TALENT CITY COUNCIL
REGULAR COUNCIL MEETING AGENDA
TOWN HALL
July 20, 2016 – 6:45 P.M.

Study Session, Regular Council & TURA meetings are being digitally recorded and will be available on the City website

The City Council of the City of Talent will meet in Regular Session at 6:45 PM Wednesday July 20th in the Town Hall, 206 E. Main Street. 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 in advance of the meeting to the City Recorder at 541-535-1566, ext. 1012.
The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.

REGULAR COUNCIL MEETING- 6:45 PM
Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the "Citizens Heard on Non-agenda Items" section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

1. Call to Order/Roll Call

2. Pledge of Allegiance

3. Community Announcements

4. Public Hearings
Public hearings are conducted under a prescribed procedure depending on the topic. The presiding officer will conduct the hearing in accordance with those procedures which will allow for public input at the announced time.

4.1 None

5. Citizens Heard on Non-Agenda Items
Limited to 5 minutes or less per Mayoral discretion

6. Public Presentations
Items that do not require immediate Council action, such as presentations, discussion of potential future action items. Time limited to 15 minutes per presentation unless prior arrangements have been made.

6.1 None

7. Consent Agenda
The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

7.1 Approval of Regular Council Meeting Minutes for July 6, 2016……Page 3-7
7.2 Acknowledge receipt of Payables……Page 8-11
7.3 Appoint Kathleen Sharrar to the Parks Commission……Page 12-13

8. Regular Agenda

Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

8.1 Boys and Girls Club…….(no agenda report)

9. Information Items

9.1 Talent Charter…….Page 14-35
9.2 Marijuana Tax…….Page 36-45
9.3 Diesel Tax…….Page 46-57

10. City Manager & Other Department Reports
Items for discussion by the City Manager and Department Heads as needed.

11. Other Business

11.1

12. Mayor and Councilor - Committee Reports and Councilor Comments

Rogue Valley Area Commission on Transportation – Mayor Stricker (alternate)
Together for Talent Committee – Councilor Collins
Metropolitan Planning Organization – Mayor Stricker & Councilor Cooke (alternate)
Planning Commission – Councilor Wise & Councilor Abshire (alternate)
Public Art Advisory Committee – Councilor McManus
Parks Commission – Mayor Stricker
Traffic Safety & Transportation Commission – Councilor Cooke
Rogue Valley Council of Governments – Councilor McManus & Mayor Stricker (alternate)
Talent Historical Society –Councilor Abshire
Harvest Festival Committee – Councilor McManus
Economic Development - Councilor Pederson & Council McManus
Chamber – Councilor Pederson
Talent Charter Review – Councilor Cooke

13. Adjournment

The City of Talent is an Equal Opportunity Provider

Note: This agenda and the entire agenda packet, including staff reports, referenced documents, resolutions and ordinances are posted on the City of Talent website (www.cityoftalent.org) in advance of each meeting.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact TTY phone number 1-800-735-2900 for English and for Spanish please contact TTY phone number 1-800-735-3896.

TALENT CITY COUNCIL
EXECUTIVE SESSION & REGULAR COUNCIL MEETING DRAFT MINUTES
July 6, 2016 – 6:45 P.M.

Study Session, Regular Council & TURA meetings are being digitally recorded and will be available on the City website

The City Council of the City of Talent will meet in Executive Session at 6:00 PM Wednesday July 6th at the City Hall Conference Room 110 East Main Street. The City Council of the City of Talent will meet in Regular Council session at 6:45 P.M in the Town Hall, 206 E. Main Street. 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 in advance of the meeting to the City Recorder at 541-535-1566, ext. 1012.
The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.

EXECUTIVE SESSION – 6:00 PM

1. Executive Session pursuant to:
ORS 192.660 (2)(i) – To discuss the City Managers Evaluation

REGULAR COUNCIL MEETING- 6:45 PM
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2. Adjourn to Regular Session

3. Call to Order/Roll Call

Members Present	Members Absent
Councilor McManus	Mayor Stricker
Councilor Cooke	Councilor Wise
Councilor Abshire	
Councilor President Pederson	
Councilor Collins	

4. Pledge of Allegiance

5. Community Announcements

- **Clean Energy Open House on July 13th from 6-8 PM at the Community Center.**

6. Public Hearings
Public hearings are conducted under a prescribed procedure depending on the topic. The presiding officer will conduct the hearing in accordance with those procedures which will allow for public input at the announced time.

6.1 Community Development Fees

Community Development Director, Zac Moody gave a staff report.

Councilor Pederson opened the Public Hearing at 7:05 PM

Public Input: None.

Councilor Pederson closed the Public Hearing at 7:05 PM

Councilor Cooke moved to approve Resolution 16-944-R, a Resolution amending the City of Talent "Community Development Fees" Councilor Collins seconded. Councilor Cooke rescinded her motion. Councilor Collins accepted the rescinding of the motion.

Councilor Abshire moved to approve Ordinance 16-920-O, an Ordinance repealing Ordinance NO. 759 (as amended by Ordinances 775 & 806), an Ordinance establishing procedures for applying and updating the City of Talent "Community Development Fee Schedule." And declaring an emergency. Councilor McManus seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

Councilor Cooke moved to approve Resolution 16-944-R, a Resolution amending the City of Talent "Community Development Fees" Councilor Collins seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

6.2 Adopt Resolution 16-942-R, A Resolution establishing a fee schedule for the City of Talent Water Rates. Repealing Resolution 16-937-R

City Manager, Tom Corrigan gave a staff report.

Councilor Pederson opened the Public Hearing at 7:12 PM

Public Input: None.

Councilor Pederson closed the Public Hearing at 7:12 PM

Councilor Collins moved to adopt Resolution 16-942-R, a Resolution establishing a fee schedule for the City of Talent Water Rates, Repealing Resolution 16-937-R. Councilor Abshire seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

7. Citizens Heard on Non-Agenda Items
Limited to 5 minutes or less per Mayoral discretion

Dolly Warden, 255 Colver Road, Talent- Ms. Warden discussed pollinators. She discussed the role a dandelion has as a pollinator.

8. Public Presentations
Items that do not require immediate Council action, such as presentations, discussion of potential future action items. Time limited to 15 minutes per presentation unless prior arrangements have been made.

8.1 None

9. Consent Agenda
The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

9.1 Approval of Regular Council Meeting Minutes for June 15, 2016
9.2 Acknowledge receipt of the Parks Commission Minutes for May 11, 2016.
9.3 Acknowledge receipt of the Planning Commission Minutes for April 28, 2016 and May 26, 2016
9.4 Appoint Lady Vanderlip to the Parks Commission
9.5 Re-Appoint: Alexis McKenna, John Harrison, Nancy Buono, Joe Wismann, Charlie Hamilton, Mike Davis, Bobby Townsend, Allison French, and Ryan Pederson to the Citizen Advisory Committee

Councilor Collins moved to approve 9.1, 9.2 and 9.3. Councilor Cooke seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

Councilor Cooke moved to approve the appointment of Lady Vanderlip. Councilor Collins seconded. Discussion: None. All Ayes. Motion passed unanimously.

Councilor Collins moved to re-appoint Alexis McKenna, John Harrison, Nancy Buono, Joe Wismann, Charlie Hamilton, Mike Davis, Bobby Townsend, Allison French, and Ryan Pederson to the Citizen Advisory Committee. Councilor Cooke seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

10. Regular Agenda

Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

10.1 Second Reading of Ordinance 16-919-O, an Ordinance for the disposition and impounding of discarded vehicles and repealing Ordinance 16-888-O.

Mr. Corrigan gave a brief staff report.

Councilor Collins moved to approve the second reading of Ordinance 16-919-O, an Ordinance for the disposition and impounding of discarded vehicles and repealing Ordinance 16-888-O. Councilor McManus seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

10.2 Second Reading of Ordinance 16-920-O, an Ordinance establishing rules and regulations for the installation of water meters in mobile home parks and multi-family dwellings and repealing Ordinance 15-894-O.

Mr. Corrigan gave a brief staff report.

Councilor Cooke moved to approve the second reading of Ordinance 16-920-O, an Ordinance establishing rules and regulations for the installation of water meters in mobile home parks and multi-family dwellings and repealing Ordinance 15-894-O. Councilor Collins seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

10.3 Legislative Priority Packet

Council discussed their top priorities.

Councilor Cooke moved to approve F-Funding Public Energy Projects, M-Restore Recreational Immunity, S-PERS Reform, and Z-Transportation funding and Policy Package. Councilor McManus seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

10.4 Heritage Resolution

Alan DeBoer- P.O. Box 249-Ashland, OR – Mr. DeBoer discussed the Resolution.

Councilor Pederson spoke of his concerns.

Councilor McManus moved to approve Resolution 16-945-R, a Resolution of the City of Talent approving a Jackson County special order to initiate formation of the Rogue Valley Heritage Special District and consenting to the inclusion of City territory within the boundaries of the district. Councilor Collins seconded. Councilor Pederson repeated the motion. Discussion: Councilor Pederson spoke regarding compression rates. All Ayes. Motion passed unanimously.

11. Information Items

11.1 Review Together for Talent Ordinance

Mr. Corrigan gave a brief staff report. The quorum of the Committee was discussed.

Councilor Abshire spoke to his concerns regarding the structure of the Committee. He suggested to send the Ordinance to Legal.

Council gave consensus to have Staff review the Ordinance before sending it to Legal and bring it back to Council at a future agenda.

11.2 Elizabeth Zwick Rock Garden

Mr. Corrigan gave a brief staff report. He suggested that this could go to Parks to decide if the Rock Garden could be a Pocket Park, then bring back to Council for the naming.

Council gave consensus to refer this item to the Parks Commission to consider the Rock Garden as a Pocket Park and bring back to Council.

11.3 Council Rules

Mr. Corrigan gave a brief staff report.

Council gave consensus to bring this back to Council on a future Agenda.

12. City Manager & Other Department Reports

Items for discussion by the City Manager and Department Heads as needed.

Mr. Corrigan gave City and Department Reports:

- A candidate for Finance Director has been selected. Start date will be Monday, July 18th pending background check.
- Public Works is very busy and has a new temp. They have been working on the North Entrance at the corner of Colver.
- Staff is still waiting to hear from DOT regarding HWY 99.
- Staff is still looking into parks funding.
- Staff is looking for funding for a new water tank.
- Still working the Front Street construction project.
- Franchise agreements will be coming to Council soon.
- Reminded Council to go over purchase order procedures with Commissions & Committees.
- Surfaces have been ordered for Council.

13. Other Business

13.1

- Councilor Cooke announced her last meeting will be July 20th.
- Councilor Abshire spoke that he would be producing a report to Council with Citizen concerns.

14. Mayor and Councilor - Committee Reports and Councilor Comments

Rogue Valley Area Commission on Transportation – Mayor Stricker (alternate)
Together for Talent Committee – Councilor Collins
Metropolitan Planning Organization – Mayor Stricker & Councilor Cooke (alternate)
Planning Commission – Councilor Wise & Councilor Abshire (alternate)
Public Art Advisory Committee – Councilor McManus
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Traffic Safety & Transportation Commission – Councilor Cooke
Rogue Valley Council of Governments – Councilor McManus & Mayor Stricker (alternate)
Talent Historical Society –Councilor Abshire
Harvest Festival Committee – Councilor McManus
Economic Development - Councilor Pederson & Council McManus
Chamber – Councilor Pederson
Talent Charter Review – Councilor Cooke

Councilor McManus and Councilor Abshire had no announcements.

Councilor Collins announced she attended the Together for Talent Committee Meeting:

- Vandalism problems are still happening at the Pollinator Garden.
- The Weed Team is trying to coordinate ways to maintain the weeding.
- Emergency preparedness is attempting to coordinate Talent's disaster preparedness plan to the work done with Map your Neighborhood with our City Manager, Fire Department, Police Dept., and Public Works.
- Clean Energy Action is having an open house Thursday July 13 from 6-8 PM at the Community Center.

Councilor Cooke announced she attended the Traffic Safety & Transportation Commission meeting. She spoke that traffic concerns at Old Bridge Village was discussed.

Councilor Pederson announced he attended the Chamber meeting:

- A survey of chamber members is being worked on.
- Discussed planting strips needing more maintenance down town.
- Working on getting a signed agreement from Bernie to do a project on the green building.
- Discussed the Grape Fair. There was a 50% increase from last year. Good vendor feedback.

Councilor Pederson also attended the Economic Development Meeting:

- Finished work for Economic Opportunity Analysis and will review on July 31st.
- Discussed Economic Development Committee formalization.
- Discussed ideas for the 2016 Business Forum.
- Maker space went well and had great attendance.

Councilor Pederson suggested a motion to suspend Council Rules to act upon what was discussed in Executive Session.

Councilor McManus moved to suspend Council Rules to act upon what was discussed in Executive Session. Councilor Cooke seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

Council discussed approving the cost of living increase for the City Manager in the amount of 2.5% and discuss future compensation incentives at a later date.

Councilor McManus moved to approve a cost of living increase of 2.5% effective June 24th, based on completed evaluation and to discuss in future compensation incentives at a later date. Councilor Collins seconded. Councilor Pederson repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

15. Adjournment

The Council Meeting was adjourned at 8:25PM

Respectfully submitted by:

_____

City Recorder, Melissa Huhtala

Attest:

_____

City Manager, Tom Corrigan

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CITY OF TALENT

Check Register - Summary-Supp.

AP5100 Page : 1

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Status : All

Medium :

M=Manual C=Computer R=Credit E=EFT-PAP T=EFT-File

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00328-0003	13-Jun-2016	ORREV002	OREGON DEPARTMENT OF REVENUE	Cleared	328	E	4826.01
00328-0004	13-Jun-2016	UNITE002	UNITED STATES TREASURY PR TAX EFT	Cleared	328	E	16055.23
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00329-0003	29-Jun-2016	ORREV002	OREGON DEPARTMENT OF REVENUE	Issued	343	E	6119.35
00329-0004	29-Jun-2016	UNITE002	UNITED STATES TREASURY PR TAX EFT	Issued	343	E	20827.52
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	30-Jun-2016	DEVOR001	DEVORE ELECTRIC AND CONSTRUCTIO	Cancelled	347	R	0.00
28286	09-Jun-2016	ADVAN003	ADVANCED CONTROL SYSTEMS LLC	Cleared	310	C	145.50
28287	09-Jun-2016	ALSCO001	ALSCO INC.	Cleared	310	C	265.25
28288	09-Jun-2016	ATTWI001	AT&T MOBILITY	Cleared	310	C	857.11
28289	09-Jun-2016	AVIST001	AVISTA UTILITIES	Cleared	310	C	312.64
28290	09-Jun-2016	BAXTE001	BAXTERS FRAME WORKS AND BADGE F	Cleared	310	C	320.27
28291	09-Jun-2016	CHIEF001	CHIEF SUPPLY CORPORATION	Cleared	310	C	108.49
28292	09-Jun-2016	CHILR001	HARMONIC DESIGN, RENEE CHILDS DB/	Cleared	310	C	405.00
28293	09-Jun-2016	CITOT003	CITY OF TALENT	Cleared	310	C	49.89
28294	09-Jun-2016	DRAIN001	DRAINPROS PLUMBING/HUKILLS INC.	Cleared	310	C	845.50
28295	09-Jun-2016	ELWOO001	ELWOOD STAFFING SERVICES INC.	Cleared	310	C	249.57
28296	09-Jun-2016	EWING001	EWING	Cleared	310	C	385.00
28297	09-Jun-2016	FERGU001	FERGUSON WATERWORKS INC.	Cleared	310	C	7377.86
28298	09-Jun-2016	FLINT001	FLINT TRADING COMPANY INC	Cleared	310	C	2685.38
28299	09-Jun-2016	FOURS001	FOUR SEASONS NURSERY INC	Cleared	310	C	3480.00
28300	09-Jun-2016	HUNTE001	HUNTER COMMUNICATIONS INC	Cleared	310	C	1370.17
28301	09-Jun-2016	INDUS001	INDUSTRIAL SOURCE INC	Cleared	310	C	37.55
28302	09-Jun-2016	JCPLA001	JACKSON COUNTY PLANNING AND DEVI	Cleared	310	C	11274.93
28303	09-Jun-2016	JCROA001	JACKSON COUNTY ROADS	Cleared	310	C	1990.49
28304	09-Jun-2016	JCTRE001	JACKSON COUNTY TREASURER	Cleared	310	C	161.00
28305	09-Jun-2016	KRPDS001	KRP DATA SYSTEMS, KEVIN POTTER DB	Cleared	310	C	504.00
28306	09-Jun-2016	LEAGU001	LEAGUE OF OREGON CITIES	Cleared	310	C	20.00
28307	09-Jun-2016	LOCKW001	LOCKWOODS AUTOMOTIVE	Cleared	310	C	298.90
28308	09-Jun-2016	LTMME001	LTM MEDFORD INC	Cleared	310	C	82.50
28309	09-Jun-2016	MAILT001	MAIL TRIBUNE ADVERTISING	Cleared	310	C	539.82
28310	09-Jun-2016	MEDFO002	MEDFORD WATER COMMISSION	Cleared	310	C	17070.20
28311	09-Jun-2016	METAL001	METAL MASTERS INC	Cleared	310	C	358.24
28312	09-Jun-2016	OFFIC001	OFFICEMAX CONTRACT INC.	Cleared	310	C	245.85
28313	09-Jun-2016	ONECA001	ONE CALL CONCEPTS INC.	Cleared	310	C	43.56
28314	09-Jun-2016	ORCON001	OREGON DEPT OF CONSUMER & BUSIN	Cleared	310	C	1965.39
28315	09-Jun-2016	ORREV001	OREGON DEPT OF REVENUE: CRIMINAL	Cleared	310	C	447.00
28316	09-Jun-2016	PATHW001	PATHWAY ENTERPRISES INC.	Cleared	310	C	1118.86
28317	09-Jun-2016	PHOEN002	PHOENIX-TALENT SCHOOL DISTRICT	Cleared	310	C	13306.76
28318	09-Jun-2016	PRINT001	PRINTFAST INC.	Cleared	310	C	43.20

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28320	09-Jun-2016	RANDD001	MCMASTER, RANDY	Cleared	310	C	163.98
28321	09-Jun-2016	RECOL001	RECOLOGY ASHLAND SANITARY SERVIC	Cleared	310	C	294.75
28322	09-Jun-2016	RHENG001	RH2 ENGINEERING INC.	Cleared	310	C	984.00
28323	09-Jun-2016	ROGUE003	ROGUE VALLEY SEWER SERVICES	Cleared	310	C	669.80
28324	09-Jun-2016	SASCO001	AAD ENTERPRISES INC	Cleared	310	C	407.73
28325	09-Jun-2016	SOSAL001	SOS ALARM INC	Cleared	310	C	256.35
28326	09-Jun-2016	SPEER001	SPEER HOYT LLC	Cleared	310	C	6173.95
28327	09-Jun-2016	SUPPL001	911 SUPPLY LLC	Cleared	310	C	337.32
28328	09-Jun-2016	THEST001	THE STICKER DUDE INC	Cleared	310	C	378.00
28329	13-Jun-2016	GOLDA001	ANNE GOLDEN ASSOCIATES	Issued	326	C	100.00
28330	13-Jun-2016	STMP001468	CARTER, DENA	Cleared	326	C	78.80
28331	13-Jun-2016	STMP001469	GUETHE, RICHARD	Issued	326	C	47.94
28332	13-Jun-2016	STMP001470	VATIS, COURTNEY	Issued	326	C	1.02
28333	13-Jun-2016	STMP001471	BAUMAN, MICHAEL	Cleared	326	C	44.18
28334	13-Jun-2016	STMP001472	BARKSDALE, ELTON	Cleared	326	C	32.99
28335	13-Jun-2016	STMP001473	ROBERTSON, FRED	Issued	326	C	60.45
28336	13-Jun-2016	STMP001474	GOMEZ-HERNANDEZ, ADIEL	Issued	326	C	14.38
28337	13-Jun-2016	STMP001475	MORONO, LEAH	Issued	326	C	18.76
28338	13-Jun-2016	STMP001476	CLEARVIEW RESIDENTIAL DEVELOPMEI	Cleared	326	C	75.00
28339	13-Jun-2016	STMP001477	CLEARVIEW RESIDENTIAL DEVELOPMEI	Cleared	326	C	75.00
28340	13-Jun-2016	STMP001478	BENCE, SHANA	Issued	326	C	35.02
28341	13-Jun-2016	STMP001479	GILLEN, MARGARET	Issued	326	C	60.00
28342	13-Jun-2016	STMP001480	ENGELSEN, VIVIAN	Cleared	326	C	24.00
28343	13-Jun-2016	STMP001481	CROWL, THOMAS	Issued	326	C	9.19
28344	13-Jun-2016	HRAVE001	HRA VEBA TRUST	Cleared	329	C	1375.00
28345	13-Jun-2016	NATIO004	NATIONWIDE RETIREMENT SOLUTION	Cleared	329	C	32.31
28346	13-Jun-2016	ORSAV001	VOYA-STATE OF OREGON PLAN	Cleared	329	C	1280.00
28347	13-Jun-2016	TEAMS001	TEAMSTERS LOCAL 223	Cleared	329	C	915.00
28348	13-Jun-2016	VANTA001	VANTAGEPOINT TRANSFER AGENTS 30(	Cleared	329	C	1657.50
28349	23-Jun-2016	ALSCO001	ALSCO INC.	Issued	331	C	223.09
28350	23-Jun-2016	ASANT002	ASANTE PHYSICIAN PARTNERS	Issued	331	C	30.00
28351	23-Jun-2016	CANOP001	CANOPY LLC	Issued	331	C	350.00
28352	23-Jun-2016	CHART001	CHARTER COMMUNICATIONS	Issued	331	C	89.98
28353	23-Jun-2016	CHIEF001	CHIEF SUPPLY CORPORATION	Issued	331	C	208.49
28354	23-Jun-2016	COTAL002	CITY OF TALENT PETTY CASH	Issued	331	C	39.47
28355	23-Jun-2016	DEVOR001	DEVORE ELECTRIC AND CONSTRUCTIO	Cancelled	331	C	581.31
28355	23-Jun-2016	DEVOR001	DEVORE ELECTRIC AND CONSTRUCTIO	Cancelled	345	C	-581.31
28356	23-Jun-2016	ELWOO001	ELWOOD STAFFING SERVICES INC.	Issued	331	C	203.04
28357	23-Jun-2016	EWING001	EWING	Issued	331	C	123.75
28358	23-Jun-2016	EXTRP001	EXTREME PRODUCTS / CHOUGH INC	Issued	331	C	81.50
28359	23-Jun-2016	FERGU001	FERGUSON WATERWORKS INC.	Issued	331	C	1001.23
28360	23-Jun-2016	HDFOW001	H.D. FOWLER COMPANY INC.	Issued	331	C	564.16
28361	23-Jun-2016	HOMED001	HOME DEPOT CREDIT SERVICES	Issued	331	C	1404.56

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28364	23-Jun-2016	LESSC002	LES SCHWAB INC.	Issued	331	C	1696.79
28365	23-Jun-2016	MAILT001	MAIL TRIBUNE ADVERTISING	Issued	331	C	322.00
28366	23-Jun-2016	MEDFO004	MEDFORD BUILDERS EXCHANGE	Issued	331	C	19.65
28367	23-Jun-2016	METRO001	METRO PRESORT INC.	Issued	331	C	1024.51
28368	23-Jun-2016	MIKES001	MIKES A FULL SERVICE PRINTER INC.	Issued	331	C	15.00
28369	23-Jun-2016	MOBIL001	MOBILE INSTALLATIONS	Issued	331	C	440.00
28370	23-Jun-2016	NEILS001	NEILSON RESEARCH CORP.	Issued	331	C	646.00
28371	23-Jun-2016	PACIF001	PACIFIC POWER	Issued	331	C	8946.17
28372	23-Jun-2016	PACWE002	PACWEST MACHINERY LLC	Issued	331	C	50.00
28373	23-Jun-2016	PILOT001	PILOT ROCK EXCAVATION INC.	Issued	331	C	2000.00
28374	23-Jun-2016	QUALI005	QUALITY FENCE CO	Issued	331	C	110.00
28375	23-Jun-2016	RESER001	RESERVE ACCOUNT	Issued	331	C	1500.00
28376	23-Jun-2016	RHENG001	RH2 ENGINEERING INC.	Issued	331	C	195.00
28377	23-Jun-2016	RICOH001	RICOH USA INC.	Issued	331	C	618.64
28378	23-Jun-2016	ROGUE005	ROGUE VALLEY COUNCIL OF GOVERNM	Issued	331	C	16476.15
28379	23-Jun-2016	SNEAK001	SNEAK PREVIEW NEWS & REVIEW LLC	Issued	331	C	1291.00
28380	23-Jun-2016	STANL001	STANLEY CONVERGENT SECURITY SOL	Issued	331	C	165.96
28381	23-Jun-2016	TAURU001	TAURUS POWER AND CONTROLS INC.	Issued	331	C	25456.32
28382	23-Jun-2016	THEST001	THE STICKER DUDE INC	Issued	331	C	65.00
28383	23-Jun-2016	TYLER001	TYLER TECHNOLOGIES	Issued	331	C	687.50
28384	23-Jun-2016	USBAN004	U.S. BANK CORPORATE PAYMENT SYST	Issued	331	C	5102.85
28385	29-Jun-2016	AFLAC001	AFLAC	Issued	342	C	1203.66
28386	29-Jun-2016	NATIO004	NATIONWIDE RETIREMENT SOLUTION	Issued	342	C	32.31
28387	29-Jun-2016	ORSAV001	VOYA-STATE OF OREGON PLAN	Issued	342	C	1280.00
28388	29-Jun-2016	VANTA001	VANTAGEPOINT TRANSFER AGENTS 306	Issued	342	C	1657.50
28389	29-Jun-2016	NARCO003	NARCOTICS ANONYMOUS	Issued	344	C	200.00
28390	29-Jun-2016	SALIR001	SALIGER, ROBERT	Issued	344	C	350.00
28391	29-Jun-2016	STMP001482	KINZER, JOLEEN	Issued	344	C	53.40
28392	29-Jun-2016	STMP001483	MCCLUSKEY, DIANA	Issued	344	C	53.76
28393	29-Jun-2016	STMP001484	HARRISON, JOHN	Issued	344	C	22.92
28394	29-Jun-2016	STMP001485	GRUNDE, SHERYL	Issued	344	C	15.28
28395	29-Jun-2016	STMP001486	ENGLUND, KAY	Issued	344	C	220.14
28396	29-Jun-2016	STMP001487	DUGAN-STROUT, TARA	Issued	344	C	51.58
28397	29-Jun-2016	STMP001488	CLEARVIEW RESIDENTIAL DEVELOPMEI	Issued	344	C	51.55
28398	30-Jun-2016	ALLIN001	ALL IN ONE RENTAL	Issued	348	C	36.00
28399	30-Jun-2016	ALSCO001	ALSCO INC.	Issued	348	C	201.52
28400	30-Jun-2016	CANOP001	CANOPY LLC	Issued	348	C	1300.00
28401	30-Jun-2016	CANTE001	CANTEL OF MEDFORD INC.	Issued	348	C	186.76
28402	30-Jun-2016	CITYO018	CITY OF ASHLAND	Issued	348	C	344.65
28403	30-Jun-2016	COMMS001	DBA COMMERCIAL SURFACES, JEFFREY	Issued	348	C	570.00
28404	30-Jun-2016	FEDEX001	FEDEX	Issued	348	C	20.16
28405	30-Jun-2016	HYPNO001	HYPNOTIC CUSTOMS, JASON BEER DBA	Issued	348	C	245.00

Vendor : A1PAV001 To ZUMAR001
Trans. Date : 01-Jun-2016 To 30-Jun-2016
Check Date : 01-Jun-2016 To 30-Jun-2016
Check No : All
Batch No : All

Bank : Bank : 003 To 003
Status : All
Medium :
M=Manual C=Computer R=Credit E=EFT-PAP T=EFT-File

Chq/Ref #	Check Date	Vendor	Vendor Name	Status	Batch	Medium	Amount
28406	30-Jun-2016	JJTRE001	J & J TREE SERVICE LLC	Issued	348	C	5000.00
28407	30-Jun-2016	OFFIC001	OFFICEMAX CONTRACT INC.	Issued	348	C	165.33
28408	30-Jun-2016	PRONT001	PRONTO PRINT / EPIGRAPHICS INC.	Issued	348	C	1290.64
28409	30-Jun-2016	RECOL001	RECOLOGY ASHLAND SANITARY SERVIC	Issued	348	C	171.00
28410	30-Jun-2016	RFENT001	RF ENTERPRISES INC DBA DOUBLE D EI	Issued	348	C	581.31
28411	30-Jun-2016	RODRF001	RODRIGUEZ SEALCOATING	Issued	348	C	400.00
28412	30-Jun-2016	ROGUZ001	ROGUE SHRED LLC	Issued	348	C	106.35
28413	30-Jun-2016	STANL001	STANLEY CONVERGENT SECURITY SOL	Issued	348	C	413.72
28414	30-Jun-2016	TALEN020	TALENT CHAMBER OF COMMERCE	Cancelled	348	C	3200.00
28414	30-Jun-2016	TALEN020	TALENT CHAMBER OF COMMERCE	Cancelled	350	C	-3200.00
28415	30-Jun-2016	TYLER001	TYLER TECHNOLOGIES	Issued	348	C	562.50
28416	30-Jun-2016	VERIZ001	VERIZON WIRELESS	Issued	348	C	200.05
28418	30-Jun-2016	TALEN020	TALENT CHAMBER OF COMMERCE	Issued	351	C	5295.25

Total Computer Paid : 191,803.99
Total EFT PAP : 75,466.44
Total Paid : 267,270.43
Total Manually Paid : 0.00
Total EFT File Transfer : 0.00

APPLICATION FOR COMMISSION or COMMITTEE

City of Talent
110 East Main Street/PO Box 445
Talent, OR 97540
PH (541) 535-1566 FAX (541) 535-7423
Web: www.cityoftalent.org *E-mail:* talent@cityoftalent.org

1. I am applying for an appointment to a position on the following commission, committee, board or other body:
⇒⇒⇒ Parks Commission ⇐⇐⇐

2. Name: Kathleen Shaccar

3. Mailing address: 1582 Summer Place
City Talent State OR Zip 97540

4. Residence address (if different) _____
City _____ State _____ Zip _____

5. Current occupation: Regional Director of Operations
(*NOTE * If retired or unemployed, state your general or past profession)

6. Phone number(s): Home: 541-316-0032 Work: _____ Cell: 541-248-9770
Email: smallkaq@yahoo.com Fax: _____

7. How long have you lived in Talent?: 3 months; 2 years prior 2013-2015
If you do not know if you live inside the city limits or urban growth boundary, please view the official zoning map at City Hall

8. How long have you lived in Jackson County?: 3.5 years

9. Are you an employee of the City of Talent, an occasional or potential contract employee, or have any other real or potential conflict of interest in working or serving in this capacity?
Yes _____ No X If yes, please describe: _____

10. I believe that I am qualified for and should be considered for the above position(s) and should be considered for the following reasons: (Attach additional sheet if necessary).

In my work life, I have been a healthcare professional for the last 10 years and am currently the Regional Dir of Operations in Southern Oregon for senior assisted + memory care living. I have a Master's degree in Business Administration + a Bachelors in Mgmt Information Systems. I have a thorough knowledge of operations, including budget creation, expense control + day to day operations of a company. In my personal life, I am a proud wife + mother of 3 beautiful children, ages 12, 7 and 2. I am involved with the PTA + booster club at TES + TMS, co-leader of our local K-2 girl scouts + boy scouts where my son is a member. Our family frequents the parks of Talent, including the skate park, Chuck Roberts and its baseball

11. Signature: Kathleen E. Shassar Date: 6/16/16

fields. I am proud to say I live in Talent and think it is such a wonderful place to raise our children. I want to be able to give back to the community that has given us so much our last 3 years that we have been in Southern Oregon. Thank you!

Report of the Talent City Charter Ad-Hoc Committee

[LGLG comments in **bold red** to make them easier to see.]

Honorable Mayor Stricker and Members of the City Council,

The members of the Talent City Charter Ad-Hoc Committee hereby submit our report to you. We were appointed and charged with the task of reviewing the Talent City Charter and for proposing recommended changes and improvements. Any such recommendations must be approved by the City Council and submitted to the voters for final approval. The Committee is under a deadline of January 2016 to submit a final report on our review, in order to allow time for submission of issues to the voters. The Committee met monthly, reviewed each and every provision of the current Talent City Charter. The Committee also reviewed the Model Charter issued by the League of Oregon Cities and the City Charters of other selected Oregon cities for guidance and comparison. After having evaluating the City Charter and having discussed proposed changes, this Report constitutes the recommendations of the Committee and the reasons therefore. The recommendations relate to each Charter provision affected and are presented in numerical order of the affected Charter provisions.

Proposed Recommendations

1. **Issue: Include reference to Home Rule in Preamble of the City Charter.**
   The current Charter Preamble does not reference "Home Rule". The Model Charter issued by the League of Oregon Cities does include reference as a Home Rule Charter in the Preamble. The Model Charter also notes by footnote, that the reference "…makes clear the intent to use all the home rule power." The Model Charter Appendix A explains that the Oregon Constitution home rule amendments of 1906 empowered legal voters of every city the power to enact and amend their municipal charter and to exercise powers of initiative and referendum. The Committee issued a question to the League of Oregon Cities about the necessity of including the Home Rule reference and took into account the League's response that "…Home Rule is usually inserted within the Charter…". The Committee does not have a clear legal direction on this issue, but the consensus was to recommend inclusion (as underlined below) of Home Rule in the Talent City Charter Preamble as follows:

   Preamble

   We, the people of the City of Talent, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following

procedures and government structure and repeal all previous charter provisions of the city ((.)) and enact this Home Rule Charter.

I agree that it is a good idea to specifically declare in the Preamble that this is a Home Rule Charter. However, I suggest using language that is slightly different than the language recommended by the Committee. My suggested changes to the Preamble are as follows:

Preamble

We, the people of the City of Talent, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this Home Rule (c) Charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following procedures and government structure and repeal all previous charter provisions of the city.

2. **Issue: Mayor's Right to Vote – On all issues or only in the case of a tie?**
   The current Charter provision only allows the Mayor to vote in the case of a tie vote.

   Chapter IV **Council** Section 16. Mayor's Functions at Council Meetings, Subsection 2.
   "…(2) The Mayor or Chair may not vote on any matter of City business unless there is a tie vote. In this situation, the Mayor or Chair, must vote to resolve the tie, and may not abstain."

Some Committee members felt that the voters should be presented with the option of allowing the Mayor to vote on all matters on which the City Council votes. Other members felt that the provision should remain as is. This is the only issue on which the members of the Committee were not in consensus. The Committee did agree that the issue was important enough that members supporting each side of the issue should submit a separate report on the issue, to explain their own reasons for each position. These two reports are attached as Appendix A and Appendix B.

I did not receive Appendices A and B, so I cannot comment on the Committee's arguments. I will say that this is really a policy issue for the Council and the voters. Some cities allow their Mayors to vote all the time and in others the Mayor only votes in the case of a tie. If the Council wants to refer a Charter that would allow the Mayor to vote all the time, I recommend amending Section 7 to provide that the Council consists of "six City councilors and a Mayor nominated and elected…" and delete Section 16(2), which provides that the Mayor may only vote in the case of a tie. Note: If the Council makes these changes, Issue 4 below (relating to vacancy in the office of Mayor) becomes moot, because the Mayor would be a full member of the Council and the vacancy provisions in Section 19 apply to all members of the Council.

3. **Issues Relating to Council Vacancies**
   A. Issue: determining an incumbent's vacancy when the person is convicted of a crime.

Under the current Charter in Chapter IV, Section 19, incumbent vacancies are automatic under some circumstances and under other circumstances, the City Council determines if a vacancy has occurred. Under subsection 2 (e), a criminal conviction is one of the circumstances which is subject to declaration of vacancy by the City Council.

Chapter IV **Council** Section 19 Vacancies Subsection 2, (e):
"…(2) Upon declaration by the Council of the vacancy in the case of the incumbent's:
…(e) Conviction of a public offense punishable by loss of liberty,"

This section of the Chapter invokes City Council discretion in determining when an incumbent's vacancy occurs under the specific subsections of Section 19 (2). As for subsection (e), the Committee analyzed what is meant by "loss of liberty" and concluded that the language would apply to situations where the incumbent could be subject to incarceration even if the sentence does not order this and applies to both misdemeanor and felony convictions. The Committee also evaluated whether the Council should be in the position of determining these matters which result in the possible removal of a Council member or whether these situations should be left to the voters, who can invoke the recall process concerning Council members. Another alternative is to have this circumstance included in the "automatic" vacancy provisions of Section 19 Subsection 1. After much discussion, the Committee consensus and recommendation to the City Council is twofold: either remove the provision and leave it to the voters to actively move for removal of a Council member by the recall process or keep the provision but change the language so that the provision applies only in the case of conviction of a felony and move the provision to subsection 1 --- which takes the "vacancy" determination away from the City Council and which requires incumbent's vacancy automatically, upon conviction of a felony.

The Council could choose to refer either of the Committee's recommendations here. This is a policy call for the Council.

B. Issue: Amending the Charter to move some vacancy provisions under Subsection 2 (subsections c,d,f) to the automatic vacancy provisions under Subsection 1.

The current City Charter provisions under the City Council vacancy authority of Section 19 (2) include the following:

"…c. Ceasing to reside in the city,…
…d. Ceasing to be a qualified elector under state law,…
…f. Resignation from the office…"

The Committee agrees that all of the above provisions should be under the "automatic" vacancy provisions under Section 19 (1) and should not be subject to the City Council vacancy determination procedure. The Committee therefore recommends that Section 19 Subsection 2 (c),(d),(f) be moved to Section 19 (1) and redesignated subsections d,e,f.

All of these reasons for a vacancy in office could require some determination by the Council, which is likely why the current Talent charter and the League of Oregon Cities'

Model Charter require a Council declaration of vacancy. For example, it is not always perfectly clear whether someone "resides" in the City. I have seen situations where an elected official owns property in the city and property elsewhere. What if the person has houses in both Talent and Portland and splits their time equally between the two? The Council may need to make a determination about whether a councilor still resides in the City. If the Council finds that the answer is yes, then the Council can declare that person's seat vacant. Similarly, the Council will likely need to make a determination that a councilor is no longer a qualified elector under state law. In the case of a resignation, it makes sense to me that the Council would accept the resignation and declare the seat vacant. For all those reasons I recommend against these proposed changes to Section 19(2) of the Charter.

C. Issue: Amending Section 19 (2) (a) and (b), to contain the same time lines.

The current Charter in Section 19 Subsection 2 (a) and (b), provide that the following two circumstances will be subject to the City Council declaration of an incumbent's vacancy.

"(2) Upon declaration by the Council of the vacancy in the case of the incumbent's:

a. Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin,
b. unexplained absence from all meetings of the Council within a 30-day period,…"

The Committee recommends that in the case of Section 19 subsection 2 (a) and (b), both provisions should contain the same time line of 30 days, in the interests of consistency and reasonability.

Thirty days seems like a long time for someone to be elected but potentially unqualified to hold the office of Councilor. Do Councilors take office at the first meeting in January following the election? If yes, then more than 30 days will elapse before an elected councilor takes office anyway, so the proposed change has no practical effect (other than a potentially longer period of limbo while an elected councilor tries to become eligible to hold office). On the other hand, if councilors take office less than 30 days from the election, it could affect the ability to call a quorum of the Council for that first meeting.

4. **Issue relating to vacancy in the Office of the Mayor.**

The current City Charter does not have any provisions to address a vacancy in the position of the Mayor. The Committee felt that this issue should be addressed in the Charter rather than having the Council President act as Mayor until an election can replace the Mayor. The recommended provisions would be included under Chapter IV of the Charter, entitled **Council.** Because the Committee is recommending provisions relating to the Mayor and actually this

Chapter has existing provisions relating to the Mayor, the title of Chapter IV should be amended, entitled:

Chapter IV

Council <u>and Mayor</u>

The Committee recommends that the vacancy provisions of Chapter IV of the Charter relating to "automatic" vacancy, should include the Mayor as follows:

Section 19. Vacancies. The office of a member of the Council <u>or the Mayor</u> becomes vacant:

(1) Upon the incumbent's:

a. Death,

b. Adjudicated incompetence, or

c. Recall from office

I have no concerns about the Committee's recommended changes to the title of Chapter IV and subsection (1) of Section 19.

The Committee recommends that the Mayor not be subject to the vacancy provisions upon declaration by the Council in Section 19, subsection 2.

Note that unless the Mayor is subject to the vacancy provisions of Section 19(2) I do not see any requirement that the Mayor reside in the City during his or her term of office. Section 24 requires that the candidates for elected office be qualified electors and reside and be registered to vote in the City *immediately before* submitting a petition for, or being appointed to elected office. However, there is no explicit requirement that the Mayor continue to reside in the City during the term of his or her office. Section 19(2) implicitly requires Councilors to continue to reside in the City during their term of office because if they do not, the Council can declare their position vacant, but unless the Mayor is included in Section 19(2) there is no similar requirement for the Mayor. If residency of the Mayor in the City is important to the Council, the Council may want to consider either including the Mayor in Section 19(2) or referring a new charter provision that explicitly requires residency from the Mayor.

Regarding the filling of the vacancy in the position of Mayor, the Committee recommends that the Mayor should be included in Section 20. Filling Vacancies as follows:

Section 20. Filling Vacancies: A vacancy in the council <u>or in the office of the Mayor</u> shall be filled by appointment by a majority of the Council. The appointee's term of office runs from the time of qualifying for the office until either

(1) the expiration of the term of the predecessor who left the office vacant or

(2) the next election at which councilors <u>and the Mayor</u> are elected. If an election comes first, the position shall be subject to election for the original term of the vacated position.

I have no concerns about the Committee's recommended changes to Section 20.

5. **Issue relating to control by the City Manager.**

The City Charter prohibits control of certain persons by the City Manager.

Chapter V **Powers and Duties of Officers** Section 22 City Manager, subsection 7:
"(7). The Manager may not control:

a. The Council;
b. The Municipal Judge in the judge's judicial functions; or
c. Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint."

The Committee discussed this provision, in particular subsections a and c. Regarding subsection a, it was agreed that this provision should include both the Mayor and the Council. Regarding subsection c, the Committee concluded it might be construed as to allow the City Manager to control persons appointed by the City Council. Therefore, the Committee recommended that subsection c should be re-written to make the meaning clear. The Committee's recommended changes are as follows:

Chapter V **Powers and Duties of Officers** Section 22 City Manager, subsection 7:

(7) The Manager may not control:

a. The Mayor or ((T)) the Council;
b. The Municipal Judge in the judge's judicial functions; or,
c. ((Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint.)) Any appointee of the Mayor and of the Council.

I have no concerns about the Committee's recommended changes to Section 22(7)(a). Regarding the Committee's recommended changes to Section 22(7)(b), I recommend keeping the phrase "except as the Council authorizes." While I agree that most of the time the City Manager should not control Council appointees, there may be a circumstance where it makes sense for the Council to delegate that authority to the City Manager. If the Council retains the "except as the Council authorizes," language, the City Manager cannot control a Council appointee unless that authority is explicitly delegated by the Council, and the Council *may* but is *not required to* delegate that authority. Under the Committee's proposed language, the Council *would be prohibited from* delegating the authority to control a Council appointee to the City Manager. I propose the following changes to the Committee's recommended language:

(7) The Manager may not control:

a. The Mayor or ((T)) the Council;
b. The Municipal Judge in the judge's judicial functions; or,
c. Except as the Council authorizes, ((appointive personnel of the City whom the Manager does not appoint.)) any appointee of the Mayor and of the Council.

6. **Issue: Qualifications and Elections Requirements for Elected Officers.**
The City Charter contains the requirements imposed on elected officials and also has requirements for their election to office, including the "resign to run" provision.

Chapter VI **Personnel** Section 24 Qualifications subsection 6:

"(6) If an elected officer intends to become a candidate for a different elected office within the City and their current term of office does not expire at the same time as the term of office to which they aspire they deliver their resignation from the currently held office
   a. in writing to the City Manager
   b. no later than the first day ballot petitions become available to candidates for the office they are vacating."

The Committee discussed this "resign to run" provision. The Committee notes that the intent of the current provision was to have the resignation effective such that the electorate could vote on the vacancy. It is a rare circumstance that occurred only once in the past 9 years. Due to the timing of petition filings, the vacancy appointment and the resignation provision, the current provision caused more problems than it resolved and does not work well due to timing issues. For these reasons, the consensus of the Committee is to recommend that subsection 6 should be removed in its entirety.

I believe that this comes down to a policy call for the Council. I agree with the Committee that Section 24(6) is intended to ensure that a current elected office holder's resignation is submitted early enough that the voters can select someone to fill the open position rather than the Council appointing someone to fill the vacancy after the election. If the Council likes the policy behind subsection (6) but thinks that the resignation timing is awkward, subsection (6) could be amended to require a resignation on or before the date the candidate's elections paperwork is filed with the City, or on some other date. At the very least, if the Council decides Section 24(6) should be repealed, I recommend that the Council refer language that specifies that an elected city official must resign his or her current position before taking office in a new elected position. If the Council decides to retain all or a portion of Section 24(6), I recommend adding the word "must" so that the first portion of Section 24(6) reads:

"(6) If an elected officer intends to become a candidate for a different elected office within the City and their current term of office does not expire at the same time as the term of office to which they aspire they must deliver their resignation from the currently held office
   a. in writing to the City Manager

b. no later than the first day ballot petitions become available to candidates for the office they are vacating."

The Committee also agreed that all of Section 24 is in the wrong section of the Charter and this makes for ambiguity. Elected officials are not city "personnel", which term commonly refers to persons employed by the City. The Committee recommends that the entire "Section 24. Qualifications" be moved to "Chapter III. Form of Government", added as a new section, Section 12.

I have no concerns about the Committee's recommendation to move Section 24 into Chapter III and renumber it as Section 12. Note that all the following sections and any internal references to the following sections will need to be renumbered as well.

Other Issues Considered by the Committee

1. Periodic Review of the Charter.

The Committee discussed the suggestion that the City Charter contain a provision for review of the Charter every 10 years. The consensus was that this is a matter to be included in the City Council Rules where it could be reviewed by a committee but which would not have the mandate of a City Charter provision. If included in the City Charter, it becomes a requirement for which liability can result if not complied with.

I agree with the Committee.

2. Review of City Council Rules every two years.

Again, the Committee agreed that this is a matter to be included in the City Council Rules and not in the City Charter. It is more appropriately addressed in those rules which allow flexibility under the circumstances. If included in the City Charter, it imposes a mandatory requirement on the City.

I agree with the Committee.

3. Formatting the City Charter provisions for voter consideration.

If the City Council does decide to send City Charter proposed amendments to the voters, the Committee discussed whether the items should be formatted to require voters to vote for each change or vote for all changes as a package. The Committee did not reach a consensus on this, as it may relate to legal ballot proposition requirements and matters beyond the knowledge of the Committee.

Both options are possible. If the Council presents the voters with a package, it may be less confusing, but the way a voter feels about one proposed change may affect his or her willingness to vote for the package. If the Council presents each change individually, the changes will rise or fall on their own merits, but dealing with each proposed change individually might be cumbersome and confusing for the voters. The Council may want to consider a middle of the road approach, where several of the less contentious changes are bundled together and the more contentious changes are offered individually. I believe that both the package presentation and the individual issue presentation will comply with State election laws and the single-subject rule in the Oregon Constitution.

4. Questions from the Committee to the League of Oregon Cities.

Prompted by discussions during the Committee's meetings, the Committee submitted three questions requesting a legal opinion. The questions were sent to the League of Oregon Cities.

Here are my answers to the questions submitted to the League:

1. Is it necessary to reference Home Rule in the City Charter? The current City Charter does not include this. The Model Charter does. **I believe that the Talent Charter qualifies as a Home Rule Charter even without a specific reference to Home Rule. However, I like the idea of specifically identifying that this is a Home Rule Charter and I agree with the Committee's recommendation to include language referring to Home Rule in the Preamble.**
2. Regarding quorums as per City Charter provision Chapter IV, Section 14: is the quorum affected if a Council member leaves during the meeting. **Yes.** Also, should the issue of quorums be more appropriately addressed in the City Council Rules rather than in the City Charter? **Quorum requirements are often addressed in the Charter because they are part of the bedrock of city decision making. I recommend that the issues of quorum and voting requirements be addressed in the Charter.**
3. Regarding structural, clerical, format issues in the City Charter: must these changes go to the voters or can the Committee recommend and the City Council make these changes directly? **I agree with League counsel that all changes to the Charter should be approved by the people.**

The responses received by the Committee were as follows:

"Some general answers –
Most require Legal Review-

Home Rule is usually inserted within the Charter

The quorum can be set by Ordinance in the Council Rules for some specific details, although there are specific State Statutes that govern it. For instance you could not have a future Council say "We only want 2 people to be a quorum" and change the Ord to reflect that. In some places

the current Charter demands a majority of the full Council, other places a majority of the quorum.

Any changes of the Charter should really go to the people. A comma or change of minor language might result in a new meaning of the intended sentence. Would need specific question on this. Safest play is always make all changes and then go to a vote."

The Committee considered the responses above in the recommendations made in this report. The answers did not provide very clear explanations, but the Committee has taken the League's responses into account in the recommendations provided.

We remain available to the Mayor and City Council should you require additional information or analysis from the Committee.

Respectfully Submitted.

The Talent Ad Hoc Charter Committee

November 12, 2015

Mayor Stricker and Talent City Council Members,

As you know from the report of the Ad Hoc Committee, there was an even split among the members of the Ad Hoc Committee charged with making reccomendations for changes or amendments to the Talent City Charter regarding the Mayor's role in vothing on items before the City Council. As it currently stands, the Charter provides that the Mayor does not vote on Council items except in the case of a tie. I am among those who favor leaving the Charter as is – that is leaving it so that the Mayor will not vote except to break a tie on items requiring Council approval.

My reasoning for favoring the current provision centers on the concept of the "dignity of the office" of Mayor. I feel it is better that the Mayor not participate in partisanship by voting on Council items. Rather, I feel, the Mayor should remain "above the fray" by not taking sides on issues before they are voted upon. This would allow the Mayor to appear to be non-partisan in these matters rather than an advocate for certain positions or outcomes. I think the public who might be interested in a particular matter would feel their interests are being given a neutral hearing by a body (City Council) who is not pre-disposed or overly influenced by the wishes of the Mayor. Of course I am aware the in many cases, the Mayor will take a strong position on issues even under the current system where the Mayor would vote only in the case of a tie among the Council. That is Her or His prerogative, in any case. However, there may be times when advocacy by the Mayor is not appropriate, or at least, does not convey a sense of neutrality by the Mayor or the sense of the openness of the process.

Another argument which has been advanced for leaving the Charter "as is" on this issue (and which I agree with) is that the change to the Mayor voting in every case relegates the Mayor to the position of just another Council member. As stated above, I feel the Mayor should remain "above the fray", thus preserving the dignity of the office.

In sum, the system provided for in the current Talent City Charter where the Mayor votes only in the case of a tie among City Council members has worked well. I know of no cases where it has been detrimental to the process for the Mayor to withhold her vote on Council matters. It has worked well for the Mayor to refrain from partisanship by not voting or advocating a certain position, except when necessary to break a tie. I feel the dignity of the office of Mayor of the City of Talent is better preserved by leaving this Charter provision as it is currently written.

Respectfully submitted,

Sherman Lamb
Ad Hoc Committee Member

November 17, 2015

Mayor Stricker and Members of the City Council,

The undersigned support the position that the issue of full Mayoral voting rights be presented to the voters as a proposed Charter Amendment.

The current City Charter in Section 16 (2) limits the voting rights of the Mayor, unless there is a tie vote. The Model Charter promulgated by the League of Oregon Cities is meant as a guide for charter drafting by city officials and citizens. In the Model Charter, Chapter III, the charter provides that the mayor is "... a voting member of the council and has no veto authority." In the Model Charter, the Mayor is included in the definition of the council. Thus the Model Charter provides full voting rights to the Mayor. The Model Charter is otherwise similar to the current Talent City Charter, providing that the mayor serves as the political head of the city government.

The City can choose, through its charter, to provide full voting rights to the Mayor or to limit the same. In cities where the Mayor is the executive and chief administrator of the City, the limited voting rights are more appropriate, so as to limit the Mayor's influence in city affairs. The fact that our City is administered by a City Manager and that the Mayor does not manage the day to day affairs of the city, should allow the Mayor to be a full legislative participant in the City's business before the Council. The Mayor is subject to the same rigors of elective process as the City Council members. The Mayor is required to be fully informed on city business before the Council, especially as the Mayor must be prepared to vote in the event of a tie. Why restrict the voice of this elected official on decisions concerning city business? Deliberations can only benefit from full participation by all persons elected to represent the voters.

We recommend the guidance suggested by the League of Oregon Cities to propose that the Mayor is a voting member of the Council and has no veto authority. The lack of veto authority provides a sensible limit to the Mayor's influence.

Indeed, our recommendation is to give voters a choice on this important issue. The last amendment of the Charter occurred in 2004. The City has changed a lot in the past 11 years and includes many new residents. If they would rather keep things as they are, they can vote accordingly. However, it is likely that many voters are not even aware that their Mayor has limited voting rights. Let's give the voters a chance to make an informed decision on the issue.

Respectfully Submitted,

Tonia Moro Joi Riley Marguerite Schellentrager

City Charter
City of Talent
Jackson County
Oregon

Preamble

We, the people of the City of Talent, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this Home Rule charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the city.

Chapter 1
Names and Boundaries

Section 1. Title of Charter. This charter may be referred to as the ~~1998~~2017 Talent Charter

Section 2. Name of City. The City of Talent, Oregon, continues under this charter to be a municipal corporation with the name City of Talent.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. The custodian of the City's records shall keep an accurate, current description of the City's boundaries and make a copy of ~~it~~the boundary description available for public inspection in the City during regular City office hours.

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Chapter II
Powers

Section 4. Powers of the City. The City has all powers that the constitutions, statutes, and common law of the United States and of ~~this~~the State of Oregon now or hereafter expressly or ~~implied~~impliedly grant or allow the City, as fully as though this charter specifically enumerated each of those powers.

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Section 5. Construction of Powers. In this charter, no specification of a power is exclusive or restricts authority that the City would have if the power were not specified. ~~The~~This charter shall be liberally construed, so that the City may exercise fully all its powers

possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 6. Distribution of Powers. Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the City are vested in the council.

Chapter III
Form of Government

Section 7. Council. As of January 1, ~~2005~~2016, the council consists of six City councilors nominated and elected from the city at large or, in case of one or more vacancies in the Council, the council members whose offices are not vacant.

Commented [LAS1]: If the Council wants to refer a Charter that would allow the Mayor to vote all the time (and not just in the case of a tie), I recommend amending Section 7 to provide that the Council consists of "six City councilors and a Mayor nominated and elected…" and delete Section 16(2), which provides that the Mayor may only vote in the case of a tie.

Section 8. Councilors. The term of office of a councilor in office when this charter is adopted is the term of office for which the councilor has been elected before adoption of the charter (or is elected to at the time of the adoption). At each general election after the adoption of this charter, three councilors shall be elected at large by position number running from one to six, each for a four-year term. Candidates for Council, starting with their nomination petition, designate the number of the Council seat to which they seek election; further, one candidate may only run for one position at an election.

Section 9. Mayor. The term of office of the mayor in office when this charter is adopted ~~continues until~~is the ~~beginning~~term of office for which the ~~next odd-numbered year after that time.~~Mayor was elected. At ~~each subsequent~~every other general election following adoption of this charter a mayor shall be elected for a four-year term.

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Section 10. Terms of Office. The term of office of an elective officer who is elected at a general election begins at the first Council meeting of the calendar year ~~immediately after~~following the election and continues until a successor qualifies and assumes the office.

Section 11. Appointive Offices. A majority of the Council may:

(1) Create, abolish, ~~and~~or combine appointive City offices except the office of City Manager and,

(2) Fill such offices by appointment and vacate them by removal.

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Chapter IV
Council

Section 12. Rules. The Council shall, by resolution, prescribe rules to govern its meetings and proceedings.

Section 13. Meetings. The Council shall meet in the city regularly at least once a month at a time and place designated by Council rules, and may meet at other times in accordance with its rules. The Mayor upon his/her own motion may, or at the request of three councilors shall, by giving notice thereto to all members of the Council then in the city, call a special meeting of the Council.

Section 14. Quorum. A majority of the Council constitutes a quorum for its business.

Section 15. Record of Proceedings. A record of Council proceedings shall be kept and authenticated in a manner prescribed by the Council.

Section 16. Mayor's Functions at Council Meetings.

(1)When present at Council meetings the Mayor shall:

(a) Preside over deliberations of the Council,

(b) Preserve order

(c) Ensure Council rules are observed

(d) Determine the order of business under the rules

(2) The Mayor ~~or Chair~~ may not vote on any matter of City business unless there is a tie vote. In this situation, the Mayor ~~or Chair~~, must vote to resolve the tie, and may not abstain.

Section 17. Council President.

(1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall elect a president from its councilors.

(2) The President shall function as mayor when the Mayor is:

a. Absent from a Council meeting, or

b. Unable to function as mayor.

c. When acting as Mayor the Council President shall not be entitled to vote on any matter of City business unless there is a tie. In this situation, the President must vote to resolve the tie, and may not abstain.

Section 18. Vote Required. ~~As of January 1, 2005, the~~The express concurrence of a majority of the Council members present and constituting a quorum is necessary to decide affirmatively a question before the Council~~.~~ except where this charter requires a majority of the Council.

Section 19. Vacancies. The office of a member of the Council becomes vacant:

(1) Upon the incumbent's:

a. Death,

b. Adjudicated incompetence, or

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Commented [LAS2]: If the Council wants to refer a Charter that would allow the Mayor to vote all the time (and not just in the case of a tie), I recommend deleting this subsection 16(2).

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Commented [LAS3]: Do you like the Council President to serve for two years? If yes, no change necessary. If no, change to read "At the first meeting of each year…"

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Commented [LAS4]: If the Council wants to refer a Charter that would allow the Mayor to vote all the time (and not just in the case of a tie), I recommend deleting this subsection 17(3).). If the Council does not choose to delete this section you may want to clarify whether the Council President counts for purposes of establishing a quorum when he or she is acting as the Mayor. I think the answer is yes, but it could be clarified.

Commented [LAS5]: For example, the charter requires a majority of the Council to appoint the City Manager.

Commented [LAS6]: If the Charter is amended to provide that the Mayor is a member of the Council, no changes are necessary. If the Charter is not amended to provide that the Mayor is a member of the Council, I recommend the Charter Committee's proposed changes to Sections 19 and 20 regarding vacancy in the office of the Mayor.

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c. Recall from the office

(2)Upon declaration by the Council of the vacancy in case of the incumbent's:

a. Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin,

b. ~~unexplained~~Unexplained absence from all meetings of the Council within a 30-day period,

c. Ceasing to reside in the city,

d. Ceasing to be a qualified elector under state law,

e. Conviction of a public offense punishable by loss of liberty, or

f. Resignation from the office

Section 20. Filling Vacancies: A vacancy in the council shall be filled by appointment by a majority of the ~~Council.~~remaining council members. The appointee's term of office runs from ~~the time of qualifying for the office~~appointment until either

(1) ~~the~~The expiration of the term of the predecessor who left the office vacant or

(2) The first Council meeting of the year following the next election at which councilors are elected. If an election comes first, the position shall be subject to election for the original term of the vacated position.

During a council member's inability to serve on the Council or during a council member's absence from the City, a majority of the other council members may by appointment fill the vacancy pro tem.

The Council shall have the power, by a two-thirds affirmative vote of the entire Council, to expel any member of the Council for disorderly conduct in Council, inattention to duties or other actions that undermine the Council but only after a process determined by the Council and documented within the Council's resolution of rules.

Chapter V

Powers and Duties of Officers

Section 21. Mayor and Council. The Mayor and Council shall appoint:

(1) Members of committees and commissions established by Council, and

(2) Other persons required by the Council to act in an advisory capacity to the Council or its appointed committees and commissions.

Section 22. City Manager.

(1) The City Manager is the administrative head of the City government.

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Commented [LAS7]: This language appears to give the Mayor a vote in appointments. If the City decides to refer a Charter that identifies the Mayor as a member of the Council and therefore allows the Mayor to vote all the time, I recommend removing references to "Mayor" from this section because they will no longer be necessary. I also recommend retitling this section "Committees and Commissions."

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(2) A majority of the Council shall appoint and may remove the Manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.

(3) The Manager need not reside in the city.

(4) Upon accepting the appointment, the Manager shall furnish the City a bond in an amount and a surety approved by the Council. The City shall pay the bond premium.

(5) The Manager shall be appointed for a definite or indefinite term and may be removed by a majority of the Council at its pleasure.

(6) The Manager shall:

a. Attend all Council meetings unless excused by the Council or Mayor;
b. Keep the Council advised of the affairs and needs of the City;
c. See the provisions of all ordinances and resolutions are administered to the satisfaction of the Council.
d. See that all terms of franchises, leases, contracts, permits and privileges granted by the City are fulfilled;
e. Appoint, discipline and remove appointive personnel, except appointees of the ~~Mayor or~~ Council;
f. Supervise and control the Manager's appointees in their service to the City;
g. Organize and reorganize the departmental structure of City government;
h. Prepare and transmit to the Council an annual City budget;
i. Supervise City contracts;
j. Supervise operation of all City owned public utilities and property; and
k. Perform other duties as the Council ~~prescribed~~prescribes consistently with this charter.

(7) The Manager may not control:

a. The Mayor or the Council;
b. The Municipal Judge in the judge's judicial functions; or,
c. Except as the Council authorizes, ~~appointive personnel of the City whom the Manager does not appoint~~any appointee of the Council.

(8) The Manager and other personnel whom the Council designates may sit with the Council but may not vote on questions before it. The Manager may take part in all Council discussions.

(9) When the Manager is absent from the City or disabled from acting as Manager, or when the office of Manager becomes vacant, the Council shall appoint a Manager Pro Tem, who has the powers and duties of Manager, except that the Manager Pro Tem may appoint or remove personnel only with approval of the Council.

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Commented [LAS8]: This is not required, but it seems that if a majority is required to appoint the City Manager, it makes sense that a majority should fire the City Manager.

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Commented [LAS9]: Not required, but I think you could combine these two subsections to read "Appoint, supervise, discipline, and remove city employees."

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(10) Except in Council meeting, no council member may directly or indirectly, by suggestion or otherwise, attempt to influence the Manager or a candidate for the office of Manager in the appointment, discipline, or removal of personnel or in decisions regarding City property or contracts. A violator of this prohibition may be removed from office by a court of competent jurisdiction. In a Council meeting, members of the Council may discuss with, or suggest to, the Manager anything pertinent to City affairs.

Section 23. Municipal Court and Judge.

(1) If the Council creates the office of Municipal Judge and fills it by appointment, the appointee shall hold, within the City at a place and time that the Council specifies, a court known as the Municipal Court for the City of Talent, Jackson County, Oregon.

(2) Except as this charter or City ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.

(3) All area within the City and, to the extent provided by state law, area outside the City is within the territorial jurisdiction of the court.

(4) The Municipal Court has original jurisdiction over every offense that an ordinance of the City makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe. The court also has jurisdiction under state law unless limited by city ordinance.

(5) The Municipal Judge may:

a. Render judgments and~~, for enforcing them,~~ impose sanctions on persons and property ~~within the court's territorial jurisdiction~~;
b. Order the arrest of anyone accused of an offense against the City;
c. Commit to jail or admit to bail anyone accused of such an offense;
d. Issue and compel obedience to subpoenas;
e. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
f. Penalize contempt of court;
g. Issue process necessary to effectuate judgments and orders of the court;
h. Issue search warrants; and
i. Perform other judicial and quasi-judicial functions prescribed by ordinance.

(6) The Council may authorize the Municipal Judge to appoint municipal judges pro tem for terms of office set by the Judge or the Council.

(7) Notwithstanding this section, the Council may transfer some or all of the functions of the Municipal Court to an appropriate state court.

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Chapter VI
Personnel

Section 24. Qualifications.

(1) An elective City officer shall be a qualified elector under the State constitution and shall reside and be registered to vote in the city immediately before submitting petition for or being appointed to office.

(2) No person may be a candidate at a single election for more than one elective City office.

(3) An elective officer may be employed in a City position that is substantially volunteer in nature. Whether the position is so may be decided by the Municipal Court or in some other manner, whichever the Council prescribes.

(4) Except as subsection (3) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.

(5) The qualifications of appointive officers of the City are whatever the Council prescribes or authorizes.

(6) If an elected officer intends to become a candidate for a different elected office within the City and their current term of office does not expire at the same time as the term of office to which they aspire they must deliver their resignation from the currently held office

a. in writing to the City Manager
b. no later than the first day ballot petitions become available to candidates for the office they are vacating.

Section 25. Compensation. The Council shall prescribe the compensation, if any, of City officers~~.~~ and employees. The Council may prescribe a plan for reimbursing City personnel for expenses that they incur in serving the City.

Section 26. Merit System. Subject to all collective bargaining agreements between the City and one or more groups of its employees, the Council shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff and dismissal of City employees, all of which shall be based on merit and fitness.

Section 27. Political Rights. By policy the Council may affirm the rights of City personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the City government.

Section 28. Oath. Before assuming City office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the State of Oregon.

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Commented [LAS10]: I assume this happens as part of the city budget process.

Chapter VII
Elections

Section 29. State Law. Except as this charter or a City ordinance prescribes to the contrary, a City election shall conform to state law applicable to the election.

Section 30. Nominations. A person may be nominated in a manner prescribed by general ordinance to run for an elective office of the City.

Chapter VIII
Ordinances

Section 31. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Talent ordains as follows:"

Section 32. Adoption by Council.

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open Council meeting on two different days before being adopted by the Council.

(2) Except as subsection (3) of this section allows reading by title only, the Council may adopt an ordinance at a single meeting by the express unanimous votes of all Council members present, provided the ordinance is read first in full and then by title.

(3) A reading of an ordinance may be by title only if:

a. No Council member present at the reading requests that the ordinance be read in full; or

b. At least one week before the reading:

i. A copy of the ordinance is provided for each Council member,

ii. Three copies of the ordinance are available for public inspection in the office of the custodian of City records, and

iii. Notice of their availability is given by written notice posted at the City Hall and two other public places in the city.

(4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open Council meeting or made available to the public before the Council adopts the ordinance.

(5) Upon the adoption of an ordinance, the ayes and nays of the Council members shall be entered in the record of Council proceedings.

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(6) After adoption of an ordinance, the custodian of City records shall endorse it with its date of adoption and the endorser's name and title of office.

Section 33. Effective Date. A non–emergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as adopted.

Chapter IX
Public Improvements

Section 34. Procedure.

(1) The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by applicable state law. Proposed action on a public improvement that is not declared by two-thirds of the Council present to be needed at once because of an emergency shall be suspended for six months upon remonstrance by owners of land to be specially assessed for the improvement. The number of owners necessary to suspend the action shall be prescribed by general ordinance. A second such remonstrance suspends the action only with the consent of the Council.

(2) In this section "owner" means the record holder of legal title or, as to land being purchased under a Land Sale Contract that is recorded or verified in writing by the record holder of legal title, the purchaser.

Chapter X
Miscellaneous Provisions

Section 36. Annexation. Annexation to the City of Talent may be approved by City Council unless a majority vote of the electorate is requested by

(a) a verified petition signed by 100 qualified voters of the City of Talent or one (1) percent of the qualified voters of the City of Talent, whichever is greater or

(b) a majority of the City Council, or

(c) when required by the law of Oregon

Section 37. Debt. The City's indebtedness may not exceed debt limits imposed by state law. A City officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize City indebtedness.

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Commented [LAS11]: I assume this is meant to apply to City voters, but let me know if that assumption is incorrect.

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Section 38. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 39. Repeal. All charter provisions adopted before this charter takes effect are hereby repealed.

Section 40. Severability. The terms of this charter are severable. If a part of the charter is held invalid, that invalidity does not affect another part of the charter~~, except as the logical relation between the two parts requires~~.

Section 41. Time of Effect. If approved by the voters of the City of Talent on November 8, 2016, this charter will take effect on January 1, 2017. [This charter ~~takes effect~~ was first adopted July 1, 1998; ~~Amended~~was amended on November 5, 2002 with effective date January 1, 2003~~. Amended~~; and was amended on November 2, 2004 with an effective date of January 1, 2005~~.~~.]

Commented [LAS12]: Recommend deleting this clause so that you don't open the door to an argument that other pieces of the Charter are "logically related" to a piece of the Charter that was found to be invalid.

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Council Agenda Report

Meeting Date:	**July 20, 2016**	**Primary Staff Contact:**	**Tom Corrigan**
Department:	**Admin**	**E-Mail:**	**TCorrigan@CityofTalent.org**
Staff Recommendation:	7/13/16		

ISSUE BEFORE THE COUNCIL

Ballot Measure for City Marijuana Tax

BACKGROUND

City Council directed Staff to present a report and sample language regarding a ballot measure for a City marijuana tax. Unlike the tax that the State has enacted upon marijuana sales previously, which had to go directly to the Police Department budget, this tax could be used for any purpose that Council decided. The State has set a maximum of 3% for these City taxes. The initial thought was this tax could bring needed relief for the Parks fund. A "Grass for Grass" sort of measure.

We are working on the amount that we are behind in the Parks Fund. We know that it is in excess of $100,000.00. No amounts have been estimated yet for any marijuana taxed as of yet.

We have included ballot language, title, and explanatory statement. The Department of Revenue has yet to give exact details showing what collection procedures will look like. So there are currently no requirements for when taxes are due, (monthly, quarterly, etc), but there are details regarding penalties, appeals, and record keeping requirements.

It is recommended that the State collect these taxes as they do currently with tobacco, alcohol, etc. The effective date was set for January 1, 2017 based on the November election. If the voters were to approve it, the Ordinance can take effect any time after December 8, 2016. The ballot measure language will become the Ordinance (Attachment Exhibit A) if passed.

We have also attached a Notice of Receipt of Ballot Title that will need to be published once the Council adopts the resolution. The Notice itself does not need to be approved by Council. This resolution must be adopted by August 19 if it is to be on the November ballot.

The City would also need to repeal our pre-Measure 91 tax Ordinance. It was suggested by legal counsel that this repeal be done at the same meeting that the new resolution is passed.

STAFF RECOMMENDATION

POTENTIAL MOTIONS – "I move to adopt Resolution # ___ calling an election on November 8, 2016, to refer to the voters of the City of Talent, Oregon, a tax on retail sales of recreational marijuana in the City of Talent and adopting a ballot title and explanatory statement."

ORDINANCE NO. __

AN ORDINANCE REPEALING ORDINANCE NO. ___

WHEREAS, on _____, 2014, the Talent City Council adopted Ordinance No. _____, an ordinance imposing a tax on sales of medical and recreational marijuana in the City of Talent; and

WHEREAS, following the City's adoption of Ordinance No. _____, the Oregon Legislature adopted ORS 475B.345, which allows cities in Oregon to impose a 3% tax on retail recreational marijuana sales, if that 3% tax is approved by the voters of the City at a general election; and

WHEREAS, ORS 475B.345 prohibits cities from imposing all other taxes and fees on the production, processing, or sale of marijuana; and

WHEREAS, Ordinance No. _____ is now preempted by state law and is unenforceable;

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

Section 1. Ordinance No. _____ is hereby repealed.

Section 2. This ordinance shall take effect on the 30th day after adoption by the Council and signature by the Mayor.

RESOLUTION NO. __

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 8, 2016, TO REFER TO THE VOTERS OF THE CITY OF TALENT, OREGON, A TAX ON RETAIL SALES OF RECREATIONAL MARIJUANA IN THE CITY OF TALENT AND ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT

WHEREAS, Section 4 of the Charter of the City of Talent provides:

> Powers of the City. The City has all powers that the constitutions, statutes, and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this charter specifically enumerated each of those powers; and

WHEREAS, ORS 475B.345 allows the City of Talent to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at general election; and

WHEREAS, the Talent City Council desires to impose a tax of up to 3% on the sale of recreational marijuana items by marijuana retailers in the City;

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

Section 1. A city election is called for the purpose of submitting to the qualified electors of the City of Talent an ordinance imposing a city tax of up to three percent (3%) on sales of marijuana items by licensed recreational marijuana retailers within the City of Talent, a copy of which is attached to this Resolution as Exhibit A and incorporated into this Resolution by reference.

Section 2. The ballot title for this measure shall be as follows:

CAPTION: City tax on recreational marijuana retailers' sale of marijuana items

QUESTION: Shall Talent impose a tax on sales of marijuana items by recreational marijuana retailers in the city?

SUMMARY: If adopted by the voters, this measure would impose a city tax on sales of marijuana items (including marijuana, marijuana products and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission and located within the City of Talent. The City Council would have the authority to set the amount of the tax, but under no circumstances would the tax exceed three percent of the retail sales price of a marijuana item. The tax would be collected from consumers by recreational marijuana retailers at the point of sale. Recreational marijuana retailers would remit the tax to the City. The city tax would be imposed in addition to any state

taxes on the sale of marijuana items. The city tax would not be imposed on medical marijuana sales.

Section 3. The City Council orders this City election to be held in the City of Talent, Oregon, concurrently with the general election, on the 8th day of November, 2016, in accordance with the provisions of Chapter 254 of the Oregon Revised Statutes. The ballots shall be counted and tabulated and the results certified as provided by law.

Section 4. The election shall be conducted by Jackson County. The County Clerk for Jackson County is hereby instructed to prepare ballots and to take other actions necessary to conduct the election.

Section 5. If a majority of the legal voters of the City voting on this measure approve this measure, the ordinance attached as Exhibit A to this Resolution shall take effect on January 1, 2017.

Section 6. The explanatory statement for this measure attached as Exhibit B to this Resolution is hereby approved by the Council.

Section 7. This Resolution, including the proposed ballot title and explanatory statement, shall be delivered to the City Recorder on the date of its adoption.

Section 8. The City Recorder shall give notice of this measure as required by law and take such other actions and otherwise proceed with the election as provided by law and so as to carry out the purposes of this Resolution.

Section 9. This Resolution shall become effective immediately upon its adoption.

Exhibit A

ORDINANCE NO. _____

WHEREAS, Section 4 of the Charter of the City of Talent provides:

> Powers of the City. The City has all powers that the constitutions, statutes, and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this charter specifically enumerated each of those powers; and

WHEREAS, ORS 475B.345 allows the City of Talent to impose a local tax of up to 3% on retail sales of recreational marijuana items within the City if the local tax is approved by the voters of the City at a general election; and

WHEREAS, the City of Talent desires to impose a tax on the sale of recreational marijuana items by marijuana retailers in the City;

NOW THEREFORE, THE CITY OF TALENT ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS.

The following words and phrases as used in this Ordinance shall have the following meanings:

A. "City" means the City of Talent.

B. "Tax Administrator" means the City Manager of the City of Talent, the City Manager's designee, and/or another individual or entity designated by the City to collect the tax on behalf of the City.

C. "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

D. "Marijuana item" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015.

E. "Marijuana retailer" means a person licensed under ORS 475B.110 who sells marijuana items to a consumer in the State of Oregon.

F. "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

G. "Retail sale price" means the total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax.

SECTION 2. TAX IMPOSED.

The City of Talent hereby imposes a tax on each marijuana item sold to a consumer within the City of Talent by a marijuana retailer. The Talent City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owed by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or to the City.

SECTION 3. COLLECTION.

The consumer shall pay the tax to the marijuana retailer at the time of the purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the time of the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Ordinance.

SECTION 4. ACCOUNTING AND RECORDS.

A. Every marijuana retailer must keep and preserve, in a generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.

B. For purposes of determining the accuracy of any tax return or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

SECTION 5. PENALTIES AND INTEREST

A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay a penalty of ten percent of the amount of the tax due in addition to the amount of the tax.

B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions of this Ordinance, a penalty of twenty-five percent of the amount of the tax shall be added the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.

E. Every penalty imposed and any interest that accrues under the provisions of this Ordinance shall be merged with, and become a part of, the tax required to be paid.

SECTION 6. APPEAL

A. Any person aggrieved by any decision of the Tax Administrator may appeal to the City Manager by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

B. Any person aggrieved by any decision of the City Manager under subsection A of this Section may appeal to the Council by filing a notice of appeal with the Tax Administrator within ten days of the date the City Manager's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the Council, who shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than ten days written notice of the time and place of hearing the appeal.

SECTION 7. REFUND

Whenever the amount of any tax imposed under this Ordinance has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from, the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assignees.

SECTION 8. SEVERABILITY. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE. If approved by a majority of the voters of the City of Talent at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on January 1, 2017.

Exhibit B
Explanatory Statement

If this measure is approved by the voters of the City of Talent, the City will impose a tax on sales of marijuana items (including marijuana flowers, marijuana concentrates, marijuana edibles and marijuana extracts) by recreational marijuana retailers licensed by the Oregon Liquor Control Commission (OLCC) and located within the City of Talent. The City Council would have the authority to set the amount of the city tax, but the city tax could not exceed three percent of the retail sales price of a marijuana item.

The city tax would be collected from consumers by the recreational marijuana retailer at the point of sale. The recreational marijuana retailer would then remit the tax to the City.

The City would be able to use the revenues generated by this tax for any city purpose.

If approved, this city tax would be imposed in addition to any state marijuana taxes. This city tax would not be imposed on medical marijuana sales.

Council Agenda Report

Meeting Date:	**July 20, 2016**	**Primary Staff Contact:**	**Tom Corrigan**
Department:	**Admin**	**E-Mail:**	**TCorrigan@CityofTalent.org**
Staff Recommendation:			

ISSUE BEFORE THE COUNCIL

Ballot Measure for new Diesel Tax

BACKGROUND

On April 6, City Council directed Staff to present a report and sample language regarding a ballot measure for a new Diesel Tax. This was put in motion as there may come a day that properties in Talent would be developed as a diesel fueling location. This tax should be in place prior to any permitting to allow any future developer to know what they can expect. Diesel taxes are designated to assist in funding road construction and maintenance. Taxes would come primarily from heavy rigs and delivery trucks.

The City of Phoenix has taken in upwards of $80,000.00 annually. This was before the construction at the I5 intersection.

We have included ballot language, title, and explanatory statement.

The effective date was set for January 1, 2017 based on the November election. If the voters were to approve it, the new Charter can take effect any time after December 8, 2016, however January 1 seems like a cleaner date. The ballot measure language will become the Ordinance (Attachment Exhibit A) if passed.

We have also attached a Notice of Receipt of Ballot Title that will need to be published once the Council adopts the resolution. The Notice itself does not need to be approved by Council. This resolution must be adopted by August 19 if it is to be on the November ballot.

STAFF RECOMMENDATION
POTENTIAL MOTIONS – "I move to adopt Resolution # ___ calling an election on November 8, 2016, to refer to the voters of the City of Talent, Oregon, ____the City of Talent and adopting a ballot title and explanatory statement."

CITY OF TALENT
TALENT, OREGON

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A MOTOR VEHICLE DIESEL FUEL TAX

WHEREAS, the people of the City of Talent wish to adopt a motor vehicle diesel fuel tax; and

WHEREAS, ORS 319.350 allows the voters of the City of Talent to adopt a city motor vehicle fuel tax; and

WHEREAS, the citizens of the City of Talent wish to adopt a city tax on diesel fuel;

NOW THEREFORE, THE CITY OF TALENT ORDAINS AS FOLLOWS:

Section 1. MOTOR VEHICLE DIESEL FUEL TAX.

01.010 Short Title. The provisions of this Chapter shall be known and may be cited as the "City of Talent Motor Vehicle Diesel Fuel Tax Ordinance".

01.015 Purpose. The purpose of the Motor Vehicle Diesel Fuel tax is to raise revenues necessary for the construction, reconstruction, improvement, repair, maintenance, operation and use of the public street system in the city.

01.020 Definitions. As used in this ordinance, unless the context requires otherwise:

“City” means the City of Talent

"Dealer" means any person who:

(a) Imports or causes to be imported Motor Vehicle Diesel Fuel for sale, use or distribution in, and after the same reaches the city, but "Dealer" does not include any person who imports into the city Motor Vehicle Diesel Fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under this ordinance and who assumes liability for the payment of the applicable Motor Vehicle Diesel Fuel tax to the city; or

(b) Produces, refines, manufactures or compounds Motor Vehicle Diesel 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 Diesel Fuel with respect to which there has been no Motor Vehicle Diesel Fuel tax previously incurred.

"Distribution" means, in addition to its ordinary meaning, the delivery of Motor Vehicle Diesel 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 Diesel Fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

"Highway" means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

"Motor Vehicle" means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of Motor Vehicle Diesel Fuel.

"Motor Vehicle Diesel Fuel" means and includes diesel fuel, by whatever name such as diesel fuel is known or sold, usable as fuel for the operation of motor vehicles, except fuel or liquid, the chief use of which, as determined by the tax administrator, is for purposes other than the propulsion of motor vehicles upon the highways.

"Person" includes every natural person, association, firm, partnership, corporation, joint venture, or other business entity

"Service Station" means and includes any place operated for the purpose of retailing and delivering Motor Vehicle Diesel Fuel into the fuel tanks of motor vehicles.

"Tax Administrator" means the city administrator, the city administrator's designee, or any person or entity with whom the city administrator contracts to perform those duties.

01.030 Tax Imposed. A Motor Vehicle Diesel Fuel tax is imposed on every dealer. The tax imposed shall be paid monthly to the tax administrator. The tax administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the Motor Vehicle Diesel Fuel tax, including all powers specified in ORS 319.010 to 319.430.

01.040 Amount and Payment.

1. In addition to any fees or taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, or in the name of the dealer's representatives or agents in the city, in the sale, use or distribution of Motor

Vehicle Diesel Fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the tax administrator, on forms prescribed, prepared, and furnished by the tax administrator, of all Motor Vehicle Diesel Fuel sold, used, or distributed by the dealer in the city as well as all such fuel sold, used, or distributed in the city by a purchaser from the dealer upon which sale, use or distribution the dealer has assumed liability for the applicable Motor Vehicle Diesel Fuel tax during the preceding calendar month.

(b) Pay a Motor Vehicle Diesel Fuel tax computed on the basis of 2 cents per gallon of such Motor Vehicle Diesel Fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this ordinance.

2. In lieu of claiming refund of the tax as provided in Section 01.210 of this Ordinance, or of any prior erroneous payment of Motor Vehicle Diesel Fuel tax made to the City by the dealer, the dealer may show such Motor Vehicle Diesel Fuel as a credit or deduction on the monthly statement and payment of tax.

3. The Motor Vehicle Diesel Fuel tax shall not be imposed wherever it is prohibited by the Constitution of laws of the United States or of the State of Oregon.

01.050 Permit Requirements. No dealer shall sell, use or distribute any Motor Vehicle Diesel Fuel until the dealer has secured a dealer's permit as required in this chapter.

01.060 Permit Applications and Issuance.

1. Every person, before becoming a dealer in Motor Vehicle Diesel Fuel in this city, shall make an application to the tax administrator for a permit authorizing such person to engage in business as a dealer.

2. Applications for the permit must be made on forms prescribed, prepared and furnished by the tax administrator.

3. The applications shall be accompanied by a duly acknowledged certificate containing:

(a) The business name under which the applicant transacts business.

(b) The address of the applicant's principal place of business and location of distributing stations in the city.

(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 the corporation is authorized to transact

business and the names and addresses of its principal officers and registered agent.

4. If an application for a Motor Vehicle Diesel Fuel dealer's permit is complete and has been accepted for filing, the tax administrator shall issue to the dealer a permit in such form as the tax administrator may prescribe to transact business in the city. The permit so issued is not assignable, and is valid only for the dealer in whose name it is issued.

5. The tax administrator shall keep and file all completed applications with an alphabetical index, together with a record of all permitted dealers.

01.070 Failure to Secure Permit.

1. If any dealer sells, distributes or uses any Motor Vehicle Diesel Fuel without first filing the certificate and securing the permit required by Section 01.060 of this Ordinance, the Motor Vehicle Diesel Fuel tax on all Motor Vehicle Diesel Fuel sold, distributed, or used by the dealer shall immediately be due and payable.

2. The tax administrator shall proceed forthwith to determine, from as many available sources as the tax administrator determines reasonable, the amount of tax due, and shall assess the tax in the amount found due, together with a penalty of 100% of the tax, and shall make a certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty or both, the certificate shall be prima facie evidence that the dealer named in the certificate is indebted to the City in the amount of the tax and penalty stated.

3. Any tax or penalty assessed pursuant to this Section 01.070 may be collected in the manner prescribed in Section 01.110 of this Ordinance with reference to delinquency in payment of the tax or by action at law.

4. In the event any suit or action is instituted to enforce this section, if the City is the prevailing party, 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 any other sums provided by law.

01.080 Revocation of Permit. The tax administrator may revoke the permit of any dealer who fails to comply with any provision of sections 01.020 to 01.270 of this Ordinance. The tax administrator shall mail by certified mail addressed to the dealer at the dealer's last known address appearing on the files of the tax administrator, a notice of intent to revoke the dealer's permit. The notice shall give the reason for the revocation. The revocation shall become effective without further notice if within 10 days from the mailing of the notice the dealer has not made good its default or delinquency.

01.090 Cancellation of Permit.

1. The tax administrator may, upon written request of a dealer, cancel a permit issued to that dealer. The tax administrator shall, upon approving the dealer's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the permit shall no longer be effective.

2. The tax administrator may, after 30 days' notice has been mailed to the last known address of the dealer, cancel the permit of the dealer upon finding that the dealer is no longer engaged in the business of a dealer.

01.100 Remedies Cumulative. Except as otherwise provided in Sections 01.110 and 01.130 of this Ordinance, the remedies provided in Sections 01.070, 01.080 and 01.090 of this Ordinance are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this Ordinance.

01.110 Payment of Tax and Delinquency.

1. The Motor Vehicle Diesel Fuel tax imposed by sections 01.030 and 01.040 of this Ordinance shall be paid to the tax administrator on or before the 25th day of each month.

2. Except as provided in subsections (3) and (5) of this section, if payment of the Motor Vehicle Diesel Fuel tax is not paid as required by subsection (1) of this Section, a penalty of one percent of such Motor Vehicle Diesel Fuel tax shall be assessed and be immediately due and payable.

3. Except as provided in subsection (5) of this section, if payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section, and shall be immediately due and payable.

4. If the Motor Vehicle Diesel Fuel tax imposed by sections 01.030 and 01.040 of this Ordinance is not paid as required by subsection (1) of this section, interest shall be charged at the rate of .0329 percent per day until the tax, interest, and penalties have been paid in full.

5. Every penalty imposed and any interest that accrues under the provisions of this Ordinance shall be merged with, and become a part of, the tax required to be paid.

6. Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to section 01.070 of this Ordinance. The tax administrator may for good cause shown waive any penalties assessed under this section.

7. If any person fails to pay the Motor Vehicle Diesel Fuel tax, interest, or any penalty provided for by this section, the tax, interest, and/or penalty shall be collected from that person for the use of the City. The tax administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

8. In the event any suit or action is instituted to collect the Motor Vehicle Diesel Fuel tax, interest, or any penalty provided for by this section, if the City is the prevailing party, 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.

9. No dealer who collects from any person the tax provided for in this Ordinance shall knowingly and willfully fail to report and pay the same to the City as required in this Ordinance.

01.120 Monthly Statement of Dealer. Every dealer in Motor Vehicle Diesel Fuel shall provide to the tax administrator on or before the 25th day of each month, on forms prescribed, prepared, and furnished by the tax administrator, a statement of the number of gallons of Motor Vehicle Diesel Fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

01.130 Failure to File Monthly Statements. If a dealer fails to file any statement required by Section 01.120 of this Ordinance, the tax administrator shall proceed forthwith to determine from as many available sources as the tax administrator determines to be reasonable the amount of Motor Vehicle Diesel Fuel sold, distributed, or used by such dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of such fuel sold, distributed or used. The tax administrator shall immediately assess the dealer for the Motor Vehicle Diesel Fuel tax upon the amount determined, adding thereto a penalty of ten percent of the tax. The penalty shall be cumulative to other penalties provided in this Ordinance.

01.140 Billing Purchasers. Dealers in Motor Vehicle Diesel Fuels shall render bills to all purchasers of Motor Vehicle Diesel Fuel. The bills shall separately state and describe the different products sold or shipped and shall be serially numbered except where other sales invoice controls acceptable to the tax administrator are maintained.

01.150 Failure to Provide Invoice or Delivery Tag. No person shall receive and accept Motor Vehicle Diesel Fuel from any dealer, or pay for the same, or sell or offer the Motor Vehicle Diesel Fuel for sale, unless the Motor Vehicle Diesel Fuel is accompanied by an invoice or delivery tag showing the date upon which Motor Vehicle Diesel Fuel was delivered, purchased, or sold, and the name of the dealer in Motor Vehicle Diesel Fuel.

01.160 Transporting Motor Vehicle Diesel Fuel in Bulk. Every person operating any conveyance for the purpose of hauling, transporting, or delivering Motor Vehicle Diesel Fuel in bulk shall, before entering upon the public highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such Motor Vehicle Diesel 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 Diesel Fuel shall at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale, or other statement.

01.170 Exemption of Export Fuel.

1. The Motor Vehicle Diesel Fuel tax imposed by sections 01.030 and 01.040 of this Ordinance shall not be imposed on Motor Vehicle Diesel 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 Diesel Fuel taxes claimed under this section, other than in the case of stock transfers or deliveries in the dealer's own equipment, every dealer must execute and file with the tax administrator an export certificate in such form as shall be prescribed, prepared, and furnished by the tax administrator, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the Motor Vehicle Diesel Fuel has been exported from the city, and giving such details with reference to such shipment as the tax administrator may require. The tax administrator 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 tax administrator may, in a case where tax administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate.

3. Any Motor Vehicle Diesel 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 Diesel Fuel for export as to which the city tax has not been paid and fail to export the same, or any portion, or cause the Motor Vehicle Diesel Fuel or any portion not to be exported, or divert or cause to be diverted the Motor Vehicle Diesel Fuel or any portion to be used, distributed or sold in the city and fail to notify the tax

administrator and the dealer from whom the Motor Vehicle Diesel Fuel was originally purchased of such person's 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 Diesel Fuel to the city for sale or use so as to avoid any of the fees imposed under this ordinance.

6. In support of any exemption from taxes on account of sales of Motor Vehicle Diesel Fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain, for at least three years, an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be prima facie evidence of the exportation of the Motor Vehicle Diesel Fuel to which it applies only if accepted by the dealer in good faith.

01.175 Sales to Armed Forces Exempted. The license tax imposed by sections 01.030 and 01.040 of this Ordinance shall not be imposed on any Motor Vehicle Diesel 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 tax administrator 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.

01.190 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 Diesel Fuel for such person's own use only and for the purpose of operating such motor vehicle without securing a permit or paying the tax provided in Sections 01.030 and 01.040 of this Ordinance, or complying with any of the provisions imposed upon dealers under this ordinance. However, if the Motor Vehicle Diesel 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 fuel into the city shall be subject to all the provisions herein applying to dealers.

01.200 Fuel Sold or Delivered to Dealers

1. A dealer selling or delivering Motor Vehicle Diesel Fuel to dealers is not required to pay a Motor Vehicle Diesel Fuel tax on such fuel.

2. The dealer in rendering monthly statements to the city as required by Sections 01.040 and 01.120 of this Ordinance shall show separately the number of gallons of Motor Vehicle Diesel Fuel sold or delivered to dealers.

01.210 Refunds. Refunds will be made pursuant to ORS 319.280 to 319.320. Claim forms for refunds may be obtained from the tax administrator's office.

01.220 Examination and Investigations. The tax administrator, or duly authorized

agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing Motor Vehicle Diesel Fuel or other petroleum product or products within the City of Talent, as well as any other investigations the tax administrator considers necessary in carrying out the provisions of sections 01.020 through 01.270 of this Ordinance. If the examinations or investigations disclose that any reports of dealers or other persons filed with the tax administrator pursuant to the requirements of this Ordinance, have shown incorrectly the number of gallons of Motor Vehicle Diesel Fuel distributed, or the tax accruing on the fuel, the tax administrator may 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 disclosed by the tax administrator's examinations or investigations. The dealer shall reimburse the City for the reasonable costs of the examination or investigation if the investigation reveals that the dealer paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of 18 percent per year from the date the original tax payment was due.

01.230 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

1. Except as otherwise provided in this Ordinance, any credit for an erroneous overpayment of tax made by a dealer taken on a subsequent return, or any claim for a refund of tax erroneously overpaid must be taken or filed within three years after the date on which the overpayment was made to the City.

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 ordinance shall be served on dealers within three years from the date upon which such additional taxes become due, and shall be subject to penalty as provided in section 01.110 of this Ordinance.

01.240 Examining Books and Accounts of Carrier of Motor Vehicle Fuel. The tax administrator or the tax administrator's duly authorized agents may at any time during normal business hours examine the books and accounts of any carrier of Motor Vehicle Diesel Fuel operating within the City for the purpose of enforcing the provisions of this Ordinance.

01.250 Records to be Kept by Dealers. Every dealer in Motor Vehicle Diesel Fuel shall keep a record, in such form as may be prescribed by the tax administrator, of all purchases, receipts, sales, and distributions of Motor Vehicle Diesel Fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the tax administrator or authorized agents of the tax administrator.

01.260 Records to be Kept Three Years. Every dealer shall maintain and keep, for a period of three years, all records of Motor Vehicle Diesel Fuel used, sold and distributed within the city by such dealer, together with stock records, invoices, bills of lading, and other pertinent papers as may be required by the tax administrator. In the event such records are not kept within the state of Oregon, the dealer shall reimburse the tax administrator for all travel, lodging, and related expenses incurred by the tax administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by section 01.030 of this Ordinance.

01.370 Appeals

1. Any person aggrieved by any decision of the Tax Administrator may appeal to the City Manager by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. City Manager shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

2. Any person aggrieved by any decision of the City Manager under subsection 1 of this Section may appeal to the Council by filing a notice of appeal with the Tax Administrator within ten days of the date the City Manager's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the Council, who shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than ten days' written notice of the time and place of hearing the appeal.

01.380 Use of Tax Revenues.

1. For the purpose of this section, net revenue shall mean the revenue from the tax, interest, and penalties imposed by sections 01.020 through 01.270 of this Ordinance remaining after providing for the cost of administration and any refunds and credits authorized under this Ordinance.

2. The net revenue shall be used only for the construction, reconstruction, improvement, repair, maintenance, operation and preservation of public highways, roads, and streets within the city.

SECTION 3. SEVERABILITY. Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 4. CODIFICATION. If this Ordinance becomes effective as provided by Section 5 below, the City Recorder is hereby authorized and directed to codify Section 1

of this Ordinance in an appropriate Title of the Talent Municipal Code and to change the word “Ordinance” to “Chapter” as appropriate when codified.

SECTION 5. EFFECTIVE DATE. If approved by a majority of the voters of the City of Talent at the statewide general election held on Tuesday, November 8, 2016, this ordinance shall take effect on January 1, 2017.