



# AGENDA STAYTON CITY COUNCIL MEETING

Monday, February 3, 2014

Stayton Community Center  
400 W. Virginia Street  
Stayton, Oregon 97383

**CALL TO ORDER**

**7:00 PM**

**Mayor Vigil**

**FLAG SALUTE**

**ROLL CALL/STAFF INTRODUCTIONS**

- a. Welcome to New City Administrator

**PRESENTATIONS/COMMENTS FROM THE PUBLIC**

- a. Swearing in of new Police Officer by Chief Rich Sebens
- b. Alan Kingsley, Car Show Committee

Request for Recognition: If you wish to address the Council, please fill out a green “Request for Recognition” form. Forms are on the table at the back of the room.

*Recommended time for presentation is 10 minutes.*

*Recommended time for comments from the public is 3 minutes.*

**ANNOUNCEMENTS – PLEASE READ CAREFULLY**

*Items not on the agenda but relevant to City business may be discussed at this meeting. Citizens are encouraged to attend all meetings of the City Council to insure that they stay informed. Agenda items may be moved forward if a Public Hearing is scheduled.*

- a. Additions to the agenda
- b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.

**CONSENT AGENDA**

- a. January 21, 2014 City Council Action Minutes

***Purpose of the Consent Agenda:***

*In order to make more efficient use of meeting time, resolutions, minutes, bills, and other items which are routine in nature and for which no debate is anticipated, shall be placed on the Consent Agenda. Any item placed on the Consent Agenda may be removed at the request of any council member prior to the time a vote is taken. All remaining items of the Consent Agenda are then disposed of in a single motion to adopt the Consent Agenda. This motion is not debatable. The Recorder to the Council will then poll the council members individually by a roll call vote. If there are any dissenting votes, each item on the consent Agenda is then voted on individually by roll call vote. Copies of the Council packets include more detailed staff reports, letters, resolutions, and other supporting materials. A citizen wishing to review these materials may do so at Stayton City Hall, 362 N. Third Avenue, Stayton, or the Stayton Public Library, 515 N. First Avenue, Stayton.*

***The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. If you require special accommodations please contact Alissa Angelo, Deputy City Recorder at (503) 769-3425.***

## **PUBLIC HEARING**

### **Storm Water Utility Fees – Adoption of Monthly Fees**

- a. Commencement of Public Hearing
- b. Staff Report – David Kinney
- c. Questions from Council
- d. Proponents’ Testimony
- e. Opponents’ Testimony
- f. General Testimony
- g. Questions from Public
- h. Questions from Council
- i. Staff Summary
- j. Close of Hearing
- k. Council Deliberation
- l. Council Decision on Resolution No. 907
- m. Council Decision on Resolution No. 908

## **UNFINISHED BUSINESS – None**

## **NEW BUSINESS**

### **Lease Agreement, 352 E. Florence Street**

**Action**

- a. Staff Report – Christine Shaffer
- b. Council Deliberation
- c. Council Decision

### **Building Renovations at 260 N. 2<sup>nd</sup> Avenue**

**Action**

- a. Staff Report – Christine Shaffer
- b. Council Deliberation
- c. Council Decision

## **STAFF/COMMISSION REPORTS – None**

## **PRESENTATIONS/COMMENTS FROM THE PUBLIC**

*Recommended time for presentations is 10 minutes.*

*Recommended time for comments from the public is 3 minutes.*

## **BUSINESS FROM THE CITY ADMINISTRATOR**

## **BUSINESS FROM THE MAYOR**

- a. Appointment of Municipal Court Judge

## **BUSINESS FROM THE COUNCIL**

## **FUTURE AGENDA ITEMS**

- a. Review of City Charter
- b. Library Foundation Presentation

## **ADJOURN**

## CALENDAR OF EVENTS

### **FEBRUARY 2014**

Monday	February 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	February 4	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	February 11	Public Safety Commission	6:00 p.m.	City Hall Conference Room
Thursday	February 13	Tour of Storm Drainage Facilities	2:30 p.m.	Santiam Water Control District (248 E. Water Street)
Thursday	February 13	Adaptive Management Group Meeting	3:30 p.m.	E.G. Siegmund Meeting Room
Friday	February 14	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Wednesday	February 19	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
<b>Monday</b>	<b>February 17</b>	<b>CITY OFFICES CLOSED IN OBSERVANCE OF PRESIDENTS' DAY</b>		
Tuesday	February 18	City Council	7:00 p.m.	Community Center (north end)
Monday	February 24	Planning Commission	7:00 p.m.	Community Center (north end)

### **MARCH 2014**

Monday	March 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	March 4	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	March 11	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	March 14	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Monday	March 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	March 19	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	March 31	Planning Commission	7:00 p.m.	Community Center (north end)

### **APRIL 2014**

Tuesday	April 1	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Monday	April 7	City Council	7:00 p.m.	Community Center (north end)
Tuesday	April 8	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	April 11	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Wednesday	April 16	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	April 21	City Council	7:00 p.m.	Community Center (north end)
Monday	April 28	Planning Commission	7:00 p.m.	Community Center (north end)

**City of Stayton  
City Council Meeting Action Minutes  
January 21, 2014**

**LOCATION:** STAYTON COMMUNITY CENTER, 400 W. VIRGINIA STREET, STAYTON

**Time Start:** 6:48 P.M.

**Time End:** 8:08 P.M.

**WORK SESSION**

COUNCIL	STAFF
Mayor Scott Vigil (excused)	Alissa Angelo, Deputy City Recorder
Councilor Emily Gooch	Christine Shaffer, Finance Director
Councilor Catherine Hemshorn (excused)	David Rhoten, City Attorney
Councilor Jennifer Niegel (excused)	
Councilor Henry Porter	
Councilor Brian Quigley	

**COUNCIL MEETING ATTENDANCE LOG**

COUNCIL	STAFF
Mayor Scott Vigil (excused)	Alissa Angelo, Deputy City Recorder
Councilor Emily Gooch	Dan Fleishman, Director of Planning & Development
Councilor Catherine Hemshorn (excused)	David Kinney, Public Works Director
Councilor Jennifer Niegel	Louise Meyers, Library Director
Councilor Henry Porter	Rich Sebens, Police Chief
Councilor Brian Quigley	Christine Shaffer, Finance Director
	David Rhoten, City Attorney

AGENDA	ACTIONS
<b>WORK SESSION (6:48 P.M. TO 6:59 P.M.)</b>	
<b>Municipal Court Judge Interview Questions</b>	Discussion and review of Municipal Court Judge questions.
<b>REGULAR MEETING (7:00 P.M. TO 7:40 P.M.)</b>	
<b>Presentations / Comments from the Public</b>	
a. Steve Frank, 1515 E. Jefferson Street	Spoke about Storm Water Utility Fee and proposed annexations. Encouraged the Council to hold Town Hall meetings.
<b>Announcements</b>	
a. Additions to the Agenda	None
b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.	Councilor Gooch was contacted by a potential medical marijuana business owner.
<b>Consent Agenda</b>	
a. January 6, 2014 City Council Meeting Minutes	Motion from Councilor Quigley, seconded by Councilor Gooch, to approve the consent agenda. <b>Motion passed 4:0.</b>

<b>Public Hearing</b>	
a. Commencement of Public Hearing	7:07 p.m.
b. Staff Report – Dan Fleishman	Mr. Fleishman reviewed the staff report included in the Council packet.
c. Questions from Council	None
d. Proponents Testimony	None
e. Opponents Testimony	None
f. General Testimony	None
g. Questions from Public	None
h. Questions from Council	Councilor Niegel asked if staff received any questions from the public about the proposed annexations. Staff dealt with a handful of inquiries.
i. Staff Summary	None
j. Close of Hearing	7:20 p.m.
k. Council Deliberation	None
l. Council Decision on Ordinance No. 965	Motion from Councilor Gooch, seconded by Councilor Niegel, to adopt Ordinance No. 965 as presented. <b>Motion passed 4:0.</b>
m. Council Decision on Resolution No. 909	Motion from Councilor Niegel, seconded by Councilor Gooch, to adopt Resolution No. 909 as presented. <b>Motion passed 4:0.</b>
<b>Unfinished Business</b>	
None	
<b>New Business</b>	
a. Resolution No. 910, City Administrator Evaluation Process	Motion from Councilor Quigley, seconded by Councilor Gooch, to adopt Resolution No. 910 as presented. <b>Motion passed 4:0.</b>
b. Ordinance No. 966, Amending SMC 5.08 and 5.12 to Regulate Medical Marijuana Dispensaries within the City of Stayton	Motion from Councilor Gooch, seconded by Councilor Quigley, to adopt Ordinance No. 966 as amended to reference Medical Marijuana Facility.  <i>Discussion</i> – Brief discussion of location of facility.  <b>Motion passed 4:0.</b>
c. Appointment of a Council Representative to the Adaptive Management Group	Motion from Councilor Quigley, seconded by Councilor Gooch, to appoint Councilor Niegel as the Council Representative to the Adaptive Management Group. <b>Motion passed 4:0.</b>
<b>Staff / Commission Reports</b>	
a. Finance Director’s Report – Christine Shaffer	None
b. Police Chief’s Report – Rich Sebens	Brief discussion of shoplifting prevention.

c. Public Works Director's Report – Dave Kinney	None
d. Planning & Development Director's Report – Dan Fleishman	None
e. Library Director's Report – Louise Meyers	Discussion of cultural passes and statistics.
<b>Presentations / Comments From the Public</b>	None
<b>Business from the City Administrator</b>	None
<b>Business from the Mayor</b>	None
<b>Business from the Council</b>	None
<b>Future Agenda Items</b>	
a. Review of City Charter	
b. Storm Water and Sanitary Sewer Utility Fee Public Hearing (February 3, 2014)	

APPROVED BY THE STAYTON CITY COUNCIL THIS 3<sup>RD</sup> DAY OF FEBRUARY 2014, BY A \_\_\_\_\_ VOTE OF THE STAYTON CITY COUNCIL.

Date: \_\_\_\_\_

By: \_\_\_\_\_

A. Scott Vigil, Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Keith Campbell, City Administrator

Date: \_\_\_\_\_

Transcribed by: \_\_\_\_\_

Alissa Angelo, Deputy City Recorder

DRAFT



**City of Stayton**  
*Finance Department*  
*Public Works Department*  
*Planning and Development Department*  
www.staytonoregon.gov

## **M E M O R A N D U M**

**TO:** Mayor Scott Vigil and City Council Members  
**THRU:** Christine Shaffer, Interim City Administrator  
**FROM:** David Kinney, Public Works Director  
**DATE:** February 3, 2014  
**SUBJECT:** Storm Water Utility Fees – Adoption of Monthly Fee

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### **ISSUE**

The issue before the City Council is whether or not the City should adopt a storm drainage utility fee as part of the monthly utility bill and concurrently reduce the sanitary sewer monthly sewer rate.

### **PUBLIC HEARING:**

The City Council set a public hearing for 7:00 p.m. on February 3, 2014 to consider the proposed storm drainage utility fees and rate structures. Public notice was published as a display ad in the Stayton Mail on January 22, 2014. As of January 27<sup>th</sup> the City had not received any comments.

### **ENCLOSURES:**

1. Resolution 907 – Sanitary Sewer Rates
2. Resolution 908 – Storm Drainage Utility Fees

### **BACKGROUND**

In December 2013, the Council approved Ordinance 964 to adopt Stayton Municipal Code Chapter 13.32 “Storm Drainage Utility”. SMC 13.32 creates a separate storm drainage fund and authorize establishment of a monthly storm drainage utility fee to pay for storm sewers and storm drainage maintenance and improvements.

The proposed storm drainage utility fee will take effect on April 1, 2014. Staff estimates the utility fee will generate the following amounts:

April to June, 2014	\$ 55,000
FY 2014-2015	\$ 230,000
FY 2015-2016	\$ 260,000

**Proposed Fees:**

Storm Drainage Utility Fee: A new fee of \$4.00 per month for a single family residence is proposed. The fee assumes an average single family home will have 2,500 square feet (sf) of impervious surface (roof, sidewalks, driveway, patios, etc.) which drains to the city’s storm drainage system, which includes streets, storm sewers, drainageways and waterways.

The following residential and non-residential use classifications will be established:

Class	Category	\$/Month
Residential		
1	Single family residential dwelling unit	4.00
2	Duplexes (per dwelling unit)	4.00
3	Mobile Home or Manufactured Home Park (per MH)	4.00
4	Multi-family residential (per dwelling unit)	2.40
Non Residential		
1	Category 1: up to 2,500 square feet (sf) impervious surface	4.00
2	Category 2: 2,501 to 5,000 sf impervious surface	6.00
3	Category 3: 5,001 to 10,000 sf impervious surface	12.00
4	Category 4: 10,001 to 15,000 sf impervious surface	20.00
5	Category 5: 15,001 to 20,000 sf impervious surface	28.00
6	Category 6: 20,000 to 30,000 sf impervious surface	40.00
7	Category 7: 30,000 to 40,000 sf impervious surface	56.00
8	Category 8: 40,000 or more sf imp surface (avg size = 175,000 sf)	72.00

The storm drainage utility fee for multi-family residential and non-residential properties is based on a proportional amount of impervious surface area found on the property. The Planning Department has analyzed each non-residential use in the city using aerial photography and calculated the amount of impervious surface for each non-residential utility customer.

Sewer Monthly Rate Reduction: The city has paid for storm drainage system maintenance (staff, materials and services and capital outlay) from the Sewer Fund. With the adoption of a new fee, the Sewer Fund will no longer pay for storm system operations and maintenance; therefore, the sewer fee should be reduced proportionately for the costs the city has incurred on an annual basis. The Finance Director has calculated that the average single family residential customer has paid \$2.75 per month over the past few years to cover the costs of storm system maintenance.

Summary:

New SFR storm drainage fee	\$4.00 per month
<u>Reduction in Sewer fee</u>	<u>(2.75)</u>
Net monthly fee increase	\$1.25 per month in April 2014

**PURPOSE OF THE STORM DRAINAGE UTILITY & FEE**

The city currently pays for storm sewer operation and maintenance (O&M) out of the sewer fund. If the storm utility is adopted, this practice will end. All storm drainage O & M will be paid for out of the new Storm Drainage Fund.

The storm drainage fee will pay for the annual operating costs of the city's storm drainage system. Here is a very rough estimate of annual expenses:

Personnel (0.5 FTE)	\$ 37,500
Materials & Services	\$ 75,000
Capital Improvements	varies
Admin / Equipment / Vehicle Replacement	\$ 75,000
<u>Contingency / Reserves</u>	<u>\$ 35,000</u>
Annual Budget	\$ 250,000 to \$275,000

The creation of the storm drainage utility was recommended in the *Storm Drainage Master Plan* adopted by the City Council in 2010. As part of the recent lawsuit settlement with the Santiam Water Control District, the City has agreed to establish the storm drainage utility and dedicate revenues to on-going storm system maintenance and specific projects listed in the memorandum of understanding. Projects during the first two years include:

- Automation of headgates (Salem Ditch, Main Canal, Butler Lateral, Mixed Ditch)
- Update public works design standards – Chapter VI – storm drainage.
- Water quality monitoring
- Adaptive Management Group, a joint committee of SWCD & City to review, identify funding for and manage storm drainage improvement projects.
- Adopt a storm drainage SDC
- Develop a spill prevention and response plan

**NEXT STEPS**

- Review the DRAFT Storm Drainage Utility Fees and Revised Sewer Rates

- Hold a public hearing on February 3, 2014
- Discuss the DRAFT resolutions and make any changes
- Adopt Resolutions 907 and 908 prior to March 3, 2014 to give staff time to enter rate codes into the utility billing system.

## **OPTIONS**

After the public hearing in the Council may:

- a. Direct staff to bring back a revised proposal for consideration.
- b. Modify the proposed resolutions and rate categories
- c. Adopt Resolutions 907 and 908

## **MOTIONS:**

**1. Direct staff to bring back a revised storm drainage utility fee proposal.**

Move to direct staff to modify Resolutions 907 and 908 to address the following issues (identify the specific issues to be addressed).

**2. Direct staff to modify the proposed storm drainage utility rate categories.**

Move to direct staff to modify the rate categories in Resolution 908 as discussed by the council.

**3. Approve Resolution 907 – Sewer Rates and Resolution 908 – storm drainage utility rates.**

Move to approve Resolution 907 as presented (revised).

Move to approve Resolution 908 as presented (revised).

**RESOLUTION NO. 907**

**A RESOLUTION APPROVING SANITARY SEWER USER CHARGES**

WHEREAS, SMC Section 13.24.1190 requires rates to be established for sanitary sewer service;

WHEREAS, the adopted *Wastewater Facilities Master Plan* identifies approximately \$23 million of improvements to the wastewater treatment facility and collection system between 2005 and 2020;

WHEREAS, the City must adopt rate increases to guarantee the City has sufficient funds to pay for on-going operations and maintenance, capital improvements and debt service for the wastewater utility;

WHEREAS, such rates are to be set in resolution form;

WHEREAS, in July 2010 the Stayton City Council approved Resolution No. 859 to adopt a phased increase in the monthly sanitary sewer user charges from July 2010 through July 2014 in order to support the fiscal needs of the City’s wastewater system in accordance with the *Wastewater Facilities Master Plan*;

WHEREAS, in December 2013, the City Council adopted Ordinance 964 to establish a storm water utility and directed staff to prepare a rate resolution to implement a monthly storm drainage user charge; and

WHEREAS, the Stayton City Council finds that with the implementation of the storm drainage user charge, the City should concurrently reduce the sanitary sewer user charge by \$2.75 per month for a typical Class B residential customer because the costs for maintaining the storm drainage utility will no longer be paid for out of the Sewer Fund.

NOW THEREFORE, BE IT RESOLVED by the Stayton City Council hereby adopts sanitary sewer user rates as follows:

**SECTION 1. SANITARY SEWER RATES (2013-2014)**

Effective April 1, 2014 users of the wastewater system are classified based on estimated loadings to the sewer system and rates are hereby established for each classification:

Class	Loading	\$/Month
A	Up to 4,000 gal/month	\$39.62
B	Up to 6,000 gal/month	53.00
C	Up to 10,000 gal/month	98.97
D	Over 10,000 gal/month (cost per thousand)	9.90
E	Commercial Recreational Vehicle	39.62
	Waste Disposal per gallon	0.43

SECTION 2. SANITARY SEWER RATES (2014-2015)

Effective July 1, 2014 users of the wastewater system are classified based on estimated loadings to the sewer system and rates are hereby established for each classification:

Class	Loading	\$/Month
A	Up to 4,000 gal/month	\$42.60
B	Up to 6,000 gal/month	56.98
C	Up to 10,000 gal/month	106.40
D	Over 10,000 gal/month (cost per thousand)	10.64
E	Commercial Recreational Vehicle	42.60
	Waste Disposal per gallon	0.46

SECTION 3. WINTER CONSUMPTION AND ASSIGNMENT OF USER CLASSES

Water consumption for the months of October through March shall be used to classify users except that the following classes are hereby established:

Single Family Units and Manufactured Homes	Class B
Duplexes with Individual Water Meters, per unit	Class B
Apartments, per unit	Class B

New users to the system, other than houses and apartments, shall be billed based on actual water usage. Allowances for high summer water usage may be taken into account by the Finance Director for the City of Stayton. Accounts in which there is no correlation between water usage and sewerage discharge, as determined above, will be individually calculated by the Finance Director for the City of Stayton.

SECTION 4. REPEAL

Resolution No. 859 is hereby repealed effective April 1, 2014.

ADOPTED BY THE STAYTON CITY COUNCIL this \_\_\_ day of \_\_\_\_\_, 2014.

CITY OF STAYTON

Signed: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
A. Scott Vigil, Mayor

Signed: \_\_\_\_\_, 2014

ATTEST: \_\_\_\_\_  
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

\_\_\_\_\_  
David A. Rhoten, City Attorney

**RESOLUTION NO. 908**

**A RESOLUTION APPROVING A STORM DRAINAGE UTILITY FEE  
AND SETTING RATES**

WHEREAS, SMC Chapter 13.32 requires rates to be established to cover the costs of operating and maintaining the City of Stayton storm drainage utility;

WHEREAS, the adopted *Storm Drainage Facilities Master Plan* identifies recommended storm drainage facility improvements which are needed to serve the property with the Stayton urban growth boundary by the year 2030;

WHEREAS, the estimated cost of the proposed storm drainage facility improvements is \$25.9 million;

WHEREAS, the *Storm Drainage Facilities Master Plan* recommends the city enact a storm drainage utility fee, a storm drainage systems development charge and also seek outside grant funding to finance the recommended storm drainage facility improvements;

WHEREAS, the City Council has concluded that the City needs to adopt a storm drainage utility fee to guarantee the City has sufficient funds to pay for on-going operations and maintenance, capital improvements and debt service for the storm drainage utility;

WHEREAS, in December 2013, the City Council adopted Ordinance 964 to establish a storm water utility and directed staff to prepare a rate resolution to implement a monthly storm drainage utility fee;

WHEREAS, such the storm drainage utility fee rates are to be adopted by resolution;

WHEREAS, the Stayton City Council agreed that at the time of the implementation of the storm drainage utility fee, the City should phase in storm drainage utility fee rates over a three-year period in order to guarantee the City has sufficient revenue to cover anticipated expenditures for the storm drainage utility; and

WHEREAS, the drainage fee authorized by this SMC Chapter 13.32 is not subject to the property tax limitations of Section 11(b), Article XI, of the Oregon Constitution.

NOW THEREFORE, BE IT RESOLVED by the Stayton City Council hereby adopts monthly rates for the storm drainage utility fee as follows:

**SECTION 1. STORM DRAINAGE UTILITY FEE (2014-2015)**

Effective April 1, 2014 a storm drainage utility fee is imposed and levied upon the responsible party for all developed property within the City and will be collected with the monthly utility bills. The storm drainage utility fee shall be based on the direct and indirect use of or benefit derived from the use of city's public storm drainage utility generated by the developed property.

The monthly storm drainage utility fee is hereby established and imposed for the following residential and non-residential use classifications as follows:

Class	Category	\$/Month
Residential		
1	Single family residential dwelling unit	4.00
2	Duplexes (per dwelling unit)	4.00
3	Mobile Home or Manufactured Home Park (per MH)	4.00
4	Multi-family residential (per dwelling unit)	2.40
Non Residential		
1	Category 1: up to 2,500 square feet (sf) impervious surface	4.00
2	Category 2: 2,501 to 5,000 sf impervious surface	6.00
3	Category 3: 5,001 to 10,000 sf impervious surface	12.00
4	Category 4: 10,001 to 15,000 sf impervious surface	20.00
5	Category 5: 15,001 to 20,000 sf impervious surface	28.00
6	Category 6: 20,000 to 30,000 sf impervious surface	40.00
7	Category 7: 30,000 to 40,000 sf impervious surface	56.00
8	Category 8: 40,000 or more sf impervious surface	72.00

## SECTION 2. STORM DRAINAGE USER FEES (2015-2016)

Effective April 1, 2015 the monthly storm drainage utility fee is hereby established and imposed for the following residential and non-residential use classifications as follows:

Class	Category	\$/Month
Residential		
1	Single family residential dwelling unit	4.50
2	Duplexes (per dwelling unit)	4.50
3	Mobile Home or Manufactured Home Park (per MH)	4.50
4	Multi-family residential (per dwelling unit)	2.70
Non Residential		
1	Category 1: up to 2,500 square feet (sf) impervious surface	4.50
2	Category 2: 2,501 to 5,000 sf impervious surface	6.75
3	Category 3: 5,001 to 10,000 sf impervious surface	13.50
4	Category 4: 10,001 to 15,000 sf impervious surface	22.50
5	Category 5: 15,001 to 20,000 sf impervious surface	31.50
6	Category 6: 20,000 to 30,000 sf impervious surface	45.00
7	Category 7: 30,000 to 40,000 sf impervious surface	63.00
8	Category 8: 40,000 or more sf impervious surface	81.00

SECTION 3. STORM DRAINAGE USER FEES (2016-2017)

Effective April 1, 2016 the monthly storm drainage utility fee is hereby established and imposed for the following residential and non-residential use classifications as follows:

Class	Category	\$/Month
Residential		
1	Single family residential dwelling unit	5.00
2	Duplexes (per dwelling unit)	5.00
3	Mobile Home or Manufactured Home Park (per MH)	5.00
4	Multi-family residential (per dwelling unit)	3.00
Non Residential		
1	Category 1: up to 2,500 square feet (sf) impervious surface	5.00
2	Category 2: 2,501 to 5,000 sf impervious surface	7.50
3	Category 3: 5,001 to 10,000 sf impervious surface	15.00
4	Category 4: 10,001 to 15,000 sf impervious surface	25.00
5	Category 5: 15,001 to 20,000 sf impervious surface	35.00
6	Category 6: 20,000 to 30,000 sf impervious surface	50.00
7	Category 7: 30,000 to 40,000 sf impervious surface	70.00
8	Category 8: 40,000 or more sf impervious surface	90.00

SECTION 4. STORM DRAINAGE USER FEES (2017-2018)

Effective April 1, 2017 the monthly storm drainage user fee is hereby established and imposed for the following residential and non-residential use classifications as follows:

Class	Category	\$/Month
Residential		
1	Single family residential dwelling unit	5.50
2	Duplexes (per dwelling unit)	5.50
3	Mobile Home or Manufactured Home Park (per MH)	5.50
4	Multi-family residential (per dwelling unit)	3.30
Non Residential		
1	Category 1: up to 2,500 square feet (sf) impervious surface	5.50
2	Category 2: 2,501 to 5,000 sf impervious surface	8.25
3	Category 3: 5,001 to 10,000 sf impervious surface	16.50
4	Category 4: 10,001 to 15,000 sf impervious surface	27.50
5	Category 5: 15,001 to 20,000 sf impervious surface	38.50
6	Category 6: 20,000 to 30,000 sf impervious surface	55.00
7	Category 7: 30,000 to 40,000 sf impervious surface	77.00
8	Category 8: 40,000 or more sf impervious surface	99.00

SECTION 5. ASSIGNMENT OF USER CLASSES

In accordance with SMC Chapter 13.32 each residential and non-residential developed property in the City shall be assigned to a category of use in proportion to the amount of impervious surface on the property. The Finance Director may review and modify the category of use assignment, either upon request of the customer or as warranted, as permitted in SMC Chapter 13.32.

SECTION 6. APPEALS

In accordance with SMC Chapter 13.32, any utility customer who disputes any interpretation given by the City as to the category of use assigned to such owner's property may request a review and appeal such interpretation. At the time of filing an appeal with the City, a responsible part shall pay the following fees:

- A. Review by the Finance Director No filing fee
- B. Appeal to City Administrator \$ 20

ADOPTED BY THE STAYTON CITY COUNCIL this \_\_\_ day of \_\_\_\_\_, 2014.

CITY OF STAYTON

Signed: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
A. Scott Vigil, Mayor

Signed: \_\_\_\_\_, 2014

ATTEST: \_\_\_\_\_  
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

\_\_\_\_\_  
David A. Rhoten, City Attorney



## MEMORANDUM

**TO:** Mayor Scott Vigil and Stayton City Councilors

**FROM:** Christine Shaffer, Finance Director

**DATE:** February 3, 2014

**SUBJECT:** Lease Agreement, 352 E. Florence Street

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### **ISSUE:**

Lease renewal on the commercial space rented by the Stayton Loyal Order of Moose, Stayton Lodge #2639, located at 352 E. Florence Street, Stayton, Oregon.

### **STAFF RECOMMENDATION:**

Staff recommends that Council approve the attached Lease Agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 and authorize the City Administrator to sign the agreement.

### **BACKGROUND INFORMATION:**

Currently the Moose Lodge is renting the building for \$500.00 per month; they are requesting that the City Council authorize the City Administrator to sign the lease renewal for one year at the current monthly rate of \$500.00 per month.

The Moose Lodge had added Oregon State Lottery in an attempt to increase revenues in 2013. The 2013 profit and loss statement shows some lottery earnings there were also expenses associated with the gaming. Administrator Tom Garrity reported that the earnings received from lottery gaming for the last six months the machines were in place was only \$126.00. The lottery gaming machines have been removed.

The Moose lodge was financially struggling to exist last year when they came to the City Council to ask for a rent reduction. They had been paying \$800.00 a month and the rent was due to increase to \$1,000.00. Tom Garrity feels that their financial situation has not improved enough to be able to absorb a rent increase at this time.

## **FACTS AND FINDINGS:**

The Stayton Moose Lodge is active in the community and they feel that having a building for their lodge activities in the downtown area will bring more people into the downtown. Staff agrees that having a building occupied rather than vacant is beneficial.

## **FISCAL IMPACT:**

The City will realize revenues of \$6,000.00 during the term of this lease agreement.

## **OPTIONS:**

1. Approve the attached lease agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 as presented.
2. Approve the lease agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639, with modifications.
3. Not approve the lease agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 at this time.

## **MOTION(S):**

For Option 1: Offer a motion to approve the lease agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 and authorize the City Administrator to sign the lease agreement.

For Option 2: Offer a motion to approve the lease agreement between the City of Stayton and the Stayton Loyal Order of Moose, Stayton Lodge #2639 with modifications and authorize the City Administrator to sign the lease amendment.

For Option 3: No motion necessary.

**LEASE AGREEMENT**

**This LEASE AGREEMENT is by and between City of Stayton ("Lessor") and Stayton Loyal Order of Moose, Stayton Lodge #2639 ("Lessee")**

Lessor desires to lease approximately 2,000 sq. ft. of space at 352 E. Florence Avenue, Stayton, OR ("Premises"), and Lessee desires to lease said Premises from Lessor. Premises to be leased consists of the entire building, including the restrooms and "kitchen".

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth in this Lease Agreement ("Lease"), Lessor and Lessee agree as follows:

**SECTION 1                      AGREEMENT TO LEASE; TERM**

**1.1            Term of Lease**

Lessor hereby leases the Premises to Lessee and Lessee hereby leases the Premises from Lessor, for the term and in accordance with all of the agreements, covenants, and conditions set forth in this lease. The term of this Lease ("Term") shall begin, March 1, 2014, after the Lease has been signed and approved by both parties; and, shall continue for a period of one (1) years, unless sooner terminated pursuant to any provision of this Lease. The Commencement Date will be the day the lease has been signed and approved by both parties.

**1.2            Optional Extension of Term**

If Lessee is not then in default of this Lease and if the Lease has not been previously terminated, then on terms agreed to and by mutual consent of both parties, at any time prior to the 60<sup>th</sup> day before the last day of the Term, this Lease may be extended for a period of one (1) additional years. There may be no more than one (1) extensions of this Lease.

**1.3            Early Termination**

The parties understand that the premises is located on public property, which may be subject to sale or demolition at a future time at the discretion of the Stayton City Council. In such event, it may be necessary to terminate this Lease and vacate the premises. In such event, the Lessor agrees to a minimum six (6) month period, after notice to Lessee, within which the Lessee shall vacate. Any advance rents beyond the termination date shall be repaid to the Lessee.

**SECTION 2                      RENT; LATE CHARGES; TAXES**

**2.1            Base Rent**

From Commencement Date, Lessee shall pay each calendar month as Base Rent the following:

Base Rent of \$500.00

Base Rent shall be paid in advance prior to the 30<sup>th</sup> day of each calendar month without any deduction, offset, or hold back of any nature whatsoever. All payments shall be made payable to the City of Stayton and delivered to Stayton City Hall.

## **2.2 Interest and Late Charges**

Rent, if not paid within thirty (30) days of the due date, shall bear interest at the rate of nine percent (9 %) per annum from the due date until fully paid, with the interest rate to be applied to the amount past due.

## **2.3 Property Taxes**

Lessee shall be responsible for and pay any and all property taxes levied on the Premises, as a result of this lease agreement.

## **SECTION 3                      USE OF THE PREMISES**

### **3.1 Use**

Lessee shall use the Premises only for Lodge related meetings and social events, and closely related uses, and for no other purpose without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessee shall comply, at its expense, with all applicable laws, ordinances, and regulations of any public authority. Lessee shall not conduct or permit any activities on the Premises that are a nuisance, may damage the reputation of the Premises, or are offensive to Lessor or other tenants of the building.

### **3.2 Hazardous Substances**

**3.2.1** Lessee shall refrain from using or allowing anyone else from using the Premises to generate, manufacture, refine, transport, treat, store, recycle, release, or dispose of any hazardous substance as defined below. Lessee shall refrain from causing, permitting or suffering any hazardous substance, as defined below, to be brought upon, used, kept, or stored in or about the Premises without the prior written consent of Lessor. Lessee shall refrain from the discharge, deposit or disposal of hazardous substances or engaging in any activity which would be subject to or regulated by state, local, or federal law or regulation and as defined below. Lessee shall be responsible for any and all preventative, investigative, or remedial actions including emergency response, removal, containment, and other remedial actions that are required by law or government regulation or order or that are necessary to minimize damage or injury to property, persons, or the environment, or the threat of such damage or injury by release of or exposure to hazardous substances.

**3.2.2** Lessee shall not commit or permit any action (or inaction) upon the Premises which may subject Lessee or Lessor to any liability for injury, damages to persons or property, or any violation of law, or legal requirements, regarding the unlawful manufacture, storage, transportation of any Hazardous Substances, as defined below, of any type, within or on said Premises, but shall exercise such control over the property to protect Lessee and Lessor fully against any such liability.

**3.2.3 Hazardous Substances Defined.** As used herein "Hazardous Substances" shall mean any asbestos, petroleum, gasoline, fuel, or any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic substances, or other similar term, by any federal, state or local environmental statute, regulation or ordinance presently in effect.

### **3.3 Limitations on Use**

Lessee shall refrain from any use of the Premises that would cause the fire insurance rates on the Premises or the building to be increased. If Lessee fails to comply with this restriction after reasonable notice from Lessor, Lessee shall pay any resulting extra cost of fire insurance upon written demand of Lessor.

### **3.4 Building Loads**

Lessee shall refrain from any activity or installation that will overload the floor or electrical circuits of the Building or create undue stress or strain on any part of the Building. Lessor shall have the right to approve in advance the installation of any power-driven machinery, or other machinery or heavy equipment not customary for normal building use. Lessor may select a qualified electrician whose opinion will control regarding electrical circuits or a qualified engineer or architect whose opinion will control regarding floor loads or other stresses.

### **3.5 Signs**

Lessee shall not display, inscribe, print, or affix any permanent sign, picture, advertisement, or notice on any portion of the Premises, including but not limited to any wall, glass, wood, or brick surface, without Lessor's prior written approval as to design, size, location, and color, and without any other approval required by the City.

### **3.6 Acceptance "As Is"; Compliance with Americans with Disabilities Act (ADA)**

**3.6.1(a) Lessee Accepts Building "As Is".** Lessee agrees to make all repairs to the building's structural components, foundation, gutters, exterior walls, common halls, HVAC, heating system, plumbing, electrical, and if the total cost of making the repairs exceeds \$2,000, the Lessee shall have the right, upon giving Lessor sixty (60) days prior written notice, to terminate this Lease. If Lessor elects to terminate the Lease, all rights and obligations of the parties shall cease as of the date of termination, and Lessee shall be entitled to the reimbursement of any prepaid rents paid by Lessee and attributable to the anticipated term.

**3.6.1(b) Compliance.** Lessee shall be responsible for compliance with the ADA for all issues which arise with respect to Lessee's trade fixtures, equipment and free standing space dividers and any other fixtures or equipment installed or used on the premises by Lessee. Lessee shall take all steps which are necessary to comply with the ADA, shall pay for all costs of compliance, promptly, when due, and shall pay all penalties, fines, judgments, including attorney fees and court costs, which may be levied or assessed because of a failure to comply with the ADA.

**3.6.2 Extraordinary Expenses.** In the event that Lessor becomes aware of any financial obligation not existing on the Commencement Date, including any fee, license or tax imposed by another governmental agency which exceeds the sum of \$1,000, Lessor shall have the right upon giving Lessee sixty (60) days prior written notice, to terminate this Lease. If Lessor elects to terminate the Lease, all rights and obligations of the parties shall cease as of the date of termination, and Lessee shall be entitled to the reimbursement of any prepaid rents paid by Lessee and attributable to the anticipated term.

## **SECTION 4                      MAINTENANCE**

### **4.1 Obligations**

Lessee shall maintain the Premises (including the building) in good condition and make repairs at Lessee's cost. Repair of damage caused by Lessee's negligent or intentional acts or acts in breach of this Lease shall be at Lessee's expense.

### **4.2 Performance of Maintenance**

Lessor shall have the right to erect scaffolding and other apparatus necessary for the purpose of making required repairs. Lessor shall have no liability for consequential damages for failure to perform required maintenance and repair. Lessor shall have no liability for interference with Lessee's use by needed repairs and installations, or modifications required by any governmental body, provided that the work is performed in a manner

designed to cause a reasonable minimum of interference to Lessee. Lessor shall have no obligation to use overtime labor to minimize the disturbance to Lessee.

**SECTION 5**                      **UTILITIES**

**5.1**            **Provision of Utilities**

At Lessor's expense, Lessor shall cause the Premises to be provided with accommodations for garbage, as well as for lighting, natural gas hookup for heating, telephone, and air conditioning; the costs of such utilities shall be at the Lessee's expense. Lessee's electrical usage on the Premises shall be individually metered and billed directly by the utility providing such service. Lessee shall be solely responsible for the payment for such service and shall do so promptly upon receipt of the billing statement.

**5.2**            **Interruption of Services**

Lessor does not warrant that any of the services and utilities referred to in this Section will be free from interruption caused by or resulting from any variation, interruption, or failure of such services due to any cause whatsoever. No temporary interruption or failure of such services incident to the making of repairs, alterations, or improvements, or due to accident, strike, or conditions or events beyond Lessor's reasonable control shall be deemed an eviction of Lessee or relieve Lessee from any of Lessee's obligations under this Lease, provided that any such repairs alterations or improvements that have been performed by Lessor or Lessor's contractors are performed in a manner designed to cause a reasonable minimum of interference with such services. Lessor shall not be in default of this Lease, or have any liability to Lessee for damages, nor shall Lessee be entitled to any abatement of or offset against Rent due if any of the services to be provided by Lessor pursuant to this Section 5 are not provided by Lessor.

**SECTION 6**                      **MAINTENANCE AND ALTERATIONS**

**6.1**            **Maintenance**

Lessee shall maintain the Premises (including the building) in a neat, clean, good condition (including janitorial) at all times and shall cause to be repaired all damage to the Premises caused by Lessee's use. In the event such a repair is required, Lessor may require that the repair work be performed by Lessor and Lessee shall pay the actual cost of the repair work. If repair work is done by Lessee, Lessor shall have the right to approve the workers selected by Lessee. If Lessee fails to perform, Lessor may provide such service or maintenance at Lessee's expense.

**6.2**            **Alterations**

Lessee shall be responsible for any alterations, additions, or improvements to the Premises, with the Lessor's prior written consent, which will not be unreasonably withheld. The cost of any required permits will be the responsibility of the Lessee. Any such additions, alterations, or improvements, shall at once become part of the building and belong to Lessor unless the terms of the applicable consent provide otherwise.

**SECTION 7**                      **LIABILITY TO THIRD PERSONS**

**7.1**            **Construction Work**

Lessee shall give Lessor written notice at least 10 days in advance of the commencement of any work which could result in the imposition of a lien pursuant to ORS Chapter 87 and Lessee authorizes Lessor to post a notice of non-responsibility pursuant to ORS 87.030. Lessee shall pay when due all claims arising out of Lessee's conduct for work done on or for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens other than liens created by Lessor. If Lessee fails to pay any such claim or to discharge any such

lien, Lessor may do so and collect such amount as additional Base Rent, together with interest thereon as provided in Section 2.

## **7.2 Liability**

**7.2.1.** Lessee shall not commit or permit any action (or inaction) upon the Premises which may subject Lessor to any liability for injury, damages to persons or property, or any violation of law or legal requirements, but shall exercise such control over the Premises as to protect Lessor fully against any such liability. Lessee agrees to indemnify and hold harmless Lessor from and against all claims against Lessor arising from any act, omission, or negligence of Lessee, its contractors, licensees, agents, servants, employees, invitees, or visitors; all claims against Lessor arising from any accident, injury, or damage whatsoever caused to any person or property occurring during the Term and in, about, or outside the Premises, if such accident, injury, or damages results (or is claimed to have resulted) from an act or omission of Lessee or Lessee's agents, employees, invitees, or visitors; and any claim against Lessor arising from any breach, violation, or nonperformance by Lessee of any provision of this Lease. This indemnity and hold harmless agreement shall include, indemnity from and against any and all liability fines, suits, demands, costs, and expenses (including reasonable attorneys' fees) of any kind or nature incurred in connection with any such claim or any proceeding brought thereon and the defense thereof.

## **7.3 Liability Insurance**

**7.3.1.** From and after the date of delivery of the Premises to Lessee, and at all times during the Term, Lessee shall carry comprehensive public liability insurance in the amount of not less than \$1,000,000 and in a form satisfactory to Lessor. If alcohol is to be served on the premises, as allowed by City, State and Federal laws and authorities, the policy must include a liquor liability clause. Such insurance shall be evidenced by a certificate delivered to Lessor stating that the coverage will not be canceled or materially altered without 30 days' advance written notice to Lessor. Such insurance shall name Lessor and any parties designated by Lessor as additional insureds and shall contain a contractual liability endorsement referring to this Lease.

**7.3.2.** It is understood and agreed by and between the parties hereto that Moose International, Inc., located in Mooseheart, County of Kane, of Illinois, assumes no liability which might be incurred by either party to this Agreement during the term of said Agreement. The parties to this Agreement shall indemnify and hold Moose International, Inc., an Indiana not-for-profit corporation, harmless from and against any claim, loss or damages, including reasonable attorney's fees, in all disputes related to this Agreement.

## **7.4 Property Damage and Fire Insurance**

Lessee shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement cost basis covering all equipment and tenant improvements on the leased Premises in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Lessor. The policies shall be written in such form with such terms and by such insurance companies reasonably acceptable to Lessor. Lessee shall deliver to Lessor certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of 10 days' written notice to Lessor. In the event of loss, Lessee shall give immediate notice to Lessor. Lessor may make proof of loss if Lessee fails to do so within 15 days of the casualty.

## **7.5 Lessor's Right to Procure Insurance**

In the event Lessee fails to procure, maintain, or pay for, at the times and for the duration specified in this Section, any insurance required therein, or fails to carry insurance required by law or governmental regulation, Lessor may (but shall not be obligated to) at any time, upon written notice to Lessee, procure such insurance and pay the premiums therefore, in which event Lessee shall repay to the Lessor all sums so paid by Lessor, together with interest thereon as provided in Section 2.2 and any costs or expenses incurred by Lessor in connection therewith, within ten days following Lessor's written demand to Lessee for such payment.

## **SECTION 8**

## **DAMAGE**

### **8.1 Limitation of Lessor's Liability**

Any building employee or contractor to whom any property is entrusted by or on behalf of Lessee shall be deemed to be acting as Lessee's agent with respect to such property. Lessor and its agents shall not be liable for any damage to any property entrusted to employees or contractors of Lessee by or on behalf of Lessee, or for the loss of or damage to any property of Lessee by theft or otherwise. Neither Lessor nor its agents shall be liable for any injury or damage to persons or property or any interruption of Lessee's business resulting from any cause whatsoever; any damage caused by other tenants or persons in the building or caused by construction of any private, public, or quasi-public work; or any defect, whether latent or patent, in the Premises or the building. However, no provision of this Lease shall be construed to relieve Lessor from responsibility directly to Lessee for any loss or damage caused directly to Lessee by the negligent acts or omissions of Lessor.

### **8.2 Damage to Premises/Building**

Lessee shall give immediate notice to Lessor in case of fire or accident involving the Premises or building. If fire or other casualty causes such damage to the Premises or building as to make the Premises unsuited for the use permitted by this Lease, either Lessor or Lessee may elect to terminate this Lease by written notice to Lessee given within 30 days following the date of damage. Upon the giving of such notice, this Lease shall be terminated as of the date of damage.

### **8.3 Restoration**

**8.3.1** If the Premises or building is damaged and this Lease has not been terminated pursuant to this Section, Lessor shall repair the damage and restore the Premises or building to a condition comparable to that existing prior to the damage, subject to the provisions of Section 8.4. Repair shall be accomplished with all reasonable dispatch, subject to interruptions and delays from labor disputes and other causes beyond Lessor's reasonable control. Base Rent shall be reduced during the period of repair by an amount equal to the Base Rent multiplied by the ratio between the number of square feet of the Premises which are not reasonably usable for the use permitted by this Lease on account of such damage and the number of square feet in the Premises. If the damage does not cause any material interference with Lessee's use, there shall be no abatement of Base Rent. Lessee shall cooperate with Lessor during the period of repair and vacate all or any part of the Premises to the extent necessary for the performance of the required work.

**8.3.2** If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of Tenant's use of the Premises in a normal manner, and repairs do not exceed sixty (60) percent of the value of the building, and if the damage is reasonably repairable within sixty days after the occurrence of the destruction, Landlord shall repair the Premises and a just proportion of the lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered untenable. However if the damage is not repairable within sixty days, or if Lessor is prevented from repairing the damage by forces beyond Lessor's control, or if repair costs exceed sixty (60) percent of the value of the building, or if the property is condemned, this Lease shall terminate upon sixty days' written notice of such event or condition by either party and any unearned rent paid in advance by Lessee shall be apportioned and refunded to it. Lessee shall give Lessor notice of any damage to the Premises.

### **8.4 Restoration of Lessee's Property**

Repair, replacement, or restoration of any fixtures and personal property owned by Lessee or any additions or improvements to the Premises constructed by Lessee shall be the responsibility of Lessee regardless of the cause of the damage, except as caused solely by Lessor's negligence. Lessee shall pay all costs of moving its property when required in connection with repairs of the Premises.

## **8.5 Protection of Lessee's Property, Subrogation**

Lessee shall be responsible for insuring its personal property and trade fixtures located on the Premises. Neither party shall be liable to the other for any loss or damage caused by water damage or any of the risks covered by a standard fire insurance policy with an extended coverage endorsement, and there shall be no subrogated claim by one party's insurance carrier against the other party arising out of any such loss.

## **SECTION 9                      DEFAULT, REMEDIES**

### **9.1 Events of Default.** The following shall be events of default:

**9.1.1** Failure of Lessee to pay any rent or other charge within 30 days after it is due.

**9.1.2** Abandonment, desertion or vacation of the Premises during the Term, except as required under this Lease.

**9.1.3** Failure of Lessee to comply with any other term or condition or fulfill any other obligation under this Lease within 20 days after written notice by Lessor specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be remedied fully within such 20-day period, this requirement shall be satisfied if Lessee begins correction of the default within such 20-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as is reasonably possible.

**9.1.4** The filing by Lessee or third party of a voluntary petition in bankruptcy or insolvency, seeking any relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law, or any assignment by Lessee for the benefit of creditors.

**9.2 Remedies for Default** Lessor shall have the following remedies if in default in addition to and shall not preclude any other remedy available to Lessor under applicable law:

**9.2.1** Lessor, at Lessor's option, may relet the whole or any part of the Premises from time to time, either in the name of Lessor or otherwise, to such tenants, for such terms ending before, on, or after the expiration of the Term. No such reletting or failure shall operate to relieve Lessee of any liability under the Lease or otherwise to affect any such liability.

**9.2.2** Whether or not Lessor retakes possession of or relets the Premises, Lessor shall have the right to recover unpaid rent and all damages caused by the default, including attorneys' fees and costs.

**9.2.3** If Lessee shall fail to remove any of Lessee's property of any nature whatsoever from the leased Premises or the building at the termination of this Lease or when Lessor has the right of re-entry, Lessor may, at Lessor's option, remove and store said property without liability for the loss thereof or damage thereto, such storage to be for the account and the expense of Lessee.

## **SECTION 10                      SURRENDER OF PREMISES**

### **10.1 Surrender of Premises**

Upon expiration or early termination of this Lease, Lessee shall deliver all keys to Lessor and surrender the Premises and all improvements made to the Premises and all fixtures, whether installed or paid for by Lessor or Lessee, in first class condition. Depreciation and wear from ordinary use for the purpose for which the Premises were leased need not be restored, but all repairs for which Lessee is responsible shall be completed by the latest practical date prior to such surrender. Lessee shall remove all of its movable furnishings and movable trade fixtures that remain its property and restore all damage resulting from such removal. In addition, Lessor may require the removal of any nonstandard tenant improvements or fixtures installed by or for Lessee and Lessee shall

restore all damage resulting from such removal. Failure to remove any property from the Premises in accordance with this Section shall be an abandonment of such property, and Lessor may dispose of such property in any manner without liability and may charge Lessee for the actual cost of removal, storage, and disposal of such property in any manner without liability and the renovation of the Premises required after such removal.

**10.2 Failure to Surrender**

If Lessee fails to vacate the Premises when required, including failure to remove all its personal property, Lessor may elect either to treat Lessee as a tenant from month to month, subject to all provisions of this Lease.

**SECTION 11 ACCESS TO PREMISES BY LESSOR**

Lessee shall give Lessor and its agents reasonable access to the Premises to enable them to inspect the Premises, to respond to any emergency or perform any maintenance or other work on the Premises, or for the purposes of exhibiting the Premises to prospective occupants.

**SECTION 12 GENERAL PROVISIONS**

**12.1 Time**

Time is of the essence of the performance of each obligation of Lessee under this Lease.

**12.2 Waiver**

Any waiver of any provision of this Lease shall be in writing signed by the party to be bound by such waiver. Waiver of performance of any provision shall not be a waiver of nor prejudice the party's right otherwise to require performance of the same provision or any other provision.

**12.3 Prior Agreements; Modifications**

This Lease is the entire, final, and complete agreement of the parties pertaining to the lease of the Premises, and supersedes and replaces all prior or existing written and oral agreements between the parties. This Lease may not be modified except by endorsement, dated and signed by the parties. Lessor shall not be bound by any oral or written statement of any servant, agent, or employee modifying this Lease.

**12.4 Successors**

Subject to the limitations concerning transfers by Lessee, the rights, liabilities, and remedies provided in this Lease shall extend to the heirs, legal representatives, successors, and assigns of the Parties. The words "Lessor" and "Lessee" and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms, proprietorships, partnerships, associations, or corporations which may be or become parties to this Lease.

**12.5 Notices**

Any notice that either party desires to give the other shall be given by certified mail, return receipt requested, addressed as follows (changes of address shall be promptly provided to the other party):

**TO LESSOR:** City of Stayton  
362 N. Third Avenue  
Stayton, OR 97383-1726

**TO LESSEE:** Stayton Loyal Order of Moose  
Stayton Lodge #2639  
PO Box 28  
Stayton, OR 97383-0028

**12.6 Dispute Resolution** (construed by Oregon Laws)

**12.6.1** In the event a dispute arises between the parties as to the terms of this Agreement, the matter shall first be addressed through mandatory mediation. If not settled by mediation, the parties shall resolve the matter by binding arbitration in accordance with Oregon laws.

**12.6.2** In the event either party brings action to enforce the terms of this Lease or to seek damages for its breach, or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, incurred therein, including such costs and fees as may be required on appeal. Venue shall be in the Circuit Court of Marion County, Oregon.

**12.7 Preparation of Lease Agreement - Notice to Lessee**

This Lease Agreement has been prepared by Lessor and/or its legal counsel. The Lessee expressly acknowledges that Lessee has been advised that Lessee may and should obtain Lessee's own legal representation in regard to this transaction and this Lease.

IN WITNESS WHEREOF, the parties have caused this Lease to be duly executed in duplicate.

**LESSOR:**

**CITY OF STAYTON**

Dated: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
**Keith D. Campbell, City Administrator**

Dated: \_\_\_\_\_, 2014

Attest: \_\_\_\_\_  
**Alissa Angelo, Deputy City Recorder**

**Approved as to Form:**

\_\_\_\_\_  
**David A. Rhoten, Stayton City Attorney**

**LESSEE:**

**STAYTON LOYAL ORDER OF MOOSE,  
STAYTON LODGE #2639**

Dated: \_\_\_\_\_, 2014

By: \_\_\_\_\_  
**Tom Garity, Administrator**

# STAYTON MOOSE LODGE 2639

CITY OF STAYTON

THIS LETTER IS IN REGARDS TO OUR UPCOMING LEASE RENEWAL. WE WOULD LIKE TO PROPOSE AN EXTENSION OF OUR LEASE FOR 1 YEAR AT THE SAME RATE AT \$500.00 PER MONTH. AT THAT TIME WE WOULD LIKE TO REVIEW OUR FINANCES AND AGAIN NEGOTIATE OUR NEXT LEASE. OUR FINANCIAL REPORT SHOWS US MAKING MONEY BUT NOT ENOUGH TO COMFORTABLY RAISE OUR LEASE PAYMENTS AT THIS TIME.

WE ALSO HOPE THAT THE AMOUNT OF COMMUNITY SERVICE WE DO IN THE STAYTON AREA WILL HELP TO ASURE THE EXTENSION OF OUR LEASE.

WE THANK YOU FOR YOUR CONSIDERATION OF OUR PROPOSAL AND PLEASE CALL IF YOU HAVE ANY QUESTIONS.

STAYTON MOOSE LODGE  
ADMINISTRATOR  
TOM GARRITY 503-931-7585

A handwritten signature in cursive script that reads "Thomas Garrity".

6:41 PM  
 01/15/14  
 Accrual Basis

**STAYTON LODGE 2639**  
**Profit & Loss**  
 January through December 2013

	Jan - Dec 13
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
4000.00 · Dues and Fees Income	
4005.00 · Membership Dues	472.00
4210.00 · Application Fee	0.00
4000.00 · Dues and Fees Income - Other	560.00
<b>Total 4000.00 · Dues and Fees Income</b>	<b>1,032.00</b>
4200.00 · Sales Income	
4205.00 · Resale Merchandise	112.20
<b>Total 4200.00 · Sales Income</b>	<b>112.20</b>
4225.00 · Social Quarters Sales	
4250.00 · Kitchen Sales	17,739.61
4265.00 · Register Overages	103.69
4230.00 · Beer Sales	6,880.75
4235.00 · Liquor Sales	5,772.80
4240.00 · Wine Sales	493.75
4245.00 · Miscellaneous Merchandise Sales	4,053.00
<b>Total 4225.00 · Social Quarters Sales</b>	<b>35,043.60</b>
4300.00 · Donations Received	
4301.00 · Member Donations	329.00
4315.00 · WOTM Donation	300.00
4305.00 · Donation Dinner	284.39
4300.00 · Donations Received - Other	4,616.41
<b>Total 4300.00 · Donations Received</b>	<b>5,529.80</b>
4550.00 · Gaming Income	
4555.00 · Lottery Income	6,459.81
4560.00 · Raffle Income	217.00
<b>Total 4550.00 · Gaming Income</b>	<b>6,676.81</b>
4600.00 · Other Income	
4620.00 · Lodge Rental	175.00
4604.00 · Fund Raiser	80.00
4601.00 · Membership Drawing	0.00
4610.00 · Youth Club Receipts	-10.00
4600.00 · Other Income - Other	0.20
<b>Total 4600.00 · Other Income</b>	<b>245.20</b>
4700.00 · Special Proj & Committee Income	
4720.00 · Moose Legion Special Projects	261.00
4700.00 · Special Proj & Committee Income - Other	115.00
<b>Total 4700.00 · Special Proj &amp; Committee Income</b>	<b>376.00</b>
<b>Total Income</b>	<b>49,015.61</b>
<b>Cost of Goods Sold</b>	
5000.00 · *Cost of Goods Sold	0.00
5025.00 · Social Quarters Cost/Goods Sold	
5050.00 · Kitchen Cost of Goods Sold	7,673.56
5010.00 · Draft - cost of Goods Sold	615.00
5020.00 · Coffee and Pop - Cost of Goods	947.24
5030.00 · Beer - Cost of Goods Sold	2,945.00
5035.00 · Liquor - Cost of Goods Sold	2,929.82
5040.00 · Wine - Cost of Goods Sold	178.64
5025.00 · Social Quarters Cost/Goods Sold - Other	-29.71
<b>Total 5025.00 · Social Quarters Cost/Goods Sold</b>	<b>15,259.55</b>
<b>Total COGS</b>	<b>15,259.55</b>
<b>Gross Profit</b>	<b>33,756.06</b>

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 Accrual Basis

**STAYTON LODGE 2639**  
**Profit & Loss**  
 January through December 2013

	Jan - Dec 13
<b>Expense</b>	
5470 · Lodge Maintenance & Repair	144.45
6690.00 · Reconciliation Discrepancies	-0.04
5200.00 · Supplies & Misc Expense	550.00
5225.00 · Social Qtrs Supplies & Misc Exp	
5230.00 · Register shortage	100.47
5226.00 · Pool Table Rental	480.00
5225.00 · Social Qtrs Supplies & Misc Exp - Other	491.60
<b>Total 5225.00 · Social Qtrs Supplies &amp; Misc Exp</b>	<b>1,072.07</b>
5250.00 · Kitchen Supplies & Misc Exp	3,418.24
5300.00 · Donation Expense	
5301.00 · Fundraiser	384.00
5300.00 · Donation Expense - Other	180.00
<b>Total 5300.00 · Donation Expense</b>	<b>564.00</b>
5400.00 · General Administration Exp	
5430.00 · Lodge Rental Insurance	150.00
5460.00 · Training	30.00
5425.00 · Finance charges	21.51
5420.00 · Rental	207.00
5414.00 · Catalog Sales	810.00
5413.00 · Directors & Officers Insurance	108.34
5409.00 · Tax Prep 990	227.50
5499.00 · Prior Year Adjustments	1,350.26
5412.00 · THE HARTFORD	-308.75
5411.00 · Association Dues	620.00
5408.00 · Tech Support	132.60
5404.00 · Risk Pool Insurance	1,278.86
5403.00 · Office Supplies	636.64
5401.00 · Postage	332.42
5415.00 · Licenses and Permits	593.59
<b>Total 5400.00 · General Administration Exp</b>	<b>6,189.97</b>
5550.00 · Gaming Expense	
5565.00 · Gaming Tax	0.00
5560.00 · Lottery Utility	1,122.00
5550.00 · Gaming Expense - Other	4,131.57
<b>Total 5550.00 · Gaming Expense</b>	<b>5,253.57</b>
5600.00 · Occupancy Expense	
5601.00 · RENT	5,000.00
5605.00 · Utilities	4,631.47
<b>Total 5600.00 · Occupancy Expense</b>	<b>9,631.47</b>
5700.00 · Special Project & Committee Exp	
5705.00 · Sports Committee Expense	300.00
5700.00 · Special Project & Committee Exp - Other	163.37
<b>Total 5700.00 · Special Project &amp; Committee Exp</b>	<b>463.37</b>
5800.00 · Travel and Rep Expense	
5825.00 · Governor Travel Expense	174.04
5830.00 · Administrator Travel Expense	174.04
<b>Total 5800.00 · Travel and Rep Expense</b>	<b>348.08</b>
<b>Total Expense</b>	<b>27,635.18</b>
<b>Net Ordinary Income</b>	<b>6,120.88</b>

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Accrual Basis

**STAYTON LODGE 2639**  
**Profit & Loss**  
January through December 2013

	<u>Jan - Dec 13</u>
Other Income/Expense	
Other Expense	
5450.00 - 5450.00 FINANCE CHARGE	2.76
Total Other Expense	<u>2.76</u>
Net Other Income	<u>-2.76</u>
Net Income	<u><u>6,118.12</u></u>

# Stuyton Moose Lodge Community Service Projects

Stuyton Food Bank	5 hrs
Drive Disabled Veterans TO DOCTOR APPOINTMENTS	180
Stuyton Road Cleanup	28 hrs
BBQ For city employees	4 hrs
BBQ Aumsville COEN Festival	96 hrs
volunteer AT UNION GOSPEL MISSION	25 hrs
volunteer at Mahana Community Church	
volunteer at Job Food Bank Distribution	2880 hrs
harvest festival designated Driver Booth	40 hrs
senior assistance & firewood	30 hrs
Halloween give away For Kids	6 hrs
canyon Senior center	12 hrs
Box TOP For education & coke Rewards For Kids	
SANTIAM canyon Stampede	90 hrs
concert in The park	14 hrs
Marion County Fair	5 hrs
Rummage sale For Kids	20 hrs
4th of July parade	154 hrs
4th of July BBQ	73 hrs
4th of July entertain ment	16 hrs
Stuyton Summerfest	62 hrs
Flags on cemetery For memorial Day	6 hrs
TRANSITION PROGRAM For Needy Kids	68 hrs
(JOB experience AT Lodge)	
Fund Raiser For Needy	~ 24 hrs
Free Coffee Programs at Rest Area	-



## MEMORANDUM

**TO:** Mayor A. Scott Vigil and Stayton City Councilors

**FROM:** Christine Shaffer, Finance Director

**DATE:** February 3, 2013

**SUBJECT:** Solicit bids to renovate 260 N. 2nd Avenue

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**ISSUE:** The issue before the Council is whether or not to direct City staff to move forward with renovations to the City's building located at 260 N. 2<sup>nd</sup> Avenue.

**BACKGROUND INFORMATION:** In December, the Santiam Historical Society was notified that their lease to use the building would end. They have made significant progress moving their items from the building, and it is expected to be vacant in early February.

Sr. Engineering Technician Mike Brash has consulted with numerous contractors regarding the renovation of the historic building located at 260 N. 2<sup>nd</sup> Avenue. Contractors have provided him with cost estimates to bring the building up to code and renovate it into a courthouse. Estimated costs are approximately \$100,000, and estimates were distributed to the Mayor and Council for review.

With the City Council's approval, Mr. Brash will move forward with a formal bid request to complete the necessary renovations. The renovations will need to be completed by early June in order for the Municipal Court to be established. Mr. Brash plans to have the contractors ready to begin work as soon as the building is vacant.

**STAFF RECOMMENDATION:** Staff recommends approval to move forward with the bid process for renovations to the building at 260 N. 2<sup>nd</sup> Avenue.

**OPTIONS:**

- 1) Authorize staff to move forward and obtain bids for renovations.
- 2) Do not proceed with building renovations at this time.

**MOTIONS:**

- 1) Offer a motion to authorize City Staff to move forward with renovations to the building at 260 N. 2<sup>nd</sup> Avenue.
- 2) Offer a motion to direct staff to proceed with an alternative.

**Jonathan Clark**  
PO Box 248  
Stayton, Oregon 97383  
(503) 930-9887

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**Statement of Interest and Qualifications for the Position of Stayton Municipal Court Judge**

**EDUCATION**

Western Oregon State College	1989
Willamette University School of Law	2002
Admission to the Oregon State Bar	September 2002

**LEGAL EXPERIENCE**

City of Salem	2001-2002
Student Prosecutor	
Prosecution and trial of municipal ordinances and Oregon vehicle code	
O'Donnell Clark & Crew LLP	2002-2006
Civil Litigation	
Sexual abuse, employment, and injury cases	
Jonathan A. Clark, PC	2007-2010
Civil Litigation	
Sexual abuse, employment, and injury cases	
Duncan, Tiger, & Niegel, PC	2010 to present
Family law, Injury, and Criminal Defense	
Handling hundreds of criminal charges through plea and sentencing or trial	

Familiarity with Oregon Criminal Code  
Gained primarily through service as a prosecutor, criminal defense attorney, and judge (see below). However, I find it best to keep the statutes open often.

**ON GOING COMMUNITY SERVICE**

Stayton Area Rotary, Member  
Stayton Sublimity Chamber of Commerce, Board of Directors  
East Marion Justice Court, Justice of the Peace, *Pro Tem*  
Santiam Youth Peer Court, Volunteer Judge

## JUDICIAL EXPERIENCE AND PHILOSOPHY

I have served in our community as the Justice of the Peace, *Pro Tem*, for the last two years. I have handled crimes and violations cited into Justice Court by cities, county agencies, and the Oregon Liquor Control Commission. I have presided at all phases, including arraignment, plea, and trial. I have also served as one of our Peer Court judges. Although a voluntary program outside of the regular criminal justice system, it is no less significant: It requires appropriate sanctions designed to restore the sanctioned students into the society they injured by criminal conduct, while keeping them out of the juvenile justice system.

Court sentences need to balance the governing body's guidelines (legislatively provided range of sanctions), the individual's ability to conform to that range, and the opportunity for restoration of individual and society. So, for example, in one case, I found a man guilty of violating a traffic law. He felt that he had been singled out by race. I kept the conviction on his record, but chose to take some of his time instead of his money: I required him to meet with the Chief of Police to review records related to race and traffic stops. On other occasions, I have addressed young persons guilty of stealing. Because their instinct to possess nice things is good, I have ordered them as part of their sentence to earn enough money to buy something similar to what they stole.

Courts should not replace punishment with education; however, courts should include constructive experience as part of sanctioning where appropriate. This includes community service. Community service hours give back to the peace and dignity of a community. They also restore something to an offender: one who ignored the law of the land that protects the citizens around him acts to care for the common space he shares with others.

Courts are places of conflict. Interestingly, though, in my experience, the satisfaction of the participants is based on matters other than "winning" or "losing." The satisfaction of the persons served, and the reputation of a court, rest more on whether parties believe they have been adequately heard and whether the outcome rests on logical, predictable principles.

## MANAGEMENT OF THE STAYTON MUNICIPAL COURT

There are several matters to be decided in the coming months before the court begins to handle cases. These are proposals for some of them. Whatever form oversight of the court takes, there needs to be regularly scheduled evaluation of the items outlined below during the initial years of court operation, with input from agencies citing into the court, city government, and the public.

### Court Schedule

1. Initially, the court should calendar 40 half days for judicial services. My initial plan is to set Wednesdays from 2:00 to 6:00 pm for court.
2. Trial docket days should be set one half-day per quarter at a time to be determined based on officer availability and the volume of cases to be tried.

### Court Development

1. Once staffing and scheduling issues are set, it is likely that the framework will support providing judicial services to other agencies. It will be my recommendation that the City consider seek citations from agencies needing prompt and efficient resolution, such as county dog cases, OLCC violations, weigh master tickets, and possibly other cities' code enforcement.
2. It will also be my recommendation that Stayton Municipal Court seek jurisdiction over small claims cases as the justice courts have.
3. Additional contracts.
  - a. There will also be need for a court translator. I am familiar with local Spanish speaking translators and have often used their services.
  - b. A *pro tem* municipal judge will be needed to handle cases in which I cannot serve as judge.
    - i. I have not chosen who would serve as my substitute. It would likely be an out of town attorney to avoid duplicating the conflicts.
    - ii. I expect it to be a small amount of work. A quarterly billing of \$100.00 to \$250.00 should be expected for *pro tem* compensation.
4. The possibility of adding crimes to the court's jurisdiction will require selecting an indigent defense attorney pool and contracting for prosecution services.
5. Court growth provides increased service and convenience to Stayton residents. It may also position Stayton as a community that provides increasing access to justice for county residents while the efficiency of court dockets elsewhere struggle.

### Judicial Compensation

1. Municipal Court judicial compensation is varied in Oregon.
  - a. Bandon pays \$250.00 per month.
  - b. Newberg pays \$2,700.00 for one day per week.
  - c. Fairview, with population just over 9000, pays \$110.00 per hour.
  - d. Legal fees in our county for experienced attorneys ranges from \$200.00 to \$300.00 per hour.

2. I propose splitting the pay between regularly scheduled docket days and extraordinary services.
  - a. Regularly scheduled docket days. Estimating that Stayton Municipal Court will serve a community about half of Newberg's size, I recommend a monthly payment of \$1,350.00 to cover the 40 docket half-days.
  - b. Extraordinary Services. The City should budget for five to 15 hours of extraordinary services each quarter. An appropriate fee is \$175.00 per hour billed in tenths of an hour describing the task billed, with a minimum billing of 0.2 hours. Extraordinary services should include, but not be limited to, the following:
    - i. Court growth activities, including legislative work.
    - ii. City council meetings and reports.
    - iii. Specially set hearings, settlement conferences, and trials not taking place on the arraignment docket days.
    - iv. Non-clerk phone contact such as City attorney, City government, jail, citing agency. In the early months of operation, much of the management tasks can be taken care of during the regularly scheduled days.
  - c. Clerk communication with the judge should be *excluded* from extraordinary services and considered part of services covered by the monthly stipend. This ensures that there is no restraint, based on cost concern, on communication between the judge and supervised staff.

### **Office Location and Billing**

I am an associate attorney in the office of Duncan, Tiger & Niegel PC, working for City Councilor Jennifer Niegel. While not intending to be relevant when formed, the contract we agreed upon separates judicial work from my compensation there. That is, pre-dating this proposal, Ms. Niegel has no financial interest in my work as a judge. I am located in Stayton, and would be working in close proximity to the court and city government certain days each week. I also maintain an office for meeting clients in Salem and bill some legal activity through the entity Jonathan A. Clark, PC. Under the plan proposed above, I would receive the monthly payment through Jonathan A. Clark, PC, which would also submit quarterly bills for extraordinary services.

Personal and Professional References

Criminal Defense: Jeff Smith (503) 371-4444  
Castillo Wren Smith PC

Sara Williams (503) 385-1033  
Sara C. Williams PC

Prosecution: Tobias Tingleaf (503) 584-4783  
Marion County DA's Office

Thomas Cupani (503) 588-6037  
Salem City Attorney's Office

Community: Michael Jaeger (503) 769-7307  
Columbia Bank

Kelly Schreiber (503) 769-3464  
Stayton Sublimity Chamber of Commerce