

**CITY OF PHOENIX
CITY COUNCIL MEETING
PUBLIC WORKS OFFICE
1000 S. "B" STREET
MONDAY, AUGUST 15, 2016
6:30 P.M.**

1) Call to order/Roll call

2) Pledge of Allegiance

3) Mayor's Comments

4) Citizen's Comments:

The purpose of citizen comment is to allow citizens to present information or raise an issue regarding items not on the agenda. A time limit of three minutes per individual shall apply unless the Presiding Officer extends time (*Persons wishing to address Council on any matter are encouraged to do so. Please sign up, and if applicable, indicate the agenda item you want to discuss. When your name is called, step up to the podium, state your name and address for the record. In accordance with state law, copies of the complete recording of this meeting will be available at City Hall. If you are hearing impaired and need accommodation, please give 48 hours prior notice to City Hall.*).

5) Updates/Reports:

- a) PHURA
- b) Parks and Greenway Commission

6) Presentations:

7) Ordinances, including reading and/or adoption:

- a) First Reading by Title Only of an Ordinance Amending the Comprehensive Plan Pertaining to the Transportation System Element. *Second Reading and Public Hearing Scheduled for Tuesday, September 6, 2016*..... p.1
- b) Second Reading and Public Hearing of an Ordinance Amending Chapter 5.18 of the Phoenix Municipal Code Pertaining to the Regulations of the Time, Place, and Manner of Commercial Cannabis Facilities..... p.17

8) Consent Calendar:

- a) Approval of Minutes from August 1, 2016
City Council Meeting/Executive Session. p.27

9) Unfinished Business:

- a) Discussion of Finance Director Position..... p.32
- b) Continued Discussion Regarding Public Works Superintendent..... p.37

10) New Business:

- a) Bridge Medallion Project Update..... p.38
- b) Approval of Bear Creek TMDL Project FY 2016-2017 p.40

11) Questions for Staff:

- a) Attorney's Report
- b) City Manager's Report

12) Council items, comments/reports:

Any councilor may bring before the Council any business not on the agenda the councilor feels should be deliberated upon by Council, but the Council may decline formal action on such matters or defer them to a subsequent meeting.

13) Adjournment

Next City of Phoenix Scheduled Meetings:

August 17, 2016	Council Special Meeting
August 22, 2016	Planning Commission
September 5, 2016	Holiday
September 6, 2016	City Council
September 12, 2016	Planning Commission
September 13, 2016	PHURA
September 19, 2016	City Council
September 26, 2016	Planning Commission

AGENDA BILL

AGENDA ITEM: 7A

**AGENDA TITLE: FIRST READING BY
TITLE ONLY OF AN ORDINANCE AMENDING
THE TRANSPORTATION SYSTEM ELEMENT
OF ITS COMPREHENSIVE PLAN**

DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: N/A

RESOLUTION: N/A

MOTION: XX

INFORMATION: N/A

EXPLANATION: After holding and closing a duly noticed public hearing, the Planning Commission made a recommendation to City Council to approve the proposed amendment to the Comprehensive Plan pertaining to the Transportation System Element with modifications (see attached Staff Report).

The Phoenix Transportation System Plan (TSP) details projects and policies that address transportation problems and needs in the City of Phoenix. Population growth and new development in recent years has led to an update of the TSP to address the transportation needs of all transportation users, including pedestrians, bicyclists, drivers, and public transit users.

The TSP Update provides a 20-year list of improvement projects and a plan for implementing the projects.

The TSP has been developed in compliance with the requirements of the state Transportation Planning Rule (TPR) and to be consistent with the state, regional, and local plans, including the recently adopted 2013-2039 Rogue Valley Metropolitan Planning Organization's 2013-2038 Regional Transportation Plan and Fern Valley Interchange Area Management Plan.

FISCAL IMPACT: There will be no fiscal impact until any of the individual projects are selected. Estimated cost & revenue sources are included in the Update. The updated TSP will provide a basis for identifying & securing funding resources from multiple sources for capital & O&M expenses.

ALTERNATIVES: The Council may refuse to read the proposed ordinance by title.

STAFF RECOMMENDATION: Staff recommends the Mayor read the ordinance by title only and schedule a Second Reading and Public Hearing for the next regular City Council meeting on September 6th, 2016. This will be the second evidentiary hearing and public comment will be heard.

MOTION: "I MOVE THAT THE PROPOSED ORDINANCE, ALSO KNOWN AS CP15-01, BE READ BY TITLE ONLY, AND THAT A SECOND READING AND PUBLIC HEARING BE SET FOR SEPTEMBER 6, 2016."

PREPARED BY: Steffen Roennfeldt

REVIEWED BY:

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PHOENIX
AMENDING THE TRANSPORTATION SYSTEM ELEMENT OF ITS
COMPREHENSIVE PLAN**

WHEREAS, Oregon law requires that state, regional and local governments adopt interrelated Transportation System Plans (TSPs); and

WHEREAS, an integrated and well-planned transportation system benefits citizens and business by providing a safe, convenient and economical system for vehicles, bicycles, pedestrians and freight; and

WHEREAS, TSP adoption will result in compliance with Statewide Planning Goal 12 – Transportation; and

WHEREAS, since the last Transportation System Plan adoption (Ord. 800, 1999), the City has experienced significant growth that has placed demands on the transportation system, necessitating a re-evaluation of the transportation needs, services and facilities; and

WHEREAS, preparation of the TSP included extensive policy, planning and engineering analysis to inventory current transportation conditions and facilities, determine the needs and community desires for roadway networks, non-motorized facilities, identify and address gaps and deficiencies in the system, develop and evaluate transportation system alternatives, analyze level of service standards, plan for multi-modal connectivity, forecast future funding, and identify projects and programs to meet future transportation needs; and

WHEREAS, the City of Phoenix Planning Commission conducted work sessions, joint workshops and public open houses;

WHEREAS, on July 11, 2016, the Planning Commission conducted a duly noticed public hearing on the TSP, affording all citizens an opportunity to be heard on the subject; and

WHEREAS, following receipt of public testimony at the July 11, 2016 public hearing, the Planning Commission deliberated and forwarded an unanimous recommendation of approval to the City Council; and

WHEREAS, the City Council has considered the Planning Commission's recommendation, the staff reports in this matter, and testimony and evidence of interested parties, and has evaluated the draft TSP against Statewide Goals, state, county, and regional requirements, the Comprehensive Plan, and other applicable standards;

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

Section 1. Findings. The City Council hereby adopts as findings and conclusions the foregoing recitals and the conclusionary findings in this matter attached hereto as Exhibit 1 and adopted as if set forth fully herein.

Section 2. Order. The City Council hereby adopts the 2016 City of Phoenix Transportation System Plan attached as Exhibit 2 incorporated as if set forth fully herein.

Section 3. Staff Directive. To reflect adoption of the TSP, Staff is directed to make conforming changes to the Comprehensive Plan necessary to incorporate the amendments adopted herein.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 6th day of September, 2016.

Jeff Bellah, Mayor

ATTEST:

Janette Boothe, City Recorder

Approved as to form:

City Attorney



EXHIBIT 1

Department

112 W. 2nd Street, Phoenix, Oregon 97535
Office: 541-535-2050

**Staff Report
&
Findings of Fact and Conclusions of Law**

1
2
3
4
5 **File Number:** CP15-01

6 **Date of Report:** June 23, 2016

7 **Type of Action:** Type IV Legislative Action

8 **Street Address:** N/A

9 **Date of Application:** June 23, 2016

10 **Applicant:** City of Phoenix

Phone: 541-535-2050 ext. 316

11 **Applicant Address:** 112 W. 2nd Street

12 Phoenix, OR 97535

13 **Information Reviewed:** Application file; City of Phoenix Comprehensive Plan

14 **Attachments:** Final Draft Phoenix TSP dated February, 2016 (with all appendixes);

15 **Related permits:** N/A

16 **Date of 1st Evidentiary Hearing:** July 11, 2016

17 **Date of 2nd Evidentiary Hearing:** August 15, 2016

18 **Staff Recommendation:** Accept Findings of Fact and Conclusions of Law as presented in this
19 staff report and recommend approval of the updated Transportation System Plan to the Phoenix
20 City Council.



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I. Introduction

1
2
3 The City of Phoenix last amended the Transportation Element of its city wide Comprehensive
4 Plan (also known as the "Transportation System Plan" or TSP) in 1999. The amendment was
5 acknowledged by the State of Oregon in December of 2003. Conditions have changed between
6 1999 and 2016: a major regional comprehensive plan known as the "Greater Bear Creek
7 Regional Problem Solving Plan" or RPS was completed; the Fern Valley Interchange project will
8 be completed in a matter of months; and the City has continued to add population and
9 commercial enterprise. Phoenix is growing and evolving, altering in significant ways the
10 assumptions that informed the creation of the current TSP. For many reasons, revision of the
11 current TSP is timely and essential to the future improvement of living conditions and life
12 opportunities for this community.

13
14 Work began on this amendment in late 2013 and was completed in late 2015. The proposed
15 amendment consists of a new Transportation System Plan, produced under the direction of a
16 Citizens Advisory Committee (CAC), Technical Advisory Committee (TAC) and the Planning
17 Commission. The TAC included representatives from ODOT, the Rogue Valley Metropolitan
18 Planning Organization, Jackson County, Rogue Valley Transit District, and the Department of
19 Land Conservation and Development. These groups met on multiple occasions throughout the
20 process. Four public meetings were conducted, the final having been conducted in April, 2015.
21 The entire project was supported through a Transportation and Growth Management Grant
22 awarded to the City by ODOT.

23
24 Technical research, analysis, and recommendations were provided by an independent
25 consultant, David Evans and Associates (DEA). Over the course of the project, DEA produced
26 7 technical memoranda (TM):

- 27
- 28 • TM1 Project Context, Goals, and Baseline Assumptions
 - 29 • TM2 Existing System Inventory
 - 30 • TM3 Transportation System Operations
 - 31 • TM4 Alternatives Evaluation
 - 32 • TM5 Preferred System Plan
 - 33 • TM6 Ordinances and Code Changes
 - 34 • TM7 Complete Street Design Guidelines
- 35

36 In summary, the document establishes broad policy goals and objectives; inventories and
37 evaluates the existing transportation network; proposes a preferred alternative network that
38 addresses known deficiencies; and recommends policies and strategies to implement the
39 preferred alternative. The preferred alternative or "preferred system plan" addresses
40 pedestrian, bicycle, vehicular, public transportation, and freight travel.

41 Many factors were considered in defining a preferred alternative to replace the current, outdated
42 Transportation System Plan. These factors included community sentiment and desires as well



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1 as quantitatively measurable phenomena like observed and projected traffic volumes, crash
2 data, and the operational capacity of existing and proposed network component.
3 The proposed amendment to the City's current Comprehensive Plan would replace, in its
4 entirety, Section X Transportation Element, adopted by the Phoenix City Council on October 4,
5 1999 and acknowledged by the Department of Land Conservation and Development on
6 December 2, 2003 with the *Transportation System Plan Update, January 2016* attached to this
7 Staff Report.

II. Review Procedure

12 Amendments to the comprehensive plan require a Type IV Legislative review process according
13 to Table 12: 4.1.2 Summary of Development Decisions/Permit by Type of Decision-making
14 Procedure. Section 4.1.6 of the Phoenix Land Development Code defines that procedure.

16 Type IV actions require a "minimum of two hearings, one before the Planning Commission and
17 one before the City Council [...]". The Department of Land Conservation and Development
18 (DLCD) must be notified of the first public hearing on an amendment to the Comprehensive
19 Plan "at least 35 days before" the hearing. At least 20 days, but no more than 40 days before
20 the first hearing, the following notices must be issued:

- 22 1. Each owner of property that would undergo a zone change as a result of the action;
- 23 2. Any affected government agency;
- 24 3. Recognized neighborhood groups affected by the action;
- 25 4. Any person who requests notice in writing; and
- 26 5. All mailing addresses within a manufactured home park, pursuant to ORS 227.175.

28 At least 10 days for a scheduled City Council public hearing, notice must be published on the
29 City's website, at City Hall, and "other locations as appropriate."

Findings of Fact:

- 32 1. Notice of the proposed comprehensive plan amendment was provided to the DLCD on July
33 2, 2015, and notices of revised submittal were provided on April 1, 2016 and again on June
34 23, 2016.
- 35 2. External agencies including Fire District 5, Jackson County Roads and Parks, ODOT,
36 Jackson County Planning & Development Department, Rogue Valley Sewer District, RVTD,
37 and RVCOG were provided noticed and asked to provide written comments on June 24,
38 2016. (None have been received as of July 8, 2016).
- 39 3. A notice was posted on the City's website, at City Hall, the community information kiosk, and
40 post office and further publicized through the Planning Department social media outlet.
- 41 4. No properties are anticipated to need to be "rezoned" as a result of this comprehensive plan
42 amendment.
- 43 5. There are no recognized neighborhood organizations that will be affected by the proposed
44 amendment. In fact, the City has only 1 active neighborhood organization that is located in



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1 the Phoenix Hills/Meadowview subdivision. No transportation projects are proposed within
2 this neighborhood by the updated TSP.

3
4 **Conclusions of Law:**

5 The noticing requirements for a Type IV land use action have been duly performed for the first
6 public hearing. The application **CONFORMS TO THE REQUIREMENTS OF PHOENIX LAND**
7 **DEVELOPMENT CODE** for comprehensive plan amendments.
8

9
10 **III. Standards of Review**

11
12 Section 4.1.6.G of the PLDC defines "Decision-Making Considerations" or Standards of Review
13 for Type IV land use actions. This section requires that the Statewide Planning Goals and
14 Guidelines promulgated under ORS 197 must be met. These include

15
16 Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the
17 opportunity for citizens to be involved in all phases of the planning process.

18
19 Goal 2: Land Use. To establish a land use planning process and policy framework as a basis
20 for all decision and actions related to use of land and to assure an adequate factual base for
21 such decisions and actions.

22
23 Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.

24
25 Goal 4: Forest Lands. To conserve forest lands by maintaining the forest land base and to
26 protect the state's forest economy by making possible economically efficient forest practices
27 that assure the continuous growing and harvesting of forest tree species as the leading use on
28 forest land consistent with sound management of soil, air, water, and fish and wildlife resources
29 and to provide for recreational opportunities and agriculture.

30
31 Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces. To protect natural
32 resources and conserve scenic and historic areas and open spaces.

33
34 Goal 6: Air, Water, and Land Resources Quality. To maintain and improve the quality of the air,
35 water and land resources of the state.

36
37 Goal 7: Areas Subject to Natural Hazards. To protect people and property from natural
38 hazards.

39
40 Goal 8: Recreational Needs. To satisfy the recreational needs of the citizens of the state and
41 visitors and, where appropriate, to provide for the siting of necessary recreational facilities
42 including destination resorts.
43



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1 Goal 9: Economic Development. To provide adequate opportunism throughout the state for a
2 variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

3 **Findings of Fact:**

4 1. At the onset of this initiative, a Citizens Advisory Committee was established that met
5 throughout the process. Later in the process, the City utilized social media to broaden the
6 extent of public of awareness of the project and encourage community involvement. A
7 series of open houses were conducted, the last of which was attended by approximately 70
8 individuals, the majority of whom reside in the City.

9
10 The updated TSP does not propose land use change and therefore has no direct relationship to
11 Goals 2, 3, 4, 5, or 6.

12 2. Transportation network improvements proposed by the updated TSP are not known or
13 anticipated to impact or be impacted by environmentally sensitive lands or lands that are
14 uniquely subject to natural hazards (steep slopes, special flood hazard areas, etc.).

15
16
17
18
19 2. The City has notified the County of the proposed annexation and has not yet received any
20 comments.

21 3. All urban infrastructure is available to the subject property and has sufficient capacity to
22 accommodate development in this vicinity. Hilsinger Road does not meet current City
23 standards, but improvements are considered to be a high priority within the City's
24 Transportation System Plan and Capital Improvement Plan.

25 Historically, there have been concerns about water pressure in this part of Phoenix.
26 Improvements made to the system have improved pressure, and recent measurements from
27 hydrants in this area indicate sufficient pressure for fire suppression and domestic water
28 supply. If, upon review of a subdivision plan, minor lot partition, site design or development
29 review application, it is demonstrated that pressure is insufficient for minimum domestic
30 water supply and fire suppression standards, the City may consider requiring further
31 improvements at the developer's, users, and/or City's expense. Concerns about water
32 pressure may also be allayed by the fact that the property owner has suggested using TID
33 for irrigation, thus reducing one of the most significant demands on municipal water systems
34 during parts of the year when water supplies are under greatest demand.

35 The subject is within the Fire District 5, Phoenix City Police Department, and Talent/Phoenix
36 School district service areas.



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1 Because the precise nature of development is not known, future impacts on City
2 infrastructure and services are somewhat speculative and should be left to later phases in
3 the development review process. Considering the size of the annexation, it is unlikely that
4 future development of these lands

5 **Conclusions of Law:**

6 The requested action **CONFORMS TO THE REQUIREMENTS OF THE PHOENIX URBAN**
7 **GROWTH BOUNDARY POLICY AGREEMENT** for annexation.

8 Last, the Land Use Element of the City's Comprehensive Plan provides goals and policies for
9 annexation. Goal 3 is to "Manage annexations to achieve the objectives of the Plan by ensuring
10 that the cumulative effect of annexations decision are considered." Policy 3.1 states that

11 *The City Council may approve annexations, without referral to the City's entire electorate, when*
12 *findings of facts show that development of the property or properties proposed for annexations*
13 *would be consistent with the Plan and A) That development on the land proposed for*
14 *annexation can be served with all urban services and facilities without adverse impact on the*
15 *availability, quality, quantity, or reliability of City services provided to or likely to be needed by;*
16 *1) Existing development within the incorporated area, and 2) Undeveloped, partially vacant, or*
17 *redevelopable incorporated land (considering approved development plans or permissible*
18 *densities as set out in the Plan), and B) Population impacts of the proposed development will*
19 *not cause the City's population to grow at a rate in excess of the Comprehensive Plan,*
20 *Population Element's planned population [...].An annexation conforms to the Population Element*
21 *if the average rate of population growth likely to result from annexation (considering*
22 *development phasing of the proposed annexation) when added to the development of*
23 *previously annexed lands (considering their phasing and historical rate of development) will not*
24 *exceed 133 percent of the average annual population growth rate computed as follows: Planned*
25 *Population - most recent PSU¹ estimate of population.*

26 Policy 3.4 requires that "All properties annexed to the City shall eventually be improved to City
27 standards [...].If required improvements are not proposed at the time of annexation, then the
28 annexation agreement shall specify that the improvements shall be installed at the time of
29 partitioning, subdivision, development or other time as approved by the Council."

30 **Findings of Fact:**

- 31 1. The subject property is served by all urban infrastructure and services (see discussion below
32 throughout review of request for zone change).
- 33 2. Provision of the services can be accomplished without adversely affecting existing or future
34 development within the City's current Urban Growth Boundary.
- 35 3. The proposed annexation would accommodate a maximum of 6 new dwelling units.
- 36 4. The current average household size for the City of Phoenix is 2.2 persons/household.



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- 1 5. The maximum population added to the City's current population of 4,955 within the City's
2 political boundaries (PSU 2015 certified population estimate) due to the proposed
3 annexation would be 14 or 0.003% more than the current population.
- 4 6. Development upon the annexed property must comply with the City's Land Development
5 Code which requires improvements to infrastructure and facilities that meet the City's
6 specifications. This would be reviewed during subdivision and site design/development
7 review.

8 **Conclusions of Law:**

9 The requested action **CONFORMS TO THE REQUIREMENTS OF THE PHOENIX**
10 **COMPREHENSIVE PLAN** for annexation.

11

12

Request for Zone Change ("Rezoning")

13

The criteria for review of a quasi-judicial map amendment are set forth in Chapter 4.7.3.B
14 Criteria for Quasi-Judicial Amendments and are stated as follows:

15

16

1. *Demonstration of compliance with all applicable comprehensive plan policies and map
17 designations. Where this criterion cannot be met, a comprehensive plan amendment shall
18 be a prerequisite to approval;*

19

20

2. *Demonstration of compliance with all applicable standards and criteria of this Code, and
21 other applicable implementing ordinances;*

22

23

3. *Evidence of change in the neighborhood or community or a mistake or inconsistency in the
24 comprehensive plan or land use district map regarding the property that is the subject of the
25 application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance,
26 as applicable.*

27

28

Findings:

29

Compliance with Comprehensive Plan

30

1. Population Element.

31

Goal 1 of the Population Element is to "Plan, design, and implement programs, plans and
32 projects which will support a year 2016 population of 5,250." The City's current population is
33 4,955, according to the certified population estimated determined by Portland State
34 University. The proposed annexation, which would not accommodate more than 4-6
35 dwelling units, will not exceed this planning goal. As a recently completed Residential
36 Buildable Lands Inventory and Housing Needs Assessment observe, much of the City's
37 buildable residential land within its current political boundaries has been built-out.

38

Accommodating population growth within the City will need to be achieved through the
39 annexation of land within the Urban Growth Boundary. **Z016-01 is consistent and
40 complies with Comprehensive Plan policies.**

41



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1 **2. Natural Resources Element.**

2 This element of the Comprehensive Plan provides goals and policies for cultural, historical,
3 natural, and open space resources, most of which are considerations for development and
4 are applied during consideration of proposed development. **NOT APPLICABLE.**

5
6 **3. Historic Element.**

7 No historic assets were identified within the subject property. The proposed zone change
8 will not affect and has no direct relationship with any goals or policies in this plan element.
9 **NOT APPLICABLE.**

10
11 **4. Natural Hazards.**

12 There are no natural hazards as identified by this element that are unique to the subject or
13 its proposed R-1, Hilsinger Overlay zoning. The proposed zone change will not affect and
14 has no direct relationship with any goals or policies in this plan element. **NOT**
15 **APPLICABLE.**

16
17 **5. Public Facilities.**

18 According to the applicant, they "developed Pacific Lane to city standards in 1997 and all
19 basic utilities are available therein. Storm drain collection systems are in place on Pacific
20 Lane as well as a French drain along the southern aspects of Pacific Lane to Hilsinger
21 Road. Individual Parcel, storm water control, will be developed by with the city of Phoenix
22 by builders at the time of site development." Findings of Fact prepared by the applicant
23 further state that "All services are available at suitable gradients to service the subject
24 properties. Utility connections can be made with input and direction from the controlling
25 utility services [...] Required on-site improvements will be furnished and paid for by the
26 property owner at the time of development, thereby insuring the Orderly and Economic
27 Extension of the Urban Facilities and Services" (p. 4). Staff concur with these statements.

28 At a Pre-Application meeting, Phoenix Public Works Department staff and Fire District 5
29 representatives provided comments on the application, and all were satisfied that the current
30 water distribution system would be sufficient to provide to minimum domestic water and fire
31 suppression flow. Rogue Valley Sewer Services has also indicated that sanitary sewer
32 facilities within the vicinity have capacity to accommodate additional residential
33 development.

34 Another, higher density residential neighborhood on Tracey Lane is located directly to the
35 west of Tax Lot 500 and was able to be served by urban infrastructure and services when it
36 was developed in 2005-6. **Z016-01 is consistent and complies with Comprehensive**
37 **Plan policies.**

38 **6. Housing Element.**

39 Goal 1 of this element is "To provide, promote, and facilitate as appropriate the provision of
40 housing consistent with the needs and financial capabilities of the City's residents" (p.25).
41 Several policies developed to achieve this goal are relevant to the current application. They
42 are:
43



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1 *Policy 1.2: The City shall promote home ownership by emphasizing housing types and*
2 *densities within the plan which are conducive to home ownership.*

3 *Policy 1.2.a: The Plan shall provide for an increasing incidence of home ownership through*
4 *designation of sufficient lands and at appropriate plan/zone designations, to provide for 65%*
5 *home ownership by 2016.*

6 The comprehensive plan land use map designation for the subject property is "Low Density
7 Residential". The Comprehensive Plan Housing Element established allocations of various
8 types of residential land (and densities) based on a housing needs analysis performed at the
9 time the current Housing Element was written. Target population that was to be housed
10 within the current Urban Growth Boundary was around 5,200, and the Housing Element
11 accounted for this target in setting residential densities throughout the City. The proposed
12 annexation is consistent with densities needed to meet the target.

13 According to a Housing Needs Assessment completed in 2016, most demand for new
14 housing will be single family detached, although more higher density housing will need to be
15 built in order to meet demand for different types of housing that are affordable to households
16 representing divergent life circumstances. The study found that 447 dwelling units will need
17 to be developed on lands designated by the current comprehensive plan land use map as
18 Low Density Residential. The study also found that city-wide overall vacancy rates (for sale
19 and rent) are at record lows in the Rogue Valley. Without new supply, prices for existing
20 units will continue to climb and become less and less affordable. Residential development
21 across a range of densities is essential to alleviate a growing housing shortage and
22 affordability crisis. **ZO16-01 is consistent and complies with Comprehensive Plan**
23 **policies.**

24 **7. Parks & Recreation Element.**

25 The proposed zone change will not affect and has no direct relationship with any goals or
26 policies in this plan element. **NOT APPLICABLE.**

27
28 **8. Urbanization Element.**

29 Goal 4, Maximum Efficiency of Land Use Within and on the Fringe of the
30 Existing Urban Area, states as follows (underlines for added emphasis):

31 *A. The City/County Urbanization Agreement provides for a coordinated transition for*
32 *rural to urban development as the City grows. Land that is currently within the City will*
33 *be developed first, if possible followed by lands adjacent to the City limits to avoid "leap-*
34 *frogging".*

35 As demonstrated by the Housing Needs Assessment, completed in April 2016, much of the
36 existing residential land within the City has been developed. Very little infill land remains
37 within the existing City boundaries. The vast majority of remaining developable residential
38 lands are located outside of the City's boundaries. This is true for the subject property
39 which is adjacent to the current boundary.

40 The goal further states



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1 B. All areas within the proposed UGB can be provided with urban level services and
2 facilities. These will be adequately in condition and capacity to serve the new growth
3 prior to or concurrent with any land use changes or annexations, in accordance with City
4 development and annexation policies.

5 As previously discussed in both Transportation and Public Facilities sections elsewhere in
6 this report, urban infrastructure and services are available to the subject property.

7 The goal also requires that

8 D. The development of potential in the downtown (core) area of the community will be
9 maximized by providing adequate opportunities for commercial development and
10 expansion, and by locating higher density residential areas within easy walking distance
11 of shopping and employment. A total of 190 multi-family dwellings are proposed to be
12 added within the present City limits and all will be within walking distance (not more than
13 four blocks) of the business district and shopping.

14 The proposed zone for the newly annexed land would be low density, not higher density
15 that, according to this goal, should only be located in close proximity to the city's downtown.

16 The appropriate or ideal location of low density residential development is further described
17 in the following:

18 E. The City has been careful to plan for fringe-area land uses that will be the most
19 compatible with agricultural uses outside the UGB, where they occur. Only low-density
20 single-family residential lands will abut agricultural lands to minimize the numbers of
21 dwellings and people that will be exposed to any potential conflicts.
22

23 Higher density residential is not recommended for land located in the vicinity of the subject;
24 lower density residential is recommended for lands on the edge of the Urban Growth
25 Boundary, particularly those that are adjacent to agricultural lands in order to reduce or
26 eliminate land use conflicts that can occur between urbanized and rural/working lands.
27

28 Section 6 of Goal 4 actually identifies lands of which the subject is part, as desirable for
29 annexation and development at lower densities:

30 F. Urbanizable lands in the southwestern portion of the UGB consist of many small
31 "rural-residential" home sites of one or two acres, or less. There are no major farm units
32 in this area and most agricultural that exists is being pursued for personal use or as a
33 hobby for extra income. This area, because of its density and need for public facilities,
34 such as water and sewer, will benefit by eventual annexation to the City.
35

36 The subject is located within the "southwestern portion of the UGB" and, as the goal states,
37 would benefit by annexation to the City and the provision of urban infrastructure and
38 services.

39 Finally, Goal 7 addresses these potential conflicts further, stating that



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1 C. Southwest of the City, the area is already divided into many small rural-
2 residential lots. The proposed low-density development will have no adverse impact on
3 these areas, or larger farm units to the west.

4 The subject property is located within the southwest of the City, and urbanization should not
5 adversely affect nearby agricultural operations.

6 **ZO16-01 is consistent and complies with Comprehensive Plan policies.**

7 **9. City Center.**

8 **Finding:** The subject property is not located in the City Center area.

9 **Conclusion: NOT APPLICABLE.**

10 **10. Transportation Element.**

11 The portion of Hilsinger Road within the annexation area does not meet current City
12 standards, but improvements are planned for Hilsinger Road according to the City's most
13 recent version of its Transportation System Plan (to be adopted July, 2016) and Capital
14 Improvement Plan. Improvements are planned for Camp Baker road as land within the
15 Urban Growth Boundary and along its south side develops over the next 5-20 years. **ZO16-**
16 **01 is consistent and complies with Comprehensive Plan policies.**

17 **11. Land Use Element.**

18 *Policy 5.1* of the Land Use Element explains the connection between Comprehensive Plan
19 Land Use Map designations and Land Use District or "zoning" map. Its stated goals is to
20 "Utilize the descriptions included in the Section of the Land Use Element entitled "Plan
21 Designations" as policy. As such the descriptions of plan designations will be the controlling
22 document for the purpose of administration of the zoning and subdivision ordinances or
23 other pertinent land use regulations and codes." The Comprehensive Plan map designates
24 the subject property as "Low Density Residential". The Land Use Map District used to
25 implement this designation is "R-1 Low Density Residential". The further application of the
26 "Hilsinger Overaly H-O" designation is intended to achieve other goals and objections
27 described elsewhere in the Comprehensive Plan (see discussion of the "Urbanization
28 Element" above). **ZO16-01 is consistent and complies with Comprehensive Plan**
29 **policies.**

30 **12. Economic Element**

31 The proposed zone change will not affect and has no direct relationship with any goals or
32 policies in this plan element. **NOT APPLICABLE.**

33 **Compliance with Transportation Planning Rule**

34 Chapter 4.7.6 further states that a zone change (land use district change) must also comply with
35 the Transportation Planning Rule as delineated in OAR 660-012-0060.

36 **Findings:**



Department

112 W. 2nd Street, Phoenix, Oregon 97535
Office: 541-535-2050

1 Chapter 4.7.6 implements OAR 660-012-0060 locally by requiring that a development
2 application be reviewed to “determine whether it significantly affects a transportation facility”
3 when the application includes a comprehensive plan amendment or land use district change. A
4 proposal is considered to “significantly affect a transportation facility” when it would

- 5 1. *Change the functional classification of an existing or planned transportation facility. This*
6 *would occur, for example, when a proposal causes future traffic to exceed the capacity of*
7 *collector street classification, requiring a change in the classification to an arterial street, as*
8 *identified by the Comprehensive Plan and the Transportation System Plan; or*
- 9 2. *Change the standards implementing a functional classification system; or*
- 10 3. *Allow types or levels of land use that would result in levels of travel or access what are*
11 *inconsistent with the functional classification of a transportation facility; or*
- 12 4. *Reduce the level of service of the facility below the minimum acceptable level identified in*
13 *the Comprehensive Plan and the Transportation System Plan.*

14
15
16 The Zone Change is not likely to significantly affect a transportation facility. The petition,
17 therefore, satisfies the requirements of OAR 660-012-0060 without need for further review.
18 **ZO16-01 is consistent and complies with all applicable standards and criteria of the Land**
19 **Development Code, and other applicable implementing ordinances.**
20

21 **Conclusions of Law**

- 22
23 1. A16-01, an application to annex land located at 1680 Camp Baker Road and 3960 Hilsinger
24 Road, and consisting of 2.47 acres and identified by parcel numbers 38 1W 16AC tax lots #500
25 & #600, **has been found to comply with the standards of review and approval for an**
26 **annexation of unincorporated land into the City of Phoenix.**
- 27 2. ZO16-0, an application to change the land use designation of land located at 1680 Camp
28 Baker Road and 3960 Hilsinger Road, and consisting of 2.47 acres and identified by parcel
29 numbers 38 1W 16AC tax lots #500 & #600, from Jackson County Rural Residential RR 2.5 to
30 City of Phoenix Low Density Residential R-1 Hilsinger Overlay H-O, **has been found to comply**
31 **with the standards of review and approval for an application to change land use**
32 **designation.**

33 **Staff Recommendation**

- 34
35
36 1. Planning Commission should recommend approval of A16-01 to City Council.
- 37 2. Planning Commission should approve ZO16-01, make findings and adopt conclusions of
38 law, and direct the Planning Director to prepare an order to be executed expeditiously by an
39 appropriate member of the Planning Commission and the Director.



Department

112 W. 2nd Street, Phoenix, Oregon 97535
Office: 541-535-2050

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Matt Brinkley, AICP
Planning Director
City of Phoenix
Department of Planning & Building

6-22-2016
Date

AGENDA BILL

AGENDA ITEM: 7B

AGENDA TITLE: Second Reading and Public Hearing of an Ordinance Amending Chapter 5.18 of the Phoenix Municipal Code Pertaining to the Regulations of the Time, Place, and Manner of Commercial Cannabis Facilities

DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION: _____

MOTION: _____

INFORMATION: _____

EXPLANATION:

This is the second reading and public hearing regarding extending the hours that commercial cannabis facilities may be open in the City of Phoenix. The City of Phoenix places certain restrictions on establishments selling cannabis as duly enacted in Ordinance 958 on December 14, 2016. This amendment to the ordinance would allow for commercial cannabis facilities to be open until 10:00 PM. The current municipal code 5.18 allows such facilities to be open from the hours of 8:00 AM to 8:00 PM. The City does not anticipate any additional demand on the provision of public services and infrastructure related to commercial cannabis facilities and has not observed any additional law enforcement demands associated with the operations of such cannabis facilities since they began operation in 2015.

FISCAL IMPACT:

There is no immediate capital expense for the City.

ALTERNATIVES:

Council may vote to not adopt the ordinance.

STAFF RECOMMENDATION:

Staff recommends the Council move to adopt the ordinance amending chapter 5.18 of the Phoenix Municipal Code.

MOTION: "I MOVE TO ADOPT ORDINANCE NO _____, AMENDING CHAPTER 5.18 OF THE PHOENIX MUNICIPAL CODE PERTAINING TO THE REGULATIONS OF THE TIME, PLACE, AND MANNER OF COMMERCIAL CANNABIS FACILITIES."

PREPARED BY: Sarah Lind REVIEWED BY: _____

**CITY OF PHOENIX
PHOENIX, OREGON
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING CHAPTER 5.18 OF THE CITY MUNICIPAL CODE
PERTAINING TO THE REGULATION OF THE TIME, PLACE, AND MANNER OF
COMMERCIAL CANNABIS FACILITIES**

WHEREAS, the City of Phoenix duly enacted Ordinance 958 on December 14, 2014, thus establishing a Cannabis Facility License program and regulations on time, place, and manner for cannabis facilities; and

WHEREAS, the City will, from time to time, adjust regulations to address the effects of said regulations on the public health, safety, welfare, as well as the efficient and productive operation of commercial enterprises operating within the City of Phoenix; and

WHEREAS, the City does not anticipate any additional demand on the provision of public services and infrastructure related to the proposed adjustment of regulations on the time, place, and manner of operation of cannabis facilities engaged in the distribution of cannabis to the general public, whether the intended use of the cannabis is for medical or non-medical purposes; and

WHEREAS, the City has not observed any additional law enforcement demands associated with the operation of such cannabis facilities since they began operation in 2015.

NOW THEREFORE, the City of Phoenix **ORDAINS** as follows:

Section 1. The Municipal Code of the City of Phoenix is hereby amended as proposed in Exhibit A.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 15th day of August, 2016.

Mayor

ATTEST:

Recorder

EXHIBIT A
CHAPTER 5.18 OF THE CITY OF PHOENIX MUNICIPAL CODE, AS AMENDED BY
ORDINANCE ____ ON AUGUST, 1, 2016, SHALL READ AS FOLLOWS:

Chapter 5.18 – Cannabis Facility License

Sections

5.18.010 Purpose

5.18.020 Definitions

5.18.030 License Required

5.18.040 Application Procedures

5.18.050 Standards for Review and Facility Operation

5.18.060 Period of Validity

5.18.070 Transfer of License Prohibited

5.18.080 Ineligibility for Noncompliance

5.18.090 Annual License Renewal Procedures

5.18.100 Revocation of License for Noncompliance

5.18.110 Appeal of Denial or Revocation of a Dispensary License Application

5.18.120 No Vested Rights

5.18.130 Enforcement

5.18.010 Purpose.

- A. The City of Phoenix intends to protect the public health, safety, and welfare of persons and property within its jurisdiction.
- B. The City of Phoenix wishes to protect the residential character and quality of life within its predominately residential neighborhoods.
- C. The City of Phoenix endeavors to manage its public safety and other municipal resources in the most effective and efficient way possible.
- D. The City of Phoenix has planned, and desires to create a thriving, walkable City Center, that attracts visitors of all ages and backgrounds and provides goods and services to the community within which it is located.
- E. The City of Phoenix wishes to minimize potential adverse secondary effects upon children and other members of the public that may reasonably be anticipated to occur in the absence of the following regulation.

5.18.020 Definitions.

- A. "Cannabis" or "marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include industrial hemp, as defined by ORS 571.300, the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

- B. "Cannabis containing products" or "Cannabis derived products" means any compound, manufacture, salt, derivative, mixture, extract, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include industrial hemp, as defined by ORS 571.300, the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- C. "Cannabis cultivation" means the agricultural or industrial practice of growing cannabis from seed or immature plant, as defined by the laws and administrative rules of the State of Oregon. It may include the harvesting and drying of cannabis cola and leaves that have been grown upon the same premises. Cannabis cultivation does not include the agricultural or industrial practice of growing industrial hemp, as defined by the laws and administrative rules of the State of Oregon. Nor does it include the mere incidental possession of immature cannabis plants by a cannabis processor or wholesale or retail distributor.
- D. "Cultivation area" means the area within which plants are grown. All parts of a plant grown within a cultivation area shall be contained within the perimeter of the cultivation area. No part of a plant, except for rhizomal matter, roots, etc., grown within a cultivation area shall grow past the perimeter of the cultivation area.
- E. "Distribution of cannabis" means the physical transfer of any amount of cannabis, marijuana, or taxonomically related plant in any form by one person to any other person or persons, regardless of whether any consideration is paid or received.
- F. "Facility, cannabis" means real property, whether improved or not, whereupon cannabis, cannabis containing products, or products derived from cannabis are distributed, produced, processed, or cultivated. Premises whereupon a resident grower cultivates cannabis for personal consumption as permitted by Chapter 2 of the Phoenix Land Development Code and applicable laws and administrative rules of the State of Oregon are not cannabis facilities.
- G. "Licensed activity" shall mean any single activity for which a cannabis facility license is required including retail and wholesale distribution, production or processing of cannabis containing or derived products, and cultivation.
- H. "Operator" means the person who is the proprietor of a facility, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee or any other capacity. If the operator is a corporation, the term operator also includes each and every member of the corporation's Board of Directors whose directorship occurs in a period during which the facility is in operation. If the operator is a partnership or limited liability company, the term operator also includes each and every member thereof whose membership occurs in a period during which the facility is in operation.
- I. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

- J. "Premises" means real property at or in which a Cannabis Facility is located.
- K. "Production or processing of cannabis containing or derived products" means the production of substances and finished products by mixing, extraction, or other preparations of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the production of substances and finished products containing or derived from industrial hemp, as defined by ORS 571.300, the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- L. "Purchase or sale" means the acquisition or furnishing for consideration by any person of cannabis or cannabis containing or derived products within the City.
- M. "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority."
- N. Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide cannabis and/or cannabis containing or derived products to purchasers for money, credit, property or other consideration.

5.18.030 License Required.

It is unlawful for any persons acting as principal, clerk, agent or servant to engage in the cultivation, processing, production or distribution of cannabis, cannabis containing or derived products and byproducts, otherwise permitted under State law without first obtaining a license from the City of Phoenix. This license shall be an addition to any and all other licenses and permits held by applicant.

- A. Cannabis facilities engaged in the retail distribution of cannabis must obtain separate licenses in order to engage in the retail distribution of cannabis that is intended for medicinal consumption under the OMMMP and cannabis that is intended for non-medicinal, "recreational" consumption. The foregoing notwithstanding, only one licensed activity may be conducted at a particular cannabis facility.
- B. Cultivation of cannabis conducted by a "resident grower" as defined by Chapter 2 of Phoenix Land Development Code shall not require a cannabis facility license but must comply with the provisions of Chapter 2 and all other applicable regulations and laws.

5.18.040 Application Procedures.

An applicant shall complete an application for a license on a form provided by the City and containing the following information:

- A. A notarized statement that the applicant is the owner of record for the property at which the cannabis facility would operate, accompanied by proof of ownership, or, if the applicant is not the owner of record for the property, a notarized statement that the owner authorized the application for the license.

- B. The full name, mailing address, email address, and telephone number of the owner of record for the property if the applicant is not the owner of record for the property.
- C. Payment of an applicable license review fee established by resolution of the City Council.
- D. A floor plan and site plan, with accurate dimensions and drawn to scale, depicting the enclosed and locked location in the building where cannabis and cannabis containing and derived products will be stored, and detailing security measures undertaken to secure that location and the premises in general;
- E. For safety and building code requirements, a description detailing the electrical, plumbing, and any other building modifications and improvements utilized in the distribution, production, and/or cultivation of cannabis plants and cannabis containing and derived products;
- G. Documentation of any building, development, or other permits and licenses as required and issued by the City or State including a business license as required by Chapter 5.04 of the Phoenix Municipal Code and any licenses issued by the State of Oregon authorizing the distribution, cultivation, or production of cannabis and cannabis containing or derived products.
- H. The names and addresses of all persons that
 1. Have an ownership interest in the cannabis facility;
 2. Have loaned or given money or real or personal property to the applicant for use by the facility within the preceding year;
 3. Will act as an operator.
- I. The Chief of Police shall conduct background checks to determine whether any person named therein has been convicted in any state for the manufacture or delivery of a controlled substance listed in CFR Schedule I or Schedule II once or more in the previous five years or twice or more in the person's lifetime.
- J. Any additional information as may be deemed necessary by the Chief Law Enforcement Official or the Planning Director.
- K. The City shall issue, in writing, a decision approving, approving with conditions, or denying the requested cannabis facility license within 60 days of submission of a completed application.

5.18.050 Standards for Review and Facility Operation

In order to qualify for a cannabis facility license, the facility must meet all of the following standards:

- A. Cannabis facilities may not operate within R-1, R-2, R-3, or C-C land use districts. Production of cannabis containing and derived products is further prohibited in these districts and in the C-H district. This provision shall not be read so as to release cannabis facilities from other requirements to obtain additional land use and building permits as required by the Phoenix Land Development Code and state building and fire codes.
- B. A cannabis facility shall be located more than 250 feet from any R-1, R-2, or R-3, residential zones or a property that is legally used for residential purposes. The minimum separation between the cannabis facility or use and any and all residential property, as defined by this section, shall be calculated using the method described below in 5.18.050.F.

- C. A cannabis facility shall be located more than 250 feet from any park or recreational facility meeting the following standards:
 - 1. A public park or recreation facility that has been identified in the City's Comprehensive Plan, with the exception of the Bear Creek Greenway;
 - 2. A public library;
 - 3. A commercial or residential recreational facility, which serves children under 18 years of age;
 - 4. The minimum separation between the cannabis facility and any and all parks and recreation facilities property as defined by this section shall be calculated using the method described below in 5.18.050.F.
- D. All cannabis facilities shall be located more than 1,000 feet from any public or private school, with an average weekday attendance (during any continuous 3 month period during the preceding 12 months) of not fewer than 30 children who are under 18 years of age. This minimum separation between the cannabis facility and any and all schools shall be calculated using the method described below in 5.18.050.F.
- E. The cannabis facility shall be located at least 1,000 feet from another cannabis facility.
- F. Minimum distance shall be measured using the following method:
 - 1. The entrance to the cannabis facility that is nearest to the nearest residential, school, park or recreational facility property, as defined by this section shall be identified.
 - 2. A straight line shall be drawn from that point to the nearest point on the property line of the nearest residential, school, park or recreational facility property.
 - 3. To measure minimum distance between two cannabis facilities, the entrances to each facility closest to one another shall be identified, and a straight line shall be drawn between these two entrances.
 - 4. The distance as measured using the procedures in 5.18.050.E.1-3 must be less than the minimum spatial separation distances delineated in 5.18.050 B, C, D, and E.
- G. The cannabis facility shall be located in a permanent building and may not be located in a motor vehicle, cargo container, tent, trailer or other temporary structure.
- H. All cannabis and cannabis containing and derived products shall be contained within a secure, locked case, cabinet, safe, or similar enclosure that is not accessible without restricted means of entry.
- I. At no time shall cannabis and cannabis containing and derived products or any items, effect, paraphernalia, accessory or thing which is designed or marketed for use with cannabis and cannabis containing and derived products be visible by passers-by.
- J. Outdoor storage of cannabis, cannabis containing and derived products, or other raw materials for use in the production of cannabis containing or derived products, is strictly prohibited.
- K. The exterior of the building within which the cannabis facility is located shall be consistent in appearance with buildings in immediate vicinity and comply with any applicable architectural design standards. Any modification to the premises or exterior of a building in which a cannabis facility is located shall be subject to Chapter 4.2 of the Phoenix Land Development Code.

- L. Drive-up or drive-through facilities are expressly prohibited for cannabis facilities.
- M. Cannabis facilities shall provide for secure disposal of cannabis remnants, waste and byproducts; such materials and substances shall not be disposed of in unsecured refuse collection containers.
- N. A cannabis facility engaged in the distribution of cannabis to the general public, whether the intended use of the cannabis is for medical or non-medical purposes, shall only operate between the hours of 8:00AM and 10:00PM.
- O. Cannabis and cannabis containing or derived products shall not be consumed on the premises, unless the Cannabis Facility is registered with the State of Oregon Health Authority as a Medical Marijuana Facility, and only then may this activity occur according to applicable state statutes and the rules promulgated there from.
- P. The facility shall utilize an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
- Q. No minor is allowed on the premises unless the minor is a registry identification cardholder, is accompanied by a parent or guardian, and the Cannabis Facility is registered with the State of Oregon Health Authority as a Medical Marijuana Facility, and only then may this activity occur according to applicable state statutes and the rules promulgated there from.
- R. A person who has been convicted in any state for the manufacture or delivery of a controlled substance listed in CFR Schedule I or Schedule II once or more in the previous five years or twice or more in the person's lifetime shall not
 1. Be an operator of a cannabis facility;
 2. Have an ownership interest of 5% or more in the facility or in any entity that has a 25% or more ownership interest in the facility;
 3. Provide equity or debt financing for the facility; or
 4. Have an ownership interest of 5% or more in any entity that provides or has provided equity or debt financing for the facility.
- S. All cannabis facilities that are licensed by the State of Oregon shall provide proof of current registration as required by state law and administrative rules.
- T. A cannabis facility shall display its current permit inside the facility in a prominent place easily visible to persons conducting business in the facility.
- U. Cannabis facilities engaged in commercial cultivation shall meet the standards and requirements established in the Phoenix Land Development Code.
- V. Cannabis facilities engaged in commercial cultivation may also be required to post a performance bond or other form of financial surety, the amount of which shall be calculated by City staff to recover all reasonably anticipated costs associated with the removal and disposal of cannabis plants and related materials and equipment.

5.18.060 Period of Validity.

A license granted under these provisions shall be effective and valid for a period of up to one year from issuance or, in the case of facilities licensed by a State agency, until the expiration of that registration whichever occurs first.

5.18.070 Transfer of License Prohibited.

No license issued under the forgoing provisions may be sold, transferred, or otherwise assigned from the original license holder to another person or corporate entity.

5.18.080 Ineligibility for Noncompliance.

No license shall be issued to or renewed for a cannabis facility that

- A. Is not in compliance with the building and property management codes enacted by the City and the International Fire Code;
- B. Has not been issued a valid certificate of occupancy, if applicable;
- C. Is in violation of Chapter 3.17 of the Phoenix Municipal Code.

5.18.090 Annual License Renewal Procedures.

Prior to the expiration of the original one year license, a license renewal application fee as established by the City Council, shall be filed with the City. Any changes to the information provided on the original application shall be indicated on the license renewal application.

- A. Prior to license renewal approval, the Chief Law Enforcement Official, or designee thereof, and the City's building inspector and/or Planning Director, may inspect the licensed facility. The inspection shall include, at minimum, a review of storage areas and security measures.
- B. All requirements established in this section must be satisfied in order for a person to be eligible to renew its license to distribute cannabis and cannabis containing and derived products.
- C. The applicant must be current on all applicable Cannabis Facility Taxes and fees as established in Chapter 3.17 of the Municipal Code.
- D. If the Chief Law Enforcement Official, Planning Director, or designee thereof determines that the cannabis facility is in compliance with these requirements, a one year license renewal shall be issued.
- E. A license renewal application shall be submitted requesting renewal annually at least 30 days prior to expiration of the current permit. The premises used as a cannabis facility may be inspected by the Chief Law Enforcement Official, Planning Director, or a designee thereof, and the City's building official, to ensure compliance with this ordinance.

5.18.100 Revocation of License for Noncompliance.

In the event of any noncompliance with this provision after a license has been issued, the license may be revoked upon any of the following findings by order of the Chief Law Enforcement Official, a designee thereof, the Planning Director, or the City's building official, until noncompliance has been corrected as determined by the aforementioned agent(s):

- A. A violation of any state or local regulations, the provisions of this ordinance, or the provisions of the license;
- B. Operation of a cannabis facility that cultivates, distributes, produces cannabis or cannabis containing products, or otherwise assists a patient, client, or customer, in

- the use of cannabis or cannabis products in an unlawful manner or in a manner contrary to the public health, safety, and welfare;
- C. Any attempt to transfer, assign, or sell a license to another location or to use the same improperly;
 - D. The information provided with the license application was falsified, incomplete, and/or inaccurate;
 - E. Failure to pay any duly enacted fees or taxes

5.18.110 Appeal of Denial or Revocation of a Cannabis Facility License Application.

An application for an original or renewal license which has been denied, or an existing license that has been revoked by the Chief Law Enforcement Official, a designee thereof, the Planning Director, or the City's building official, may be appealed to the Phoenix City Council.

5.18.120 No Vested Rights.

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment thereto.

5.18.130 Enforcement.

- A. A person who violates any provision of this chapter, or the terms, conditions, or provisions of a license, is responsible for a municipal civil infraction, and shall be subject to all fines as established from time to time by resolution of the City Council.
- B. In order to secure, remove, and dispose of cannabis plants or cannabis containing or derived products that remain upon the premises of a cannabis facility after it has ceased operations, the City may enter upon the premises.
- C. Nothing in this section shall be construed to limit the remedies available to the City in the event of a violation by a person of this chapter and/or a license. Each act of violation, and each day upon which a violation exists or continues, shall constitute a separate offense.

City of Phoenix
City Council Meeting/Executive Session
Public Works Office
1000 S. "B" Street
Monday, August 1, 2016

DRAFT

CALL TO ORDER

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, August 1, 2016 at 6:30 p.m. in the Public Works Office.

ROLL CALL

PRESENT: Stan Bartell, Bruce Sophie, Carolyn Bartell, Terry Helfrich, Chris Luz, Jim Snyder, Jeff Bellah

Staff Present: Janette Boothe, Interim Finance Director/City Recorder
Derek Bowker, Chief of Police
J. Ryan Kirchoff, City Attorney

PLEDGE OF ALLEGIANCE

UPDATES/REPORTS:

1) **PHURA**

Councilor Luz discussed the meeting at which the committee selected Kistler, Small, and White to be the architect and builder. Mr. Brinkley is going to notify the architect of their selection.

2) **Parks and Greenway Commission**

Councilor C. Bartell stated the Dog days of Summer event was successful. There were between 90 and 100 people, over 60 dogs, 12 vendors, and overall the size of the event was roughly double that of last year's. Additionally, there will be a meeting in the week of August 20 for discussing updates to the Parks Master Plan.

Councilor Snyder went to the car show. He noted there were mostly VW cars, one food vendor, and a variety of other vendors at the event.

Mayor Bellah made note of the memorial service that took place at Blue Heron park and the parking situation. He suggested contacting the nearby RV park and arranging a parking situation if there is another large event taking place there. Further discussion followed.

3) **Appointment of Sandra Wine and Laurie Jendre to Parks Commission**

The Mayor recommends the appointment of Sandra and Laurie to the Parks Commission. Councilor C. Bartell noted both Sandy and Laurie helped with the Dog Days of Summer event. Sandra Wine has been working in the Brookside Apartment community garden.

MOVED BY LUZ, SECONDED BY SOPHIE, TO APPOINT LAURIE JENDRE AND SANDRA WINE TO THE PARKS AND GREENWAY COMMISSION.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder
MOTION APPROVED WITH SIX AYES

Citizen Comments

- 1) Kenneth Chard gave a background of his history and talked about how he just moved to Phoenix.

ORDINANCES:

- 1) First Reading by Title Only of an Ordinance Amending Chapter 5.18 of the Phoenix Municipal Code Pertaining to the Regulations of the Time, Place, and Manner of Commercial Cannabis Facilities, Second Reading and Public Hearing Scheduled for August 15, 2016

Council had concerns about ensuring that no other businesses in the areas will be bothered by commercial cannabis facilities staying open later. The change in the ordinance would extend the hours of operation for commercial cannabis facilities from 8:00 AM to 10:00 PM, instead of a mandatory closing time of 8:00 PM. The Mayor clarified that the request to amend the ordinance came from a local dispensary who has a lot of potential business when they close at 8:00 and would like to be open later to serve more customers.

MOVED BY SOPHIE, SECONDED BY LUZ, TO READ BY TITLE ONLY THE ORDINANCE AMENDING CHAPTER 5.18 OF THE PHOENIX MUNICIPAL CODE AND SCHEDULE A SECOND READING AND PUBLIC HEARING FOR AUGUST 15, 2016.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder
MOTION APPROVED WITH SIX AYES

- 2) Second Reading and Public Hearing for an Ordinance Approving the Annexation of Land Within the Urban Growth Boundary Into the City
The Mayor opened the public hearing at 6:45 PM.

THOSE IN FAVOR OF THE ANNEXATION:

Randall and Vicki Williams discussed their plans for a small subdivision of four homes on four minor land partitions of land to be annexed. They have been involved in the Hilsinger Road area for the last 25 years. Further discussion followed regarding traffic patterns in the area.

The Mayor requested Steffen Roennfeldt clarify the property relation to LIDs in the property sale contracts. The Planning Commission has received two more letters in favor of the annexation and recommends Council approve the annexation.

THOSE IN OPPOSITION OF THE ANNEXATION:

No one spoke in opposition of the annexation.
Mayor Bellah closed the public hearing at 6:58 PM.

COUNCIL DELIBERATION:

MOVED BY SOPHIE, SECONDED BY C. BARTELL, TO APPROVE ORDINANCE NO. 974 APPROVING THE ANNEXATION OF LAND WITHIN THE URBAN GROWTH BOUNDARY INTO THE CITY.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder

MOTION APPROVED WITH SIX AYES

The ordinance will go into effect in 30 days.

CONSENT CALENDAR:

1) Minutes from July 13, 2016 Special City Council Meeting

2) Minutes from July 18, 2016 Regular City Council Meeting

The Mayor requested Council approve these two topics prior to the liquor license. No changes were made.

MOVED BY SOPHIE, SECONDED BY LUZ, TO APPROVE THE CONSENT CALENDAR.

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder

MOTION APPROVED WITH SIX AYES

3) Liquor License Application for Pizzatori LLC

Council wanted to clarify what the business meant by applying for “off-premise” sales. Councilor Sophie expressed concern about open containers of alcohol. Mr. Roennfeldt said he thought the off premise sales would apply to customers purchasing alcohol to consume at home. The business wanted to get all their administrative paperwork done prior to applying for a business license. The Mayor suggested Council table the item for the next meeting if they wanted more information.

UNFINISHED BUSINESS:

1) City Manager Recruitment Update

The Mayor clarified with Mrs. Boothe as to where the job has been posted. The six questions will be posted on the City website. The application period will close on August 26, 2016.

NEW BUSINESS:

1) A Resolution Allowing a Budget Increase Pursuant to ORS 294.471(1)(a) Providing for the Receipt and Expenditure of Unexpected Monies for FY 2016-2017

The Mayor moved this item up for discussion. The City received a payment from Talent of \$40,000 regarding the water loss. This resolution allows the City to incorporate that figure into its budget for FY 2016/2017. **MOVED BY LUZ, SECONDED BY SOPHIE, TO APPROVE RESOLUTION NO. 972, ALLOWING A BUDGET INCREASE PURSUANT TO ORS 294.471(1)(a) PROVIDING FOR THE RECEIPT AND EXPENDITURE OF UNEXPECTED MONIES FOR FY 2016-2017.**

ROLL CALL VOTE AS FOLLOWS:

Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder
MOTION APPROVED WITH SIX AYES

2) Approval of Finance Director Job Description and Discussion of Finance Director Recruitment

The Mayor said Council can approve or wait on approving the Finance Director job description. Ultimately, it is the City Manager's responsibility to open the job or not, but since the City is in a unique position Council is weighing in on the position. Council read the letter from Mr. Brinkley recommending Mrs. Boothe for Finance Director/City Recorder. The Mayor would like to have different versions of the job description based on the actual job being done by the person in the role of Finance Director. Councilor Sophie said it would be nice to see a resume as part of the process. Councilor C. Bartell asked if the job title of Finance Director/City Recorder would be applicable and noted that Mrs. Boothe is one of the senior staff longest members in the City's administrative section. Councilor S. Bartell noted he would like to see an application since the position is part of public information. Mayor Bellah would like to see analysis and positive redirection of City funds as part of the description as well. Further discussion followed. No decisions were made. Mayor Bellah suggested placing this item on the next agenda with a couple job descriptions as examples for creating a new job description for the position.

STAFF REPORTS:

1) City Attorney's Report:

- a) Attorney Kirchoff explained how the Oregon legislature worked with one of the counties in regards to marijuana growth and use. Farm activities were not allowed on rural residential land. Recreational marijuana was described as farm use, where medical was not. The issue was where to allow the growing, selling, and production of marijuana based on local laws.

2) City Manager's Report:

- a) Review of Sarah Westover's Application for the Citizens Advisory Committee
This is a review of the application for the CAC which was approved at the previous City Council meeting on July 18, 2016.

3) Proposal of Temporary Reorganization of Police Department

Chief Bowker described the situation within the Police Department relating to the School Resource Officer (SRO) contract. Officer Patchett would like to retire and be hired on part time (1039 hours/year) as the SRO without PERS benefits. Further discussion followed. Council's consensus was to authorize the negotiated contract with Officer Patchett.

The Mayor closed the regular meeting at 8:00 PM and convened into executive session.

EXECUTIVE SESSION:

Called under ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

Discussion followed and no decisions were made.

Executive Session closed at 8:40 p.m.

RECONVENE INTO OPEN SESSION:

Council requested staff prepare a proposal based on discussed labor negotiation scenarios. They would like the first meeting for negotiations with the Union scheduled for the end of August or early September.

The meeting adjourned at 8:45 PM

Respectfully submitted,

Janette Boothe

Sarah Lind
Executive Assistant

Interim Finance Director

AGENDA BILL

AGENDA ITEM: 9A

AGENDA TITLE: Discussion of Finance Director Position

DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

Please see the attached updated job description for the Finance Director position. City Council will review the updated job description for the Finance Director and discuss recruitment for the position. At the previous City Council meeting on August 1, Council reviewed the position description for Finance Director. Council also read a letter of recommendation from the Interim City Manager, Mr. Brinkley, for Ms. Boothe, the Interim Finance Director, to move into the position of Finance Director. Council requested this item be placed on the August 15, 2016 agenda when Mr. Brinkley is present to further discuss the recommendation.

FISCAL IMPACT:

None

ALTERNATIVES:

N/A

STAFF RECOMMENDATION:

Staff recommends Council review and approve the updated Finance Director job description.

MOTION: “.”

PREPARED BY: Sarah Lind **REVIEWED BY:** _____

CITY OF PHOENIX
FINANCE DIRECTOR
JOB DESCRIPTION

JOB TITLE: Finance Director
DEPARTMENT: Finance
REPORTS TO: City Manager
FSLA STATUS: Exempt
UNION POSITION: No
Effective Date: May 2, 2016

DEFINITION: Provide leadership, management, direction, planning and goal setting for the City's Finance Department to ensure delivery of quality municipal services. The Director is responsible for strategy and planning for all financial issues facing the city. Conduct special projects as assigned by the City Manager.

This position works under the general supervision of the City Manager. As a member of the City's executive leadership team, this position has direct input into City policies and procedures and advises the City Manager on related issues.

ESSENTIAL DUTIES AND RESPONSIBILITIES

The duties and responsibilities are not to be construed as all-inclusive. The essential duties will include other responsibilities as assigned and required.

1. Develops and directs the implementation of policy and operational goals through department divisions and programs in response to service demands, and consistent with performance standards.
2. Directs the preparation and implementation of the department's annual operating and capital budget consistent with program goals and objectives; responds to requests from City Manager and Budget Committee members and other departments regarding the department budget request, and in the preparation of annual comprehensive financial statements.
3. Ensures compliance with all state, federal and local laws, department rules, and City policies and procedures; monitors and enforces safety rules established for assigned work areas.
4. Establishes annual department goals including ongoing confirmation and/or recommended updates to strategic direction, and provides periodic reports of the status of progress toward goals.
5. Sets and attains professional development goals; maintains proficiency in area of responsibility; stays current on area of expertise; demonstrates unquestionable integrity at all times, serving as a role model for appropriate public service ethics and effective leadership.
6. Prepares and presents written and oral reports to the City Manager, City Council, boards, commissions, other government agencies, and community groups including the presentation of findings related to executive and elected officials' requests for research and information; advise the City Manager and City Council on department-specific issues.
7. Serves as a member of the City's executive leadership team; participates in recurring and special meetings and workshops including internal staff meetings, City Council meetings, Council

workshops and study sessions, commission and committee meetings, and department staff meetings. Coordinates activities of the department with other departments, other public agencies, and various community groups.

8. Represents the City at community and/or inter-agency meetings and functions, as appropriate; establish and maintain effective relationships with peers in other agencies and organizations, city departments, citizens, the business community, special interest groups, and the general public.
9. Recommends programs and techniques to improve the effectiveness of the City and its services.
10. Provides assistance to the City Manager, as directed and needed.

DEPARTMENT SPECIFIC:

1. Prepares a budget document that details all City expenditures and revenues in accordance with generally accepted governmental accounting practices. In conjunction with City Manager, presents final budget document to budget committee for approval.
2. Directs the maintenance of the City's fiscal accounting system in a manner consistent with established and accepted municipal accounting principles and practices and City finance policies, and in sufficient detail to produce adequate revenue, expenditure and statistical data for management purposes and to meet statutory requirements.
3. Monitors departmental expenditures for the purpose of advising departments and City Manager of budget status, and insuring conformance with budget provisions and maximum expenditure amounts.
4. Maintains City's investment portfolio. Makes investments of idle funds, oversees reconciliation of all bank statements and accounting records monthly, and prepares information necessary for periodic audits. Ensures annual financial audit is conducted; assists and confers with independent auditor(s) as necessary.
5. Oversees preparation of City's payroll, accounts payable, and accounts receivable functions, including preparation and processing, monthly reports, and associated deposits.
6. Administers the City's participation in the Oregon Public Employees Retirement System (PERS).
7. Prepares necessary documents for approval, advertisement, printing, and sale of warrants to finance the construction, and bonds to provide long-term financing, of public improvements for the City; signs and delivers bonds when sold, and receives monies; provides the necessary documents for the acceptance of the bonds.
8. Provides for preservation, retention, and destruction of city finance records in accordance with state and federal laws and City policy.
9. Disseminates financial notices and information to departments, financial institutions, and state, federal and private agencies as required.

NECESSARY KNOWLEDGE, SKILLS & ABILITIES

To successfully perform this job, one must possess the following:

1. Knowledge of modern principles and techniques of governmental and municipal accounting and finance laws and rules, administration, organizational management, supervision, budget, and policy.
2. Ability to effectively apply management techniques, supervise subordinate personnel, and ensure that the department adheres to state and federal laws, department rules, City codes and policies. Ability to read, comprehend, interpret and apply laws and regulations. Ability to establish and maintain effective working relationships with other public officials, employees, vendors, the general public, and other individuals with which the incumbent comes in contact during the course and scope of employment.
3. Skills necessary to effectively perform the duties and responsibilities of the position, including: excellent communication and negotiation skills; management and supervision; writing and public presentation skills; computer skills sufficient to proficiently use word processing, spreadsheet and database applications.

JOB QUALIFICATIONS:

Job education and prior work experience requirements are minimum standards. Other equivalent combinations of education, training and experience which ensure the ability to perform the work will be considered.

Education:

Bachelor's degree from an accredited college or university in Accounting, Finance, Business Management or closely related field required. Certified Public Accountant (CPA) or Professional Finance Officer Certification preferred.

Prior Experience:

Five years of progressively responsible related experience, including experience in a leadership role.

PHYSICAL DEMANDS OF POSITION:

While performing the duties of this position, the employee is frequently required to stand, walk, reach, bend, kneel, stoop, twist, crouch, crawl, climb, balance, see, talk, hear, smell and manipulate objects. Manual dexterity and coordination are required for less than half of the daily work period, which is spent either sitting while operating office equipment such as computers, keyboards, 10-key, telephones, and other standard office equipment or driving to meeting locations. The position requires a degree of mobility and moving materials weighing up to 5 lbs. frequently, up to 10 lbs. occasionally, and up to 40 pounds infrequently. This position requires both verbal and written communication abilities.

WORKING CONDITIONS:

While performing the duties of this position, the employee is generally working indoors in an office environment. The office setting does not expose the employee to hazardous conditions. The noise level in the office environment is usually moderate and lighting is adequate. Travel is required less than 10% of the work period.

AGENDA BILL

AGENDA ITEM: 9B

AGENDA TITLE: Continued Discussion Regarding
Public Works Superintendent

DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

On Monday, August 8, 2016 City Council and staff held an interview with an applicant for the Public Works Superintendent position. Council will discuss and decide on a formal offer to the applicant.

FISCAL IMPACT:

The position of a Public Works Superintendent is budgeted for.

ALTERNATIVES:

N/A

STAFF RECOMMENDATION:

Staff recommends Council discuss and decide on a formal offer for the applicant for the Public Works Superintendent position.

MOTION: "I MOVE TO APPROVE THE DISCUSSION, DECISION, AND FORMAL OFFER TO THE APPLICANT FOR THE PUBLIC WORKS SUPERINTENDENT POSITION."

PREPARED BY: Sarah Lind **REVIEWED BY:** _____

AGENDA BILL

AGENDA ITEM: 10A

AGENDA TITLE: Bridge Medallion Project Update
DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: _____ RESOLUTION: _____

MOTION: XX INFORMATION: _____

EXPLANATION:

The City of Phoenix would like to install four engraved stone medallions on the bridge coming off the I5 overpass/fern valley interchange. These would be visible largely to pedestrians as well as bicyclists and vehicle traffic. The medallions have various nature themes relating to local wildlife and scenery. They will be 36” in diameter and set in the wall on the bridge. The medallions will be installed in coordination with ODOT. Currently, Pat Hasteley of Northwest Custom Stone is in contact with the ODOT bridge engineer for their requirements to affix the medallions to the bridge. A granite slab from Elemar Stone is reserved and Rob Visel is waiting for approval to start the project. Rob Visel of Star Crystal is a local engraver who specializes in designing and engraving stone. He has come up with detailed designs based on proposed themes as well as put together an estimate for the project.

FISCAL IMPACT:

Following is a breakdown of the costs associated with the project:

- Astoria granite slab: \$1125
- Fabrication of medallions: \$1400
- Installation: \$500
- Engraving: \$2400
- Total: \$5425.00

The cost of the materials and installation will be paid out of the capital reserve fund as part of the Fern Valley Interchange project.

ALTERNATIVES:

Council may suggest changes to designs or request more information prior to approving.

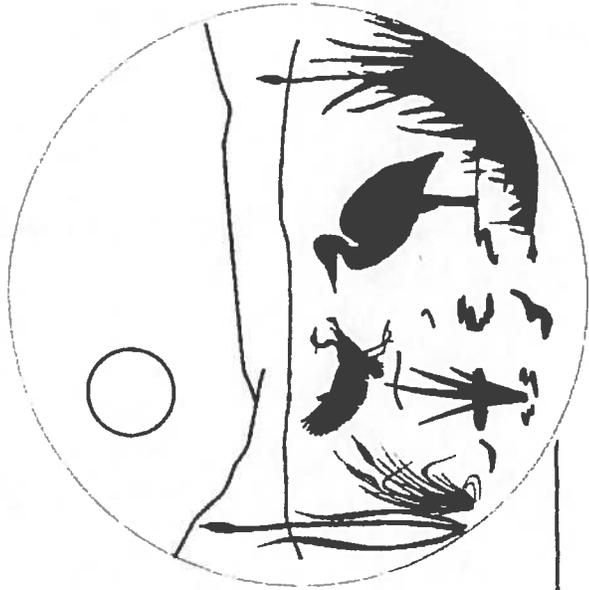
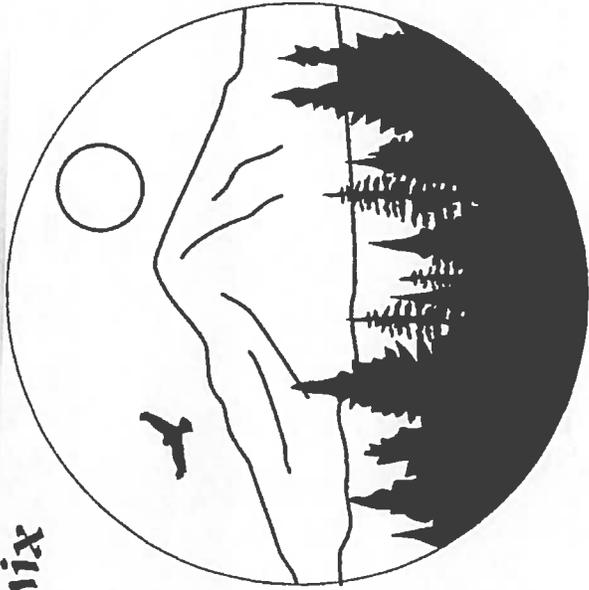
STAFF RECOMMENDATION:

Staff recommends Council approve the designs and authorize staff to contact Mr. Visel to begin project fabrication.

MOTION: “I MOVE TO APPROVE THE DESIGN, PURCHASE, AND INSTALLATION OF THE BRIDGE MEDALLIONS FOR THE FERN VALLEY INTERCHANGE PROJECT.”

PREPARED BY: Sarah Lind REVIEWED BY: _____

Phoenix



Phoenix



AGENDA BILL

AGENDA ITEM: 10 B

AGENDA TITLE: Approval of Bear Creek TDML Project for FY 2016-2017

DATE: August 15, 2016

ACTION REQUIRED:

ORDINANCE: _____

RESOLUTION: _____

MOTION: XX

INFORMATION: _____

EXPLANATION:

An Interagency Cooperative Funding Agreement between RVCOG and the following state and local agencies: Cities of Central Point, Medford, Phoenix, Talent, and Ashland, Jackson County, Oregon State Department of Agriculture, and the Oregon State Department of Forestry for a Bear Creek watershed non-point source pollution (TMDL) monitoring and implementation project fiscal year 2016-2017. Please see the attached agreement.

FISCAL IMPACT:

\$8,584.02 from the Street fund.

ALTERNATIVES:

Take no action or modified action

STAFF RECOMMENDATION:

Staff recommends giving authorization to sign the agreement.

MOTION: "I MOVE TO AUTHORIZE THE MAYOR TO SIGN THE INTERAGENCY COOPERATIVE FUNDING AGREEMENT WITH RVCOG FOR THE BEAR CREEK WATERSHED NON-POINT SOURCE POLLUTION (TMDL) MONITORING AND IMPLEMENTATION PROJECT FOR FY 2016-2017."

PREPARED BY: Sarah Lind REVIEWED BY: _____

**ROGUE VALLEY
COUNCIL OF GOVERNMENTS**

155 North First Street
P.O. Box 3275
Central Point, OR 97502
(541) 664-6674

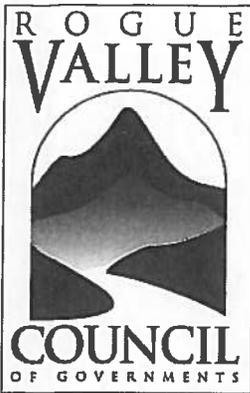
INVOICE # 17-8815

INVOICE DATE
7/1/2016

INVOICE TO:

City of Phoenix Finance Department
P O Box 330
Phoenix, OR 97535

DESCRIPTION	INVOICE AMOUNT
Bear Creek TMDL Project	\$8,584.02
Fiscal Year 2016/2017	
INVOICE TOTAL	\$8,584.02



Natural Resources Department

Rogue Valley Council of Governments

(541) 664-6674 • FAX (541) 664-7927 • www.rvcog.org

The Rogue Valley Council of Governments is a voluntary association of these local governments and special districts in our region:

- Jackson County
- Josephine County
- City of Ashland
- Town of Butte Falls
- City of Cave Junction
- City of Central Point
- City of Eagle Point
- City of Gold Hill
- City of Grants Pass
- City of Jacksonville
- City of Medford
- City of Phoenix
- City of Rogue River
- City of Shady Cove
- City of Talent
- Applegate Valley Rural Fire Protection District No. 9
- Jackson Soil & Water Conservation District
- Rogue Community College (RCC)
- Rogue Valley Sewer Services (RVS)
- Rogue Valley Transportation District (RVTD)
- Southern Oregon Regional Economic Development, Inc. (SORED)
- Southern Oregon Regional Communications (SORC)
- Southern Oregon University (SOU)

June 22nd, 2016

Matt Brinkley, AICP CFM
Interim City Manager
Acting Executive Director, Phoenix Urban Renewal Agency
Director Planning & Building Department
City of Phoenix
112 West 2nd Street
PO Box 330
Phoenix, OR 97535

Dear Matt:

Enclosed you will find two copies of the TMDL contract for FY2016-2017. Please sign both copies and return one to me. The City's contribution to the program is \$8,584.02. The slight increase in the annual fee is to support the Stream Smart Program.

I have also enclosed an invoice for the City's share of the TMDL program. Please send us your signed contract and your program fee by September 30th, 2016.

Thank you for your continued commitment to cleaning up our creeks. If you have any questions regarding this agreement, please don't hesitate to call me at 541-423-1370.

Sincerely,

Greg Stabach
Project Manager

Enclosures

**INTERAGENCY COOPERATIVE FUNDING AGREEMENT
FOR A BEAR CREEK WATERSHED
NON-POINT SOURCE POLLUTION (TMDL) MONITORING
AND IMPLEMENTATION PROJECT**

July 1, 2016

THIS AGREEMENT is made and entered into by and between the **ROGUE VALLEY COUNCIL OF GOVERNMENTS**, a voluntary intergovernmental association, hereinafter referred to as **RVCOG**, and the following state and local agencies:

City of Ashland, City of Central Point, City of Jacksonville, City of Medford, City of Phoenix, City of Talent, Jackson County, Oregon State Department of Agriculture, and the Oregon State Department of Forestry hereinafter referred to collectively as the Designated Management Agencies (**DMAs**). All participants included in this agreement are hereinafter referred to collectively as the **PARTIES, WITNESSETH THAT:**

WHEREAS, the **DMAs** have been placed under an Implementation and Compliance Schedule by the Oregon State Department of Environmental Quality which directs that they correct non-point source pollution problems in the Bear Creek Watershed in order to meet the requirements of the U.S. Clean Water Act; and

WHEREAS, the Department of Environmental Quality's directive includes requirements that the **DMAs** work collectively by using a watershed approach to resolve the non-point source pollution problems within the Bear Creek Watershed; and

WHEREAS, the **DMAs** have agreed to collectively employ the **RVCOG** to administer and manage the implementation of a TMDL Program including water quality testing which targets the identification of and reduction in non-point pollution within the Bear Creek watershed.

NOW THEREFORE, for and in consideration of the terms, conditions, stipulations and covenants herein contained, the **PARTIES** do mutually agree as follows:

A. TIME OF PERFORMANCE

This agreement shall take effect on **July 1, 2016** and terminates on **June 30, 2017**. At that time, pending available funding and a finding of continuing need, this agreement may be amended, terminated or extended per Section "E" below.

B. DMAs RESPONSIBILITIES

1. Each **DMA** will make payment to the **RVCOG** not to exceed the amount allocated in the *Total Cost* column (*Table 1 below*).
2. Each **DMA** will make payment in full for 100% of the amount shown in the *Total Cost* column as designated for their jurisdiction (*Table 1 below*). **Total payment should be received by RVCOG prior to September 30th, 2016 unless other arrangements are made prior to that date.**
3. Each **DMA** will support the **RVCOG** in its administration and management of the Bear Creek Non-point Pollution (**TMDL**) Sampling Project by providing advisory and technical information concerning their jurisdictional area and in developing/establishing watershed based policy decisions.
4. Each **DMA** will send an authorized representative to the **RVCOG** regularly scheduled

meetings to discuss the progress and the needs of the TMDL program. In addition, each DMA will send a representative to any additional meetings deemed necessary by the TMDL Committee.

5. The participation of the DMAs in this program does not negate their individual responsibilities under the TMDL program. Rather this program is designed to assist the DMAs to meet their individual responsibilities.

**Table 1
Year 2013-2014 Budget
for the TMDL Monitoring and Implementation Program**

DMA	2016/17 Storm Drain ²	2016/17 Other Monitoring/ Implementation/ Personnel/ Materials	2016/17 Implementation (Regional Management) ³	2016/17 Total Cost
Ashland	\$1,463.63	\$4,341.45	\$6,637.40	\$12,442.48
Central Point ¹	\$976.44	\$3,605.00	\$239.02	\$4,820.46
Jacksonville	\$976.44	\$2,936.53	\$4,483.12	\$8,396.09
Medford	\$1,951.85	\$8,067.99	\$11,429.92	\$21,449.76
Phoenix	\$976.44	\$3,035.41	\$4,572.17	\$8,584.02
Talent	\$976.44	\$2,873.70	\$4,395.94	\$8,246.08
Jackson County ²	\$0.00	\$6,318.02 ²	\$329.62	\$6,647.64
Dept. of Agriculture	\$0.00	\$1,000.00	\$0.00	\$1,000.00
Dept. of Forestry	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$7,321.24	\$32,178.10	\$32,087.19	\$71,586.53

¹ Central Points Floodplain/ Stormwater Coordinator is implementing Central Point's plan. Additional assistance will be on an as-needed basis. Central Point will participate in, support, and promote ongoing regional efforts.

² Cost based on \$488.22 per storm drain tested.

³ Cost increase reflects DMAs commitment to the Stream Smart program for website upkeep, domain hosting, and basic editing of the website. Cost breakdown is based on total estimated cost weighed by percentage of TMDL total.

C. RVCOG RESPONSIBILITIES

1. RVCOG will receive, administer, and expend funds to hire and supervise the number of individual(s) necessary to complete the project as described in Attachment A to this document.
2. RVCOG will be responsible for daily administration and oversight of the project.
3. RVCOG will complete the work program as described in Attachment A to the satisfaction of the DMAs.

4. **RVCOG** will provide periodic and/or written reports.
5. **RVCOG** will be granted ownership of all equipment purchased under this agreement but will make the equipment available to the **DMAs** on an as-available, on-going basis upon request of individual **DMAs**.
6. **RVCOG** will notify the **DMAs** of any problems occurring with the project which require departure from the work program described in Attachment A; this notification will allow the **PARTIES** to cooperate in addressing how any necessary changes will be made.
7. **RVCOG** will develop a quality assurance program with DEQ.

D. PROJECT COORDINATORS

1. Administration of this agreement for the **DMAs** shall be accomplished by:

- Dr. Ray Jaendl, Oregon Department of Agriculture, 635 Capitol St., N.E., Salem, Oregon, 97301-5232. Phone: 986-4713.
- Lee Winslow, Stewardship Forester, Department of Forestry, 5286 Table Rock Road, Central Point, Oregon, 97502. Phone: 541-664-3328.
- Pieter Smeenk, Public Works, City of Ashland, 20 East Main St., Ashland, Oregon, 97520. Phone: 541-488-5587.
- Matt Brinkley, Director of Planning & Building Department, Interim City Manager, City of Phoenix, PO Box 330, Phoenix, Oregon, 97535. Phone: 541-535-2236x101.
- Zac Moody, Community Development Director, City of Talent, P.O. Box 445, Talent, Oregon, 97540. Phone: 541-535-7401 ext. 1010.
- Mike Ono, GIS/Engineering Tech II, CFM, Public Works Department, City of Central Point, 140 So. 3rd St., Central Point, Oregon, 97502. Phone: 541-664-3321, ext. 243.
- Jeff Alvis, Public Works Director, City of Jacksonville, 110 East Main Street, P.O. Box 7, Jacksonville, Oregon, 97530. Phone: 541-899-1231.
- Roger Thom, Utilities Engineer, City of Medford, 411 West 8th St., Modular Building, Medford, Oregon, 97501. Phone: 541-774-2100.
- Kelly Madding, Development Services Director, Jackson County, 10 South Oakdale, Room 100, Medford, Oregon, 97501. Phone: 541-774-6519.

2. Administration of this agreement for **RVCOG** shall be accomplished by:

- Greg Stabach, Natural Resources Coordinator, Rogue Valley Council of Governments, PO Box 3275, Central Point, Oregon, 97502. Phone: 541-423-1370.

E. AMENDMENTS AND TERMINATION

1. **AMENDMENTS** - Amendments or changes to the provisions of this contract in whole, or in part, shall be reduced to writing and signed by the appropriate **PARTIES**. Unless amended in this way, this document constitutes the entire agreement between the **PARTIES**.

2. **EFFECTIVE DATE and DURATION** - The passage of the contract expiration date (as given in Section A) shall not extinguish or prejudice the **RVCOG's**, or a **DMA's**, right to enforce this contract with respect to any default or defect in performance that has not been cured.

3. **TERMINATION** - (a) Any **DMA** may terminate their contractual involvement with the **RVCOG** upon 30 days' notice in writing and delivered by certified mail, or in person. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such terminations. (b) Any **DMA** may terminate the whole, or any part, of this agreement with **RVCOG** by written notice of default: (i) If **RVCOG** fails to provide services called for by this contract within the time specified herein or any extension thereof, or (ii) If **RVCOG** fails to perform any of the other

provisions of this contract or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice fails to correct such failures within 10 days, or such longer period as may be authorized. The rights and remedies of any **DMA** provided in the above clause related to defaults (including breach of contract) by **RVCOG** shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

4. **ACCESS TO RECORDS** - The **DMAs** and their duly authorized representatives shall have access to the books, documents, papers, and records of **RVCOG** which are directly pertinent to the specific contract for the purpose of making audits, examinations, excerpts and transcripts.

5. **COMPLIANCE WITH APPLICABLE LAWS** - **RVCOG** shall comply with all federal, state, and local laws and ordinances applicable to the work under this contract.

6. **EQUIPMENT OWNERSHIP** - Upon termination of this agreement all property or equipment purchased under this agreement will become the sole possession of the **RVCOG**.

7. **CONDITIONS OF FINANCIAL NON-PARTICIPATION** - The costs shown in *Table 1* are allocated by **DMA** based upon the receipt of full funding provided by all **DMAs** listed. If in the event that a **DMA** decides not to participate and full funding for the program is not realized, the agreement will need to be amended as per Section E(1) above. **RVCOG** reserves the right to terminate this contract in whole or in part, upon 30 days notice in writing and delivered by certified mail, or in person.

F. PAYMENTS

1. The **DMAs** certify that the funds required by their commitment under this agreement are available until June 30, 2017 at the time of the signing of this agreement.

2. The **DMAs** will make payment not to exceed the *Total Cost* column in Table 1 above as indicated for each respective **DMA** and noted in Section B(1) above. The payment schedule will be made in accordance with Section B(2) above.

3. Unless amended otherwise in writing, no other obligations for payments from the **DMAs** to **RVCOG** are stated or implied under this agreement.

G. REPORTS and RECORDS

1. **RVCOG** will provide the **DMAs** with a copy of all documents, studies, reports, and materials developed under this agreement.

H. INDEMNIFICATION

1. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260-300, the Oregon Constitution, Article XI, Section 7 and the terms of any applicable policies of insurance, the **PARTIES** agree to save, hold harmless and indemnify each other, including their officers, agents and employees, from any loss, damage, injury, claim, or demand by a third party against either party to this agreement arising from the activities of the other party in connection with this Agreement. Neither party shall be liable for any loss, damage, injury, claim or demand against each other arising from their respective activities in connection with this Agreement, except as otherwise expressly set forth herein.

2. **RVCOG** shall comply with all federal, state, and local laws and ordinances applicable to the work under this contract.

I. MERGER CLAUSE

This contract and attached exhibits constitute the entire agreement between the **PARTIES**. No waiver, consent, modification or change of terms of this contract shall bind either party unless put in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in

the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

ATTACHMENT A – Work Detail

I. MONITORING - LOCATIONS

1. In this study **RVCOG** will conduct instream water quality monitoring at the following sites contingent upon being able to access the sites:
 - * Bear Creek (11 sites) at: S. Valley View Road, Lynn Newbry Park, Fern Valley Road, Ninth Street, Pine Street, Kirtland Road, along the Greenway (in Talent, Phoenix, and Central Point), in Medford near I-5, and at Table Rock Road.
 - * Other Creeks: Neil Creek at Dead Indian Road, Ashland Creek below the Wastewater Treatment Plant, Griffin Creek at I-5, Jackson Creek at Blackwell Road, Walker Creek at Dead Indian Road, Emigrant Creek at Mouth, Neil Creek at Mouth, Ashland Creek at Granite Street, Griffin Creek at Beall Lane, Jackson Creek at Highway 238, and Jackson Creek at Jacksonville.
 - * The Irrigation Diversions for the Talent and Medford Irrigation Districts.
2. The total number of projected regular monitoring locations is detailed below. These monitoring locations will be reviewed on approximately an annual basis with changes made only through agreement of all the **PARTIES**.
 - Phosphorus – 22
 - Ammonia – 2
 - E. coli – 24
 - Turbidity, pH, and conductivity – 24
 - Macroinvertebrates – 10
 - Temperature – 24 spot samples, number of continuous stations will vary based on equipment purchased/available.
3. Additional "hot spot" monitoring will be completed on those tributaries which exhibit any unusual high readings of the parameters being measured or following report of concerns. The purpose of the "hot spot" monitoring will be limited to identifying the general location of the source of pollution contamination only. The appropriate **DMA** will be notified of the problem and its general location in order to take action to correct the contributing problem.
4. This program will also include the monitoring of storm drains. The numbers of sites per **DMA** are as follows: City of Ashland (3), City of Central Point (2), City of Jacksonville (2), City of Medford (4), City of Phoenix (2), and City of Talent (2). Some locations are currently being changed, but the number of sites per city is the same. Exact locations of sites will be determined between each **DMA** and **RVCOG**. The scope of this contract agreement does not include follow-up monitoring for identified problems. Any additional monitoring by **RVCOG** will need to be negotiated on a case by case basis.

II. MONITORING - SAMPLING FREQUENCY

1. Sampling will be performed monthly at the sites for E. coli, pH, conductivity, and turbidity. The total number of sampling runs under this contract will be 12.
2. Sampling will be performed for phosphorus monthly from May through October at sites E1-E16, E18 or E19 (depending on flow), and E20-E24. Total number of sampling runs will be 6.
3. "Hot Spot" monitoring will occur on an as needed basis.
4. The Storm Drain monitoring program will visit each sample collection site a maximum of 3 times and samples will be collected if effluent is flowing from the site. The first samples will be taken

during dry weather flows before the first rains of the season. The second set of samples will be collected soon after the early season storm event that creates surface runoff and the third sample will be taken approximately 60 days after sample number two.

III. MONITORING - PARAMETERS SAMPLED

1. Sites will be analyzed for E. coli, pH, conductivity, temperature, and turbidity.
2. Sampling will be performed for phosphorus monthly from May through October at sites E1-E16, E18 or E19 (depending on flow), and E20-E24.
3. Storm Drain monitoring program will sample and analyze for total phosphate, BOD5, pH, conductivity, temperature, turbidity, and E. coli. Where practical, flow will be estimated at each site.

IV. MONITORING - METHODS

1. The sampling and testing procedures used will be approved by the Department of Environmental Quality. The program will operate under a QA/QC program in collaboration with the DEQ. The equipment used in the testing of these parameters has been received under a DEQ grant and approved by DEQ. The lab used for analysis will be provided by the City of Medford Wastewater Treatment Laboratory. *This contract is conditional upon the availability of this lab.*
2. The general analysis methods that will be employed are:
 - * Temperature - measured by meter, calibrated thermometers and/or continuous instream recorders.
 - * Conductivity - measured by conductivity meter.
 - * E. coli testing will be made with the Colilert system
 - * pH - measured by pH meter.
 - * Turbidity - using calibrated turbidity meter.
 - * Ammonia - phenate method with final concentration determined using spectrophotometer.
 - * Phosphorous-modified ascorbic acid method with final concentration determined using a spectrophotometer
 - * BOD5 - 5 day incubation at 68F using Poly Seed innoculum as described in *Standard Methods*
 - * Flow - determined using calibrated staff gauges placed in the stream bed or by use of a calibrated collection device in the case of storm drain sampling.

V. MONITORING – QUALITY ASSURANCE/QUALITY CONTROL (QA/QC)

1. QA/QC samples will be collected per the QA/QC plan which details internal measures (duplicates) and external measures (splits with DEQ staff).

VI. IMPLEMENTATION

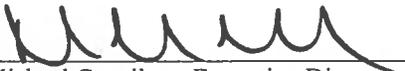
1. Serve as the Regional Manager for implementation of portions of Year 4 of the TMDL Implementation Matrix.
2. Implement portions of the Year 4 Matrix on a regional basis including, but not limited to, coordination of the Quarterly TMDL Meetings, participating in water quality events, providing technical assistance and resources to restore and protect riparian areas, tracking implementation activities, completing the matrix summarizing regional manager activities, education and outreach activities, providing copies of TMDL deliverables for submittal with reports as needed, and coordinating other implementation actions.
3. Work with the DMAs, partner organizations, and others to develop the Stream Smart Program. Activities will include hosting of the Stream Smart website, coordination of the Stream Smart Advisory Committee, website updates, and other activities as directed by the DMAs.

VII. REPORTS

1. Reporting will be done annually. Formats may include updates at meetings (approximately quarterly) with the **DMAs, DEQ, and RVCOG**, ongoing technical meetings will be performed in conjunction with **DEQ** and others, and provided as per Section C(4), **RVCOG RESPONSIBILITIES**.

IN WITNESS WHEREOF, RVCOG AND DMA (City, County, or Agency) have caused this agreement to be executed by their authorized representatives as of the date of the last signature affixed below:

PARTIES TO THE AGREEMENT



Michael Cavallaro, Executive Director
Rogue Valley Council of Governments

6/22/16
Date

City of Phoenix Representative

Date

