner as delinquent water service accounts under Section [13.04.120](#). (Ord. 1910 §1(part), 2008).~~

11.20.100 Payment.

- A. When the customer changes, service charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the service charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.
- B. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.
- C. Transportation utility fee service charges shall be paid within 30 days from the service period ending date on the regular bill.
- D. Payments shall be applied as provided by CPMC 3.40.090.
- E. Closing bills shall be computed within two weeks after the transportation utility customer notifies the city that he or she is no longer the person responsible for the charge.

11.20.110 Delinquency.

- A. Transportation utility service charges are delinquent if payment in full is not received by the city within 30 days from the service period ending date on the regular bill.

B. If a customer account for transportation utility service charges is delinquent, the city may discontinue any city provided water service billed to that customer. The city will follow the procedures identified in CPMC 13.04.120.

C. The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.

D. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.

11.20.120 Property Liens/Collections.

A. If the transportation utility customer is also the owner of the property, service charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city caused by violation of this chapter, and any other transportation utility charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.

B. When a bill for transportation utility service fee remains unpaid for 60 days after it has been entered in the customer's billing record or other city transportation utility record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

11.20.130 Tenant Accounts.

A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

Chapter 13.04

WATER RATES AND REGULATIONS

Sections:

[13.04.010 Water rates.](#)

[13.04.020 Water service deposits.](#)

[13.04.030 Water month designated.](#)

[13.04.040 Discontinuance of water use--Refunds.](#)

[13.04.050 Payment due date--Delinquent charges and reconnection fees for an existing water service.](#)

[13.04.060 Leak adjustments.](#)

[13.04.070 Dates redefined by finance director.](#)

[13.04.080 New water service connections--Fees.](#)

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[13.04.100 Separate buildings.](#)

[13.04.110 Water use from fire hydrants.](#)

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[13.04.120 Unpaid accounts--Termination of service.](#)

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[13.04.140 Tenant accounts.](#)

[13.04.130 150 Water cut-off by city.](#)

[13.04.140 160 Authorization to adopt water curtailment plan.](#)

[13.04.150 170 Unlawful acts.](#)

13.04.010 Water rates.

A. Water rates, which are adopted by resolution, are based on a cost of service structure and are defined by the following categories: residential, commercial and standby, and irrigation. Special rate considerations are also established for Jackson County Expo, hardship discounts, and an outside city factor.

Water rates will generally include the following: a monthly fixed base charge, a fixed monthly repair and replacement fee, and usage rates based on consumption. Rates are also defined by meter size or number of residential units and water usage rates are based on an inclining scale.

B. Any amount of water used shall be paid for at the rate specified in the schedule above per one hundred cubic feet or fraction thereof.

C. The rate for use of water outside the city limits shall be two times the rate charged to users within the city.

D. Water rates and associated fees may be modified annually as deemed necessary by the city council.

E. All water connections will be billed a nonrefundable account maintenance fee set by resolution.

F. Water connections or reconnections made on regular work days between the hours of four-thirty p.m. and eight a.m., weekends, or holidays are considered after hours and will be assessed an additional fee set by resolution.

G. Water connection charges for bulk water drawn from fire hydrants will be charged according to the current rate schedule, adopted by resolution.

H. Standby water service or fire protection water service charges will be according to the water rate schedule adopted by resolution.

I. Accounts turned off for nonpayment will be assessed a fee, set by resolution, upon reconnection.

J. A fee set by resolution will be charged for all dishonored payments.

K. A water meter fee set by resolution will be charged for each meter.

L. A water tap fee set by resolution will be charged for each new connection from the meter to the city water line.

M. Fire line meters will be assessed a monthly fee based upon the current water rate resolution, with the smaller low flow meters charged for water consumption only. (Ord. 1970 §1, 2013; Ord. 1932 §1(part), 2010).

13.04.020 Water service deposits.

Water service deposits are no longer required or collected. Previous to the writing of the ordinance codified in this title, all deposits collected were refunded as a credit back to the customer's account. (Ord. 1932 §1(part), 2010).

13.04.030 Water month designated.

For purposes of computing water charges, a month shall be a period from the twentieth day of each month to the twentieth day of the succeeding month. Meter reading shall be done on or about the twentieth day of each month and done in such a manner to provide, as nearly as practical, twelve equal periods between readings. (Ord. 1932 §1(part), 2010).

13.04.040 Discontinuance of water use--Refunds.

Any person desiring to discontinue the use of water shall give notice to the finance director, or his/her designee, of such intention. Any prepayment on account of such water service over and above the amount owing by such user shall be refunded to said user. If such refund is not claimed within one year, it shall be turned over to the State of Oregon Unclaimed Property Program with the Department of State Lands. (Ord. 1932 §1(part), 2010).

13.04.050 Payment due date--Delinquent charges and reconnection fees for an existing water service.

A. All water use charges shall become due on the tenth day of the month following the meter reading date and, if unpaid, shall become past due on the eleventh day of the same month. A delinquent charge of five dollars shall be added to any water account balance of twenty dollars or more on the tenth day that the account is past due. Any account past due more than thirty days shall be notified of the city's intention to terminate service in accordance with Section [13.04.120](#). If water service has been discontinued due to nonpayment of water use charges, a fee will be charged in accordance with Section [13.04.010](#).

Reconnection requests will be accepted only at City Hall during regular business hours.

B. The finance director, or his/her designee, shall have the authority to allow, under special circumstances, a customer's water service to be temporarily activated without following the normal procedures described in this chapter. The aforementioned temporarily activated water service shall remain activated for no longer than ninety-six hours.

C. A fee in accordance with Section [13.04.120](#) will be charged for all dishonored payments. The finance director, or his/her designee, shall have the authority to immediately discontinue water service to any customer whose payment for reinstatement of water services has been dishonored. The finance director, or his/her designee, shall also have the authority to require future payments by said customer to be made by cash, money order, or certified check.

D. The finance director, or his/her designee, shall have the authority to allow customers to pay a delinquent account in regular, mutually agreed to, equal amounts. The finance director, or his/her designee, shall also have the authority to waive fees when deemed appropriate. Water customers

requesting a payment plan or a waiver of fees may receive such benefits only one time in any one twelve-month period.

E. All outstanding fees and charges must be paid to the city finance department prior to reconnection of the water service.

F. The council may set by resolution fees for extra services required in collecting delinquent customer accounts for water user charges.

13.04.060 Leak adjustments.

A. Residences with a probable water leak may apply for an adjustment to their water bill. The request for adjustment must meet the following criteria:

1. Application must be on a city-approved leak adjustment request application form;
2. The leak must be substantiated by the public works department;
3. The leak must be repaired within fifteen days of discovery by the water user or within fifteen days of notification to the city, whichever is sooner.

B. Leak adjustments are intended for water line leaks that cause an abnormally high monthly water bill. Adjustments will not be granted for improperly set irrigation systems, or excessive watering, or water lines broken as a result of negligence.

C. Satisfactory proof of repairs must be submitted with required application. Satisfactory proof of repairs must include:

1. A description of the repairs that were done;
2. A copy of the repair bill or receipts for necessary parts to complete the required repairs.

D. The city will assume no responsibility for costs associated with the repair.

E. Water bill adjustments caused by leaks will be for one-half of the total water consumption over and above the average consumption for that residence. The average consumption will be calculated by using the consumption for the same month's billing cycle as in the previous three years. In the event that three years of water consumption records are not available, the finance director, or his/her designee, will determine the average consumption based on the best information available.

F. Leak adjustments will be allowed once per year, per residence. Exceptions, due to extraordinary circumstances, to this rule may be authorized by the finance director or his/her designee. (Ord. 1932 §1(part), 2010).

13.04.070 Dates redefined by finance director.

In order to promote efficiency within and among city departments, the finance director may, at his/her discretion, redefine the respective dates for meter reading, water use billing, payments due, delinquencies, and service discontinuance. (Ord. 1932 §1(part), 2010).

13.04.080 New water service connections--Fees.

A. No connection shall be made with any water line of the city until a permit and payment of fees as required in this section has been completed.

B. Permits may be issued upon application to the building department administrator, or his/her designee, under the terms and conditions set forth in this section, provided water is available.

C. Applications for new connections shall include:

1. A legal description (tax map and tax lot) of the parcel of land proposed to be connected.

2. A plot plan of the property, drawn at an acceptable scale on an eight-and-one-half-inch by eleven-inch sheet of paper including all existing and proposed roads, driveways, sidewalks, buildings, other utilities (electric, phone, cable T.V., natural gas, etc.), and water meters.

3. Name, address, and phone number of the applicant.

4. Name, address, and phone number of the person to be billed for the water service.

D. No water connection permits will be issued to any person who has a thirty-day past due water bill, unpaid SDC, or any other unpaid bill due the city.

E. At the time of installation, ownership of the water meter shall revert to the city. As a condition of such connection, the city shall provide routine maintenance of the water meter thereafter.

F. It shall be the duty of the owner of the property being served by a water service to protect his/her water service connection, including water meter, meter box, angle meter valve, and all other associated water meter appurtenances, from damage. In the event of damage, the city public works department will make all necessary repairs. A bill for the cost of repairs will then be added to the property owner's next available water bill. Acts of God, natural disasters, and defective equipment shall be exempted from the property owner's responsibilities to protect his/her water service connection as described herein. The finance director, or his/her designee, shall have the authority, under special circumstances, to waive or adjust repair costs associated with damage to water service connections as described herein. (Ord. 1932 §1(part), 2010).

13.04.090 Water connection outside city.

A. Requests for connection to the city's water system on properties lying outside the city limits shall be made by application on such form as provided by the city. Such application shall be forwarded to the public works director, who may approve or deny, with just cause, such requests.

B. If the public works director/designee approves the request, he/she shall cause the connection to be made. Upon approval of the permit, the person requesting the connection shall pay all applicable fees and charges as described in this title. (Ord. 1932 §1(part), 2010).

13.04.100 Separate buildings.

Multiple water meters to a single building are discouraged, but under special circumstances multiple water meters to a single building may be allowed with written permission from the public works director or his/her designee. One water meter shall be allowed to serve one parcel for the purpose of providing water to the main dwelling and an accessory structure. (Ord. 1939 §1, 2010; Ord. 1932 §1(part), 2010).

13.04.110 Water use from fire hydrants.

A. Any person, firm or organization desiring to use water from a city fire hydrant, other than personnel from any fire department, shall apply to the public works director at least five working days in advance of the date of the requested use.

B. The public works director, or his/her designee, may allow such a request in the absence of a conflict with the city's purposes; provided, that the applicant complies with the following conditions:

1. Agrees to the metering of said water use by the city.
2. Pays all fees and charges for a three-inch water meter as described in Section [13.04.010](#).
3. Pays the water bill in accordance with the payment schedule described in Section [13.04.050](#).
4. Is subject to termination of service for unpaid charges for water service as described in Section [13.04.120](#).
5. Does not have an outstanding unpaid bill for fees or charges associated with water use in the city of Central Point.
6. Agrees to reimburse the city for all incurred costs associated with any damage to city-owned equipment caused as a result of taking water.

C. Upon issuance of the permit to take water from a city fire hydrant, the public works director, or his/her designee, will assign a fire hydrant to be used by the permittee and attach thereto, with chain and lock, an approved hydrant meter and backflow prevention assembly.

D. Personnel from any fire department, using water from a city fire hydrant, shall report such usage to the public works director, or his/her designee, within five days following the date of such usage, together with an estimate of the amount of water used. (Ord. 1932 §1(part), 2010).

13.04.115 Payment.

- A. Payments shall be applied as provided by CPMC 3.40.090.
- B. The initial customer shall pay water services charges from the date the meter is installed, turned on, and available for use.
- C. When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.
- D. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

13.04.120 Unpaid accounts--Termination of service.

A. The city may discontinue any city provided water service billed to the customer in the following circumstances:

1. In the event of unpaid charges for water service, repair bills, connecting service or reconnecting service, where the customer fails to pay the amounts and penalties due and owing within seven (7) days from the date a turn-off notice is mailed,
2. if any other charges or assessments that the Central Point Municipal Code authorizes collection by discontinuation of water service are delinquent and not paid with seven (7) days from the date a turn-off notice is mailed, or
3. if any other charges or assessments due the City of Central Point by contract for which such contract authorizes collection by discontinuation of water service are delinquent and not paid within seven (7) days from the date a turn-off notice is mailed.

B. The city may terminate service to the account premises in accordance with this section. In the event the city intends to terminate service as provided in subsection A herein, ~~because of an unpaid account,~~ the following procedure shall be followed:

1. A notice shall be sent to the owner of the property at the address of record and to the customer at the address to which billings have been mailed. However, if any addresses are the same, only one notice need be sent to that address.
2. The notice shall state the city's intention to terminate service seven (7) calendar days after the date of the mailing of the notice, and shall also contain the following language: "If you feel that there is a mistake on the bill or if you wish to dispute the amount of the bill, or you wish to dispute the termination of service, you may do so at Central Point City Hall during designated office hours prior to the expiration of seven calendar days from the date of the mailing of this notice."

3. In the event a customer disagrees with the intended termination of service, the finance director or his/her designee shall provide an opportunity for the customer to be heard in a conference prior to the termination of service.

4. The finance director or his/her designee shall, after the passage of seven calendar days from the date of the mailing of said notice, or following the conference referred to above if one is requested and attended, or following the date scheduled for the conference if one is requested and the customer fails to attend, have the authority to terminate service upon a finding that the charges have been accurately stated and have remained unpaid for a period of more than thirty days after the earliest of the charges was billed.

5. If water service for a multi-tenant building is in the owner's name and the water user charges are delinquent the city shall also mail or deliver a turn-off notice to each tenant prior to discontinuance of service. The city will charge the owner for each notice.

6. The turn-off notice is considered delivered at the close of business on the date actually delivered or, in the case of mailing, the close of business on the third business day from the date of mailing, including the date of mailing.

7. The council may set by resolution a fee for providing the turn-off notices and for discontinuation of service.

8. The city shall not be liable for any damage resulting from discontinuation of service.

C. Subject to subsection D herein, the customer owing the water bill shall pay all charges or correct all violations before the city will restore water service.

D. The finance director may restore water service to a delinquent account upon the acceptance of a plan approved by the finance director for the payment of delinquent amounts.

13.04.130 Property Liens/Collections.

A. If the water customer is the owner of the property, water user charges, plus billing service charges, late payment charge, charge for collecting delinquent bills, damages and any other water charges incurred relating to the property shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred the lien for the closing bill shall attach as of the day preceding the sale or transfer.

B. When a bill for water service remains unpaid for 60 days after it has been entered in the customer's billing record or other city water record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

13.04.140 Tenant Accounts.

A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date the notice of delinquent status is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the customer agree to a plan for repayment of unpaid utility bills.

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

13.04.130150 Water cut-off by city.

The city shall attempt to notify customers in the event that water service needs to be temporarily curtailed. However, water may at any time be shut off from the mains without notice for repair, extensions or other necessary purposes, and the city shall in no instance be held liable or responsible for any damages caused thereby. Where the city intends to voluntarily cut off water service at a planned future time and where such cut-off is under such circumstances as to permit notice to be given, the public works director, or his/her designee, shall cause notice of said cut-off to be delivered to the water customers affected thereby, either by direct contact, by telephone, by mail, by email, or by publication of notice in a newspaper of local circulation. (Ord. 1932 §1(part), 2010).

13.04.140160 Authorization to adopt water curtailment plan.

In the event of an emergency, the city council may, by resolution, adopt a water curtailment plan to be effective in the city whenever enacted pursuant to the terms of such plan. Such water curtailment plan may be amended by resolution from time to time, as necessary. (Ord. 1932 §1(part), 2010).

13.04.150170 Unlawful acts.

A. It is unlawful for any person, other than an official representative of the city, to do any of the following:

1. Reconnect any water service after the same has been disconnected by the city for nonpayment of service charges or any other reason;

2. Disconnect or remove any lock or locking device placed on the meter by the city intended to prevent the use of water;
3. Connect any water service without first filing an application for connection to the city water system and paying all associated fees and charges required for said connection;
4. Connect any water service after application thereof has been denied for good and sufficient reason;
5. Allow a water meter to become inaccessible so that it cannot be serviced by the city.

B. It is also unlawful for any person to do any of the following:

1. Verbally or physically harm or threaten any city employee in the act of completing his/her job.
2. Attempt, in any way, to prevent the city from reading or servicing a water meter.
3. Impede any city employee from performing his/her job. (Ord. 1932 §1(part), 2010).

3.40

LIENS AND COLLECTIONS

Sections:

- 3.40.010 Interest for Financing; Late Payment Charge on Receivables.**
- 3.40.020 Attorney Fees and Collection Costs.**
- 3.40.030 Liens.**
- 3.40.040 Refunds and Accounts Payable.**
- 3.40.050 Release of Lien.**
- 3.40.060 Form of Payment.**
- 3.40.070 Collection.**
- 3.40.080 Adjustment of Accounts.**
- 3.40.090 Crediting of Utility Payments.**
- 3.40.100 Issuance of Permits, Licenses and Other Approvals.**
- 3.40.200 Financing/Deferral of System Development Charges and Facility Charges.**
- 3.40.210 Audit of Books, Records or Persons.**

3.40.010 Interest for Financing; Late Payment Charge on Receivables.

A. The council, by resolution, may set a rate to be applied to all receivables owed the city as a late payment charge. The late payment charge shall be added to any lien for the receivable. Unless otherwise provided, the late payment charge will be compounded monthly and shall accrue from the date of the invoice if not paid by the date due.

B. The finance director may set interest rates to be applied to finance agreements offered by the city.

3.40.020 Attorney Fees and Collection Costs.

In addition to a late payment charge, the actual cost of collection, including attorney fees, may be charged to each receivable account. The council, by resolution, may establish a charge in lieu of actual collection costs to be applied to all delinquent accounts. The collection cost or charge shall be added to any lien for the receivable.

3.40.030 Liens.

A. There shall be an on-line electronic medium to be known as *Conduits* by which the lien docket of the City of Central Point can be accessed.

B. The city may, by ordinance, authorize the finance director to create a lien by recording the lien in a lien docket.

C. The finance director shall record in the city's lien docket:

1. All liens on real property in favor of the city, including but not limited to, liens for:

- (i) assessments for local improvements,
- (ii) assessments for financing agreements,
- (iii) system development charges,
- (iv) facility charges,
- (v) delinquent utility bills,
- (vi) civil penalties, and
- (vii) nuisance abatements.

2. All releases satisfactions, assignments, apportionments, amendments and modifications of liens recorded in a lien docket. No transfer or assignment of any certificate of purchase of real property sold under ORS 223.505 to 223.590 is valid unless the recorder has noted an entry of such transfer or assignment in the appropriate lien docket.

3. Documents that provide notice regarding potential obligations of property including, but not limited to, reimbursement agreements, reimbursement district resolutions, agreements relating to future obligations to build or fund public improvements, and private stormwater operations and maintenance agreements. The recording of such documents shall not create a lien. The document and the lien docket shall prominently state "NOTICE OF POTENTIAL OBLIGATION."

4. Such other documents required or permitted by law to be recorded, filed, or noted in a lien docket maintained by the city.

D. In addition to recording liens and notices in a lien docket, the finance director may record the lien in the Jackson County deed records. The informational recording shall include a clear statement of the purpose of the recording and a reference to how the city's lien docket can be accessed.

E. Each lien record recorded in a lien docket shall consist of:

1. the effective date of recording,
2. a reference to the location of source documents or files,
3. a description of the real property affected by the recording including the county “R” number, state identification number and a description meeting the requirements of ORS 93.600,
4. the lien account number or other account identifier,
5. the amount of the original lien or obligation, and
6. the current amount of principal balance.

F. Each lien record for the purpose of an assessment for local improvements shall also include the name or number of the local improvement, a description of each lot or parcel of land or other property against which the final assessment is made, or which bears or is chargeable for a portion of the actual cost of the local improvement, with the name of the owner and the amount of the unpaid final assessment.

G. Payments of installments, interest, penalties, and late payment charges for assessments for local improvements shall be noted in the lien docket as they are received, with the date of payment. The payments so made and entered shall discharge the lien to the amount of the payment and from the date of the payment.

H. If the lien record was previously recorded in one of the indices maintained by the County Clerk under ORS Chapter 205, in addition to the information above the lien record shall include the original recording date and a reference to the location of the original recording.

I. Each lien record shall be a lien in favor of the city against each lot or parcel of land or other property identified, until paid, for the following:

1. for the amounts of the unpaid principal amount docketed, with interest at the rate determined by the city; and
2. for any additional penalties or collection charges imposed by the city with respect to any amounts that are not paid when due.

J. Unless otherwise provided in this code, when a lien remains unpaid for 60 days after it has been recorded in the city’s lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

3.40.040 Refunds and Accounts Payable.

Except for fees collected pursuant to the Oregon Structural Specialty Codes, any account payable or refund of money held by the city but that is owed to a person with a delinquent city account, shall be applied to the delinquent account. If the delinquent account is in dispute, the account payable or refund shall be held until the dispute is resolved.

3.40.050 Release of Lien.

The city shall collect an administrative fee, as set by council resolution, for the release of any lien issued by the city.

3.40.060 Form of Payment.

In the discretion of the finance director, any payment may be required to be made by money order, cashier's check or similarly secure form of payment.

3.40.070 Collection.

A. Any tax, fee, or service charge required to be paid by any person to the city, or collected by a person and paid to the city, under the provisions of the Central Point Municipal Code, finance agreement, assessment or otherwise, shall be deemed a debt owed by the person to the city.

B. In addition to any other collection method, any charge due to the city that is not paid when due may be recovered by sending the account to a collection agency.

C. Any person owing money to the city under the provisions of city codes, assessments, or finance agreement with the city shall be liable to an action brought in the name of the City of Central Point for the recovery of such amount.

3.40.080 Adjustment of Accounts.

The finance director may write off accounts receivable balances if in the best interest of the city and may write off credit balances, unless the customer requests otherwise, if the cost of making the refund would exceed the amount of the credit balance.

3.40.090 Crediting of Utility Payments.

Payment for utility bills shall be applied in the following order: any late payment charge, any collection cost charge, charges pursuant to council resolution, stormwater and water quality user charges in the order incurred, water user charges in the order incurred, and transportation fee charges in the order incurred.

3.40.100 Issuance of Permits, Licenses and Other Approvals.

In addition to any other collection method, if an applicant, or any person or firm affiliated with the applicant, seeking a permit, license or other approval from the city has any charge due to the city that is not paid when due, the finance director may withhold the issuance until such time as the past due amount is paid. This section shall not apply to approvals pursuant to the Oregon Structural Specialty Codes.

Business

LID Assessment Relief Request



ADMINISTRATION DEPARTMENT

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

STAFF REPORT

July 28th, 2016

AGENDA ITEM: Consideration of written requests for relief/forgiveness from local improvement district assessments, interest and penalties related to properties located at 555 Freeman Road Lot #86 and 3268 Snowy Butte Lane.

STAFF SOURCE:

Chris Clayton, City Manager

BACKGROUND/SYNOPSIS:

In April/May of 2016, the City Council engaged in discussions regarding outstanding assessments related to the Meadows & Snowy Butte Lane local improvement districts. The end-result of these conversations included staff direction to notify property owners with outstanding assessments or liens regarding the city's intention to consider property foreclosure proceedings.

Although the city has not received any payments (to date) from the property owners who maintain unpaid assessments/liens, we have received written correspondence (555 Freeman Road Lot #86, 3268 Snow Butte Lane) requesting relief from both the penalty and interest portions of specific assessments. In both instances, it appears that the property owners requesting relief would be willing to pay off their remaining assessment balance if the city would forgo the collection of the non-principle related charges.

FISCAL IMPACT:

The following is a breakdown of the outstanding principle balance, incurred interest and incurred penalties for the properties seeking relief:

555 Freeman Road:

- Outstanding Principle - \$1,742.18
- Outstanding Interests - \$237.23
- Outstanding Penalty - \$434.19

3268 Snowy Butte Lane:

- Outstanding Principle - \$44,352.05
- Outstanding Interest - \$11,336.03
- Outstanding Penalty - \$10,800.31

ATTACHMENTS:

1. Written correspondence from property owners requesting relief/forgiveness.
2. Local Improvement District – Central Point Municipal Code (CPMC) section.
3. Assessment Financial Details

RECOMMENDATION

Discussion and staff direction on how to proceed with the requests for financial relief/forgiveness.

To the City Council Members
City of Central Point
140 South Third Street
Central Point, OR. 97502

re: Assessment Number: 201
Tax Lot: 372W-11A/5400
555 Freeman Rd. #86

Invoice Number: 410635
to: Theodore Fletscher

Dear Council Members:

My apology for not being able to pay these assessment payments on time and as agreed. The last few years, starting in about 2009, were financially quite devastating and a real challenge for one now in his 80's to not loose everything he had worked to achieve.

My humble request is for you to forgive the \$377.36 penalty portion of the 07/07/2016 statement balance of \$2413.60 for a new total payment of \$2026.34 due and payable by July 28, 2016.

Thank you for your consideration on this matter.



Theodore F. Fletscher
707 Vincent Ave.
Central Point, OR. 97502

541-601-2947

Chris Clayton

From: Rachel Neuenschwander
Sent: Tuesday, July 5, 2016 8:39 AM
To: Steven Weber; Chris Clayton
Subject: FW: tax lot 372w10dd2700

[See Below](#)

From: Tanya Miller [mailto:t.sarge2@gmail.com]
Sent: Monday, July 04, 2016 8:27 PM
To: Rachel Neuenschwander
Subject: tax lot 372w10dd2700

Dear Rachel Neunschwander,

I am writing you concerning my account # tax lot 372w10dd2700.

I respectfully request that you consider waiving the interest and/or penalties for my account. I am attempting to sell my house in order to be able to pay off the money I owe you for resolution number 1461.

I live on a fixed income of Social Security Disability and have metastatic breast cancer that is terminal. Because of this cannot work and must live on the income from the SSDI alone.

I hope that selling my house will let me settle this debt and also pay the high amounts of medical debt I have accumulated to this point, and maybe even allow me to pay for some respite/end of life care.

If I am charged the outstanding interest and penalty payments I fear that I will be unable to provide for myself. I would ask that you consider my request to reduce the amount of money that I must pay to settle my debt.

You may contact me at 541-664-5946 at your convenience.

Thank you, Tanya Miller

**Title 11
LOCAL AND PUBLIC IMPROVEMENTS**

Chapters:

[11.04 Local Improvements and Special Assessments](#)

[11.12 Systems Development Charge for Capital Improvements](#)

[11.16 Stormwater Utility Fees](#)

[11.20 Transportation Utility Fees](#)

[11.22 Urban Renewal Plan Downtown and East Pine Street Corridor Revitalization](#)

Chapter 11.04
LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sections:

[11.04.010 Chapter application and definitions.](#)

[11.04.020 Commencement of process for local improvements.](#)

[11.04.030 Notice of hearing.](#)

[11.04.040 Hearing--Improvement resolution.](#)

[11.04.050 Notice of proposed assessment.](#)

[11.04.060 Notice of final assessment.](#)

[11.04.070 Attachment of lien.](#)

[11.04.080 Mailing of notices.](#)

[11.04.090 Segregation of assessments.](#)

[11.04.100 Application for segregation.](#)

[11.04.110 Curative provisions.](#)

[11.04.120 Interest on assessments.](#)

[11.04.130 Foreclosure of liens.](#)

[11.04.140 Duties of finance director.](#)

11.04.010 Chapter application and definitions.

This chapter applies to all city local public facility construction projects which are to be financed in whole or in part through special benefit assessments. As used in this chapter, the following terms are defined as follows unless a different meaning is clearly intended from the context:

A. "Actual cost" means all direct or indirect costs incurred by the city before assessment in order to undertake a local improvement. The term "actual cost" includes the portion of the total actual cost allocated to a particular lot. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, and repair or replacement. Actual cost may include the salaries, wages and benefits payable to employees of the city to the extent the same are reasonably allocable to the work or services performed by the employees in connection with a local improvement. However, as a condition to inclusion of any salaries, wages or

benefits payable to employees of the city as costs of a local improvement, the city shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

B. "Bond issuance and administration costs" means all costs associated with issuance, registration, transfer and payment of bonds for long-term financing of assessments and systems development charges.

C. "Deferred improvement agreement" means an acknowledged and recorded agreement executed by a property owner which runs with the land in which the owner agrees that the city has jurisdiction to construct certain local improvements and assess a pro rata share of the cost against the owner's property described therein. A "deferred improvement agreement" may also contain a nonremonstrance agreement.

D. "Estimated assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the city's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the costs to the property.

E. "Final assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property. Bond issuance costs shall be separately stated and shall not be entered on the lien docket unless and until the owner files an application to pay in installments. If bond issuance costs are added, the total amount shall then be deemed to comprise the "final assessment."

F. "Finance director" means the department head designated by the city manager to keep records of assessments and installment payments.

G. "Financing" means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement. Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the city's reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

H. "Local improvement" means an improvement constructed by the city for which a special assessment may be made on property specially benefitted.

I. "Lot" means a platted lot or other contiguous parcel of land to which a single tax lot number has been assigned.

J. "Owner" means the owner of title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor of Jackson County, Oregon.

K. "Remonstrance" means the ability of a property owner to object to the formation of a local improvement district. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.020 Commencement of process for local improvements.

A. Local improvement construction projects may be initiated in any of the following ways:

1. The city manager may initiate a local improvement project whenever in his or her judgment such project would be in the best interest of the city; or
2. The city council may initiate a local improvement project by motion passed at a regular or special meeting of the city council; or
3. Upon receipt of a petition signed by more than fifty percent of the owners of street frontage or area of real property in the proposed benefit district, filed with the city recorder, whereupon the city manager shall initiate the local improvement process.

B. After initiation of the local improvement process by one of the methods set forth above, the city manager shall direct city staff to prepare preliminary plans, specifications and estimates of costs for the proposed local improvement project. City staff may consult, as deemed necessary, with applicable professionals in preparing such preliminary findings.

C. Upon completion of the preliminary plans, specifications and cost estimates by city staff, the city manager shall present such findings to the city council. After reviewing the findings, the city council may, by resolution, declare its intention to pursue construction of a local improvement project and set a date for a public hearing to consider public input on the proposed local improvement.

D. No public hearing shall be required in the event that each and every property owner included in the area to be benefited and assessed in the local improvement area has signed the petition requesting construction of the local improvement. In that case, the city council may, by resolution and without a public hearing, order construction of the local improvement in the manner set forth in Section [11.04.040](#). (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.030 Notice of hearing.

A. Notice of the hearing on the proposed local improvement shall be given by publishing in a newspaper of general circulation within the city at least ten days prior to the date of the hearing.

B. The published notice shall:

1. Specify the time and place the council will hear and consider the views of parties who have

an interest in or are aggrieved by the proposed improvement;

2. Describe the general location and nature of the improvement, the area within which property may be specially assessed as described in the resolution; and

3. Identify the place where the project documents are available for inspection and the requirements for submitting written materials for consideration by the council.

C. In addition to notice by publication, the city shall, at least ten days prior to the hearing, mail notice to the owners whose property is to be assessed at the addresses shown in the records of the county assessor.

D. The mailed notice shall:

1. State that the council is considering an assessment for local improvements,

2. Describe the general location and nature of the improvement,

3. Identify the place where the project documents are available for inspection,

4. State the formula for apportioning costs and the amount of the estimated assessment on the property of the owner to whom the notice is addressed, and

5. Specify the time and place the council will hear and consider objections or remonstrances to the proposed improvement and the requirements for submitting written materials for consideration by the council. (Ord. 1855 §3(part), 2005).

11.04.040 Hearing--Improvement resolution.

A. At the hearing, the council shall hear and consider objections and other representations made by owners, and shall hear and consider all other relevant information presented.

B. If the council determines that the proposed local improvement shall be made, it shall adopt a resolution ordering construction of the improvement. The resolution shall contain a legal description of the district and shall be recorded in the Official Records of Jackson County.

C. When the improvement has been so authorized, the city manager may invite bids or make other arrangements necessary for construction and any debt instruments may be issued for the cost thereof as provided by statute. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.050 Notice of proposed assessment.

A. After the work is done and the actual cost determined, the city manager shall prepare the proposed assessments to the respective lots within the assessed district and file them in the office of the city. Notice of the proposed assessment shall then be mailed to the owner of each lot proposed to be assessed not less than ten days prior to the last day for filing written objections.

The notice shall state the amount of the assessment proposed on the property, the date of the final hearing and shall specify a date by which written objections shall be filed with the city.

B. Written objections and supporting documents must be filed no later than five p.m. the day before the city council hearing. Objections filed shall state the grounds for the objection. At the final hearing, the council shall consider the objections and may adopt, correct, modify or revise the proposed assessments and shall by resolution finally determine the amount of the assessment to be charged against each lot within the area according to the special benefit accruing to it from the improvement and shall levy the final assessments. (Ord. 1969 §1(part), 2013; Ord. 1855 §3(part), 2005).

11.04.060 Notice of final assessment.

After the final assessment has been levied by the council, the city shall cause notice of the final assessment to be mailed to the owner of each lot to be assessed. Publication of the notice is not required. The notice shall identify the local improvement for which the assessment was levied and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in ORS 223.210. (Ord. 1855 §3(part), 2005).

11.04.070 Attachment of lien.

A. Assessments shall become liens upon the properties assessed after the passage of the resolution levying them and entry in the city lien docket and shall be immediately due and payable. Bond issuance and administration costs shall be added to an assessment when the installment application is filed. Interest and billing charges shall be added to each assessment as they accrue. The city may enforce collection of the assessments in the manner prescribed by law.

B. A written application to pay in installments under the Bancroft Act shall be filed with the finance director within ten days after mailing of the notice of final assessment. However, an application may be accepted at the discretion of the finance director at any time unless the council has authorized foreclosure of the lien.

C. Unless otherwise provided in the resolution levying the assessments, the application shall provide that the applicant agrees to pay the final assessment over a period of ten years from the date of assessment in equal semi-annual installments of principal plus interest on the unpaid balance, beginning six months after the date of assessment.

D. The application shall provide that the applicant acknowledges and agrees to pay interest at the rate provided by resolution on all unpaid assessments.

E. The application shall contain a statement, by lots or blocks, or other sufficient legal description, of the property of the applicant assessed for the improvement.

F. The application shall state that the applicant does thereby waive all irregularities or defects,

jurisdictional or otherwise, in the proceedings to cause the local improvement for which the assessment is levied and in the apportionment of the actual cost of the local improvement.

G. An owner who elects to file an application to pay in installments shall agree to pay an additional amount to be added to the assessment to recover bond issuance and administration costs. This amount shall be determined by the city council at the time it levies the assessment based on a reasonable estimate of bond issuance and administration costs.

H. An owner who elects to file an application to pay in installments shall agree to pay a billing charge to be added to each installment. The billing charge shall be a prorated share of the actual cost of billing and keeping records of installment payment accounts. The amount of the billing charge shall be determined from time to time by the finance director.

I. A payment schedule will not be issued for any lien under one thousand dollars. (Ord. 1855 §3(part), 2005).

11.04.080 Mailing of notices.

When a notice is sent by mail to the owner of a lot affected by a proposed assessment or a final assessment, the notice shall be addressed to the owner or his agent according to the records of the county assessor. (Ord. 1855 §3(part), 2005).

11.04.090 Segregation of assessments.

A. The city may apportion a special assessment imposed upon a single tract or parcel of real property among all the parcels formed from a subsequent partition or other division of that tract or parcel, if the subsequent partition or division is in accordance with ORS 92.010 to 92.160 and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission under ORS 197.251. The proportionate distribution of a special assessment authorized under this subsection may be made whenever the special assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.

B. The city shall apportion a special assessment under this section when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the special assessment was originally levied.

C. Apportionment of a special assessment under this section shall be in accordance with an order or resolution of the city council. The order or resolution shall describe each parcel of real property affected by the apportionment, the amount of the assessment levied against each parcel, the owner of each parcel and such additional information as is required to keep a permanent and complete record of the assessments and the payments thereon. A copy of the order or resolution shall be filed with the finance director, who shall make any necessary changes or entries in the lien docket.

D. When a special assessment is being paid in installments under the Bancroft Bonding Act or ORS

268.485, 450.155, 450.897 or 451.530, if the special assessment is apportioned among smaller parcels of real property under this section, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. (Ord. 1855 §3(part), 2005).

11.04.100 Application for segregation.

A. Application to segregate shall be filed with the finance director on a form to be furnished by the finance director. The application shall include:

1. A lot book report from a title company showing copies of the deeds and other instruments evidencing all ownerships, other interests, and legal descriptions of the parcels to be segregated.
2. The original and segregated tax lot numbers, original and segregated assessed valuations, names and addresses of the owners and all others having an interest in the property, and any other relevant information requested by the finance director.
3. An express waiver of defects, jurisdictional or otherwise, in the original assessment.

B. The application shall be accompanied by a fee to be established by city council resolution.

C. If the finance director finds that the application is complete and proper, it shall be submitted to the city council along with a proposed resolution prepared in accordance with Section [11.04.050](#). Copies of the proposed resolution shall be mailed to all persons shown by the application to have an interest in the property at least ten days prior to the council meeting at which the resolution will be considered. The copy of the resolution shall be accompanied by a notice stating the date of the meeting and that all written objections filed with the finance director prior to the date of the meeting will be considered by the council. Oral objections will not be heard. (Ord. 1877 §1, 2006; Ord. 1855 §3(part), 2005).

11.04.110 Curative provisions.

An improvement assessment shall not be rendered invalid by any error, mistake, delay, omission, or irregularity in the proceedings. The provisions of Sections [11.04.010](#) through [11.04.100](#) shall be directory and not jurisdictional. (Ord. 1855 §3(part), 2005).

11.04.120 Interest on assessments.

A. All nondelinquent assessments levied by the city upon real property for local improvements shall bear interest on the unpaid balance thereof from the date the assessment is due and payable at the rate specified as follows:

1. From the date of the assessment to the date of the Bancroft bonds, issued for the cost of the improvement, the rate shall not exceed the interim financing rate plus one and one-half

percent.

2. From and after the date of the Bancroft bonds sold to finance the improvement, the rate shall not exceed the net effective interest rate on the Bancroft bond issue plus one and one-half percent.

B. Assessments in which no installment application has been filed, levied by the city upon real property for incurred charges, shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section.

C. An assessment shall be deemed delinquent if any payment is not made within one hundred eighty days after it becomes due and payable. Delinquent assessments shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section. (Ord. 1855 §3(part), 2005).

11.04.130 Foreclosure of liens.

All city assessment liens may be foreclosed in accordance with the procedures of ORS 223.505 to 223.650. Notice by personal service upon the property owner is not required prior to foreclosure except as provided in ORS 223.635. (Ord. 1855 §3(part), 2005).

11.04.140 Duties of finance director.

The finance director shall be custodian of the lien dockets and shall be charged with keeping records concerning bonded liens and assessments. (Ord. 1855 §3(part), 2005).

Name	Assesment Address	Outstanding Principle	Outstanding Interest	Outstaning Penalty
Miller, Tanya 90 Florida Meadows Const Durango, CO 81303	372W10DD2700 3268 Snowy Butte Ln	44,352.05	11,336.03	10,800.31
Olson Trustee Et Al, Donald PO Box 114 Azalea, OR 97410	372W10DB9400 884 Holley Way	8,870.41	3,615.16	2,662.44
Olson Trustee Et Al, Donald PO Box 114 Azalea, OR 97410	372W10DB9417 895 Holley Way	8,870.41	3,615.16	2,662.44
Belovitch, Jennifer 3303 Snowy Butte Ln Central Point, OR 97502	372W10DB9200 3303 Snowy Butte Ln	8,709.26	2,332.39	2,125.26
Freitas, Peggy 4765 Old Hwy 99 S Ashland, OR 97520	372W10DA6400 3336 Snowy Butte Ln	3,744.33	452.80	1,004.91
Wells Fargo Bank/JP Morgan Chase Bank 7255 Baymeadows Way Jacksonville, FL 32256	New owner information from Jackson County property data			
Fletscher, Theodore F 707 Vincent Ave Central Point, OR 97502	372W11A5400 555 Freeman Rd No 86	1,742.18	237.23	434.19

Business

MWC Agreement Review



July 18, 2016

TO: Honorable Mayor and City Council
FROM: Matt Samitore, Parks & Public Works Director
SUBJECT: Medford Water Commission Contract 2016

PURPOSE:

Discussion of Medford Water Commission Contract for providing water to the City.

SUMMARY:

Every five years the City of Central Point has to renew its contract for service with the Medford Water Commission. The last agreement was signed in 2011. With each contract there come some specific change in how we are provided service and the parameters that we are required to comply with. In most cases the changes are ones that have been well vetted and have been incorporated into our operational planning. However, in reviewing the newly proposed contract there are two issues of significance, one classified as major and one classified as minor.

The major issue comes within the water service agreement's first article. The 2011 agreement has the City being supplied 5700 gallons per minute (GPM) in order to meet current and future year demands during the peak water use months (May-September). The 2016 contract lowers the supplied amount to 4958 GPM. The City cannot meet this goal and concurrently meet the MWC other requirement of not "peaking" off their system. More specifically, in order to re-fill the City's 4.5 million gallons of water on a daily timeline, the supplied rate needs to remain at 5700 or even slightly higher. Staff will provide graphs that show our use on both a daily and monthly basis to support our argument at the Council Presentation. Staff has no issues with the proposed 1833 GPM requested for winter months.

The second change was to eliminate the Urban Reserves from Article 3. In exchange for this elimination, the MWC added in their Resolution 1058 which allows city to provide water to Urban Reserve Areas. However, Article 5 needs a sentence amended so that is not providing a contradictory statement. Staff is suggesting changing the following sentence to read as follows:

Central Point may provide water and services, **per MWC Resolution 1058** ~~to outside of city limits, but within its urban growth boundary,~~ provided that the property requesting service has signed an irrevocable consent to annex to Central Point, or as otherwise approved in writing by MWC.

RECOMMENDATION:

Review the MWC Contract and recommend changes for Medford Water Commission to consider.



200 South Ivy Street - Room 177 Medford, Oregon 97501
Customer Service (541) 774-2430 • Administration (541) 774-2440
Fax (541) 774-2555 • wtrcom@ci.medford.or.us
www.medfordwater.org

May 24, 2016

COPY

Hank Williams, Mayor
City of Central Point
140 S. Third Street
Central Point, OR 97502

Re: New 2016 Proposed Wholesale Water Service Agreement

Dear Mayor Williams:

It is time once again to begin reviewing and updating our 5-year term wholesale water service agreement with the City of Central Point. The current agreement lapses in October of this year, and my hope is to get the new agreement prepared and signed prior to that time. Medford Water Commission will need to receive the signed agreement from the City of Central Point by September 14, 2016 in order to present it to the Board of Water Commissioners for their approval at the regular meeting of September 21, 2016.

The new agreement form (enclosed) contains the typical date changes, and is in the approved and similar format worked out a few years ago with all of the wholesale entities. It also includes any special conditions of the City or significantly different changes from the last agreement. Specifically, these items are: allowed gallons per minute, special conditions, and current Central Point water right information. These areas are shown in red font to make them stand out in your review and/or suggested corrections.

I am available to meet, discuss, or review any issues with you or your council involving this agreement and hope that the process to completion and signing will be smooth. Please call me at (541) 774-2443 if you have any questions.

Sincerely,

Larry Rains, Manager
Medford Water Commission

cc: Chris Clayton, Central Point City Manager
Leigh Johnson, Chairman Board of Water Commissioners, Medford Water Commission

enclosure

WHOLESALE WATER SERVICE AGREEMENT

THIS WATER SERVICE AGREEMENT (Agreement), made and entered in duplicate to commence on the first day of October, **2016**, between the City of Central Point, a municipal corporation of the State of Oregon, acting as purchaser (Central Point), and the City of Medford, a municipal corporation of the State of Oregon, acting by and through its Board of Water Commissioners, acting as vendor (MWC), together referred to as the Parties.

RECITALS:

- 1) MWC is an entity established under the Home Rule Charter (Charter) adopted by the citizens of the City of Medford, comprised of five citizens appointed by the Mayor and confirmed by the City Council, to manage the Water Fund for the purpose of supplying inhabitants of the City of Medford with water; and
- 2) Under Section 19 of the Charter, the MWC is authorized to sell water and/or supply facilities outside the legal boundaries of the City of Medford, only if said water and/or supply facilities are surplus to the needs of the inhabitants of the City of Medford, and meet certain conditions of MWC Resolution No. 1058; and
- 3) Under the Charter, MWC is authorized to set rates for City of Medford inhabitants, and to make all necessary rules and regulations for the sale, disposition and use of water and water service from the City of Medford water system, and MWC has adopted such rules and regulations; and
- 4) Per MWC's projections, reports and plans, MWC finds it has surplus water and supply facilities capacity available in its system to serve Central Point; and
- 5) Central Point desires to purchase surplus treated and transported water from MWC from October through April, and purchase surplus supply facilities treatment and transport services for Central Point's own water appropriated under Central Point's own state-issued water rights from May through September;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual promises herein, the Parties mutually agree as follows:

AGREEMENT:

ARTICLE 1. SCOPE OF SURPLUS WATER SUPPLY AND SERVICE

Subject to Article 3 of this Agreement, MWC agrees to supply surplus water up to a combined (from all connections) maximum of **1833** gallons per minute (GPM) for the months of October through April, and surplus facilities capacity to treat and transport water up to a combined (from all connections) maximum of **4958** GPM for the months of May through September. Central Point agrees to provide sufficient water storage as part of its water system to assure that the maximum rate of withdrawal in GPM by Central Point is not exceeded.

Upon written request by Central Point, this Agreement may be amended to provide supplemental supply and service to Central Point if MWC determines that it has surplus capacity for Central Point's use, and Central Point agrees to reimburse MWC the reasonable cost of providing such supplemental supply and service.

ARTICLE 2. CENTRAL POINT DISTRIBUTION SYSTEM EMERGENCY

Upon notice to MWC by Central Point of a distribution system emergency, MWC will use its best efforts to provide supplemental water supply or services during the emergency.

For purpose of this agreement, "distribution system emergency" means: Any human or natural caused event that disables or impairs the distribution system such that its use constitutes an immediate threat to human life or health.

ARTICLE 3. MWC CONNECTIONS

MWC owns and is responsible for the construction, extension, maintenance, and operation of the MWC system up to the point of and including the master Central Point meter(s). Central Point shall pay all costs of connections to the MWC system including initial metering, initial and ongoing backflow protection, and annual testing of the backflow device, all in accordance with MWC standards. MWC shall monthly read and annually test the master meter(s) and provide readings and test results to Central Point.

Central Point's water supply is provided by the following master meter(s) with backflow connections to MWC:

- 10" Turbine Meter on Beall Lane, Central Point, Oregon
- 10" Turbine Meter on Hopkins Road, Central Point, Oregon
- 10" Compact Fireline Meter on Vilas Road, Central Point, Oregon

Temporary emergency connections to MWC with prior approval can be provided at the following location(s):

N/A

The following special conditions concerning connections to MWC apply:

- MWC agrees Central Point may serve the Seven Oaks Interchange “Area of Mutual Planning Concern”.

ARTICLE 4. MWC REGULATIONS

Water service under this Agreement shall be in accordance with Section 30 SURPLUS WATER and Section 31 PROVISIONS RELATING TO UTILITY AND MUNICIPAL CUSTOMERS of the MWC Regulations Governing Water Service (Regulations), as now in effect or as may be amended. If there is any inconsistency between this Agreement and the Regulations, the Regulations control. Notwithstanding the foregoing, nothing herein is intended to relieve MWC of its obligation to supply surplus water in accordance with the terms of this Agreement, except as dictated by Federal/State regulations outside the control of MWC. The Parties acknowledge that implementation of this Agreement and the Regulations are subject to federal or state directives.

MWC shall promptly provide Central Point a copy of any amendments to the Regulations.

ARTICLE 5. URBANIZATION POLICY

Central Point agrees to provide water and services to customers within Central Point city limits, or as otherwise approved by MWC in MWC Resolution No. 1058, as may be amended. Central Point may provide water and services outside of city limits, but within its urban growth boundary, provided that the property requesting service has signed an irrevocable consent to annex to Central Point, or as otherwise approved in writing by MWC. The current general water service map covering city limits and urban growth boundaries for Central Point is attached to this Agreement as Exhibit A. Central Point shall promptly notify MWC and provide a revised map as city limits and urban growth boundaries are modified.

ARTICLE 6. MEETING FUTURE WATER DEMANDS

Water and water services provided by MWC under this Agreement are pursuant to water rights held by the MWC and Central Point. Nothing in this Agreement shall be construed to confer upon either party a legal or beneficial interest in each other's water rights, or to prevent either party from seeking additions or alterations to their water rights as deemed necessary.

Central Point shall acquire and maintain such water rights as needed to meet the demand within its service area during the months of May through September. Central Point may use the MWC intake facility, located at the intersection of Table Rock Road

and the Rogue River in White City, as the designated point of diversion for Central Point water rights. MWC shall cooperate in the perfection of any Central Point water rights. Central Point currently holds water rights with a diversion point on the Rogue River at the MWC Intake Facility site at the rate of 4.176 cubic feet per second and/or volume of 1113.6 acre feet. Delivery of such Central Point water through MWC facilities shall be subject to the same terms and conditions as delivery of surplus MWC water. MWC shall measure and record at its Robert A. Duff Water Treatment Plant the amount of water withdrawn from the Rogue River by MWC and its municipal water service customers under each of their respective water rights. In its monthly water service invoice, MWC shall provide water use data for Central Point. Central Point shall provide MWC updated demand projections.

ARTICLE 7. SYSTEM DEVELOPMENT CHARGES

Pursuant to Resolution No. 774, MWC has established Water System Development Charges (SDCs) and supporting methodology to finance future MWC transmission and treatment facilities expansions. SDCs apply to all new customers, including customers of municipal wholesale customers served by MWC. Central Point shall collect SDCs set by MWC from new Central Point customers. MWC reviews the SDCs annually and reserves the right, in its sole discretion, to modify or replace the SDCs with a different financing mechanism for system improvements.

All SDCs collected by Central Point will be held in a separate account and forwarded to MWC along with an accounting of the number and sizes of the services installed. Central Point shall provide MWC with a copy of the section within the annual Central Point audit that shows accounting of MWC SDCs collected during the audited year. MWC shall, in turn, provide Central Point an annual accounting of all SDCs collected.

MWC utilizes a utility basis for determining the water usage rate it charges Central Point. Under this rate analysis, Central Point is required to pay a return on investment for its share of the facilities paid for by MWC. Facilities funded by SDCs shall not be included in the return on investment portion of the rate analysis.

MWC shall render technical assistance to Central Point in determining SDCs. MWC shall defend Central Point against any legal action or appeals which may arise over the development, methodology, or implementation of the SDCs. Central Point shall cooperate and support MWC in the defense, but shall not be obligated to incur any monetary obligation in such defense.

Upon termination of this Agreement, the following refund policy shall apply:

- (a) MWC shall return to Central Point its prorated share of the unexpended balance of the SDCs fund. This prorated share shall be based upon the actual

unexpended SDCs collected by Central Point for the specific facilities funded by the SDCs, plus the interest earned.

- (b) MWC shall return to Central Point a prorated share of the depreciated plant value of the specific MWC facilities funded by the SDCs and already installed. The prorated share shall be a percentage based upon the total amount of SDCs paid by Central Point divided by the total SDCs collected and used to fund the facility, not including interest earned during the years in which the SDCs were collected.
- (c) In order to avoid a financial hardship, MWC shall develop a reasonable schedule of up to five (5) years for repayment of the depreciated value of the specific MWC facilities funded by the SDCs.
- (d) At the request of Central Point, the MWC shall provide an accounting of the refunds made pursuant to this section.

ARTICLE 8. PAYMENTS TO MWC

Central Point shall pay monthly for all water and services provided by MWC at MWC's scheduled wholesale rates then in place. Payment shall be made within ten (10) days after the meeting of the Central Point's Council following receipt by Central Point of a statement of charges from MWC.

MWC reserves the right, in its sole discretion, to change (with prior written notification of a rate study review) said rate at any time upon sixty (60) days written notice to Central Point, following rate procedures and protocols in the MWC Regulations.

ARTICLE 9. TERM OF AGREEMENT

This term of this Agreement shall be five (5) years from its commencement. Central Point may, at its option, extend the term for three additional five-year periods, which periods would run through October of **2026**, **2031**, and **2036** respectively. Extensions shall be subject to the same terms and conditions as this Agreement. Written notice of the election to exercise a five-year extension of this Agreement must be given to MWC not later than January 1st of the year in which the Agreement would otherwise expire. If Central Point fails to provide MWC such notice, this Agreement shall be deemed canceled at the end of the term then in effect. MWC shall continue service for a reasonable period, determined in MWC's sole discretion, to allow Central Point to secure other sources of water. Provided, however, Section 19 of the Charter of the City of Medford limits the term of water service contracts to 20 years and, therefore, the obligations of MWC under this Agreement, including renewal periods, shall not exceed that period of time.

ARTICLE 10. ASSIGNMENTS

Central Point shall make no assignment of this Agreement without written permission from MWC. Any approved assignee or successor shall agree to be bound by the terms and conditions of this Agreement.

ARTICLE 11. WATER CURTAILMENT PLAN

During periods of drought or emergency, Central Point shall be subject to the MWC Water Curtailment Plan, per MWC Resolution No. 1345, unless Central Point has in effect a state-approved and adopted Water Curtailment Plan at least as stringent as that of MWC. In the event of a conflict between the Central Point plan and the MWC plan, the MWC plan shall control. The MWC shall give Central Point as much advance warning as possible prior to curtailment of water supplies. The level of curtailment shall be determined by MWC based on the severity of the anticipated shortage. Central Point shall be responsible for enforcing the MWC curtailment plan or the above mentioned Central Point plan in its service area.

MWC will require and apply emergency curtailment of water use in an equitable, fair, and consistent manner consistent with Resolution 1345. Continued service during periods of emergency shall neither be construed as a waiver nor limitation of any kind on any water rights held by MWC, or a waiver or curtailment of any water rights held by Central Point, nor as affecting any other terms in this Agreement.

ARTICLE 12. ANNUAL WATER QUALITY REPORTING

MWC will gather annual water quality data and prepare informational reports as required under state Consumer Confidence Reporting (CCR) rules. These CCR reports will include water quality information for MWC and all participating municipal water customers. Annual costs involved will be proportionally shared among participating municipal water customers and billed separately to each.

Statistical data necessary to create the CCR report for the prior year must be provided by Central Point to MWC no later than April 1st of each year. If bulk mailing is the primary distribution method utilized, Central Point shall also provide MWC with postal routes covering their respective service areas by April 1st of the delivery year. MWC reserves the right to utilize other approved delivery methods (e.g.; electronic), which may impact responsibilities for Central Point.

In the event that Central Point receives water into its system that is supplied by an entity other than MWC, the composite MWC report for that year will not include data for Central Point. Central Point shall be responsible for preparation of its own annual CCR, and MWC will provide MWC data by April 1st of the delivery year.

MWC maintains water quality test points throughout the MWC system and one specifically at the master meter location(s) of Central Point. These test points are used to collect water samples for meeting required state water quality parameters on a weekly, monthly, and annual basis. All information collected is of public record and is accessible through state or MWC databases. Responsibility for water quality is transferred to Central Point at the point of the master meter location(s), except where water quality problems are attributable to MWC.

ARTICLE 13. MUTUAL INDEMNITY

To the extent allowed by law, Central Point and MWC shall each defend, indemnify and hold the other, and their officers, employees, and agents harmless from any and all claims, suits, actions, or losses arising solely out of the acts and omissions of the Party's own officers, employees, or agents while acting under this agreement.

ARTICLE 14. PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 15. INTEGRATION

This Agreement represents the entire understanding of MWC and Central Point as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

ARTICLE 16. DEFAULT

For purposes of this Agreement "default" means failure to comply with any of the terms of this Agreement. If either party determines that a default has occurred, it shall provide the other party written notice of the default, which such party shall have thirty days in which (a) to cure the default, (b) show that the default is of such a nature that it cannot be reasonably cured within thirty days, or (c) show that no default occurred.

MWC and Central Point will work in good faith to amicably resolve the default. If after thirty days of the notice of default, MWC determines, in its sole discretion, that Central Point is unable or unwilling to cure the default within a reasonable time, MWC may impose escalating penalties as follows: (a) ten percent surcharge for a period of thirty days; (b) twenty percent surcharge for the next thirty days; and (c) termination of this Agreement. Such penalties are in addition to any other remedies at law or equity that

may be available to MWC. Failure to issue notice of default or to enforce its remedies under this Article 16 shall not preclude MWC from taking such action for future defaults.

If after thirty days, Central Point determines, in its sole discretion, that MWC is unable or unwilling to cure the default within a reasonable time, Central Point may terminate this Agreement and pursue any other remedies at law or in equity that may be available to Central Point.

ARTICLE 17. FORCE MAJEURE

Neither party hereto shall be liable for delays in performance under this Agreement by reason of fires, floods, earthquakes, acts of God, wars, strikes, embargoes, necessary plant repairs or replacement of equipment, of any other cause whatsoever beyond the control of such party, whether similar or dissimilar to the causes herein enumerated. This clause does not include causes related to water supply and demand planning or failure to engage in such planning.

ARTICLE 18. DISPUTE RESOLUTION

If a dispute arises out of or relates to this contract, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by non-binding mediation before resorting to litigation or other process. The parties agree to share equally the costs of mediation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their proper officers on the dates noted below.

THE CITY OF MEDFORD
BY AND THROUGH ITS
BOARD OF WATER COMMISSIONERS

THE CITY OF CENTRAL POINT

Leigh Johnson, Chair

Mayor

Karen Spoonts, City Recorder

City Recorder

Date

Date

Business

Paving Project Bid Award



STAFF REPORT

July 19, 2016

AGENDA ITEM: Business item approving low bid for 2016 street inlay/street preservation projects.

STAFF SOURCE:

Matt Samitore, Director

BACKGROUND/SYNOPSIS:

The Parks & Public Works Department has prepared a bid for pavement preservation for asphalt removal and inlay. The base bid for the package includes portions of Hamrick Road and W. Vilas from Don Jones to E. Pine Street

FISCAL IMPACT:

The items are budgeted for the in the 2015/2017 FY Budget.

BID:

The City received one bid from Knife River Materials, Inc. for \$ 187,781.00.

RECOMMENDATION:

Staff recommends approving the low bid.

PUBLIC HEARING REQUIRED:

No

SUGGESTED MOTION:

I move to approve the low bidder of Knife River Materials, Inc. in the amount of \$187,781.00 for the 2015/2017 pavement preservation projects.

Business

Sole Source Contract



July 18, 2016

TO: Honorable Mayor and City Council
FROM: Matt Samitore, Parks & Public Works Director
SUBJECT: Vilas Reservoir Emergency Generator Sole Source Contract

PURPOSE:

Approval of sole source contract to Wellburn Electric for installation of electrical equipment for the Vilas Reservoir Emergency Generator.

SUMMARY:

In 2011-2012 the City built the Vilas Road Reservoir and Pump station. Several items from that original bid were not finished because of budgetary issues. The principle unfinished issues were the demolition of the Shop Reservoir, subsequent pump station reconfiguration and the installation of the emergency generator/associated electrical work for the Vilas Station.

In the 2015-17 FY Budget the Water Division appropriated for both of these two items to be completed. Inasmuch, the City contacted Wellburn Electric for a quote to do the wiring for the emergency generator because they were the initial electricians on the Vilas Pump station and have the expertise to complete the work knowing the existing intricacies of the station. The current bid from Wellburn Electric is approximately \$51,000.

The Oregon Revised Statutes (ORS) section 279B.075 allows the City to do a sole source contract as long as it meets the following criteria:

- 2) *The determination of a sole source must be based on written findings that may include:*
 - (a) *That the efficient utilization of existing goods requires acquiring compatible goods or services;*
 - (b) *That the goods or services required to exchange software or data with other public or private agencies are available from only one source;*
 - (c) *That the goods or services are for use in a pilot or an experimental project; or*

(d) Other findings that support the conclusion that the goods or services are available from only one source.

Staff's determination is that by using Wellburn it will be the most efficient way to complete the project (Criteria A) as they are the most well versed firm on the intricacies of the station based upon that they were the company and staff that did the work four years ago. Additionally, staff believes that they have the best ability of protecting the station from potential electrical issues (Criteria D) also based upon their experience with the station.

Our municipal code allows for Sole Source but does not specify criteria of when it should come to council, thus staff felt it was best to get council's approval prior to starting the work. Wellburn Electric would start monitoring electrical levels and output readings the first week of August and start work mid-august on the electrical upgrades for the emergency generator.

RECOMMENDATION:

Approve the sole source contract to Wellburn Electric for the Vilas Pump Station Emergency Generator in the amount of \$50,998.00.

Email Scope of Work

To: Mike McClenathan
Company: City of Central Point
Phone:
Fax:

From: Wayne Poland
Company: Welburn Electric Inc.
Phone: 541- 535-3727
Fax: 541- 535-3572

Date: 7/6/2016
Page1 of : 2

**JOB: CITY OF CENTRAL POINT
VILAS ROAD RESERVOIR AND PUMP STATION
PREPERATION FOR TEMPORARY AND FUTURE GENERATOR
INSTALLATION**

PLEASE ACCEPT OUR BID ON THE ABOVE REFERENCED PROJECT

INCLUDED IN BID:

Provide and install Automatic Transfer Switch.
Provide and install exterior Generator termination cabinet for connecting a temporary generator.
Provide drawings for permitting if required.
Extend conduits, raceways and conductors between existing MCC, new transfer switch and generator termination cabinet.
Extend conduits, conductors through building between power panel SCADA panel and generator termination cabinet.
Includes \$1,200.00 allowance for permit fees.

EXCLUSIONS:

Generator and ATS is considered an optional standby system, wiring methods required for a legally required standby system are not included.
Coordination study, Arc fault hazard analysis, Independent third party testing.
Integration and control of the SCAD system for generator system alarm monitoring.
Integration and control of the SCAD system for generator load shed and control of pump station.

4529 S. Pacific Hwy. • P.O.Box 329 • Phoenix, OR 97535
Phone (541) 535-3727 • Fax (541) 535-3572
wayne@welburnelectric.com

C.C.B. Lic. #78794 • Oregon Lic. #15-189C • California Lic. #77752

Email Scope of Work

To: Mike McClenathan
Company: City of Central Point
Phone:
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From: Wayne Poland
Company: Welburn Electric Inc.
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Page 2 of : 2

**JOB: CITY OF CENTRAL POINT
VILAS ROAD RESERVOIR AND PUMP STATION
PREPERATION FOR TEMPORARY AND FUTURE GENERATOR
INSTALLATION**

BASE BID \$50,998.00

ADDENDUM'S NOTED AND INCLUDED (0)

This scope of work **must** be included as part of any subcontract agreement.
This bid may be withdrawn if not accepted within 30 days.

Business

**Planning Commission
Report**

PLANNING DEPARTMENT MEMORANDUM

Date: July 28, 2016
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 public hearing on July 5, 2016. This first item was approved with conditions and then other information was discussed.

A. Consideration of a Conditional Use Permit to replace the existing scoreboard at the Crater High School football stadium with a new, internally illuminated scoreboard. The project site is located in the Civic zoning district within the Transit Oriented Development (TOD) District and is defined on the Jackson County Assessor's map as 37S 2W 03DB, Tax Lot 100. The Commission approved the CUP contingent upon the successful second reading and approval of an ordinance amendment being considered by the City Council. The CUP application met the criteria for approval outlined in the code amendment.

- **City of Central Point 2008 Population element Update** – Planning Manager Don Burt explained the direction the State is going with regard to Population Forecasting and routine updates. Portland State University (PSU) has been assigned the responsibility of forecasting state, county and city population. The City will use these projections for determining housing need and for future land use planning when making Urban Growth Boundary adjustments.
- **Costco Conditional Use Application Update** – The Commission was informed of the status of the LUBA Appeal.
- **Urban Renewal – East Pine Street Streetscape Engineering Contract** – The Commission was informed about the July 11th open house.