



AGENDA

STAYTON CITY COUNCIL MEETING

Monday, February 6, 2017

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

CITY COUNCIL EXECUTIVE SESSION

Community Center Meeting Room at 6:45 p.m.

The purpose of the session is to consult with legal counsel regarding current litigation or litigation likely to be filed, pursuant to Oregon Revised Statutes 192.660.1(2)(h). Executive Sessions are closed to the public.

CALL TO ORDER

7:00 PM

Mayor Porter

FLAG SALUTE

ROLL CALL/STAFF INTRODUCTIONS

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.

PRESENTATIONS/COMMENTS FROM THE PUBLIC

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.*

- a. Presentation by Abigail Scott Duniway Chapter of the NSDAR

CONSENT AGENDA

- a. January 17, 2017 City Council 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 other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. If you require special accommodations contact Deputy City Recorder Alissa Angelo at (503) 769-3425.

PUBLIC HEARING – None

UNFINISHED BUSINESS – None

NEW BUSINESS

Ordinance No. 1007, Amending SMC Chapter 3.20, “Marijuana Retailer Tax” **Action**

- a. Staff Report – Chief Rich Sebens
- b. Council Deliberation
- c. Council Decision

City of Stayton Charter **Action**

- a. Staff Report – Keith Campbell
- b. Council Deliberation
- c. Council Decision

Ordinance No. 1008 and Resolution No. 953, Motor Vehicle Fuel Tax **Action**

- a. Staff Report – Lance Ludwick
- 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 Ralph Lewis to the Planning Commission

BUSINESS FROM THE COUNCIL

FUTURE AGENDA ITEMS – February 21, 2017

- a. City Council Goal Setting Session (E.G. Siegmund Room, Stayton Public Library)

ADJOURN

CALENDAR OF EVENTS

FEBRUARY 2017

Monday	February 6	City Council	7:00 p.m.	Community Center (north end)
Tuesday	February 7	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Friday	February 10	Community Leaders	7:30 a.m.	Covered Bridge Café
Tuesday	February 14	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Wednesday	February 15	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	February 20	CITY OFFICES CLOSED IN OBSERVANCE OF PRESIDENTS' DAY		
Tuesday	February 21	City Council Goal Setting	7:00 p.m.	E.G. Siegmund Meeting Room
Monday	February 27	Planning Commission	7:00 p.m.	Community Center (north end)

MARCH 2017

Monday	March 6	City Council	7:00 p.m.	Community Center (north end)
Tuesday	March 7	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Friday	March 10	Community Leaders	7:30 a.m.	Covered Bridge Café
Tuesday	March 14	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Wednesday	March 15	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	March 20	City Council	7:00 p.m.	Community Center (north end)
Monday	March 27	Planning Commission	7:00 p.m.	Community Center (north end)

APRIL 2017

Monday	April 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	April 4	Parks & Recreation Board	6:30 p.m.	E.G. Siegmund Meeting Room
Tuesday	April 11	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	April 14	Community Leaders	7:30 a.m.	Covered Bridge Café
Tuesday	April 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	April 19	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	April 24	Planning Commission	7:00 p.m.	Community Center (north end)

**City of Stayton
City Council Meeting Action Minutes
January 17, 2017**

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

Time Start: 7:00 P.M.

Time End: P.M.

COUNCIL MEETING ATTENDANCE LOG

COUNCIL	STAYTON STAFF
Mayor Henry Porter	Alissa Angelo, Deputy City Recorder
Councilor Priscilla Glidewell (joined at 7:03 p.m.)	Keith Campbell, City Administrator
Councilor Ralph Lewis	Dan Fleishman, Director of Planning & Development
Councilor Jennifer Niegel (excused)	Charles Button, Police Lieutenant
Councilor Brian Quigley	Lance Ludwick, Public Works Director
Councilor Joe Usselman	Janna Moser, Library Director

AGENDA	ACTIONS
REGULAR MEETING	
Announcements	
a. Additions to the Agenda	None.
b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.	None.
Presentations / Comments from the Public	None.
Consent Agenda	
a. January 3, 2017 City Council Minutes	Motion from Councilor Kronquist, seconded by Councilor Usselman, to accept the consent agenda. Motion passed 3:0 (Glidewell not present for vote).
Public Hearing	None.
Unfinished Business	None.
New Business	
Ordinance No. 1006, Amending System Development Charges Code	
a. Staff Report – Dan Fleishman	Mr. Fleishman reviewed the staff report.
b. Council Deliberation	Brief discussion of the Council regarding suggested changes.
c. Council Decision	Motion from Councilor Kronquist, seconded by Councilor Glidewell, to approve Ordinance No. 1006, as presented. Motion passed 4:0.
Billing and Collection Process Improvements	
a. Staff Report – Cindy Chauran	Associate Accountant Cindy Chauran provided a presentation about proposed changes to the utility billing and collection process.
b. Council Discussion	Questions and discussion from the Council on current process and how this will create efficiencies.

<p>Staff / Commission Reports Finance Department Report – Cindy Chauran & Elizabeth Baldwin a. December 2016 Monthly Finance Report</p> <p>Police Chief’s Report – Chief Rich Sebens a. December 2016 Statistical Report</p> <p>Public Works Director’s Report – Lance Ludwick a. December 2016 Operating Report</p> <p>Planning & Development Director’s Report – Dan Fleishman a. December 2016 Activities Report</p> <p>Library Director’s Report a. December 2016 Activities</p>	<p>No further discussion.</p> <p>No further discussion on the report. Lt. Button briefly spoke about the lock-out at Stayton High School earlier in the day and why it was put into place.</p> <p>No further discussion.</p> <p>No further discussion.</p> <p>Discussion of the upcoming author visit and Friends of the Library “Pop-Up Sale” this past weekend.</p>
<p>Presentations / Comments From the Public</p>	<p>None.</p>
<p>Business from the City Administrator</p>	<p>Mr. Campbell expressed condolences on behalf of the City of Stayton to the Reedy family who lost their daughter Emily in a tragic accident. Lisa Reed, Emily’s mother worked for the City of Sublimity. City of Stayton staff is assisting the City of Sublimity as needed.</p>
<p>Business from the Council</p>	<p>Councilor Quigley requested there be increased crosswalk enforcement at the crosswalk on First Avenue near the pet supply store.</p>
<p>Future Agenda Items – Monday, February 6, 2017 a. Marijuana Tax Penalty Ordinance b. Street Funding Presentation c. Charter Review</p>	

APPROVED BY THE STAYTON CITY COUNCIL THIS 6TH DAY OF FEBRUARY 2017, BY A ____ VOTE OF THE STAYTON CITY COUNCIL.

Date: _____

By: _____

Henry A. Porter, Mayor

Date: _____

Attest: _____

Keith D. Campbell, City Administrator

Date: _____

Transcribed by: _____

Alissa Angelo, Deputy City Recorder



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry A. Porter and the Stayton City Council
FROM: Rich Sebens, Chief of Police
DATE: February 6, 2017
SUBJECT: Ordinance No. 1007, Amending SMC Chapter 3.20 “Marijuana Retailer Tax”

ISSUE

Stayton Municipal Code (SMC) 3.20 is related to the “Marijuana Retailer Tax.” This section of the code allows the City to collect a three percent (3%) tax on marijuana sold at retail outlets. The tax was approved by the Stayton voters at the November 8, 2016 General Election.

The City has entered into an agreement with the Oregon Department of Revenue to collect the 3% tax and distribute it back to the City. SMC 3.20 must be amended to allow for the agreement to go into effect. The City code also allows the State of Oregon to enact penalties if a retailer does not comply with the tax.

OPTION AND MOTIONS

1. Approve Ordinance No. 1007 presented.

Move to approve Ordinance No. 1007 as presented.

The City Recorder shall call the roll and the names of each Councilor present. Their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1007 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance No. 1007 will be brought before the Council for a second consideration at the March 6, 2017 meeting.

2. Approve Ordinance No. 1007 with modifications.

Move to approve Ordinance No. 1007 with the following changes ... and direct staff to incorporate these changes into the Ordinance.

Ordinance No. 1007 will be brought before the Council for a second consideration at the March 6, 2017 meeting.

3. Retain the Code unchanged.

No motion is necessary.

ORDINANCE NO. 1007

**AN ORDINANCE AMENDING STAYTON MUNICIPAL CODE TITLE 3.20,
MARIJUANA RETAILER TAX**

WHEREAS, the City of Stayton wishes to enter into an agreement with the State of Oregon Department of Revenue to collect a three percent (3%) retailer tax on marijuana and allow the State of Oregon to penalize those retailers who do not comply;

WHEREAS, the City of Stayton wishes to amend Stayton Municipal Code Title 3.20 to authorize implementation of such an agreement with the Oregon Department of Revenue.

NOW, THEREFORE, THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1. Chapter 3.20 of the Stayton Municipal Code relating to Marijuana Retailers is hereby amended to the Stayton Municipal Code as set forth in Exhibit "A", attached hereto and incorporated herein.

Section 2. This Ordinance shall be effective 30 days from date of its adoption by the Council and approval by the Mayor.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 6th DAY OF FEBRUARY, 2017.

CITY OF STAYTON

Signed _____, 2017

By: _____
Henry A. Porter, Mayor

Signed _____, 2017

Attest: _____
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

David A. Rhoten, City Attorney

TITLE 3. REVENUE AND FINANCE

CHAPTER 3.20

MARIJUANA RETAILER TAX

SECTIONS

3.20.010	Definitions
3.20.020	Tax Imposed
3.20.030	Collection
3.20.040	Interest and Penalty
3.20.050	Referral

3.20.010 DEFINITIONS

1. MARIJUANA ITEM: Has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.
2. MARIJUANA RETAILER: Means a person who sells marijuana items to a consumer in this state.
3. RETAIL SALES PRICE: Means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

3.12.020 TAX IMPOSED

As described in ~~section 34a of House Bill 3400 (2015)~~ [ORS 475B.345](#), the City of Stayton hereby imposes a tax of three percent (3%) on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the eCity.

3.12.030 COLLECTION

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

[3.12.040 INTEREST AND PENALTY](#)

1. [Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.](#)
2. [If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.](#)

TITLE 3. REVENUE AND FINANCE

3. Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.
4. Taxes, interest and penalties will be transferred to the City of Stayton by the Oregon Department of Revenue.
5. If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Stayton under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

3.12.050 REFERRAL

This three percent (3%) tax was referred to and approved by the electors of the City of Stayton at the November 8, 2016 statewide general election.



CITY OF STAYTON
M E M O R A N D U M

TO: Mayor Henry A. Porter and the Stayton City Council
FROM: Keith Campbell, City Administrator
DATE: February 6, 2017
SUBJECT: City of Stayton Charter

ISSUE

It has been 7 years since the City of Stayton Charter has been reviewed. Prudence would dictate that on occasion the language of the Charter should be reviewed to assure that it meets with the current needs of the community. Should a formal review of the Charter occur?

ENCLOSURE(S)

Enclosed is a copy of the current City of Stayton Charter that was enacted by Resolution No. 844 on August 17th, 2009, approved by the voters on November 3rd, 2009 and effective January 1st, 2010.

BACKGROUND INFORMATION

“Local governments, which are not mentioned in the United States Constitution, are basically creatures of the state. They are subject to federal restrictions on states, but the main sources of law governing them are the state constitution and statutes and decisions of state courts. City charters and ordinances are the sources of law that govern a city’s actions and decisions on matters reserved exclusively for local control under home rule. However, local laws may not conflict with the state constitution or certain state laws that are intended to preclude inconsistent local enactment.

In Oregon, and in several other states, there are provisions in the state constitution that establish home rule on a more stable basis than can be accomplished under statutory home rule alone. Under Oregon constitutional home rule provisions, the voters of cities have taken from the state legislature and reserved to themselves the power to adopt and amend their own city charters. (Oregon Constitution, Article XI, section 2)”- League of Oregon Cities Handbook

The current Charter follows the League of Oregon Cities model.

OPTIONS

- Have a formal discussion on the purpose, content, and meaning of our current charter.

- Form a Charter Committee to review and make formal recommendations for consideration.
- Take no action.

STAFF RECOMENDATION

Staff will defer to the wishes of the Governing Body.

MOTION(S)

- 1) Motion to initiate a formal discussion on the purpose, content, and meaning of our current City of Stayton Charter.
- 2) Motion to form a Charter Committee to review and make formal recommendations for consideration.
- 3) Take no action.

2010 CITY OF STAYTON CHARTER

Enacted by Resolution No. 844

August 17, 2009

Effective 1 January 2010

This is a true and certified copy of the 2010 City of Stayton Charter as approved by voters on November 03, 2009.


Don Eubank, City Administrator

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PREAMBLE

We, the voters of Stayton, Oregon, exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

NAMES AND BOUNDARIES

Section 1. Title. This charter may be referred to as the 2010 City of Stayton Charter.

Section 2. Name. The City of Stayton, Oregon, continues as a municipal corporation with the name City of Stayton.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified. The city will maintain as a public record an accurate and current description of its boundaries.

Section 4. Annexations. Annexations over one acre not required by state law must be approved by city voters before the annexations take effect.

Chapter II

POWERS

Section 5. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 6. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 7. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III

ELECTED OFFICIALS

Section 8. Council. The council consists of five councilors nominated and elected from the city at large or from wards with boundaries set by ordinance.

Section 9. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules and determines the order of business under council rules. The mayor is not a member of the council and has no vote unless there is a tie vote. The mayor has authority to require the council to reconsider ordinances. The mayor appoints members of commissions and committees established by ordinance or resolution with the approval of a majority vote of the council. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 10. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties. When acting as mayor the president retains a vote, but does not have a tie vote or authority to require reconsideration of ordinances.

Section 11. Rules. The council must adopt by resolution rules to govern its meetings and proceedings.

Section 12. Meetings. The council must meet at least once a month at a time and place designated by council rules, and may meet at other times in accordance with the rules.

Section 13. Quorum. Three or more council members are a quorum to conduct business, but two members may meet and compel attendance of absent members as prescribed by council rules.

Section 14. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 15. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 16. Ordinances. The council will exercise its legislative authority by enacting ordinances. The enacting clause for all ordinances must state "The City of Stayton ordains:"

Section 17. Ordinance Enactment.

(a) Except as authorized by subsection (b), enactment of an ordinance requires approval by a majority of the council at two meetings.

(b) The council may enact an ordinance at a single meeting by the unanimous approval of at least three councilors, provided the proposed ordinance is available in writing to the public at least seven days before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council enacts the ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each councilor must be entered into the council minutes.

(e) After ordinance enactment, the city recorder must attest to the ordinance by name, title and date of enactment. The city recorder must submit the ordinance to the mayor for approval. If the mayor approves the ordinance, the mayor must sign and date it.

(f) If the mayor requires reconsideration of an ordinance, the mayor must return it to the city recorder with written reasons for reconsideration within seven days of receipt of the ordinance. If the ordinance is not returned, it takes effect as enacted.

(g) At the first council meeting after demand for reconsideration by the mayor, the council must consider the reasons of the mayor and again vote on the ordinance. If at least three councilors vote to enact the ordinance, it takes effect.

Section 18. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after enactment, or 30 days from re-enactment after demand for reconsideration by the mayor, or on a later day provided in the ordinance. An ordinance may take effect as soon as enacted or another date less than 30 days after enactment if it contains an emergency clause and is unanimously approved.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 19. Resolutions. The council will normally exercise its administrative authority by adopting resolutions. The adopting clause for resolutions must state "The City of Stayton resolves:"

Section 20. Resolution Adoption.

(a) Adoption of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After adoption of a resolution or other administrative decision, the vote of each councilor must be entered into the council minutes.

(d) After adoption of a resolution, the city recorder must attest to the resolution by name, title and date of adoption.

Section 21. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of adoption, or on a later date provided in the resolution.

Chapter VI
QUASI-JUDICIAL AUTHORITY

Section 22. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Stayton orders:"

Section 23. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to a proposed order must be read aloud or made available in writing to the public at the meeting before the council approves the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each councilor must be entered in the council minutes.

(d) After approval of an order, the city recorder must attest to the order by name, title and date of adoption.

Section 24. Effective Date. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later date provided in the order.

Chapter VII
ELECTIONS

Section 25. Councilors. At each general election after the effective date of this charter, three councilors will be elected. The two councilors receiving the highest number of votes are elected for four-year terms. The councilor receiving the third highest number of votes is elected to a two-year term.

Section 26. Mayor. At every other general election after the effective date of this charter, a mayor will be elected for a two-year term. A mayor may serve no more than three consecutive elected two-year terms. The term of the mayor in office when this charter takes effect continues until the beginning of the first odd-numbered year after charter adoption.

Section 27. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 28. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one city office.

(c) Neither the mayor nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of elected officials.

Section 29. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a councilor position. A petition for elective office must be signed by the nominee and at least 10 city electors.

Section 30. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 31. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon, and the charter, ordinances and resolutions of the city.

Section 32. Vacancies. Office of the mayor or councilor becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin;
- (2) Absence from the city for 30 days, or from all council meetings within a 60-day period without consent from the council;
- (3) Ceasing to reside in the city;
- (4) Ceasing to be a qualified elector under state law;
- (5) Conviction of a public offense punishable by loss of liberty;
- (6) Resignation from the office; or
- (7) Violation of Section 34(d).

Section 33. Filling Vacancies. A vacancy in the office of mayor will be filled by a majority of the council. A councilor vacancy will be filled by appointment by the mayor with the consent of the council. The term of office for the appointee runs from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absent from the city, the mayor with the consent of the council may appoint a councilor pro tem.

Chapter VIII
APPOINTIVE OFFICERS

Section 34. Administrator.

- (a) The office of administrator is established as the administrative head of the city government. The administrator is responsible to the mayor and council for the proper administration of city business. The administrator will assist the mayor and council in the development of city policies, and carry out policies set by ordinances and resolutions.
- (b) The mayor must appoint and may remove the administrator with the consent of the council. The appointment must be made without regard to political considerations and solely on the basis of education and experience relating to local government management.
- (c) The duties of the administrator must be set by ordinance.
- (d) The mayor and councilors may not directly or indirectly attempt to coerce the administrator or a candidate for the office of administrator in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the administrator relating to city business.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. The mayor must appoint and may remove the city attorney with the consent of the council. The city attorney may designate other lawyers to serve as assistant city attorneys or special counsel.

Section 36. Municipal Court and Judge.

- (a) The mayor may appoint and remove a municipal judge with the consent of the council. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.
- (b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.
- (c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.
- (d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by ordinances. The court also has jurisdiction under state law unless limited by city ordinance.
- (e) The municipal judge may:
 - (1) Render judgments and impose sanctions on persons and property;
 - (2) Order the arrest of anyone accused of an offense against the city;
 - (3) Commit to jail or admit to bail anyone accused of a city offense;

- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The mayor may appoint and may remove municipal judges pro tem with the consent of the council.

(g) The council may transfer some or all of the functions of the municipal court to a state court.

Chapter IX PERSONNEL

Section 37. Personnel Rules. The council by resolution will adopt rules governing compensation, recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter X MISCELLANEOUS PROVISIONS

Section 38. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 39 Ordinance Continuation. All ordinances, resolutions, orders and rules in force and consistent with this charter when it takes effect remain in effect until amended or repealed.

Section 40. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 41. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other term of this charter.

Section 42. Time of Effect. This charter takes effect January 01, 2010.



CITY OF STAYTON M E M O R A N D U M

TO: Mayor Henry Porter and the Stayton City Council

FROM: Lance S. Ludwick P.E., Public Works Director on behalf of
Keith Campbell, City Administrator

DATE: February 6, 2017

SUBJECT: Ordinance No. 1008 and Resolution No. 953, Three (3) cent gas tax
on motor vehicle fuels within the City of Stayton

ISSUE

Shall the City enact Ordinance 1008 imposing a three (3) cent per gallon tax on the sale of motor vehicle fuels within the City and approve Resolution 953 referring the ordinance to the voters of the City of Stayton?

ENCLOSURES

- Ordinance No. 1008
- Resolution No. 953

BACKGROUND INFORMATION

The street network is conservatively valued at \$32.2 million on a cost basis. The street network net value has depreciated to \$3.3 million dollars due to the lack of new streets or proper maintenance. This asset is typically described in lane miles and/or centerline miles. Currently, Public Works manages 33.3 centerline miles within the City limits.

In the spring of 2015 a community survey was distributed to the residents of Stayton. Question 3 of that Survey asked the participants to select their opinions of the top three priorities that the City should focus on. Street Maintenance by far garnered the largest response. Of the 356 responses Street Maintenance received 250 votes. The next closest choice was the Police with 159.

For some time, street repair funding levels for the City have not kept pace with rehabilitation needs. To help address this need, the City is interested in establishing supplementary funding.

Supplementary funding could be generated from the implementation of a three (3) cents per gallon gas tax on all the sale of all motor vehicle fuels within the City of Stayton. The revenue

from supplementary funding will assist in reducing the backlog of street repair projects.

Specifically, based on the 2015 pavement condition ratings, the City has a backlog of street overlays and reconstruction projects of \$ 23 million. By maintaining the current Maintenance & Repair budget of \$300,000, the backlog is projected to continue to grow unless funding levels are increased.

In December 2015 the Council voted to direct staff to prepare an ordinance establishing a motor fuels tax of \$0.03 per gallon. ORS 319.950 requires that the imposition of a gas tax by a city be approved by the voters of that city.

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 1008 and Resolution 953, forwarding the issue to the voters.

OPTIONS AND MOTIONS

The City Council is presented with the following options for Ordinance No. 1008:

1. Approve Ordinance No. 1008.

Move to approve Ordinance No. 1008 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1008 is enacted and will be presented to the Mayor for his approval.

2. Approve Ordinance No. 1008 with modifications.

Move to approve Ordinance No. 1008 with the following changes ... and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1008 will be brought before the Council for a second consideration.

3. Retain the Stayton Municipal Code unchanged.

No motion necessary.

If the City Council enacts Ordinance No. 1008, the Council is then presented with the following options for Resolution No. 953:

1. Approve Resolution No. 953.

Move to approve Resolution No. 953 as presented.

2. Approve Resolution No. 953 with modifications.

Move to approve Resolution No. 953 with the following changes ...

ORDINANCE NO. 1008

AN ORDINANCE CREATING AND IMPOSING A TAX ON MOTOR VEHICLE FUEL DEALERS; PROVIDING FOR ENFORCEMENT, ADMINISTRATION, AND COLLECTION OF THE TAX; AND AMENDING THE STAYTON MUNICIPAL CODE BY ADDING A NEW CHAPTER 3.40, "MOTOR VEHICLE FUEL TAX."

WHEREAS, revenues from existing sources, including the State Motor Fuel Tax are not adequate to maintain the City of Stayton's street system;

WHEREAS, to address street systems that have maintenance needs beyond the current funding. The condition of the City of Stayton's street system has significant needs demonstrated by detailed inventories performed in 2014;

WHEREAS, poorly maintained streets create a variety of problems including increased wear on vehicles and increased safety hazards;

WHEREAS, regular maintenance of streets is cost-effective for the City and for citizens because deteriorated streets are expensive to repair and maintain and cause increased wear on vehicles;

WHEREAS, a well-maintained street system provides for increased safety, supports property value appreciation, prolongs the life of public and private vehicles, and contributes to a more attractive community;

WHEREAS, the City of Stayton has prepared a Pavement Management Report which recommends priority street maintenance projects;

WHEREAS, additional funding is required in order to fund increased maintenance of the City of Stayton's street system;

WHEREAS, Stayton is an Oregon home-rule municipal corporation having the authority and power under the terms of its Charter to exercise all the powers and authority that the Constitution, statutes, and common law of the United States and Oregon expressly or implicitly grant or allow as though each such power was specifically enumerated therein;

WHEREAS, the City's authority and power includes the authority to impose a tax on the sale of motor vehicle fuel sold within the City limits of Stayton; and

WHEREAS, the City Council wishes to exercise that power and to limit the use of any revenues generated by the tax to purposes associated with the administration, construction, reconstruction, improvement, repair, maintenance, operation, and use of the public highways, streets, and roads within the City limits of Stayton; now therefore

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1. The City of Stayton's Municipal Code is amended by adding a new Chapter 3.40, "Motor Vehicle Fuel Tax," to read as shown in the attached Exhibit A.

Section 2. The taxation imposed by Section 1 shall commence after approval of the electorate of the City of Stayton.

Section 3. This Ordinance shall become effective 30 days after enactment by the Stayton City Council and the Mayor's signature.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 6TH DAY OF FEBRUARY, 2017.

CITY OF STAYTON

Signed: _____, 2017

By: _____
Henry A. Porter, Mayor

Signed: _____, 2017

ATTEST: _____
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

David A. Rhoten, City Attorney

TITLE 3. REVENUE AND FINANCE

CHAPTER 3.40

MOTOR VEHICLE FUEL TAX

SECTIONS

3.40.010	Definitions
3.40.020	Tax Imposed
3.40.030	Amount and Payment
3.40.040	Permit Requirements
3.40.050	Permit Applications and Issuance
3.40.060	Failure to Secure Permit
3.40.070	Revocation of Permit
3.40.080	Cancellation of Permit
3.40.090	Remedies Cumulative
3.40.100	Payment of Tax and Delinquency
3.40.110	Monthly Statement of Dealer and Fuel-Handler
3.40.120	Failure to File Monthly Statement
3.40.130	Billing Purchasers
3.40.140	Failure to Provide Invoice or Delivery Tag
3.40.150	Transporting Motor Vehicle Fuel in Bulk
3.40.160	Exemption of Export Fuel
3.40.170	Sales to Armed Forces Exempted
3.40.180	Fuel in Vehicle Coming into City Not Taxed
3.40.190	Refunds
3.40.200	Examination and Investigations
3.40.210	Limitation on Credit for Refund or Overpayment and on Assessment of Additional Tax
3.40.220	Examining Books and Accounts of Carrier of Motor Vehicle Fuel
3.40.230	Records to be Kept by Dealers and Fuel Handlers
3.40.240	Records to be Kept 3 Years
3.40.250	Use of Tax Revenues
3.40.260	Administration
3.40.270	Severability

3.40.010 DEFINITIONS

As used in this chapter, unless the context requires otherwise:

1. City means City of Stayton and any person, agency or other entity authorized by the city to act as its agent related to administration of this chapter or collection of the motor vehicle fuel tax.
2. Dealer means any person who:
 - a. Supplies or imports motor vehicle fuel for sale, use or distribution in, and after the same reaches the city, but "dealer" does not include any person who imports into

TITLE 3. REVENUE AND FINANCE

the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is permitted as a dealer hereunder and who assumes liability for the payment of the applicable motor vehicle fuel tax to the city; or

- b. Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or
 - c. Acquires in the city for sale, use or distribution in the city motor vehicle fuels with respect to which there has been no motor vehicle fuel tax previously incurred.
3. Motor Vehicle Fuel-Handler means any person who acquires or handles motor vehicle fuel within the city through a storage tank facility with storage tank capacity that exceeds 500 gallons of motor vehicle fuel.
 4. Distributor means, in addition to its ordinary meaning, the deliverer of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks or motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.
 5. Motor Vehicle means all vehicles, engines or machines, moveable or immovable, operated or propelled by the use of motor vehicle fuel.
 6. Motor Vehicle Fuel includes gasoline, and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles. Propane fuel and motor vehicle fuel used exclusively as a structural heating source are excluded as a taxable motor vehicle fuel.
 7. Person includes every natural person, association, firm, partnership, or corporation.
 8. Service Station means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

3.40.020 TAX IMPOSED

A motor vehicle fuel tax is hereby imposed on every dealer operating within the corporate limits of the city. The city motor vehicle fuel tax imposed shall be paid monthly to the city.

1. A person who is not a permitted dealer or permitted motor vehicle fuel-handler shall not accept or receive motor vehicle fuel in this city from a person who supplies or imports motor vehicle fuel who does not hold a valid motor vehicle fuel dealers permit in this city. If a person is not a permitted dealer or permitted motor vehicle fuel-handler in this city and accepts or receives motor vehicle fuel, the purchaser or receiver shall be responsible for all taxes, interests and penalties prescribed herein.

TITLE 3. REVENUE AND FINANCE

2. A permitted dealer or fuel-handler who accepts or receives motor vehicle fuel from a person who does not hold a valid dealer or fuel-handler permit in this city, shall pay the tax imposed by this chapter to the city, upon the sale, use or distribution of the motor vehicle fuel.

3.40.030 AMOUNT AND PAYMENT

1. Subject to divisions B. and C. of this section, by law, every dealer engaging in their own name, or in the name of others, or in the name of their representatives or agents in the city, in the sale, use or distribution of motor vehicle fuel, shall:
 - a. Not later than the twenty-fifth day of each calendar month, render a statement to the city or to its authorized agent, of all motor vehicle fuel sold, used or distributed by him in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable motor vehicle fuel tax during the preceding calendar month.
 - b. Pay a motor vehicle fuel tax computed on the basis of 3.0 cents per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this chapter.
2. In lieu of claiming refund of the tax as provided in 3.40.190, or of any prior erroneous payment of motor vehicle fuel tax made to the city by the dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.
3. The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution or laws of the United States or of the State of Oregon.

3.40.040 PERMIT REQUIREMENTS

No dealer or fuel handler, shall sell, use or distribute any motor vehicle fuel until he has secured a dealer or fuel-handler permit as required herein.

3.40.050 PERMIT APPLICATIONS AND ISSUANCE

1. Every person, before becoming a dealer or fuel handler in motor vehicle fuel in this city shall make an application to the city or its duly authorized agent, for a permit authorizing such person to engage in business as a dealer or fuel-handler.
2. Applications for the permit must be made on forms prescribed, prepared and furnished by the city or its duly authorized agent.
3. The applications shall be accompanied by a duly acknowledged certificate containing:
 - a. The business name under which the dealer or fuel-handler is transacting business.

TITLE 3. REVENUE AND FINANCE

- b. The place of business and location of distributing stations in the city and in areas adjacent to the city limits in the state.
 - c. The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
4. The application for a motor vehicle fuel dealer or fuel-handler permit having been accepted for filing, the city, shall issue to the dealer or fuel-handler a permit in such form as the city or its duly authorized agent may prescribe to transact business in the city. The permit so issued is not assignable, and is valid only for the dealer or fuel handler in whose name issued.
 5. The City Recorder's office shall keep on file a copy of all applications and/or permits.
 6. No fee(s) shall be charged by the city for securing said permit as described herein.

3.40.060 FAILURE TO SECURE PERMIT

1. If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the permit required by 3.40.050, the motor vehicle fuel tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.
2. The city shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall assess the tax in the amount found due, together with a penalty of 200% of the tax, and shall make its certificate of such assessment and penalty, determined by City Administrator or the city's duly authorized agent. In any suit or proceeding to collect such tax or penalty or both, the certificate is prima facie evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty therein stated.
3. Any fuel-handler who sells, handles, stores, distributes, or uses any motor vehicle fuel without first filing the certificate and securing the permit required by 3.40.050, shall be assessed a penalty of \$250 unless modified by 3.40.260(a), determined by the City Administrator or the city's duly authorized agent. In any suit or proceeding to collect such penalty, the certificate is prima facie evidence that the fuel-handler therein named is indebted to the city in the amount of the penalty therein stated.
4. Any tax or penalty so assessed may be collected in the manner prescribed in 3.40.100 with reference to delinquency in payment of the tax or by court action.

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3.40.070 REVOCATION OF PERMIT

The city shall revoke the permit of any dealer or fuel-handler refusing or neglecting to comply with any provision of this chapter. The city shall mail by certified mail addressed to such dealer or fuel-handler at their last known address appearing on the files, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within 10 days from the mailing of the notice the dealer or fuel-handler has not made good its default or delinquency.

3.40.080 CANCELLATION OF PERMIT

1. The City may, upon written request of a dealer or fuel-handler cancel any permit issued to such dealer or fuel-handler, the cancellation to become effective 30 days from the date of receipt of the written request.
2. If the city ascertains and finds that the person to whom a permit has been issued is no longer engaged in the business of a dealer or fuel-handler, the city may cancel the permit of such dealer or fuel-handler upon investigation after 30 days' notice has been mailed to the last known address of the dealer or fuel-handler.

3.40.090 REMEDIES CUMULATIVE

Except as otherwise provided in 3.40.100 and 3.40.120, the remedies provided in 3.40.060, 3.40.070, and 3.40.080 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this chapter.

3.40.100 PAYMENT OF TAX AND DELINQUENCY

1. The motor vehicle fuel tax imposed by 3.40.020 and 3.40.030 shall be paid on or before the twenty-fifth day of each month to the city which, upon request, shall receipt the dealer or fuel-handler therefor.
2. Except as provided in division 4, to any motor vehicle fuel tax not paid as required by division 1, there shall be added a penalty of 1% of such motor vehicle fuel tax.
3. Except as provided in division 4 of this section, if the tax and penalty required by division 2 of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10% shall be paid in addition to the penalty provided for in division 2.
4. If the city, determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by divisions 2 and 3 may be waived by the City Administrator. Penalties imposed by this section shall not apply when the penalty provided in 3.40.060 has been assessed and paid.

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5. If any person fails to pay the motor vehicle fuel tax or any penalty provided for by this chapter, the amount thereof shall be collected from such person for the use of the city. The city shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.
6. In the event any suit or action is instituted to collect the motor vehicle fuel tax or any penalty provided for by this chapter, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.
7. No dealer who collects from any person the tax provided for herein, shall knowingly and willfully fail to report and pay the same to the city, as required herein.

3.40.110 MONTHLY STATEMENT OF DEALER AND FUEL-HANDLER

Unless modified by 3.40.260.2, every dealer and fuel-handler in motor vehicle fuel shall render to the city, on or before the twenty-fifth day of each month, on forms prescribed, prepared and furnished by the city, a signed statement of the number of gallons of motor vehicle fuel sold, distributed, used or stored by him during the preceding calendar month. The statement shall be signed by the permit holder. All statements as required in this section are public records.

3.40.120 FAILURE TO FILE MONTHLY STATEMENT

If any dealer or fuel-handler fails to file the report required by 3.40.110, the city, shall proceed forthwith to determine from the best available sources the amount of motor vehicle fuel sold, distributed, used or stored by such dealer or fuel-handler for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed, used or stored. The city, immediately shall assess the motor vehicle fuel tax in the amount so determined, as pertaining to the reportable dealer, adding thereto a penalty of 10% for failure to report. Fuel-handlers failing to file a monthly statement of motor vehicle fuel shall be assessed a penalty of \$50. The penalty shall be cumulative to other penalties provided in this chapter.

3.40.130 BILLING PURCHASERS

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the city the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the city are maintained. The bills required hereunder may be the same as those required under O.R.S. 319.210.

3.40.140 FAILURE TO PROVIDE INVOICE OR DELIVERY TAG

No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an

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invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer in motor vehicle fuel.

3.40.150 TRANSPORTING MOTOR VEHICLE FUEL IN BULK

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public streets of the city with such conveyance, have and possess during the entire time of their hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by the city to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

3.40.160 EXEMPTION OF EXPORT FUEL

1. The license tax imposed by 3.40.020 and 3.40.030 shall not be imposed on motor vehicle fuel:
 - a. Exported from the city by a dealer; or
 - b. Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.
2. In support of any exemption from motor vehicle fuel taxes claimed under this section other than in the case of stock transfers or deliveries in their own equipment, every dealer must execute and file with the city an export certificate in such form as shall be prescribed, prepared and furnished by the city, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as may be required. The city may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The city may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.
3. Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.
4. No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city motor vehicle fuel tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel

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or any portion thereof to be used, distributed or sold in the city and fail to notify the city and the dealer from whom the motor vehicle fuel was originally purchased of their act.

5. No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.
6. In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in their files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the city. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

3.40.170 SALES TO ARMED FORCES EXEMPTED

The motor vehicle fuel tax imposed by 3.40.020 and 3.40.030 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the city, in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

3.40.180 FUEL IN VEHICLES COMING INTO CITY NOT TAXED

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for their own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in 3.40.020 and 3.40.030, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the city shall be subject to all provisions herein applying to dealers.

3.40.190 REFUNDS

Refunds will be made pursuant to O.R.S. 319.280 to 319.320.

3.40.200 EXAMINATION AND INVESTIGATIONS

The city, or its duly authorized agent, may make any examination of accounts, records, stocks, facilities and equipment of dealers, fuel-handlers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum products within this city, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the city pursuant to the requirements herein, have shown incorrectly the amount of gallons of motor vehicle fuel distributed or the tax accruing thereon, the city may

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make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors by its examinations or investigations.

3.40.210 LIMITATION ON CREDIT FOR REFUND OR OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL TAX

1. Except as otherwise provided in this chapter, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within 3 years after the date on which the overpayment was made to the city or to its authorized agent.
2. Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this chapter shall be served on dealers within three years from the date upon which such additional taxes become due.

3.40.220 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL

The city or its duly authorized agent may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes in enforcing the provisions of this chapter.

3.40.230 RECORDS TO BE KEPT BY DEALERS AND FUEL HANDLERS

Every dealer and fuel-handler in motor vehicle fuel shall keep a record in such form as may be prescribed by the city of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and purchases, and shall at all times during the business hours of the day be subject to inspection by the city or its authorized officers or agents.

3.40.240 RECORDS TO BE KEPT 3 YEARS

Every dealer and fuel-handler shall maintain and keep, for a period of 3 years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer or fuel-handler, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the city. In the event such records are not kept within the state, the dealer shall reimburse the city or its duly authorized agents for all travel, lodging, and related expenses incurred in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

TITLE 3. REVENUE AND FINANCE

3.40.250 USE OF TAX REVENUES

1. The City Administrator shall be responsible for the disposition of the revenue from the tax imposed by this chapter in the manner provided by this section.
2. For the purposes of this section, net revenue shall mean the revenue from the tax imposed by this chapter remaining after providing for the cost of administering the motor vehicle fuel tax to motor vehicle fuel dealers and any refunds and credits authorized herein. The program administration costs of revenue collection and accounting activities shall not exceed 10.5% for the first year, and 10% thereafter, of annual tax revenues.
3. The net revenue shall be used only for the activities related to the construction, reconstruction, improvement, repair, and maintenance of public highways, roads and streets within the city.
4. The net revenue shall be used for the street maintenance program established under Chapter 3.30.

3.40.260 ADMINISTRATION

The City Administrator or their designate is responsible for administering this chapter. In addition, the City Administrator may enter into an agreement with the Motor Vehicle Division of the Department of Transportation as an authorized agent for the implementation of certain sections of this chapter. If the Motor Vehicles Division is chosen as an authorized agent of the city, then the modifications outlined below shall apply:

1. The fuel handler's penalty of 3.40.060.3 shall be reduced to \$100. And if the Division determines that the failure to obtain the permit was due to reasonable cause and without any intent to avoid obtaining a permit, then the penalty provided in 3.40.060 and this section may be waived.
2. The fuel handler's monthly reporting requirements of 3.40.110 and 3.40.120 shall be waived.

3.40.270 SEVERABILITY

If any portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter.

RESOLUTION NO. 953

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF STAYTON THE QUESTION OF IMPOSING A THREE CENT PER GALLON TAX ON THE SALE OF MOTOR VEHICLE FUELS WITHIN THE CITY

WHEREAS, the City of Stayton maintains 35 miles of streets;

WHEREAS, the City has surveyed the conditions of city-maintained streets and determined that 9 miles of street are in need of reconstruction and 12 miles of street are in need of pavement overlays;

WHEREAS, the estimated cost of street repairs and upgrades for city-maintained streets is approximately \$23.5 million;

WHEREAS, the City of Stayton's current street fund is comprised of \$87,000 in revenue from street maintenance fees, \$450,000 in shared state gas tax revenues, and \$85,000 in state revenues from the Surface Transportation Program;

WHEREAS, maintenance and improvements to the City's streets is consistently a high priority in the City's surveys of its citizens;

WHEREAS, the City of Stayton City Council has determined that additional revenues are necessary in order to properly maintain and improve city-maintained streets;

WHEREAS, ORS 319.950 provides that a City may enact or amend an ordinance taxing fuel for motor vehicles only after submitting the proposed tax to the electors of the City for their approval; and

WHEREAS, the City of Stayton City Council adopted Ordinance 1008, which imposes a tax of three cents per gallon on the sale of motor vehicle fuels in the area within the jurisdiction of the City, subject to approval from the electors of the City.

NOW, THEREFORE, THE CITY OF STAYTON RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the city of Stayton a measure imposing a three cent tax on the sale of motor vehicle fuels in the area subject to the jurisdiction of the city.

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the City of Stayton on May 16, 2017. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Marion County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The City of Stayton authorizes the City Administrator, or the City Administrator's designee, to act on behalf of the city and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the Deputy City Recorder within the times set forth by law.

NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the Deputy City Recorder shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

FILING WITH COUNTY ELECTIONS OFFICE. The Deputy City Recorder shall deliver the Notice of Measure Election to the County Clerk for Marion County for inclusion on the ballot for the May 16, 2017 election.

EFFECTIVE DATE. This resolution is effective upon adoption.

This Resolution shall become effective upon its adoption by the Stayton City Council.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 6TH DAY OF FEBRUARY, 2017.

CITY OF STAYTON

Signed: _____, 2017

By: _____
Henry A. Porter, Mayor

Signed: _____, 2017

ATTEST: _____
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

David A. Rhoten, City Attorney



CITY OF STAYTON

APPLICATION FOR COMMISSION/COMMITTEE

NAME OF COMMISSION/COMMITTEE:

Planning

PLEASE CHECK ONE:

New Applicant
 Application for reappointment

Years resided in Stayton: 23+

PLEASE PRINT

Name Ralph Lewis

Address 443 W. Burnett St. Home Ph# 503 769 1951

Email Address _____ Cell Ph# _____

Occupation APS Worker

Place of Employment NWSDS

Business Address 3410 Cherry Ave. NE Salem

Phone 503-304-8452 Email _____

1. Please give a brief description of the experience or training that qualifies you for membership on this commission/committee. (If you wish, you may attach a resume or other pertinent material.)

15+ years on Planning Commission
2 years City Council
4 years Park Board.

2. Why do you want to become a member of the above-mentioned commission/committee and what specific contribution would you hope to make?

I just want to be involved.

PLEASE COMPLETE BOTH SIDES OF THIS APPLICATION

3. Please list the community concerns related to this commission/committee that you would like to see addressed if you are appointed.

Annexations
Affordable Housing

4. Briefly describe your present or past involvement in relevant community groups. (Having no previous involvement will not disqualify you for appointment.)

See # 1

5. Are you currently serving on any Advisory Boards, Commissions or Committees? If so, which ones?

No at this time...

6. How did you learn about this vacancy?

Our Website Word of mouth Other

7. Are you employed by, have any business, contractual arrangements or family connections with programs having contractual agreements with the City that might be within the purview of the committee on which you are seeking appointment?

No

Signature of Applicant

Ralph R. Lewis

Date

1-31-17

PLEASE RETURN TO:

City of Stayton
362 N. Third Avenue
Stayton, OR 97383

It is the policy of the City to comply with all federal and state statutes on equal employment opportunity. This policy shall be applied without regard to any individual employee or job applicant's sex, race, color, religion, national origin, ancestry, age, marital status, political affiliation, genetic information, veteran status or any other legally protected status per state and federal law.

PLEASE COMPLETE BOTH SIDES OF THIS APPLICATION