



# CITY COUNCIL AGENDA

**April 18, 2016, 6:30PM**

*(postponed from April 11<sup>th</sup>)*

## **Regular Meeting**

CITY COUNCIL CHAMBERS, CITY HALL  
 29592 ELLENSBURG AVE  
 GOLD BEACH OR 97444

Call to order:            Time: \_\_\_\_\_

1.     **The pledge of allegiance**
2.     **Roll Call:**

	Present	Absent
Mayor Karl Popoff		
<b>Council Position #1 Melinda McVey</b>		
<b>STARTING VOTE</b>		
Council Position #2 Larry Brennan		
Council Position #3 Becky Campbell		
Council Position #4 Doug Brand		
<b>Council Position #5 Tamie Kaufman</b>		
City Administrator Jodi Fritts		
Student Liaison VACANT		

3.     **Special Orders of Business:**  
       None Scheduled
  
4.     **Consent Calendar:**  
       May, June, & July 2015 minutes
  
5.     **Citizens Comments**  
       As presented to the Mayor at the beginning of the meeting
  
6.     **Public Hearing**  
       None scheduled
  
7.     **Citizen Requested Agenda Items**
  - a.     Request to sell/serve alcohol at a function at the park
  - b.     Request to present tsunami evacuation route plan and request for signage and lighting
  
8.     **Public Contracts and Purchasing**  
       None Scheduled

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community*

9. **Ordinances & Resolutions**
  - a. **R1516-10 Adopting Water Master Plan**
  
10. **Miscellaneous Items (including policy discussions and determinations)**
  - a. Review of proposed code amendments and corrections
  - b. Tobacco Free policy review
  - c. Update on PC referrals and Russell Street Dangerous Building
  - d. Draft Recreational Marijuana Tax Code Ordinance
  
11. **City Administrator's Report**

To be presented at the meeting
  
12. **Mayor and Council Member Comments**
  - a. Mayor Karl Popoff
  - b. Councilors
    - 1) Melinda McVey
    - 2) Larry Brennan
    - 3) Becky Campbell
    - 4) Doug Brand
    - 5) Tamie Kaufman
  - c. Student Liaison, Vacant
  
13. **Citizens Comments**

As permitted by the Mayor
  
14. **Executive Session**

No executive session is scheduled

The next scheduled meeting of the Gold Beach City Council is as the **Budget Committee on Monday April 25, 2016 at 6:00PM**. The next regularly scheduled Council meeting is Monday, May 9, 2016, at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

15. **Adjourn**      **Time:** \_\_\_\_\_

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

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# **CONSENT CALENDAR**



**MINUTES**  
**May 11, 2015**  
**CITY COUNCIL MEETING**

Call to order:                      Time: 6:29PM

**1.     *The pledge of allegiance***

**2.     *Roll Call:***

	Present	Absent
Mayor Karl Popoff	X	
<b>Council Position #1 Melinda McVey</b> <b>STARTING VOTE</b>	X	
Council Position #2 Larry Brennan	X	
Council Position #3 Becky Campbell	X	
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
City Administrator Jodi Fritts	X	
Student Liaison VACANT		

**3.     *Special Orders of Business:***

*a.     Interview potential Planning Commission member: Summer Matteson*

Summer Matteson turned in an application to be on the Planning Commission. Matteson spoke of her interest in being on the Planning Commission, and with two vacancies she would like to see them filled with people who have a passion for the activities going on in the community. Matteson answered questions put to her by the Council members.

The Mayor said that he would like to appoint Matteson to the Planning Commission with the Council's consent.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>ALL CONSENTING</b>			

**MOTION: Councilor Tamie Kaufman made the motion to adopt Resolution R1415-18, a resolution confirming appointments to the Planning Commission and setting terms of office. Councilor Doug Brand seconded the motion.**

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion.  
 Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**4. Consent Calendar:**  
*None Scheduled*

There was no consent calendar.

**5. Citizens Comments**

*As presented to the Mayor at the beginning of the meeting*

There were no citizens' comments presented to the Mayor.

**6. Public Hearing**

*a. J & S Speedy Mart Liquor License Request*

The Mayor opened the public hearing at 6:35PM.

The Mayor said that the liquor license application looks appropriate, and it essentially is assuming a license that is held by Gray Whales now.

City Administrator Jodi Fritts told the Council that in the last week or so a representative from OLCC came down and gave information regarding reasons they can deny or restrict a liquor license, and she said she included that information in their packets.

The Mayor closed the public hearing at 6:38PM.

**MOTION: Councilor Melinda McVey made the motion that the Council recommends to OLCC that the request for a Change of Ownership and Off-Premise Alcohol Sales requested by J & S Speedy Mart be granted. Councilor Larry Brennan seconded the motion.**

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion.  
 Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		

Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*b. CTR COLA request*

The Mayor opened the public hearing at 6:38PM.

Pete Smart of Curry Transit & Recycling appeared to request what is a yearly COLA increase. He said the rate increase they're requesting is 1.13%, which equates to a \$0.24 per month adjustment for the first can on a monthly pickup.

Councilor Becky Campbell asked Smart when the last COLA was put into effect. Smart responded that it was last year.

Councilor McVey asked Smart what the monthly fee would go to. Smart responded that currently it's \$21.63 monthly and it would raise to \$21.87, and it would go into effect July 1 if the Council approves the COLA.

The Mayor closed the public hearing at 6:42PM.

**MOTION: Councilor Tamie Kaufman made the motion to adopt Resolution R1415-17, a resolution approving Curry Transfer & Recycling rate adjustment and repealing Resolution R1314-14 and any other resolutions that may be in conflict. Councilor Larry Brennan seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

City Council meeting suspended at 6:34PM for the Urban Renewal Agency meeting.

*c. Minor Amendment to URD boundary*

Urban Renewal Agency meeting called to order at 6:34PM.

CA Fritts explained that when the City adopted the Urban Renewal Plan there were projected assessment rates, but until the adopted plan was turned in to the county assessor, the exact frozen tax base wasn't known until they calculated it. Once it was calculated, it ended up being slightly more than what was projected in the plan. Because it is over the amount statutorily allowed, the tax base needed to be reduced to under \$5

million. Fritts said when she spoke to the Urban Renewal contractor, it was decided that two large parcels on the very south end should be taken out because, A, it would make it easier for the boundary change and, B, to have as few parcels possible to get the most amount of assessment. She told the Council that the Urban Renewal contractor is working with the Department of Revenue, who assist Urban Renewal agencies. Fritts told the Council that we are going to say for this year we realize that we don't have an exact amount on what it is and so we are asking the assessor to allow us to under levy, meaning take less than what we would be statutorily allowed, so that way we will at least get some tax increment financing for this year because last year we didn't get any.

There was a short discussion among the council members, and then the Mayor asked if anyone in the audience wanted to speak in regards to the Urban Renewal Boundary. Beth Barker-Hidalgo told the Council that she thought she was a citizen participant in the Urban Renewal Agency and that she had not heard of any activities related to the Urban Renewal Agency. Fritts responded that the reason for that is because this has been in limbo for the past year and there hasn't been anything to discuss. Until there's money there are no projects.

**MOTION: Councilor Tamie Kaufman made the motion to approve Resolution UR R1415-01, the Urban Renewal Agency, a resolution approving a minor amendment to the Gold Beach Urban Renewal Plan removing property from the Gold Beach Urban Renewal Area. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**MOTION: Councilor Tamie Kaufman made the motion to adopt Resolution UR R1415-02, a resolution approving an under levy request for fiscal year 2015-2016 and consulting and conferring with taxing districts. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		

Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

Councilor Kaufman made a suggestion to label the Urban Renewal Agency’s resolutions differently so that they’re easier to differentiate. Fritts said that she could add a UR in front of the resolution numbers.

The Urban Renewal Agency meeting adjourns and the City Council meeting resumed at 6:54PM.

**7. Citizen Requested Agenda Items**

*None scheduled*

**8. Public Contracts and Purchasing**

*a. Review of bids for Dangerous Building removal*

CA Fritts recapped that the Council had directed her to advertise for bids for the building removal at 94223 First Street. There were three bids received: Halco Contracting, \$7,550.00; Waibel Septic & Excavating, \$14,499.00; JC Land Clearing, \$7,400.00. She told the Council that all of the bids excluded asbestos removal. If the Council decides to award a contract, then there will be an asbestos inspection done.

There was discussion regarding the disparity in the amounts of the one bid compared to the other two and about how the inspection may or may not find asbestos. Councilor McVey said she liked the idea that Halco Contracting made a note about the lead-based paint, where the other two bidders did not. She said she was impressed that they were very conscientious about what they were getting into.

Councilor Kaufman told the Council she thinks that the removal of the building is bad policy and that the Council should not do this.

**MOTION: Councilor Melinda McVey made the motion that she would like to submit the job to Halco Contracting out of Brookings. Councilor Becky Campbell seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate.**

Councilor Kaufman asked if the Council is opening itself up to a lawsuit because the lowest bidder didn’t get the job and there’s no reason not to give it to the lowest bidder. Fritts answered that the Council is required to take the one that is the lowest responsive bidder. She said that Councilor McVey had mentioned she thought Halco was the better choice because they mentioned the lead. She explained why being the lowest bidder doesn’t always mean that they are awarded the contract.

Councilor McVey said if it would make Councilor Kaufman feel a little bit better she did

notice that Halco Contracting in his bid gave a breakdown of exactly what he was going to do; whereas, JC Land Clearing's bid had a large paragraph about suing the City if it didn't pay them and not much in the way of a breakdown.

Councilor Brand said that he believes what Councilor Kaufman is trying to get across is once the Council does this, it's setting a precedent and the Council has nothing in place to stop the next ones from coming and how does the City recover the funds expended. He said until the Council has some teeth in place on how to recoup costs, he thinks that the Council should hold off.

Councilor Brennan stated that his only comment is that it's in close proximity to a neighboring house and some kind of action needs to be taken to protect that house from like a fire.

The Mayor said the Council, in essence, gave its word. He said that in the future the Council may be able to change the ordinances a little bit so they don't run into this on a consistent basis, but the Council had given its word and it is a safety issue.

Councilor Kaufman said that just as a matter of principle the City is laying off a staff member this next year and one of the reasons for that is the Council doing stuff like this. She said she didn't feel good about it. She said the building could be boarded up and be safe enough for now and the owners should be encouraged to sell it and take care of it themselves.

**Mayor Karl Popoff asked if there was any further discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand		X	
Council Position #5 Tamie Kaufman		X	
<b>MOTION CARRIES 3 ayes, 2 nays</b>	<b>3</b>	<b>2</b>	<b>0</b>

**MOTION: Councilor Larry Brennan made the motion to approve Resolution R1415-16, a resolution to award a contract to abate a dangerous building located at 94223 First Street. Councilor Becky Campbell seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		

Council Position #4 Doug Brand		X	
Council Position #5 Tamie Kaufman		X	
<b>MOTION CARRIES 3 ayes, 2 nays</b>	<b>3</b>	<b>2</b>	<b>0</b>

**9. Ordinances & Resolutions**

a. Resolution R1415-17 CTR COLA

See above in the Public Hearing section, 6 b.

b. Second Reading Ordinance No. 654 Bee Amendment

**MOTION: Councilor Tamie Kaufman made the motion the Council pass Ordinance No. 654 by title only. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>			

CA Fritts read Ordinance 654 into the record by title only, second reading,

c. Resolution R1415-16 Awarding Contract for Dangerous Building abatement

Addressed in Public Contracts and Purchasing (a).

d. Resolution R1415-18 planning commission appointment

Addressed in Special Orders of Business (a).

**10. Miscellaneous Items (including policy discussions and determinations)**

a. REVISIT: Plastic Bag Ban for School \$\$

The Mayor thanked Councilor Kaufman for the information that she gathered and shared with regard to the plastic bag ban. He said that it really opened his eyes. There was discussion regarding whether to postpone discussion of the plastic bag issue until all of the councilors had time to review both sides. The consensus was to allow the people in the audience a chance to speak.

Greg Marstall, manager at McKay's Market, addressed the Council, saying that when he came to the March meeting he only had an estimate of the number of plastic bags used in his store. In April the bags were kept track of, and 56,000 plastic bags were used. The plastic bags cost 2.3 cents each, with \$1,288.00 a month spent on plastic bags. He said paper bags are 8.8 cents each. If plastic bags were replaced with paper, it would cost close to \$5,000

monthly. He said it would cost McKay's approximately \$3,600 a month more, about \$43,000 a year.

If the store charges a nickel for every paper bag and the nickel goes to the school, he said they would be writing checks to the school in the neighborhood of \$33,000.

He mentioned that McKay's has an Advantage Program where the customer can save their cash register receipts and donate them, and it directly benefits an estimated 20 non-profits within the Gold Beach community.

Marstall answered questions from the Councilors regarding the costs and how it would affect the store.

Amy Timeus spoke to the Council regarding the paper versus plastic bag issue. She said that she wanted people to get away from using plastic altogether, have paper bags as an option, but ultimately use the reusable cloth bags. She explained the environmental impacts of plastic bags. She said that the positives far outweigh the negatives, that no one is going to know how big of a hit it will be to the stores or how big of a benefit to the schools until it's implemented. She said the numbers that Marstall gave to the Council are pretty irrelevant.

Following a lengthy discussion, the Mayor said that he is of the opinion personally that time be taken to investigate this further and become more familiar with what is being proposed and asked for input from the Council. Councilor McVey said she's changed her mind a little bit since the last meeting, but not sure if the Council should take the initiative. Councilor Brennan asked if it would be considered a tax and has to be voted on by the City Council or does it have to be voted on by the citizens of the city. CA Fritts responded that the Council could enact this or it could be put on a ballot measure for the November election. Councilor Kaufman asked what it would cost to put this on the ballot. Fritts responded that it would be about \$1,800. Councilor Brand asked Timeus if it wouldn't be more prudent to ask the citizens in the community, who this will impact, to make the decision rather than the City Council. Timeus responded that she would like to not see any cost. If the Council decides, then there will be no cost in having to put it on the ballot.

Tony Timeus explained that with his job with UPS he literally drives everywhere in the county, and he sees the issue of plastic bags being blown all over. He discussed his concerns for the environment and thinks that the plastic bag ban would be a win-win for everyone.

The Council discussed what they would like to do going forward, and the consensus was to put a questionnaire with the water bill and to put a survey on the City's website to get some feedback.

*b. Staff request to review drug use policy RE: recreational marijuana*

CA Fritts told the Council she wanted to bring up the drug use policy as the Council is the policymakers and she implements the policies. After discussion, there was a poll taken on leaving the drug use policy the way it is written currently. The vote was 5-0 to leave it as is.

c. *Graffiti info from other cities*

The Council will hold off on graffiti discussion until they discuss nuisance ordinance updates in the summer.

**11. City Administrator's Report**

*To be presented at the meeting*

CA Fritts presented her monthly report which is attached to these minutes.

**12. Mayor and Council Member Comments**

a. Mayor Karl Popoff: Speaking in regards to the new hospital, "This has been somewhat distressing to me personally as far as the safety of this town is concerned, the safety of the citizens within this district, within this county, and to see these people do their level best to undermine all of the work that has been put in, the very fact we've had this hospital here since 1951, for crying out loud, and all we are doing is replacing something with something that is much better capable of being able to provide, and not only provide, but do it in a safer manner. I don't know what their problem is other than the fact that I think that they want everybody to live within the confines of one of the larger cities, you know, put us all in the valley, and then leave this all to the bears and the wolves."

b. Councilors

- 1) Melinda McVey: No comments.
- 2) Larry Brennan: No comments.
- 3) Becky Campbell: No comments.
- 4) Doug Brand: No comments.
- 5) Tamie Kaufman: "In the Administrator's paperwork is the article about Senate Bill 778. I took the time to actually watch that public hearing. They are calling Gold Beach stupid, and I want to remind everybody that we are not building a hospital is a new location. We are not building it in the current tsunami inundation zone. We are building it where DOGAMI would like to eventually, if they get enough public input, move it there, but they haven't even started that process. We made a logical decision to put it in a safe place, and we are not stupid. They are not going to give up on this, so we need to watch this carefully. I spoke with both Senator Kruse and Krieger about it. They are going help us keep an eye on it. They also think it's a bunch of hogwash. I don't know why they're doing this, but Ian Madin is now the interim geologist. Vicki McConnell that was the geologist for the State actually reminded everybody that there is a public process. We don't have that anymore. Now we've got the guy that wants to hurt the coastal areas. We just have to watch this. If anybody sees anything, please let me know, let our representatives know, and we'll try to stop them."

c. Student Liaison, Vacant

**13. Citizens Comments**

*As presented to the Mayor at the beginning of the meeting*

None presented.

**14. Executive Session**

*None scheduled*

No executive session was held.

*The next scheduled meeting of the Gold Beach City Council is **Monday, June 8, 2015, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.*

**MOTION: Councilor Larry Brennan made the motion to adjourn. Councilor Doug Brand seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

<b>Record of Vote</b>	<b>Ayes</b>	<b>Nays</b>	<b>Abstain</b>
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**15. Adjourn Time: 8:35PM**



**MINUTES**  
**June 8, 2015, 6:30PM**  
 City Council Meeting

**Call to order:           Time: 6:30PM**

**1.     *The pledge of allegiance***

**2.     *Roll Call:***

	Present	Absent
Mayor Karl Popoff	X	
Council Position #1 Melinda McVey	X	
<b>Council Position #2 Larry Brennan</b>	X	
<b>STARTING VOTE</b>		
Council Position #3 Becky Campbell	X	
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
City Administrator Jodi Fritts	X	
Student Liaison VACANT		

**3.     *Special Orders of Business:***

*None Scheduled*

There were no special orders of business.

**4.     *Consent Calendar:***

*None Scheduled*

There was no consent calendar.

**5.     *Citizens Comments***

*As presented to the Mayor at the beginning of the meeting*

Harry Carlson, a citizen of Gold Beach and co-chairman of the Indian Creek Hatchery Derby, approached the Council with the idea of a promotion that he called Gold Beach Days that would serve to promote the city and its merchants. He proposed that Gold Beach Days would run simultaneously with the Indian Creek Hatchery Derby and Art & Beer Festival. The vision would include welcome banners at both ends of town, re-enactments of different time periods, concessions for food and drink, and many other fun-filled activities.

Councilor Becky Campbell noted that these were awesome ideas but questioned if all of these plans were a done deal or if the City was being asked to facilitate this project. Carlson answered that he was giving a concept and mentioned several individuals and organizations he had already contacted who had expressed enthusiasm and a willingness to participate.

There was discussion among the Councilors and Carlson regarding his concepts and ideas. Councilor Tamie Kaufman asked Carlson if he was asking the City to facilitate the event.

Carlson answered that he was pitching a concept and giving it to the Council to deal with it as they want because it was beyond his capabilities.

City Administrator Fritts commented the City would certainly support such an event, but do not put on events. She said she would pitch the idea to the Chamber of Commerce. Other councilors and the Mayor suggested that Carlson contact Gold Beach Soroptimist International, Gold Beach Rotary, and the Gold Beach Chamber of Commerce to get direct help with implementing his idea.

**6. Public Hearing**

*a. Local Contract Review Board review of proposed amendments to local Public Contracting Rules 2014*

The Mayor opened the public hearing at 7:00PM.

CA Fritts explained that the City Council is designated as the Local Contract Review Board and that we were notified earlier this year by our contracted law firm, Local Government Law Group, of recent legislative changes to state contracting rules. The Contract Review Board is required to provide specific public notice of the proposed changes and make the proposed new rules available for public review and to give the public the opportunity to comment on the proposed changes.

The Mayor asked the audience if anyone wanted to make comment on the Local Contract Review Board review. Hearing none, the Mayor closed the public hearing at 7:03PM.

*b. Supplemental Budget Fiscal Year 2014-2015*

The Mayor opened the public hearing at 7:03PM.

CA Fritts explained that at the end of the year usually money needs to be moved between appropriations. She said there is no change in the bottom line except the money received by the bequest of the Yadon Estate. That is the only addition to the budget that was approved last year. The rest of the changes are not increasing or decreasing the budget. It is just moving appropriations within the already approved budget.

The Mayor asked the audience if anyone had questions. Hearing none, the Mayor closed the public hearing at 7:05PM.

*c. 2<sup>nd</sup> Hearing Use of State Revenue Sharing Funds*

The Mayor opened the public hearing at 7:05PM.

CA Fritts explained that traditionally the State Shared Revenue funds are used for vehicles. The money is put into a Fleet Replacement Reserve Fund. She explained that a public hearing on the use of the State Shared Revenue funds is required before the Budget Committee and the City Council. The Budget Committee had previously held their public hearing, and the public hearing before the Council is this evening.

The Mayor asked the audience if anyone had comments. Hearing none, the Mayor closed the public hearing at 7:07PM.

d. *Council Hearing on Budget Committee approved budget-Fiscal Year 2015-2016*  
 The Mayor opened the public hearing at 7:07PM.

CA Fritts said that she sent the approved budget from the Budget Committee to the Budget Committee members and to City Council the previous week to review. She explained changes that were made that had been discussed previously.

The Mayor asked the audience if anyone had questions. Randy Robbins asked what the total budget is for the FY 2015-2016. Fritts answered that in round figures the budget is \$9.1 million. Robbins asked how that compared to the FY 2014-2015 budget. Fritts answered that in round figures the budget was \$11.4 million, about a \$2 million reduction due to not having the Waste Water Treatment Project.

The public hearing closed at 7:11PM.

**7. Citizen Requested Agenda Items**

a. *Luke Martinez: Fisk Memorial Disc Golf Tournament, July 18<sup>th</sup> Buffington Park.*  
*Request to allow vendors and sale of alcohol*

Luke Martinez, who resides in Pistol River, stated that he was there on behalf of the newly formed Gold Beach Disc Golf Association. They've been working on a disc golf course at the east end of Buffington Park and are pretty close to finishing up. He said he was coming before the council to request a permit to sell alcoholic beverages during the first Annual Fisk Memorial Invitational Disc Golf Tournament scheduled for July 18. The tournament will host 40 players, 20 of whom have already registered at Interior Cover-Ups.

**MOTION: Councilor Tamie Kaufman made a motion to approve the request for alcohol on July 18 for the Fisk Memorial Disc Golf Tournament. Councilor Doug Brand seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	recused		X
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 4 ayes, 1 recused</b>	<b>4</b>	<b>0</b>	<b>1</b>

**8. Public Contracts and Purchasing**  
*None Scheduled*

There were no public contracting or purchasing items.

**9. Ordinances & Resolutions**

*a. Resolution R1415-15 Amending Public Contracting Rules*

**MOTION: Councilor Tamie Kaufman made a motion to adopt Resolution R1415-15, a joint resolution of the City Council and Local Contract Review Board, opting out of the attorney general's model public contracting rules and amending public contracting rules for the City of Gold Beach. Councilor Larry Brennan seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*b. Resolution R1415-20 Supplemental Budget FY 14-15*

**MOTION: Councilor Tamie Kaufman made a motion for approval of R1415-20, a resolution adopting a supplemental budget for fiscal year 2014-2015 and transferring appropriations. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate.**

Councilor Kaufman requested that CA Fritts find out the history of the Yadons, so that when the money is used, the history could be included. She said she thinks that when people donate to the City that they be honored.

**Mayor Karl Popoff asked if there was further discussion. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*c. Resolution R1415-21 State Revenue Sharing Election*

**MOTION: Councilor Larry Brennan made a motion to approve Resolution R1415-21, a resolution declaring the city’s election to receive state shared revenues. Councilor Tamie Kaufman seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*d. Resolution R1415-19 Municipal Reserve Funds*

**MOTION: Councilor Melinda McVey made a motion to adopt Resolution R1415-19, a resolution setting the purpose and review times for municipal reserve funds and repealing Resolution R1314-21 and any other resolutions that may be in conflict. Councilor Tamie Kaufman seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate.**

Councilor Kaufman commented that she is very proud that the City does have reserve funds so that when the next project comes, we have matching funds or we can pay for it, or when there’s an emergency, we’re not begging for bond money. She said the City historically has done a great job.

**Mayor Karl Popoff asked if there was any further discussion. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*e. Resolution R1415-22 Budget FY 15-16*

**MOTION: Councilor Tamie Kaufman made a motion to approve Resolution R1415-22, a resolution adopting the fiscal year 2015-2016 budget, making appropriations, imposing and categorizing the tax. Councilor Melinda McVey seconded the motion.**

Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**10. Miscellaneous Items (including policy discussions and determinations)**

- a. *Update on Possible Bag Ban—rehearing scheduled for July meeting*  
*Survey on website*  
*Info provided from citizen proponent*

CA Fritts told the Council that she had provided them with more pro/con information regarding the bag ban. She posted a Survey Monkey internet survey onto the City’s website and will have a hard copy of the survey printed on the back of the June water bills soliciting input on the proposal. She will advise the Council in the July meeting the outcome.

The Council again addressed the possible ban of plastic bags, and there will be further discussion in the July meeting.

- b. *Sign Code proposed revision*

A proposed revision on the Side Code was discussed. A public workshop will be held in the Council Chambers June 22 at 6:30 p.m. to discuss the Sign Code proposed revisions. Members of the public affected by the proposal are encouraged to attend to make their views known.

**11. City Administrator’s Report**

*To be presented at the meeting*

CA Fritts presented her monthly report which is attached to these minutes.

**12. Mayor and Council Member Comments**

- a. Mayor Karl Popoff: He offered condolences to the family of Dennis Shannon. Shannon was a man of honor and served this country during Vietnam. He informed the Council of the proposed “\$2 Bill” which would affect small counties, such as Curry, who do not have a property tax rate at \$2 per \$1,000 of assessed value. He recounted some of his adventures marching in Portland’s Rose Parade.

- b. Councilors

- 1) Melinda McVey: No comments.
- 2) Larry Brennan: No comments.
- 3) Becky Campbell: No comments.

- 4) Doug Brand: Everyone have a safe and happy 4<sup>th</sup> of July
  - 5) Tamie Kaufman: She said she would like to have an update on the FOG ordinance within the next month or two and requested for the new fiscal year having the minutes within a month or two from the meeting dates so that every month there are minutes to approve.
- c. Student Liaison, Vacant

**13. Citizens Comments**

*As presented to the Mayor at the beginning of the meeting*

There were no citizens' comments.

**14. Executive Session**

*None scheduled*

No executive session scheduled.

*The next scheduled meeting of the Gold Beach City Council is **Monday, June 22, 2015, at 6:30PM** for a Sign Code Workshop in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.*

**MOTION: Councilor Doug Brand made a motion to adjourn. Councilor Larry Brand seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**15. Adjourn Time: 8:04PM**



**MINUTES**  
**July 13, 2015**  
**CITY COUNCIL MEETING**

**Call to order: Time: 6:30PM**

**1. The pledge of allegiance**

**2. Roll Call:**

	Present	Absent
Mayor Karl Popoff	X	
Council Position #1 Melinda McVey	X	
Council Position #2 Larry Brennan	X	
<b>Council Position #3 Becky Campbell</b>	X	
<b>STARTING VOTE</b>		
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
City Administrator Jodi Fritts	X	
Student Liaison VACANT		

**3. Special Orders of Business:**

*a. Swearing in by the Mayor of new city officers:*

*1) Fire Chief, Tyson Krieger*

Mayor Karl Popoff swore in the Fire Chief Tyson Krieger.

*2) Police Officer, Cheyene Alexander*

The Mayor swore in Officer Cheyene Alexander.

*b) Mayor's Proclamation on ballot measure*

The Mayor read the proclamation on Ballot Measure 8-82.

**4. Consent Calendar:**

*Minutes for: March 9 and April 13, 2015 council meetings*

**MOTION: Councilor Tamie Kaufman made a motion to approve the consent calendar. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		

Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**5. Citizens Comments**

*As presented to the Mayor at the beginning of the meeting*

There were no citizens' comments presented to the Mayor.

**6. Public Hearing**

*a. Liquor License requests: Sunset Family Pizza and Silver Hook Restaurant & Lounge*

The Mayor opened the public hearing at 6:35PM.

The Mayor said that according to staff and what has been presented to the Council, he sees there are no problems with the liquor license requests. Councilor Larry Brennan recused himself from the vote.

Public hearing closed at 6:37PM.

**MOTION: Councilor Tamie Kaufman made a motion that the Council recommends to OLCC that the request for a Change of Ownership and Limited On-Premise Alcohol sales requested by Tyson Krieger for Sunset Family Pizza be granted. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan			X
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 4 ayes, 1 abstain</b>	<b>4</b>	<b>0</b>	<b>1</b>

**MOTION: Councilor Tamie Kaufman made a motion that the Council recommends to OLCC that the request for a Full On-Premise Sales requested by Lora Carmen Garcia for Silver Hook Restaurant & Lounge be granted. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan			X
Council Position #3 Becky Campbell	X		

Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 4 ayes, 1 abstain</b>	<b>4</b>	<b>0</b>	<b>1</b>

*b. Public Hearing on annual inflation adjustment for Water & Sewer base rates*

The Mayor opened the public hearing at 6:37PM.

City Administrator Fritts told the Council that annual adjustments to the water/sewer utility rates are based on the Municipal Cost Index yearly information. Depending on the current rate for inside/outside residential and inside/outside commercial, this changes the current rates between \$0.26-\$0.39. The flat sewer rate will increase by \$0.33.

Public hearing closed at 6:38PM.

**MOTION: Councilor Becky Campbell made a motion to approve Resolution R1516-02. Councilor Larry Brennan seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**7. Citizen Requested Agenda Items**

*a. Continuation of discussion and decision on possible plastic bag ban as requested by Amy Timeus.*

The Council discussed the plastic bag ban.

**MOTION: Counselor Tamie Kaufman made a motion that the Council table the plastic bag ban until it's requested again. Basically it's a no vote, option 2. It's up to the citizens to get enough signatures for an initiative measure. Councilor Larry Brennan seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell		X	

Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES 4 ayes, 1 nay</b>	<b>4</b>	<b>1</b>	<b>0</b>

**8. Public Contracts and Purchasing**

*None Scheduled*

There were no public contracts and purchasing.

**9. Ordinances & Resolutions**

*a. R1516-01 resolution extending electric franchise agreement*

**MOTION: Counselor Tamie Kaufman made a motion to approve Resolution R1516-01. Councilor Doug Brand seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

Record of Vote	Ayes	Nays	Abstain
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

*b. R1516-02 resolution adjusting water & sewer rates for FY 15-16*  
Addressed in Public Hearing (b).

**10. Miscellaneous Items (including policy discussions and determinations)**

*a. Update on proposed Sign Code revision*

CA Fritts told the Council this will be coming before them in August. Councilor Kaufman had requested that a side-by-side comparison be done on some of the stickier issues of the existing sign code and the draft from the planning commission. Councilor Kaufman addressed the audience business owners and told them that any input would be appreciated, as there are some drastic changes being proposed in the sign code.

**11. City Administrator's Report**

*To be presented at the meeting*

CA Fritts presented her monthly report which is attached to these minutes.

**12. Mayor and Council Member Comments**

- a. Mayor Karl Popoff: He said Saturday is the ribbon cutting for the disc golf course, and there is a dog show at the dog pound. He will be attending the Oregon Mayors Association at the end of the month in Cottage Grove.
- b. Councilors
  - 1) Melinda McVey: No comments.
  - 2) Larry Brennan: No comments.

- 3) Becky Campbell: No comments.
  - 4) Doug Brand: He said he will see everyone at the firemen's breakfast.
  - 5) Tamie Kaufman: She said she wanted to remind everybody that they should be reviewing their goals quarterly. She is looking forward to going to Officer Shannon's graduation. He has overcome some great adversity, and she's proud of him.
- c. Student Liaison, Vacant

**13. Citizens Comments**

*As presented to the Mayor at the beginning of the meeting*

John Harper said he is in support of the bag ban and thanked Councilor Campbell for supporting his side.

**14. Executive Session**

*None scheduled*

No executive session was held.

*The next scheduled meeting of the Gold Beach City Council is **Monday, August 10, 2015, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.*

**MOTION: Counselor Larry Brennan made a motion adjourn. Councilor Melinda McVey seconded the motion.**

**Mayor Karl Popoff asked if there was any discussion or debate. No further discussion. Mayor Popoff called the question.**

<b>Record of Vote</b>	<b>Ayes</b>	<b>Nays</b>	<b>Abstain</b>
Council Position #1 Melinda McVey	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Becky Campbell	X		
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
<b>MOTION CARRIES UNANIMOUSLY</b>	<b>5</b>	<b>0</b>	<b>0</b>

**15. Adjourn Time: 7:22PM**



# **CITIZEN REQUESTED AGENDA ITEMS**



**SECTION 7.**

**CITIZEN REQUESTED AGENDA ITEMS**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. 7. a.

Council Meeting Date: April 18, 2016

**TITLE: Request to sell & serve alcohol in the park**

**SUMMARY AND BACKGROUND:**

The Gold Beach Snack Pack Program (provides at home snacks for underprivileged local kids) will be holding a fund raiser event at Buffington Park on Sunday, May 1<sup>st</sup> Noon-about 4pm. Arch Rock Brewing is one of the supporters of the event. The event coordinator has submitted a written request to allow sales, serving, and consumption of alcohol at the event. The fund raising event will include a family fun run/walk, BBQ and games.

**REQUESTED MOTION/ACTION:**

**Approve/deny the request**

**Suggested Motion:**

**I make the motion that the Council approve/deny the request by the Snack Pack event coordinator to allow sale, serving, and consumption of alcohol in the park during a fund raising event on May 1, 2016.**



**SECTION 7.**

**CITIZEN REQUESTED AGENDA ITEMS**

---

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. 7. b.  
Council Meeting Date: April 18, 2016

**TITLE: Request for signage & lighting for proposed  
evacuation routes**

**SUMMARY AND BACKGROUND:**

A citizen has made a request to present the Council with a city wide tsunami evacuation route plan that includes a request for signage and lighting “for the existing trail” (which I believe relates to the trail for Riley Creek).

We currently have maps prepared by DOGAMI with identified evacuation routes and assembly areas. I’m not sure if this request corresponds with those official state maps. Additionally, we received special road “stickers” from the state Office of Emergency Management last month to be installed at various locations corresponding to the official evacuation points. We are waiting for long break in the weather to apply the stickers. If the Council wishes to adopt/incorporate the citizen plan it should be integrated with our existing state approved plan/routes for consistency.

**REQUESTED MOTION/ACTION:**

**Hear the proposed plan and possible direction to staff.**



# **ORDINANCES & RESOLUTIONS**



**SECTION 9.  
ORDINANCES & RESOLUTIONS**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. **9. a.**  
Council Meeting Date: April 18, 2016

**TITLE: Resolution R1516-10 Adopting Water Master Plan**

**SUMMARY AND BACKGROUND:**

Aaron Speakman our lead engineer from Dyer Partnership and Will Newdall PW Superintendent presented the draft Water Master Plan to you at a workshop on January 25<sup>th</sup>. Each of you has been provided hard or digital copies of that plan. Now that we have had the opportunity to review the plan we need to adopt it so we can move forward with seeking funding for the projects identified in the Capital Improvement Plan section of master plan.

**REQUESTED MOTION/ACTION:**

**Adopt the Water Master Plan**

**SUGGESTED MOTION:**

**I make the motion to adopt Resolution R1516-10, a resolution adopting a water master plan and capital improvement plan for the City of Gold Beach.**

## RESOLUTION R1516-10

### A RESOLUTION ADOPTING A WATER MASTER PLAN & CAPITAL IMPROVEMENT PLAN FOR THE CITY OF GOLD BEACH

- WHEREAS:** In order to determine future domestic water supply and infrastructure needs for the City of Gold Beach the Council caused a water master plan to be prepared by the City's contract engineers; and
- WHEREAS:** The contract engineers, Dyer Partnership, prepared a plan that summarizes the components of the existing water distribution system, analyzes water demand patterns, evaluates the current system with respect to critical service standards, and identifies the improvements necessary to remedy system deficiencies and accommodate future growth; and
- WHEREAS:** The plan recommends specific projects for inclusion in the water distribution Capital Improvement Plan (CIP); and
- WHEREAS:** The plan contains all the necessary elements for a Water Management & Conservation Plan in accordance with OARs 690-086-100-170; and
- WHEREAS:** The draft plan was presented by the Dyer Partnership lead engineer to the Council and Mayor in a workshop on January 25, 2016 for consideration and review; and
- WHEREAS:** The City must adopt a Water Master Plan and Capital Improvement Plan for future planning and budgeting of water infrastructure projects and for consideration for state and/or federal funding for such projects.

**NOW THEREFORE, BE IT RESOLVED:** the City Council of the City of Gold Beach adopts the Water Master Plan for the City of Gold Beach dated October 2015 as prepared by Dyer Partnership Engineers. A copy of the Water Master Plan is attached to this resolution as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY,  
STATE OF OREGON, and EFFECTIVE THIS 18<sup>th</sup> DAY OF APRIL, 2016.**

APPROVED BY:

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Karl Popoff, Mayor

ATTEST:

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Jodi Fritts, City Administrator



# **MISC. ITEMS**

**INCLUDING POLICY DISCUSSIONS &  
DETERMINATIONS**



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

---

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. **10. a.**  
Council Meeting Date: April 18, 2016

**TITLE: Final Review of Proposed Code Updates & Cleanups**

**SUMMARY AND BACKGROUND:**

We are in a perpetual state of updated and correcting our various City Codes to keep current on changes or just fixing things when we find them. I try and save up several for review and adoption at one time for clarity purposes. Attached are changes/updates/clean up proposed in the past year or so. **Changes are in Bold.** There is a brief STAFF NOTE before each proposed change.

**ADMINISTRATION CODE PROPOSED CHANGES:**

**ADMINISTRATION CODE  
INDEX**

General

- 1.005 City Seal
- 1.010 Records
- 1.020 Definitions**
- 1.030 Interpretation of Ordinances

City Government

- 1.105 City Council
- 1.110 City Administrator**
- 1.118 Authority of City Council when Position of City Administrator is Vacant.
- 1.120 City Planning Commission
- 1.125 Local Budget Committee

Elections

- 1.205 Election Precincts**
- 1.210 Initiative and Referendum



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

---

Courts

**1.305 Powers and Duties of Municipal Judge**

**1.310 Interpretation and Rules of Construction**

1.315 Court Rules and Procedures

STAFF NOTE: Because of problems in the past we adopted a more descriptive definition of Resident last year. There were still some holes in that definition. We had discussed adding a provision for number of days a person had to “live” or “reside” here but the attorney advised us that would be difficult to monitor/enforce.

**1.020**      Definitions

**RESIDENT:** An individual is a “Resident” of the City of Gold Beach for the purposes of serving on a City Commission or Committee, *or to be eligible for an elective city office as referenced in Chapter III, Section 12 of the Gold Beach Charter, if:*

- a) The individual *lives resides* within the city limits of Gold Beach and intends to make the City of Gold Beach a fixed and permanent home; and
- b) Gold Beach is listed as the individual’s residence address for federal income tax purposes; and
- c) *If a property owner within Gold Beach*, the records of the Curry County Tax Assessor list Gold Beach as the individual’s mailing address; and
- d) Gold Beach is listed as the individual’s residence address on their valid Oregon driver’s license or state issued identification card; and
- e) The individual is an elector as defined by Section 12 of the Gold Beach Charter.

**Pursuant to City Charter Chapter III, Section 12(4) the City Council shall be the final judge of the qualifications of its own members and other officers. If it is unclear, based on the criteria above, whether a individual meets the definition of Resident, the City Administrator shall refer the matter to the City Council for final determination.**

STAFF NOTE: We have also added provisions in the Elections for referrals and appeals of residency determinations. This provides the widest latitude for a citizen to have their opinions heard by the Council.



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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**Elections**

**1.205      Election Precincts**

**(6)      Referral of Residency Determination to the City Council. Pursuant to the RESIDENT definition in Section 1.020, if it is unclear to the City Administrator whether a candidate for elective office, or potential volunteer for City Commission or Committee, meets the definition of RESIDENT, that matter will be referred to the City Council for final determination. The referral hearing shall be conducted in the same manner as an appeal of a residency determination as outlined in Section 1.205 (7).**

**(7)      Appeal of City Administrator Residency Determination. Pursuant to City Charter Chapter III, Section 12 (4) the City Council shall be the final judge of the qualifications and election of its own members. A person aggrieved by a residency determination by the City Administrator may appeal that determination to the City Council by filing a written request within ten (10) days of the City Administrator's written decision. The City Administrator shall immediately notify the Council and the Mayor of the appeal request and shall schedule a date for an appeal hearing as soon as practicably possible, but in no case later than seven (7) (10, 21, ?) days from the receipt of the appeal request.**

**Prior to the appeal hearing, the City Administrator shall transmit to the Council and Mayor and the appellant, the appeal request together with the City Administrator's written determination and any facts, data, or exhibits that were part of said determination. At the hearing, the appellant will have the opportunity to present information to counter the determination that they do meet the code definition of RESIDENT. Action by the Council shall be decided by a majority of the members of the Council present at the hearing. All decisions of the City Council in regards to residency determinations are final and binding.**

**CHANGES TO CITY ADMINISTRATOR SECTION**

**STAFF NOTE: This change was as a result of the Veterans Memorial. The Council wished to be consulted prior to the CA making any new improvements to real property owned by the City.**

**(2)      Duties, Powers and Authority of the City Administrator.**



SECTION 10.  
MISC ITEMS

Including Policy Discussions & Determinations

(e) City Administrator shall supervise the *operation* of all departments and public utilities owned and operated by the city, and shall have supervision powers over all city real or personal property. ***Prior to acquisition, disposal, or improvements to real property owned by the City, the City Administrator shall consult with the City Council before taking action to acquire, dispose, or improve such real property.***

**CHANGES TO MUNI COURT SECTION**

STAFF NOTE: The code requires adoption of a resolution annually for appointment of the muni judge. I consistently forget to do this. Changing this section still vests the authority in the Council to appoint the judge it just doesn't have to be redone annually.

(2) Qualifications of Municipal Judge; Selection; Term of Appointment; Removal; Compensation.

(b) The municipal judge shall be appointed by majority vote of all sitting councilors. ***Once appointed, the municipal judge shall serve at the pleasure of the Council until the appointment is rescinded by resolution of the Council. The term of appointment shall be one year. The person appointed to fill the office may be reappointed for any number of terms, provided such reappointment is confirmed by vote of the City Council as provided in this section.***

STAFF NOTE: We do not now, nor did we ever, have the ability to have community service—there are a lot of supervision requirements on the state level. I consulted a long time ago with the muni judge and our attorney and really none of our fines are so high that we have a real need for community service.

(10) Classification of Offenses; Penalties.

(b) If provided for in the ordinance defining the violation, the court may order restitution in addition to any penalty or fine. ~~The court may order community service in lieu of a penalty or fine if the defendant demonstrates a manifest and documented inability to pay.~~



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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**BUSINESS CODE PROPOSED CHANGES**

**BUSINESS CODE**

**INDEX**

General

- 4.000 Code Provisions as Law
- 4.010 General Savings Provision
- 4.020 Continuity of Existing Provisions
- 4.030 Interpretation of Term "City Administrator"
- 4.040 Severability

Business License Code

- 4.100 Title
- 4.105 Purpose of Business License Code
- 4.110 Definitions**
- 4.115 Requirement for License
- 4.120 Exclusions from Business License Requirement**
- 4.125 Illegal Business or Profession
- 4.130 License Required for Each Business and Location
- 4.135 License Term, Transfer of License
- 4.140 Application for License
- 4.145 License Fee Schedule
- 4.150 Display of License
- 4.155 Examination of Business Premises
- 4.160 Regulation of Residential Sales
- 4.165 Penalties and Civil Remedies
- 4.170 Revocation of Licenses

STAFF NOTE: These proposed changes came as a result of annual grumblings about what constitutes "non-profit" and "for profit"

**Business License Code**

**4.100**      Title



SECTION 10.  
MISC ITEMS

**Including Policy Discussions & Determinations**

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**4.110**      Definitions

(1)      “Business” means any person, who sells, leases, or provides property, goods, food, things, entertainment or services. ~~for profit.~~ The term “business” shall not include any activities conducted solely for charitable, religious, community or public purposes. The term “business” shall include providing property, goods, food, things, entertainment or services in return for donations which are accepted for the benefit of the provider. *See Section 4.120 for specific exclusions from Business License Requirement.*

**4.120**      Exclusions from Business License Requirement.

(5)      *No person, group, organization, club, etc. with a federal tax exempt status shall be required to obtain a business license. Proof of tax exempt status will be required by the City.*

STAFF NOTE: Finally, attached to this report is a chart of all the penalties in the code. At one time we had talked about making them consistent (same amounts). I’m thinking maybe we should delete them from the code itself and adopt them as a stand-alone resolution like our fee schedule and traffic fines. Resolutions are a little easier to change and then they would all be in one location.

**REQUESTED MOTION/ACTION:**

**Review and make any final suggestions before ordinance presentation next month.**

## CITY CODE PENALTIES

CODE SECTION	MAXIMUM PENALTY
<b>Local Improvement Code</b> Section 2.990	Not to exceed \$300 each day separate offense
<b>Utility Code-Water</b> Section 3.350	Not to exceed \$300 each day separate offense
<b>Business License Code</b> Section 4.165	Not to exceed \$500
<b>Transient Room Tax Code</b> Section 4.295	Not to exceed \$500
<b>Sign Code</b> Section 4.470	Not to exceed \$300 each day separate offense
<b>Vendor Assisted Tobacco Sales</b> Section 4.530	Not to exceed \$250
<b>Nuisance-Dog Control</b> Section 5.070	Not to exceed \$250 May impose unitary fine ORS 137.290
<b>Nuisance Code</b> <b>Section 5.205-5.280 which includes:</b> Animal Nuisance, Public Health, Public Safety, Attractive Nuisances, Snow & Ice, Noxious Growths, Scattered Rubbish, Trees, Fences, Surface water/drainage, Radio/TV interference, Junk, Soliciting, Container/Open Burning, Unenumerated Nuisances Penalties Section 5.315	Not to exceed \$500 for 1 <sup>st</sup> and \$500 for each subsequent May impose unitary fine ORS 137.290
<b>Dangerous Buildings</b> Section 5.398	Not to exceed \$500 for 1 <sup>st</sup> and \$500 for each subsequent Each day separate offense May impose unitary fine ORS 137.290
<b>Offense Code</b> <b>Section 5.500-5.590 which includes:</b> Disorderly Conduct at Fires, Unnecessary Noise, Discharge of Weapons, Violating Privacy of Another, Release of Child Confined in Vehicle, Place of Amusement, Poisoning of Animals, Police & Fire Communications, Obstruction of Building Entrances, Open Cellar Doors or Grates, Obstruction of Fire Hydrants, Vending Goods on Streets or Sidewalks, Begging, Lodging, Posted Notices, Hauling, Curfew	Not to exceed \$500 for 1 <sup>st</sup> and \$500 for each subsequent except if identical to a state statute lesser fine is imposed May impose unitary fine ORS 137.290

<p><b>Parks</b> Section 5.715</p>	<p>Not to exceed \$500 May impose unitary fine ORS 137.290</p>
<p><b>Traffic Code</b> <b>Section 6.900</b></p>	<p>State law violations subject to penalties provided by state law</p> <p><b>Section 6.200-6.240</b> (Crossing Private Property, Unlawful Riding, Skateboards &amp; Sleds on Streets, Damaging Sidewalks &amp; Curbs, Removing Glass &amp; Debris) <b>not to exceed \$100</b></p> <p><b>Parking and Bicycles</b> <b>not to exceed \$50</b></p>
<p><b>Zoning Ordinance</b></p>	<p>Not to exceed \$300 each day separate offense</p>



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. 10. b.  
Council Meeting Date: April 18, 2016

**TITLE: Possible Revision of City Tobacco Use Policy**

**SUMMARY AND BACKGROUND:**

A request was presented at the February council meeting to adopt a tobacco free policy on city property. I presented the draft policy and after a brief discussion it was determined that I would go through our existing code and policies and prepare a chart for the Council to review and compare.

<b>CURRENT CITY CODE/POLICY</b>	<b>PROPOSED TPEP POLICY</b>
Promote a safe, healthy and pleasant work environment for employees	Protect the public and employees from exposure to second hand smoke, promote healthy community norms
Stats not in policy	Stats and background on tobacco drawbacks
Prohibited in city buildings, offices, and vehicles	Prohibited in city buildings, office, vehicles, outside properties including parking areas
Provided for designated smoking areas	Prohibited everywhere on city owned property including parking areas
Visitors required to comply	Everyone including employees, volunteers, volunteers, visitors, vendors, and contractors
Religious freedom not explicitly stated but we are a non-discriminatory location	Explicitly provides exemption for American Indian Religious Freedom Act
Compliance not explicitly stated in tobacco section but would follow the Standards of Conduct/Discipline section	Compliance explicitly stated
Not stated but cessation assistance provided through City insurance carrier (CIS)	Cessation assistance mentioned as referral to Oregon Tobacco Quitline

The major difference in our current short policy and the proposed policy is the proposed policy prohibits ALL tobacco use on city owned property. No designated smoking areas including personal vehicles.



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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So the policy discussion is total prohibition or the current prohibition of buildings and vehicles and a designated smoking area.

**REQUESTED MOTION/ACTION**

**Direct staff on possible changes to current City policy regarding tobacco use. If changes are proposed I will make those changes and present them for the Council to adopt next month. There a few minor policy amendments I will hold until then.**

**FROM FEBRUARY COUNCIL REPORT**

Kaitlyn Coleman the Curry Community Health Tobacco Prevention Education Coordinator requested to be allowed to address the Council regarding the City's tobacco policy and a request to adopt a proposed Tobacco Free Facilities & Grounds Policy (attached).

I ran the draft policy past legal counsel to ensure it would not discriminate against our employees or the public. Legal Counsel suggested reviewing the TPEP draft policy and discuss what parts, if any, the Council feels should be appropriate to prohibit or regulate in City owned buildings or on City property. Once you have given me some direction I will work with legal counsel on a policy to adopt.

Our current Administrative and Personnel Policies state the following regarding tobacco:

**218.8 Smoking/Tobacco Products**

The city seeks to promote a safe, healthy and pleasant work environment for all employees and the public. All city facilities, including city-owned buildings, vehicles, individual employee offices or other facilities rented or leased by the city are smoke free. In accordance with state law, designated locations outside of the buildings will be established for employees to smoke.

Visitors to any city facility will be required to comply with the city's efforts to maintain a smoke free environment. Visitors failing to comply may be asked to leave the facility.

**Introduction and request from Ms. Coleman:**

Hi Everyone!

My name is Kaitlyn Coleman and I am the new TPEP (Tobacco Prevention Education Programs) Coordinator with Curry Community Health. You may have spoken with my predecessor (Devon) before.



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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We are working to reduce the use of tobacco and educate our population about how devastating the use of tobacco and secondhand smoke is. As you probably know at the beginning of the month the Indoor Clean Air Act was amended to include the use of inhalant delivery systems (e-cigarettes). Do you have a copy available of the City's tobacco policy that you would be able to share with me? I would love to see both the county and the city buildings have a high standard tobacco free policy because we are setting the bar for the rest of the business owners around Curry county.

Another issue that I would love to discuss with the city council is the price of tobacco. I know that raising taxes is not something that can be done at the local level, and raising prices is a very touchy subject, but there are simple things that can alter the price and therefore availability of tobacco without actually changing the price. Raising the price of tobacco is one of the most effective strategies for reducing tobacco initiation, decreasing consumption and increasing cessation.

Facts: (Available on [smokefreeoregon.com](http://smokefreeoregon.com))

\*Curry County had 82 tobacco related deaths in 2014

\*\$1.04 was the average price of a single, flavored little cigar (That's less than a soda, and barely more than a candy bar!)

\*3 in 4 retailers sold tobacco at discounted prices

\*cigarette smoking among adults is 10% higher in Curry County than average of the rest of Oregon (29% vs 19%)

\*Cigarette smoking among pregnant women is 10% higher in Curry County than the average of Oregon and the US (21% vs 11% and 9%)

\*Youth tobacco use stats:

-8th grade: 6% smoke cigarettes

8% non-cigarette tobacco use

-11th grade: 15% smoke cigarettes

23% non-cigarette tobacco use

We can lower these statistics simply by banning the use of coupons, discounts, sales and sampling.

I would love to hear the council's thoughts on this and have your support.

Kaitlyn Coleman

Tobacco Prevention Education Specialist

Curry Community Health

94235 Moore St., Suite 121

Gold Beach, OR 97444

**218.8 Smoking/Tobacco Products**

The city seeks to promote a safe, healthy and pleasant work environment for all employees and the public. All city facilities, including city-owned buildings, vehicles, individual employee offices or other facilities rented or leased by the city are smoke free. In accordance with state law, designated locations outside of the buildings will be established for employees to smoke.

Visitors to any city facility will be required to comply with the city's efforts to maintain a smoke free environment. Visitors failing to comply may be asked to leave the facility.

Current

TPEP proposal

## **Tobacco Free Facilities and Grounds Policy**

### **Purpose**

Chronic diseases, such as heart disease, stroke, cancer, diabetes and arthritis, are among the most common, costly, and preventable of all health problems in Curry County and the U.S. The U.S. Surgeon General has determined that exposure to secondhand tobacco smoke and the use of tobacco are significant health hazards. Tobacco use is the leading modifiable health risk factor responsible for much of the illness, suffering, and early death related to chronic disease.

Death and disability resulting from tobacco use costs Curry County lives and dollars. In 2014, the economic burden of tobacco use in Curry County was \$16.3 million in direct medical costs and \$13.1 in productivity loss due to premature tobacco related deaths.

Establishing tobacco free campuses will protect the public and employees from exposure to secondhand smoke, help people to quit and stay quit, as well as promote healthy community norms.

### **Definitions**

For the purpose of policy:

- **Tobacco:** Includes any smoking or smokeless product intended for human consumption that is comprised of or contains tobacco, and nicotine-delivery devices, such as electronic smoking devices, excluding FDA-approved nicotine replacement therapy products for the purpose of tobacco cessation.
- **City of Gold Beach Property:** All interior spaces and vehicles and all outside property, including but not limited to parking areas, owned or controlled by the City of Gold Beach.

**Scope:** This policy applies to all City of Gold Beach employees, volunteers, clients, visitors, vendors and contractors on property owned or controlled by the City of Gold Beach.

**Policy:** Effective February 9, 2016, the use, distribution, sale or advertising of tobacco products is not permitted at any time in and on City of Gold Beach owned or controlled property including: a) within any interior spaces of facilities, b) on all outside property or ground, including parking areas; and c) in vehicles owned by the City of Gold Beach. If questions arise regarding the actual physical parameters of the prohibition for any particular City of Gold Beach property, the \_\_\_\_\_ or designee shall provide a final determination.

**Exceptions**

This policy does not apply to the use of noncommercial tobacco use for ceremonial, cultural, religious or medicinal activities that are in accordance with the American Indian Religious Freedom Act, 42 U.S.C. section 1996. Exceptions for the ceremonial, cultural, religious or medicinal tobacco use must be pre-approved by \_\_\_\_\_.

**Communication of Policy**

Signs stating the City of Gold Beach's tobacco-free policy are considered the first line of enforcement for this policy. Signs will be clearly posted on the perimeter of the property, at all entrances and exits, and in other prominent places. This policy is the shared responsibility of all City of Gold Beach personnel. Employees are authorized and encouraged to communicate this policy with courtesy, respect and diplomacy to the public, vendors, volunteers or others.

**Compliance**

Any person who observes an employee violating the policy is encouraged to address the noncompliance with the employee in question. If difficulties arise with the compliance, an employee shall notify a management-level staff member. Management and supervisory staff are responsible for ongoing compliance with this policy within their respective work areas. In addition, management and supervisory staff are expected to adhere to standard practice in resolving any issues of noncompliance.

**Cessation Assistance**

The City of Gold Beach is committed to assisting employees, volunteers, clients, visitors, vendors and contractors in overcoming tobacco dependency. Employees, as well as members of the public, volunteers, interns, and clients may be referred to Oregon's Tobacco Quitline, 1-800-QUIT NOW, which is a free tobacco cessation resource.



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

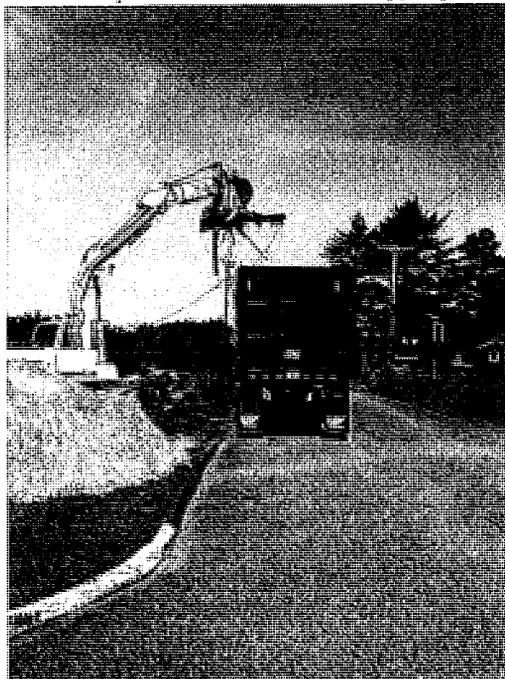
Agenda Item No. 10. c.  
Council Meeting Date: April 18, 2016

**TITLE: Update on PC Referrals & Russell Street House**

**SUMMARY AND BACKGROUND:**

**MARIJUANA:** The referrals to the planning commission for possible zoning code updates related to medical and recreational marijuana businesses was discussed in a workshop on March 28<sup>th</sup> and again on April 18<sup>th</sup>. Depending on the outcome of the workshop earlier in the day, I may have proposed code amendments for you next month.

**RUSSELL STREET HOUSE:** Some asbestos was discovered in the building. That was abated. Following that abatement the contractor, Benny Hempstead Excavating started the cleanup. These are photos from Friday, April 15<sup>th</sup>.





**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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**REQUESTED MOTION/ACTION:**  
None, FYI only



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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**GOLD BEACH CITY COUNCIL  
AGENDA REPORT**

Agenda Item No. **10. d.**  
Council Meeting Date: April 18, 2016

**TITLE: Proposed Marijuana Tax Ballot Measure**

**SUMMARY AND BACKGROUND:**

As advised by our attorney, if Gold Beach wishes to impose a tax on recreational marijuana businesses the tax must be approved by city voters in November (see January Council report below). Attached to this report is the first run at a draft tax code. This is a combination of the LOC model, the City of Happy Camp ordinance, and parts of our room tax code. I tried to keep it as simple and concise as possible.

**REQUESTED MOTION/ACTION:**

Review the draft and make suggested changes. I will bring back the revised final for public hearing and possible first reading next month. We have until the August 8<sup>th</sup> council meeting to make the final adoption to meet the November election timelines. We will have to have the ballot title adopted at that meeting so that we can start the election process and have the final ballot title to the county Clerk by September 8<sup>th</sup>.

**FROM JANUARY COUNCIL MEETING**

We have discussed medical and recreational marijuana many, many times in the past few years--most recently in November. At that time we talked about whether to impose a tax on recreational sales or to adopt any land use regulation in the zoning code related to marijuana businesses.

Legal Counsel has kept me updated on changes on the state level as they are being discussed and adopted. Below is a summary of items she suggested we discuss and consider.

- The Council can adopt up to a 3% tax on recreational retail marijuana sales, **but it won't take effect unless and until it is approved by the voters in November 2016**. There is no rush but we will need to move on it sometime before summer to comply with election time lines.



## SECTION 10. MISC ITEMS

### Including Policy Discussions & Determinations

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- If the Council wants to stop medical dispensaries and/or recreational facilities from locating in the City, they could adopt an ordinance banning those facilities now. **The ordinance would not take effect unless and until it is approved by the voters in November 2016**, but OHA and OLCC will stop issuing licenses in Gold Beach immediately.
- If the Council wants to enact land use regulations for recreational vendors they should start thinking about what those regulations might look like sooner rather than later. After making a quick review of our current zoning ordinance this is what she found:
  - ✓ Medical dispensaries and recreational retail would not be allowed in residential zones (1-R, 2-R and 3-R).
  - ✓ Recreational grows would be allowed on sites of at least an acre in all three residential zones (outright permitted in 1-R and 3-R, and conditionally permitted in 2-R).
  - ✓ Certain types of medical and recreational processors would likely be allowed as home occupations (either outright permitted or conditionally permitted) in all three zones.
  - ✓ Recreational and medical processors, recreational wholesalers, recreational retailers and medical dispensaries are all outright permitted in the commercial and industrial zones. If you consider grows to be “manufacturing,” they are outright permitted as well.

#### Applicable state laws:

- Medical dispensaries are not allowed to locate within 1000 feet of a school or 1000 feet of each other, and may not locate in a residential zone.
- Recreational retail outlets may not locate within 1000 feet of a school (cities can add other reasonable buffers but may not require that recreational retail outlets locate MORE than 1000 feet from each other) and may not locate in a residential zone.
- Medical and recreational processors that process extracts may not be located in a residential zone.
- Recreational marijuana wholesalers may not be located in a residential zone.

#### Other considerations:

- Other cities have looked at adopting buffers around parks, libraries, and day care centers. Gold Beach could also as long as the buffers are not too big and they don't effectively prohibit marijuana facilities from locating in town.
- Staff was concerned about ineffective State/OLCC regulation and oversight. The Council could discuss adoption of some of the OLCC requirements (such as security measures) as City requirements so that the City has enforcement authority if OLCC does not step up.

#### THE “T” WORD!:

Lots of cities adopted taxes on both medical and recreational marijuana before Measure 91 was enacted, in the hope that the legislature would grandfather in pre-existing city taxes. **Instead, the legislature adopted HB 3400, which provides that cities only have the authority to tax recreational retail marijuana sales, and only if the city tax is approved by the voters in November of 2016.**



**SECTION 10.  
MISC ITEMS**

**Including Policy Discussions & Determinations**

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HB 3400 says that except for local taxes expressly authorized by HB 3400 (i.e. up to 3%, must be approved by the voters) the authority to impose taxes on marijuana belongs only to the Legislature.

At the request of Senator Prozanski, the Office of Legislative Counsel (the lawyers for the Legislature) recently issued an opinion that cities do not have the authority to tax medical marijuana. The opinion does not spend much time discussing taxation of recreational marijuana, presumably because Senator Prozanski's question focused on taxation of medical marijuana, but Legislative Counsel appears to conclude that cities have no authority to tax medical marijuana and the only authority cities have to tax recreational marijuana is the authority provided by HB 3400 (i.e. up to a 3% tax on recreational retail sales, if approved by the voters of the City in November of 2016).

I have attached a copy of legal opinion.

**REQUESTED MOTION/ACTION:**

**Direct staff on how to proceed.**

- **Tax Recreational?**
  - **Prepare an ordinance for adoption and begin election process for November**
- **Land Use Regulations? Time and place? Buffers?**
  - **Start the planning commission process**
- **City enforcement? Adopt some of the state security requirements as the City's?**
  - **Prepare an ordinance for adoption**

**DRAFT Recreational Marijuana Retail Sales Tax**  
**AN ORDINANCE ESTABLISHING A TAX ON THE RETAIL SALES OF RECREATIONAL MARIJUANA WITHIN THE CITY OF GOLD BEACH**

**WHEREAS,** Chapter II, Section 4 of the Gold Beach City Charter provides:

**POWERS OF THE CITY.** The city has all the powers that 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.

**WHEREAS,** that authority and power includes the authority to impose a THREE PERCENT (3%) tax on the retail sales of RECREATIONAL MARIJUANA sold within the City; and

**WHEREAS,** the City desires to tax the sale or transfer of RECREATIONAL MARIJUANA within the City.

**For the purposes of this ordinance “RECREATIONAL MARIJUANA” shall include any or all of the following and shall have the same individual meanings as contained in Oregon Laws 2015 Chapter 614: Cannabinoid, cannabinoid concentrate, cannabinoid extract, cannabinoid edible, cannabinoid product, marijuana, marijuana extract, marijuana items, marijuana products, marijuana flowers, marijuana leaves, and any other cannabinoid or marijuana derivatives not specifically enumerated.**

**NOW, THEREFORE, THE CITY OF GOLD BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** The City amends to the Gold Beach Business Code to establish  
**Chapter 4.6 Recreational Marijuana Sales Tax Code**

**The Recreational Marijuana Sales Tax Code shall read as follows:**

**4.600 Title**

This portion of the Gold Beach Code shall be known as the Recreational Marijuana Sales Tax Code.

**4.605 Purpose.**

For the purposes of this chapter, every person who conducts retail sales of RECREATIONAL MARIJUANA in the City of Gold Beach is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of RECREATIONAL MARIJUANA.

**This code does not apply to retail sales of medical marijuana as regulated by the Oregon Health Authority.**

**4.610 Definitions.**

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter have the following meanings:

ADMINISTRATOR means the City Administrator of the City of Gold Beach.

GROSS TAXABLE SALES means the total amount received in money, credits, property or other consideration from sales of recreational marijuana (as defined in this code) that is subject to the tax imposed by this chapter.

PERSON means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the Administrator, lessee, agent, servant, officer or employee of any of them.

PURCHASE OR SALE means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the wholesale acquisition or furnishing of marijuana by a grower or processor to a retail seller.

RECREATIONAL MARIJUANA means Cannabinoid, cannabinoid concentrate, cannabinoid extract, cannabinoid edible, cannabinoid product, marijuana, marijuana extract, marijuana items, marijuana products, marijuana flowers, marijuana leaves, and any other cannabinoid or marijuana derivatives not specifically enumerated, and shall have the same individual meanings as contained in Oregon Laws 2015 Chapter 614.

SELLER means any person who is required to be licensed or has been licensed by the State of Oregon Liquor Control Commission (OLCC) to provide recreational marijuana to purchasers for money, credit, property or other consideration.

TAX means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

TAXPAYER means any person obligated to account to the City Administrator for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

**4.615 Levy of Tax.**

(1) Every seller exercising the taxable privilege of selling recreational marijuana as defined in this chapter is subject to and must pay *(or collect and remit?)* a tax for exercising that privilege. This tax is in addition to any other taxes or fees required by the City.

(2) The amount of tax levied is three percent (3%) of the gross sale amount paid to the seller of recreational marijuana.

(3) The following deductions are allowed against sales received by the seller providing recreational marijuana:

(a) Refunds of sales actually returned to any purchaser;

(b) Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of recreational marijuana and does not include any adjustments for other services furnished by a seller.

**4.620 Seller Responsible For Payment Of Tax.**

(1) Every seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Administrator, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Administrator may establish shorter reporting periods for any seller if the seller or Administrator deems it necessary in order to ensure collection of the tax. The Administrator may require further information in the return relevant to payment of the tax. A return is not considered filed until it is actually received by the Administrator.

(2) At the time the return is filed, the seller must remit to the Administrator the full amount of the tax collected. Payments received by the Administrator for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

(3) The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

(4) If the Administrator, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Administrator may order such a change. The Administrator may establish shorter reporting periods for any seller if the Administrator deems it necessary in order to ensure collection of the tax. The Administrator also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this chapter for the City's account until the seller makes payment to the Administrator. A separate trust bank account is not required in order to comply with this provision.

(5) Every seller required to remit the tax imposed by this chapter is entitled to retain five percent (5%) of all taxes due to the City to defray the costs of bookkeeping and remittance. *(DO WE WANT TO ALLOW THAT?)*

(6) Every seller must keep and preserve in an accounting format established by the Administrator records of all sales made by the seller and such other books or accounts as the Administrator may require. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The Administrator has the right to inspect all such records at all reasonable times.

#### **4.625 Delinquencies and Interest.**

(1) Any seller who fails to remit any portion of any tax imposed by this chapter within the time required must pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.

(2) If any seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the seller must pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

(3) If the Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty five percent (25%) of the amount of the tax will be added thereto in addition to the penalties stated in subparagraphs 1 and 2 of this section.

(4) In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter must pay interest at the rate one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) Every penalty imposed, and any interest as accrues under the provisions of this section, becomes a part of the tax required to be paid.

(6) All sums collected pursuant to the penalty provisions in paragraphs 1-4 of this section will be distributed to the City's General Fund.

(7) Waiver of Penalties. Penalties for late tax payments may be waived or reduced if approved by City Council pursuant to City Council policy. Nothing in this subsection requires the City to reduce or waive penalties.

#### **4.630 Failure To Report and Remit Tax – Determination of Tax by Administrator.**

(1) If any seller fails to make any report of the tax required by this chapter within the time provided in this chapter, the Administrator will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Administrator procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Administrator will determine and assess against such seller the tax, interest and penalties provided for by this chapter.

(2) If the Administrator makes a determination as outlined in subsection 1, the Administrator must give notice to the seller of the amount assessed. The notice must be personally served on the seller or deposited in the United States mail addressed to the seller at the last known place of address.

(3) The seller may appeal the determination as provided in section 4.635. If no appeal is timely filed, the Administrator's determination is final and the amount assessed is immediately due and payable.

#### **4.635 Appeals to City Council.**

Any person aggrieved by any decision of the Administrator may appeal to the City Council by filing notice of appeal with the Administrator within twenty days (20) of the serving or the mailing of the notice of the decision given by the Administrator. The Administrator shall transmit said notice of appeal, together with any files of said appealed matter to the Council, who shall fix a time and place for hearing such appeal from the

decision of the Administrator. The Council shall give the appellant not less than twenty days (20) written notice of a time and place of said hearing of said appealed matter. Action by the Council on appeals shall be decided by a majority of the members of the Council present at the meeting where such appeal is considered. All decisions of the City Council in regards to appeals are final and binding.

**4.640 Refunds.**

(1) The City may refund to the seller any tax, interest or penalty amount under any of the following circumstances:

- a. the seller has overpaid the correct amount of tax, interest or penalty; or
- b. the seller has paid more than once for the correct amount owed; or
- c. the City has erroneously collected or received any tax, interest or penalties.

(2) The City may not issue a refund under this subsection unless the seller provides to the Administrator a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the Administrator. The seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.

(3) The Administrator has twenty (20) calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Administrator will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

(4) If the Administrator determines the claim is valid, the claimant may either claim a refund or take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Administrator of the claimant's choice no later than fifteen (15) days following the date the Administrator mailed the determination and the claimant must do so in a manner prescribed by the Administrator.

(5) If the claimant does not notify the Administrator of claimant's choice within the 15-day period and the claimant is still in business, the City will grant a credit against the tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.

(6) The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Administrator acknowledges the claim's validity.

#### **4.645            Actions to Collect.**

Any tax required to be paid by any seller under the provisions of this chapter is a debt owed by the seller to the City. Any tax collected by a seller that has not been paid to the City is a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter is liable to an action brought in the name of the City of Gold Beach for the recovery of the amount owing.

#### **4.650            Confidentiality.**

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release, or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section prohibits any of the following:

- (1)     The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- (2)     The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- (3)     Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Administrator or an appeal from the Administrator for amount due the City under this chapter; or
- (4)     The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- (5)     The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

#### **4.655            Audit of Books, Records or Persons.**

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the City limits and be open at any time during regular business hours for examination by the Administrator or an authorized agent of the Administrator. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Administrator may immediately seek a subpoena from the

Gold Beach Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

**4.670 Forms And Regulations.**

(1) The Administrator is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:

- (a) A form of report on sales and purchases to be supplied to all vendors;
- (b) The records that sellers providing recreational marijuana and must keep concerning the tax imposed by this chapter.

**4.675 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this code, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this code or any part thereof.

**4.680 Violations.**

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail to refuse to furnish a supplemental return or other data required to make, render, sign or verify any report shall make any false or fraudulent report, with the intent to defeat or evade the determination of any amount due required by this code.

**4.685 Penalties.**

Any person willfully violating any of the provisions of this code shall be guilty of a misdemeanor and may be punishable by a fine of not more than five hundred dollars (\$500.00). The maximum fine may be amended from time to time by ordinance of the Gold Beach City Council.