

**PUBLIC NOTICE
A MEETING OF THE HINES COMMON COUNCIL
February 9, 2021 AGENDA**

- I. Meeting begins at 6:30pm
- II. Flag Salute
- III. Approval of February 9, 2021 Agenda VOTE
- IV. Approval of previous meeting minutes from January 26, 2021 VOTE
- V. Approval of Accounts Payable: VOTE
 - January 28, 2021 in the amount of \$4,054.88
 - February 9, 2021 in the amount of \$26,360.46
- VI. Department Reports
 - a) Chief Ryan DeLange
 - b) Chief Bob Spence
 - c) Public Works, Jerry Lewellen
 - d) City Administrator, Kirby Letham
- VII. Public Comment – Non-Agenda Items ONLY (Speaking time limits may apply)
- VIII. Old Business
 - a) Chamber Director – Lola Johnson
 - b) Ordinance 328: Fuel Tax – First Reading
 - c) Update on TLT Funds
 - d) Update on Pathway Grant
- IX. New Business VOTE
 - a) Business License Application – Freedom Industries: Dustin Beers (Construction)
 - b) Homelessness and “City Camping”
- X. Public Comment Period (Speaking time limitations may apply).
- XI. Mayor and Council Comments
- XII. Adjournment VOTE

This meeting is open to the public. It is anticipated to last approximately one hour and a half.

In accordance with ORS 192.630, City of Hines will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice.

***Due to the effects of the COVID-19 pandemic, all attendees are required to wear masks. If you do not want to attend in person, this meeting will be offered as a teleconference meeting. If you wish to call in to the meeting, please use your phone to dial-in using the following information:**

**DIAL-IN NUMBER - (425) 436-6354
Access code: 710647**

DATED this 9th day of February 2021

approved by Council 2/9/21

Kirby Letham, City Administrator



City Council 2/9/21 -

Present: Mayor Morgan, Ron, Beers, Quack, Miller, York, Shepherd

I ✓

II ✓

III Beers, Williams, Ayres

IV Beers, Ron, Ayres

V Beers, Ron, Ayres

VI

a) Chief D.

- 2477 calls; DV calls out of control - drugs; DUI's up;
- Officer Johnson started
- First drugs charge - meth = \$100
- Several burglaries, watch out
- guys are writing lots of tickets; several crashes
- S.A., MIP's, down. Been out in the community
- All new P.O.'s must take a ~~state~~ Psych test, must travel to Sisters; New officers must have 2yr. degree.

* Miller - we need to do something soon!

- DeLange responds.

* Quack - can you seize property? No, not really

* Ron - can we raise the fine? Make it more painful?

b) Chief Spence

- only 1 call this month.

- training in water; "Burn to Learn" - extrication

IX New Business cont'd

b) Ron - cont'd (homeless)

- Miller - I believe this will be worse.
- Quick: How many do you see in month? Delany - it comes and goes - usually about 5.
- Bob - sees a few.
- York: how is this different from 'squatting'?
Delany: private vs. public property
- Lola: ~~the~~ question?

X. Public Comment

XI Mayor & Councilors

- No
- No

Miller - Thank you Lola

Quick - Thank you Lola, Thanks to Fire Chief Bob - good job

Beers - Thanks to Dept. Heads; Thanks Lola

Adjourn

Beers - ~~Adjourn~~, Willinos, Agree @ 8:06pm

II cont'd

c) Jerry -

- 150 gal/day water; 130-140 @ lagoons; pumping into lagoons
- Flowing snow; cleared snow on skate park.
- Snow plow broke down a little
- Replacing Street signs

d) City Admin
> Miller?

VII

Public Comment

- Warren Stahl - proposed that map be saved & preserved

VIII

Old Business

- a) Chamber Director - Lola: "Thank you", resigning.
- b) Ord 328 - Fuel tax
- c) TLT funds -

- Hutchins - wants to continue TLT

Bethaney → d) Miller - should the Council approve? yes

e) Freedom Industries LLC - Dustin Beers. (Bus. Lic.)

- Drywell, Flooring.

• Ron, Miller, 5 to 0, 1 abstain

IX

New Bus.

a)

b) Homelessness

- Ron - problems in Bend.

REGULAR MEETING OF HINES COMMON COUNCIL

February 9, 2021

AUDIENCE SIGN-IN SHEET

IF YOU WISH TO ADDRESS THE COUNCIL, PLEASE INDICATE
YOUR SUBJECT TO THE RIGHT OF YOUR NAME

PLEASE **PRINT** YOUR NAME

SUBJECT, IF YOU WISH TO SPEAK

D. NUTCH TLT Funds

Hilda Allison TLT Funds

WARREN STAHL City map

Judy Brown

Sola Johnson Chamber

Dustin Beers Construction


Administrator

From: FreeConferenceCall Services <noreply@freeconferencecall.com>
Sent: Tuesday, February 9, 2021 7:58 PM
To: Administrator
Subject: FreeConferenceCall Detail Report



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| 541 413 0274 - VOICE MAIL Host | 📞 🇺🇸 | 6:29:31 PM | 7:58:16 PM | 89m |

Number of attendees: 2 Note: All times in Pacific Time
Duration: 138m

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**MINUTES FROM
A WORK SESSIONS AND REGULAR MEETING OF THE HINES COMMON
COUNCIL
January 26, 2021**

Present:

Mayor:

Nikki Morgan

Council:

Councilors Marsallai Quick, Robert Beers, Gary Miller, and Amity York were present. Misty Shepherd was present via teleconference.

City Staff:

City Administrator Letham

Public Audience:

None

***Mayor Nikki Morgan called the meeting to order at 6:30 pm and led the flag salute.**

Work Session:

CA Letham addressed the Council regarding the purpose of the work session. He advised that he believes this will take more than one meeting and assigned some "homework" for the next Council work session. The homework for the next session includes: 1) Read the City Charter included in the Council packets; 2) Think about what the City's core purpose/mission is; 3) Talk to people about where the City should be in the coming years, and further into the future. What is their vision? What is your vision? Be prepared to share it with fellow Council members; 4) Read the materials sent to the Council on Strategic Planning and Management.

- Discussion of Council Roles, Strategic Planning and Goal Setting

A presentation was given to the Council explaining what a government strategic plan is. A long-term vision of where a municipality wants to be in the future, as well as the steps to get there. It is the roadmap in prioritizing objective and initiatives. The first step is to create a Core Mission. The core mission is the foundation of the strategic plan. The second step is the Vision Statement. It sets the goals of where the City wants to be in 3-5 years and where do we want to be in 10-20 years. The third step is Strategic Priorities. Often considered strategic priorities for many municipalities: Economy, Neighborhood Livability, Health & Safety, Transportation, Culture & Entertainment and Efficient and High Performing Government. The fourth step is communicating the Plan to employees and citizens. The final step is accountability. It is important to select key performance indicators/goals so that the Council can review the plan and stay on track. CA Letham stated that the goals do not need to be complicated. Mayor Morgan described Council Roles. The Council President takes over the Council meeting if the Mayor is absent and steps in as Mayor if the elected Mayor cannot complete his/her term. The position of Council President is elected by the Council. There are 3 areas of influence/support: Police

& Fire, Streets & Parks and Water & Sewer. Each area of influence has 2 Council members assigned by the Mayor. Having the Council assigned to these areas of influence breaks them into teams to better support and understand these areas and give the Council better knowledge of what is happening in these areas. It is a chance for the Council to participate with the departments and gain "hands on" knowledge rather than getting the information only through Council meeting. This also provides support to staff if the Councilor takes on a project for research, such as information on mosquitos that City staff may not have the time for. This also gives community members someone they can speak to whether they want to bring ideas forward or want to bring an issue to the Council. A Council President does need to be elected.

- Rules of Order and Council Decorum
 - Mayor will help cue the Council when a motion is to be made.
 - To kill a motion, motion dies for lack of a second.
 - Mayor asked the Council to avoid abstaining from a vote and encouraged participation by the Councilors. Abstention will be made due to conflict of interest or potential conflict of interest and the nature of the conflict must be disclosed during the public meeting and recorded in the minutes.
 - Councilors must keep in complete confidence all written materials and verbal information provided to them in confidence or learned in executive session, to ensure the City's position is not compromised.
- Topics
 - Certified Local Government (Historical Preservation)
 - Deer
 - Homeless Camping
 - Revise/Update Livestock Ordinance
 - Update RV Rules
 - Update Street Parking Ordinance
 - Accessory Dwelling Unit Ordinance
 - Transient Lodging Tax (TLT) Funds
 - Hines Water Tower
 - Ordinance Officer
 - Council Room Improvements
 - The Old Mill Smokestack
 - Housing
 - Jazz Up the Park
 - Lights in the Park
 - New Park Equipment
 - Fence/Barrier to Separate Park from Highway
 - Water Rates
 - Water Tower
 - Involve Budget Committee

Adjournment of Work Session at 8:12pm

Approval of January 26, 2021 Agenda:

Councilor Beers made a motion to approve the agenda for January 26, 2021 with the exclusion of the flag salute. Councilor Quick seconded the motion. All ayes, the motion carried.

Approval of the January 12, 2021 Meeting Minutes

Councilor Miller asked for a correction to the January 12, 2021 meeting minutes. He said that during the meeting of January 12, 2021 he stated that he had researched the deer issue and that the City of Hines would be the first city in the State of Oregon to seek kill for the deer even though other towns also have a lot of deer. Councilor Miller made a motion to approve the minutes from the January 12, 2021 meeting with the correction requested. Beers made a motion to second the motion. All ayes, the motion carried.

Accounts Payable for January 26, 2021

Councilor Beers made a motion to approve the A/P for January 26, 2021 in the amount of \$5,508.44. Councilor Quick seconded the motion. All ayes, the motion carried.

Public Comment

None.

Mayor and Council Comments

Councilor York – None

Councilor Shepherd – None

Councilor Miller – Do meetings need to be set by vote? No. Mayor and City Administrator can set the meeting schedule. The Charter sets the meeting to be the 1st Tuesday of the month.

Councilor Quick – None.

Councilor Beers – A citizen asked about streetlights. He was informed that it is an OTEC issue.

Mayor Morgan – Thanked the Council for attending.

Next Council Meeting is scheduled for February 9, 2021 at 6:30pm.

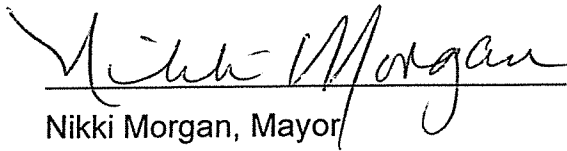
Adjournment:

There being no further business, Councilor Beers made a motion to adjourn the meeting. Councilor Miller seconded the motion. All ayes, the motion carried. Meeting adjourned at 8:19pm.

Respectfully Submitted:

Kirby Letham
City Administrator

ACCEPTED AND APPROVED BY THE CITY COUNCIL ON FEBRUARY 9, 2021.


Nikki Morgan, Mayor

[illegible]

12/6/20

City of Hines - Admin Report

- * Skate park pieces installed - show shorts?
- * OGECC - I will send email tomorrow
- * Jerry - report on #3 well ~~early~~?
- * A 4-wheeler was purchased to help w/ snow
- * The Planning Commission is reviewing an ordinance addressing Accessory Dwelling Units
- * meeting w/ 911 Board next week to renew IGA for 911
- * We are moving forward w/ Obsidian Days Almost all the vendors have said they want to show.
- * Also planning on 4th at the park again. Might be Sat 3rd
- * Will start meeting w/ engineers & contractors ~~that we~~ next month to gear up water project again
- * Received phone calls concerned about the Mosquito Control
 - biggest concern was communication → water bills, will work to make sure people know.
- * Goal to have sprinklers/park bid ready for March 9 mtg.
- * Working w/ Fire dept for a grant for new equipment.

To Do

- ☐ find out if we can compensate Jerry for 4-wheeler.
- * ☐ talk to attorney to deal w/ drugs
- ☐ find out how to save the map.

Ordinance 328

City of Hines Fuel Tax Ordinance

Section 1. Purpose and Title. This ordinance is enacted to provide additional funds for the construction, reconstruction, improvement, repair, maintenance, operation and use of the public highways, roads, and streets in the City and those subject to City control. This ordinance shall be known as the "City of Hines Motor Vehicle Fuel Tax Ordinance".

Section 2. Findings. The City Council of the City of Hines finds:

- A. The public highways, roads, and streets in the City and those subject to City control are consistently in need of construction, reconstruction, improvements, repair, upkeep and maintenance, to promote ease of travel and commerce in and around the city;
- B. The city's current revenue sources do not produce adequate funding to fund said construction, reconstruction, improvement, repair, upkeep, and maintenance;
- C. The City wishes to enact a \$0.01 per gallon motor vehicle fuel tax on all motor vehicle fuel dealers, within the City, to provide additional funds for said construction, reconstruction, improvement, repair, upkeep, and maintenance of the public highways, roads, and streets in the City and those subject to City control;
- D. The City referred a proposed \$0.01 per gallon motor vehicle fuel tax to the electors of the City of Hines for their approval at the election held on November 6, 2020;
- E. On November 6, 2021 the electors of the City of Hines approved a \$0.01per gallon motor vehicle fuel tax; and
- F. The monies generated by this ordinance will be dedicated to the construction, reconstruction, improvements, repair, maintenance, operation, and use of public highways, roads, and streets in the City and those subject to City control as required by the Oregon Constitution.

Section 3. Definitions. As used in this ordinance, unless context requires otherwise, the following words and phrases mean:

- A. City. The City of Hines, Oregon, a municipal Corporation of the State of Oregon.
- B. Dealer. Any person who:
 - 1) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in, and after the same reaches the City, but "Dealer" does not include any person who imports into the City motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a Dealer hereunder and who assumes liability for the payment of the applicable license tax to the City; or
 - 2) Produces, refines, manufactures or compounds motor vehicle fuels in the City for use, distribution or sale in the City; or
 - 3) Acquires in the City for sale, use or distribution in the City motor vehicle fuels with respect to which there has been no license tax previously incurred.

- C. Distribution. In addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility, or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank, or storage facility is owned, operated, or controlled by the dealer.
- D. Motor vehicle. All vehicles, engines or machines, moveable or immovable, operated or propelled by the use of motor vehicle fuel.
- E. Motor vehicle fuel. Means and includes gasoline, diesel, and any other inflammable or combustible gas or liquid, by whatever name that gasoline, gas, or liquid is known or sold, usable as fuel for the operation of motor vehicles. Propane fuel and motor vehicle fuel used exclusively as a structural heating source are excluded as a taxable motor vehicle fuel.
- F. Person. Every natural person, association, firm, partnership or corporation.
- G. Service station. Means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

Section 4. Tax Imposed. A business license tax is hereby imposed on every dealer. The tax imposed shall be paid monthly to the City and the City's authorized tax administrator. The City is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the business license tax.

- A. A person who is not a licensed dealer shall not accept or receive motor vehicle fuel in the City from a person who supplies or imports motor vehicle fuel who does not hold a valid motor vehicle fuel dealer license in this City. If a person is not a licensed dealer or licensed motor vehicle fuel handler in this City and accepts or receives motor vehicle fuel, the purchaser shall be responsible for all taxes, interests and penalties prescribed herein.
- B. A licensed dealer who accepts or receives motor vehicle fuel from a person who does not hold a valid dealer license in this city, shall pay the tax that would have otherwise been imposed upon the unlicensed dealer by this ordinance to the city, or its authorized agent, upon the sale, use or distribution of the motor vehicle fuel.

Section 5. Amount and Payment.

- A. Subject to subsection (B) of this Section 5, in addition to any fees or taxes otherwise provided for by law, every dealer in the City engaging in the sale, use or distribution of motor vehicle fuel shall:
 - 1) Not later than the 25th day of each calendar month, render a statement to the City or its authorized agent on forms prescribed, prepared and furnished by the City of all motor vehicle fuel sold, used or distributed by him or her in the City as well as all such fuel sold, used or distributed in the City by a purchaser thereof upon which sale, used or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month; and
 - 2) Pay a motor vehicle fuel tax on the basis of \$0.01 per gallon of such motor vehicle fuel so sold, used, or distributed as shown by such statement in the manner and within the time provide in this Ordinance.

- B. The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution, laws of the United States, or the State of Oregon.

Section 6. License Requirements. No dealer, shall sell, use, or distribute any motor vehicle fuel until they have secured a dealer license as required herein.

Section 7. License Application and Issuance.

- A. Every person, before becoming a dealer in motor vehicle fuel in this City, shall make an application to the City or its duly authorized agent, for a license authorizing such person to engage in business as a dealer.
- B. Applications for the license must be made on forms prescribed, prepared, and furnished by the City or its duly authorized agent.
- C. Applications shall be accompanied by a fully acknowledged certificate containing:
- 1) The business name under which the dealer is transacting business;
 - 2) The address of the applicant's principal place of business and location of distributing stations in and adjacent to the City;
 - 3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
- D. If an application for a motor vehicle fuel dealer license is completed and accepted for filing, the City or its authorized agent, shall issue to the dealer a license in such form as the City or its duly authorized agent may prescribe to transact business in the City. The license so issued is not assignable and is valid only for the dealer in whose name it is issued.
- E. The City shall keep on file a copy of all applications and licenses.

Section 8. Failure to Secure License.

- A. If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the license required by Section 7, the license tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.
- B. The City shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall assess the tax in the amount found due, together with a penalty of 200% of the tax, and shall make its certificate of such assessment and penalty, determined by the City Administrator or the duly authorized agent. In any suit or proceeding to collect such tax or penalty or both, the certificate is prima facie evidence that the dealer therein named is indebted to the City in the amount of the tax and penalty stated.
- C. Any tax or penalty so assessed may be collected in the manner prescribed in Section 12 of this ordinance with reference to delinquency in payment of the fee or by an action at law.
- D. In the event any suit or action is instituted to enforce this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued, reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

Section 9. Revocation of License. The City or its authorized agent shall revoke the license of any dealer refusing or neglecting to comply with any provision of this ordinance. The City or its authorized agent shall mail by certified mail addressed to such dealer at their last known address on file, a notice of intention to revoke. The notice shall give the reasons for the revocation. The revocation shall become effective without further notice if within 10 days from the mailing of the notice, the dealer has not made good its default or delinquency.

Section 10. Cancellation of License.

- A. The City or its authorized agent may upon written request of a dealer, cancel any license issued to such dealer. The City shall, upon approving the dealer's request for cancellation, set a date not later than thirty (30) days after receipt of the written request, after which the license shall no longer be effective.
- B. The City may, after thirty (30) days' notice has been mailed to the last known address of the dealer, cancel the license of dealer upon finding the Dealer is no longer engaged in the business of a dealer.

Section 11. Remedies Cumulative. Except as otherwise provided in Sections 12 and 14, the remedies provided in Sections 8, 9 and 10 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this ordinance.

Section 12. Payment of Tax and Delinquency.

- A. The license tax imposed by this ordinance shall be paid to the City on or before the 25th day of each month.
- B. Except as provided in subsection (D) and (E) of this section, if payment of the license tax is not paid as required by subsection A of this Section 12, a penalty of 1% of such license tax shall be assessed and be immediately due and payable.
- C. Except as provided in subsections (D) and (E) of this section, if the payment of the license tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10% of the license tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (B) of this section and shall be immediately due and payable.
- D. Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to Section 8 of this Ordinance.
- E. If the City determines that the delinquency was due to reasonable cause and without an intent to avoid payment, the City or its authorized agent may for good cause shown waive any penalties assessed under this section.
- F. If any person fails to pay the license tax, interest, or any penalty provided for by this section, the tax, interest, and/or penalty shall be collected from that person for the use by the City. The City shall commence and prosecute the final determination in any court of competent jurisdiction an action at law to collect the same.
- G. No dealer who collects from any person the license tax provided for herein shall knowingly and willfully fail to report and pay the same to the City as required herein.

- H. In the event any suit or action is instituted to collect the license tax, interest, or any penalty provided for by this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

Section 13. Monthly Statement of Dealer. Every motor vehicle fuel dealer shall provide to the City or its authorized agent on or before the 25th day of each month, on forms prescribed, prepared and furnished by the City or its authorized agent, a statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or its agent. All statements as required in this section are public records.

Section 14. Failure to File Monthly Statement. If a dealer fails to file any statement required by Section 13, the City or its authorized agent shall proceed forthwith to determine from as many available sources as the City or its authorized agent determines reasonable the amount of motor vehicle fuel sold, distributed, used, or stored by such dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed, used, or stored. The City or its authorized agent immediately shall assess the license tax in the amount due determined, as pertaining to the reportable dealer, adding thereto a penalty of ten percent for failure to report. The penalty shall be cumulative to other penalties provided in this ordinance. In any suit brought to enforce the rights of the City under this section, any such determination showing the amount of tax, penalties, and costs unpaid by any dealer and that the same are due and unpaid to the City or its authorized agent is prima facie evidence of the facts as shown.

Section 15. Billing Purchasers. Dealers in motor vehicle fuel shall render bills to all purchasers of motor vehicle fuel. The bill shall separately state and describe to the satisfaction of the City or its authorized agent, the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the City or its authorized agent are maintained. The bills required hereunder may be the same as those required under ORS 319.210.

Section 16. Failure to Provide Invoice or Delivery Tag. No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless, the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered, purchased or sold and the name of the dealer in motor vehicle fuel.

Section 17. Transporting Motor Vehicle Fuel in Bulk. Every person operating any conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel in bulk shall, before entering upon the public streets of the City with such conveyance, have and possess during the entire time of such hauling or transporting of motor vehicle fuel, an invoice, bill of sale, or other written statement showing the number of gallons conveyed, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by the City to inquire into, or investigate such matters, produce and offer for inspection the invoice, bill of sale, or other statement.

Section 18. Exemption of Exported Fuel.

- A. The license tax imposed by Section 4 shall not be imposed on motor vehicle fuel that is:

- 1) Exported from the City by a dealer; or

- 2) Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area, or areas outside the City in containers other than the fuel tank of a motor vehicle, but every Dealer shall be required to report such exports and sales to the City in such detail as may be required.
- B. In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in their own equipment, every Dealer must execute and file with the City or its authorized agent, an export certificate in such form as shall be prescribed, prepared and furnished by the City or its authorized agent, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the City, and giving such details with reference to such shipment as may be required. The City or its authorized agent may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The City or its authorized agent, may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.
- C. Any motor vehicle fuel carried from the City in the fuel tank of a motor vehicle shall not be considered as exported from the City.
- D. No person shall, through false statements, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the City tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof to be used, distributed or sold in the City and fail to notify the City or its authorized agent and the dealer from whom the motor vehicle fuel was originally purchased of their act.
- E. No dealer or other person shall conspire with any person to withhold from export, divert from export, or return motor vehicle fuel to the City for sale or use so as to avoid any fees imposed herein.
- F. In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the City or its authorized agent. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

Section 19. Sales to Armed Forces Exempted. The license tax imposed by Section 4 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the City; but every dealer shall be required to report such sales to the City, in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

Section 20. Fuels in Vehicles Coming into City Not Taxed. Any person coming into the City in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for their own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in Section 4, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the City is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the City shall be subject to all provisions herein applying to dealers.

Section 21. Refunds. Refunds will be made pursuant to Chapter 319 of the Oregon Revised Laws. Claim forms for refunds may be obtained from the City.

Section 22. Examination and Investigations. The city, or its duly authorized agent, may make any examination of accounts, records, stocks, facilities, and equipment of dealers, service stations, and other persons engaged in storing, selling, or distributing motor vehicle fuel within this City, and such other investigations as it considers necessary in carrying out the provisions of this ordinance. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the City or its authorized agent pursuant to the requirements herein, have shown incorrectly the amount of gallons of motor vehicle fuel distributed or the tax accruing thereon, the City or its authorized agent may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors by its examinations or investigation. The dealer shall reimburse the City for the reasonable cost of the examination or investigation if the action discloses that the dealer paid ninety-five percent (95%) or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of twelve percent (12%) per year from the date that the original tax payment was due.

Section 23. Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

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

Section 24. Records to be Kept by Dealers. Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the City or its authorized agent of all purchases, receipts, sales, and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and purchases, and shall at all times during the business hours of the day be subject to inspection by the City or its authorized agent.

Section 25. Examining Books and Accounts of Carrier of Motor Vehicle Fuel. The City or its duly authorized agents may, at any time during normal business hours, examine the books and accounts of any carrier of motor vehicle fuel operating within the City for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereto or evasion of taxes in enforcing the provisions of this ordinance.

Section 26. Records to be Kept Three Years. Every dealer shall maintain and keep, for a period of three (3) years, all records of motor vehicle fuel used, sold, and distributed within the City by such dealer, together with stock records, invoices, bills of lading, and other pertinent papers as may be required by the City or its authorized agent. In the event such records are not kept, the dealer shall reimburse the City or its authorized agents for all travel, lodging, and related expenses incurred in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

Section 27. Use of Tax Revenues.

- A. The City Administrator or designee shall be responsible for the disposition of the revenue from the tax imposed by this ordinance in the manner provided by this section.
- B. For the purposes of this section, "net revenue" means the revenue from the tax imposed by this ordinance remaining after providing for the cost of administering the license tax to motor vehicle fuel dealers and any refunds and credits authorized herein. The program administration costs of revenue collection and accounting activities shall not exceed ten and one-half percent (10.5%) for the first year and ten percent (10%) thereafter, of annual tax revenues.
- C. The net revenue shall be used only for the activities related to the construction, reconstruction, improvement, repair, and maintenance of public highways, roads and streets within the City which are subject to City control.

Section 28. Administration. The City Administrator or designee is responsible for administering this ordinance. In addition, the City Administrator or designee may enter into an agreement with the Oregon Department of Transportation as an authorized agent for the implementation of certain sections of this ordinance.

Section 29. Voter Referral. This ordinance was referred to the electors of the City of Hines at the general election. A copy of the ballot measure for this referral is attached hereto and by this reference incorporated herein.

Section 30. When Tax Shall Take Effect. The taxation imposed by this ordinance shall commence April 1, 2021.

Section 31. Severability. If any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of any remaining portions of this ordinance.

TO: Hines City Council
FROM: Kirby Letham, City Administrator
DATE: February 9, 2021
SUBJECT: Discussion – Ordinance 328: Fuel Tax

Attachment(s)

- Ordinance 328: Fuel Tax
- Official Voting Abstract From November 3, 2020 election

DISCUSSION:

This will be the first reading on the Fuel Tax Ordinance. The ordinance will outline how the tax will be collected and specifies that “dealers” not the station owners will be responsible for collecting the tax for delivery to the City.

Options for Council Actions:

- 1- Review and discuss, then re-read Ordinance 328 at the next Council meeting for a consideration to adopt.

OFFICIAL ABSTRACT OF VOTES CAST
General Election, Nov 03, 2020, Harney County, Oregon
All Precincts, All Districts, All ScanStations, Question 13-17, All Boxes
Total Ballots Cast: 938

Page: 1 of 1

| Choice | Votes | Vote % |
|--------|-------|--------|
|--------|-------|--------|

Precinct 25

Question 13-17 (Vote for 1)
938 ballots (0 over voted ballots, 0 overvotes, 29 undervotes)

| | | |
|------------|-----|---------|
| Yes | 551 | 60.62% |
| No | 358 | 39.38% |
| Total | 909 | 100.00% |
| Overvotes | 0 | |
| Undervotes | 29 | |

All Precincts

Question 13-17 (Vote for 1)
938 ballots (0 over voted ballots, 0 overvotes, 29 undervotes)

| | | |
|------------|-----|---------|
| Yes | 551 | 60.62% |
| No | 358 | 39.38% |
| Total | 909 | 100.00% |
| Overvotes | 0 | |
| Undervotes | 29 | |



State of Oregon }
County of Harney } ss

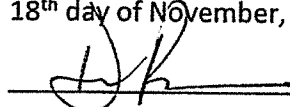
I, Derrin E. Robinson, Harney County Clerk,
Certify this to be a True and Correct Copy
of the Original Document on file and in my
custody, consisting of 1 pages.

Dated: November 18, 2020

By:

Deputy Clerk

I Certify this Abstract correctly summarizes the votes cast at the election indicated. Dated this
18th day of November, 2020.


Derrin (Dag) Robinson, Harney County Clerk



TO: Hines City Council
FROM: Kirby Letham, City Administrator
DATE: February 9, 2021
SUBJECT: Discussion – Transient Lodging Tax Update

Attachment(s)

- TLT 2020-21 Report (spreadsheet)
- TLT from

DISCUSSION:

The City budgeted \$7,125 for TOURISM PROMOTION TLT. So far, the City has received \$4,511.53 of that so far this budget year.

In the 2019-2020 fiscal year the City budgeted to spend \$9,500 in TOURISM PROMOTION TLT, but still had \$4,445.79 at the end of the year that moved into "AVAILABLE CASH ON HAND." We can write a resolution to move the money back to the TLT account. This would allow the City to make a plan to spend this money this fiscal year.

| DATE/YR | INN AT CROSS KEYS | BEST WESTERN | ONLINE BOOKINGS | SUNDOWNER | SANDS RV | BIG BEAR RV | HPM HOUSE | TOTAL | 25% | 85% | 15% |
|---------|-------------------|--------------|-----------------|-------------|------------|-------------|-----------|--------------|-------------------|-------------|------------|
| Jul-19 | \$ 7,351.12 | \$ 13,930.39 | \$ 2,261.38 | \$ 1,398.16 | \$ 116.81 | | | \$25,057.86 | Jun-19 \$6,264.47 | \$5,324.80 | \$939.67 |
| Aug-19 | \$ 7,965.12 | \$ 15,090.87 | \$ 2,349.25 | \$ 1,463.92 | \$ 177.08 | | | \$27,046.24 | Jul-19 \$6,761.56 | \$5,747.33 | \$1,014.23 |
| Sep-19 | \$ 9,433.20 | \$ 16,333.87 | \$ 3,061.23 | \$ 1,156.56 | \$ 144.70 | | | \$30,129.56 | Aug-19 \$7,532.39 | \$6,402.53 | \$1,129.86 |
| Oct-19 | \$ 8,162.41 | \$ 14,839.16 | \$ 1,640.70 | \$ 1,853.92 | \$ 217.80 | \$ 129.72 | | \$26,843.71 | Sep-19 \$6,710.93 | \$5,704.29 | \$1,006.64 |
| Nov-19 | \$ 7,797.25 | \$ 13,996.29 | \$ 2,138.95 | \$ 1,460.10 | \$ 186.00 | \$ 261.52 | | \$25,840.11 | Oct-19 \$6,460.03 | \$5,491.02 | \$969.00 |
| Dec-19 | \$ 5,685.48 | \$ 11,222.24 | \$ 1,342.58 | \$ 823.83 | \$ 122.02 | \$ 184.22 | \$ 58.14 | \$19,438.51 | Nov-19 \$4,859.63 | \$4,130.68 | \$728.94 |
| Jan-20 | \$ 3,264.86 | \$ 8,388.89 | \$ 1,294.08 | \$ 1,124.78 | \$ 157.36 | \$ 183.10 | \$ 29.26 | \$14,442.33 | Dec-19 \$3,610.58 | \$3,069.00 | \$541.59 |
| Feb-20 | \$ 2,963.89 | \$ 7,278.00 | \$ 847.54 | \$ 730.02 | \$ 163.95 | \$ 136.53 | - | \$12,119.93 | Jan-20 \$3,029.98 | \$2,575.49 | \$454.50 |
| Mar-20 | \$ 2,309.01 | \$ 7,115.55 | \$ 1,006.22 | \$ 887.22 | \$ 178.56 | \$ - | - | \$11,496.56 | Feb-20 \$2,874.14 | \$2,443.02 | \$431.12 |
| Apr-20 | \$ 2,158.53 | \$ 8,312.96 | \$ 938.59 | \$ 444.00 | \$ 150.66 | \$ - | - | \$12,004.74 | Mar-20 \$3,001.19 | \$2,551.01 | \$450.18 |
| May-20 | \$ 888.45 | \$ 4,989.80 | \$ 583.43 | \$ 430.11 | \$ 120.57 | \$ - | - | \$7,012.36 | Apr-20 \$1,753.09 | \$1,490.13 | \$262.96 |
| Jun-20 | \$ 1,841.56 | \$ 7,558.57 | \$ 969.45 | \$ 457.19 | \$ 115.88 | \$ 26.08 | \$ 49.78 | \$11,018.51 | May-20 \$2,754.63 | \$2,341.43 | \$413.19 |
| Totals | \$59,820.88 | \$129,056.59 | \$18,433.40 | \$12,229.81 | \$1,851.39 | \$921.17 | \$137.18 | \$222,450.42 | \$55,612.61 | \$47,270.71 | \$8,341.89 |
| | | | | | | | | | | | -2808.93 |
| | | | | | | | | | | | -600 |
| | | | | | | | | | | | \$4,932.96 |

\$222,450.42

\$55,612.61

Motel Tax 19/20

FUND-104 GENERAL FUND
DEPT-101 CITY HALL

| ACCOUNT | DESC | BUDGET | MONTH-TO-DATE EXPENSE/REV | YEAR TO DATE EXPENSE/REV | UNENCUMBERED BALANCE | % |
|-----------------|---------------------------|---------|------------------------------|-----------------------------|-------------------------|-----|
| E X P E N S E S | | | | | | |
| 5-10-0101 | ADMINISTRATOR/RECORDER | 43,050 | 3,192.50 | 43,374.99 | 324.99- | 101 |
| 5-10-0110 | UTIL CLERK/PLAN COMM SEC | 9,500 | 108.45 | 9,252.60 | 247.40 | 97 |
| 5-10-0111 | TREASURER | 28,996 | 2,084.03 | 28,927.22 | 68.78 | 100 |
| 5-10-0117 | LUMP SUM COMPENSATION | 2,000 | -- | -- | 2,000.00 | 0 |
| 5-10-0180 | SOCIAL SECURITY (FICA/M) | 7,448 | 384.88 | 6,182.60 | 1,265.40 | 83 |
| 5-10-0181 | EMPLOYMENT TAX (SUTA) | 2,761 | 86.02 | 1,197.85 | 1,563.15 | 43 |
| 5-10-0182 | WORKERS COMPENSATION | 490 | 2.72 | 461.05 | 28.95 | 94 |
| 5-10-0183 | INSURANCE: HLTH/DNT/LIFE | 41,181 | 3,041.06 | 41,181.37 | .37- | 100 |
| 5-10-0184 | PERS | 13,334 | 419.01 | 12,198.18 | 1,135.82 | 91 |
| | PERSONNEL SERVICES | 148,760 | 9,318.67 | 142,775.86 | 5,984.14 | 96 |
| 5-20-0201 | OFC SUPP, PRINTING, PSTG | 3,500 | 3.46- | 2,640.35 | 859.65 | 75 |
| 5-20-0202 | CONTRACTUAL SERVICES | 16,466 | 3,945.25 | 16,354.70 | 111.30 | 99 |
| 5-20-0203 | ADVERTISING/PUBLIC NOTICE | 5,000 | 1,090.00 | 3,763.53 | 1,236.47 | 75 |
| 5-20-0204 | WASTE DISPOSAL (C&B) | 100 | -- | 41.20 | 58.80 | 41 |
| 5-20-0206 | COMP PLAN WORK | 2,500 | -- | -- | 2,500.00 | 0 |
| 5-20-0210 | UTILITIES | 4,800 | 378.96 | 4,626.61 | 173.39 | 96 |
| 5-20-0219 | LEGAL FEES/COSTS | 12,500 | 6,448.00- | 4,655.50 | 7,844.50 | 37 |
| 5-20-0220 | TRAV/MEALS/MLG/REGIST | 4,000 | 121.00- | 1,436.88 | 2,563.12 | 36 |
| 5-20-0221 | AUDIT | 5,275 | -- | 5,275.00 | -- | 100 |
| 5-20-0222 | WC/PROPERTY LIABILITY INS | 4,753 | -- | 4,746.67 | 6.33 | 100 |
| 5-20-0223 | BUILDING MTC. & EXPENSE | 1,400 | 505.02- | 798.22 | 601.78 | 57 |
| 5-20-0224 | DONATIONS | 2,400 | 150.00 | 1,232.00 | 1,168.00 | 51 |
| 5-20-0225 | DUES/LICENSES (LOC/OCCMA) | 2,700 | 615.00 | 1,294.64 | 1,405.36 | 48 |
| 5-20-0226 | GRANT ECONOMIC DEVELOP | 5,000 | 1,200.00 | 1,700.00 | 3,300.00 | 34 |
| 5-20-0227 | DEER PROCESSING | 2,000 | -- | -- | 2,000.00 | 0 |
| 5-20-0228 | DONATION TO HIGH SCHOOL | 185 | -- | 185.00 | -- | 100 |
| 5-20-0229 | CHAMBER SHARE OF TLT | 53,000 | 3,805.51 | 48,213.69 | 4,786.31 | 91 |
| 5-20-0230 | REFUNDS | 285 | 105.00 | 285.00 | -- | 100 |
| 5-20-0231 | GRANT: DLCD PLAN/LAND USE | 1,100 | -- | -- | 1,100.00 | 0 |
| 5-20-0232 | TOURISM PROMOTION TLT | 9,500 | 2,245.28 | 5,054.21 | 4,445.79 | 53 |
| 5-20-0233 | EMPLOYEE APPRECIATION | 660 | -- | 650.00 | 10.00 | 98 |
| 5-20-0234 | EQUIPMENT & REPAIR | 1,000 | 188.00 | 449.47 | 550.53 | 45 |
| 5-20-0235 | GRANT WATCH FUNDS | 4,500 | -- | -- | 4,500.00 | 0 |
| 5-20-0238 | CODIFY/DIGITIZE RECORDS | 3,314 | 278.00 | 3,314.00 | -- | 100 |
| 5-20-0241 | CITATIONS COURT COSTS | 6,500 | 48.00- | 4,107.00 | 2,393.00 | 63 |
| 5-20-0242 | CEMETERY SHARE TO BURNS | 8,323 | -- | 8,323.00 | -- | 100 |
| 5-20-0244 | GIS PROGRAM (HC PLANNING) | 5,000 | -- | 5,000.00 | -- | 100 |
| | MATERIALS AND SERVICES | 165,761 | 6,875.52 | 124,146.67 | 41,614.33 | 75 |
| 5-40-0337 | TECHNOLOGY IMPROVEMENTS | 20,000 | 179.88 | 12,473.52 | 7,526.48 | 62 |
| | CAPITAL OUTLAY | 20,000 | 179.88 | 12,473.52 | 7,526.48 | 62 |
| 5-60-0415 | TRANS: TO CP GENERAL FUND | 20,000 | -- | 20,000.00 | -- | 100 |
| | TRANSFERS | 20,000 | -- | 20,000.00 | -- | 100 |
| 5-70-0501 | CONTINGENCY | 12,730 | -- | -- | 12,730.00 | 0 |
| | CONTINGENCY | 12,730 | -- | -- | 12,730.00 | 0 |
| | TOTAL PERSONAL SERVICES | 148,760 | 9,318.67 | 142,775.86 | 5,984.14 | 96 |
| | TOTAL MATERIAL & SERV | 165,761 | 6,875.52 | 124,146.67 | 41,614.33 | 75 |
| | TOTAL CAPITAL OUTLAY | 20,000 | 179.88 | 12,473.52 | 7,526.48 | 62 |
| | TOTAL ALL OTHER | 32,730 | -- | 20,000.00 | 12,730.00 | 61 |

| ERN | ONLINE BOOKINGS | SUNDOWNER | SANDS RV | BIG BEAR RV | HPM HOUSE | TOTAL | 25% | 85% | 15% |
|-------|-----------------|------------|-----------|-------------|-----------|---------------------|--------|-------------|-------------|
| 91.46 | \$ 2,748.85 | \$ 731.88 | \$ 102.68 | \$ 64.51 | \$ 131.32 | \$17,650.74 | Jun-20 | \$4,412.69 | \$3,750.78 |
| 14.45 | \$ 2,603.15 | \$ 777.41 | \$ 119.23 | \$ 278.78 | \$ 121.32 | \$20,062.07 | Jul-20 | \$5,015.52 | \$4,263.19 |
| 79.27 | \$ 2,111.63 | \$ 576.16 | \$ 142.63 | \$ 79.69 | \$ 169.91 | \$20,974.56 | Aug-20 | \$5,243.64 | \$4,457.09 |
| 43.86 | \$ 2,157.34 | \$ 734.03 | \$ 167.26 | \$ 192.44 | \$ 253.90 | \$21,616.46 | Sep-20 | \$5,404.12 | \$4,593.50 |
| 16.75 | \$ 1,843.86 | \$ 883.50 | \$ 140.55 | \$ 172.18 | \$ 43.70 | \$19,095.23 | Oct-20 | \$4,773.81 | \$4,057.74 |
| 33.28 | \$ 1,332.61 | \$ 451.00 | \$ 130.20 | \$ - | \$ 27.13 | \$11,442.62 | Nov-20 | \$2,860.66 | \$2,431.56 |
| 31.22 | \$ 933.87 | \$ 318.88 | \$ 156.52 | \$ - | \$ 122.92 | \$9,465.71 | Dec-20 | \$2,366.43 | \$2,011.46 |
| | | | | | | \$0.00 | Jan-21 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | Feb-21 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | Mar-21 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | Apr-21 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | May-21 | \$0.00 | \$0.00 |
| 29 | \$13,731.31 | \$4,472.86 | \$959.07 | \$787.60 | \$870.20 | <u>\$120,307.39</u> | | \$30,076.85 | \$25,565.32 |
| | | | | | | | | | \$4,511.53 |

20/21 year

TO: Hines City Council
FROM: Kirby Letham, City Administrator
DATE: February 9, 2021
SUBJECT: Discussion – ODOT Community Pathways Grant

Attachment(s)

- PDF version of Pathways Grant Application (available in hard copy if you need it)
- Proposed Map

DISCUSSION:

ODOT released a grant opportunity in September of 2020. It is called the “Community Pathways Grant.”

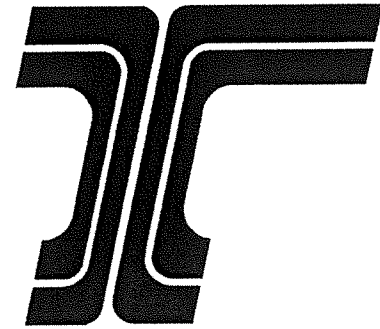
The City Administrator submitted a letter of intent to apply in October. In November, ODOT notified the City Administrator that our letter had been approved and we were cleared to apply for the grant.

There were several concerns about the proposed pathway submitted by members of the Valley Golf Club. The map was modified to address those concerns. The grant application was submitted on February 1st. We will be notified sometime between March and May of 2021 if the proposed project was awarded a grant.

There were approximately \$150 million in letters approved. The actual award pot is about \$11 million.



Oregon Department of Transportation



2021 Oregon Community Paths Grant Application

Attention: To save your application, scroll to the bottom and click the "save" button in the lower right hand corner.

The Oregon Community Paths Program funds project development, construction, reconstruction, major resurfacing or other capital improvement of multiuse paths, bicycle paths, and footpaths that improve access and safety for people walking and bicycling. Applications are due by 11:59pm on February 01, 2021.

You must have previously submitted a Letter of Interest and received a notice of eligibility and offer to apply. Read more about project eligibility and scoring criteria in the Program Guidelines.

APPLICATION

Applicants must fully complete the application in order to be considered in the competitive process. When submitting an application, applicants must:

- Have previously submitted a Letter of Interest, and met basic eligibility requirements,
- Provide a problem statement and project description,
- Provide a total project cost including match,
- Provide an itemized budget,
- Provide a project schedule,
- Provide verification on ownership of right-of-way, easements (or path to same)
- Provide project area photos, maps, and required signatures

Part 1: Application Information

1.1 Legal Name of Agency

City of Hines

1.2 Agency Mailing Address

PO Box 336

Address Line 1

101

Address Line 2

HINES

City

Oregon

State

97738

Zip Code

1.3 Application Contact Name

Kirby Letham

1.4 Application Contact Title

City Administrator

1.5 Application Contact Email

administrator@ci.hines.or.us

1.6 Application Contact Phone Number

(541) 573-2251

1.7 Are you partnering with another agency to complete this grant? Please list other agency.

No.

1.8 Agency Type

City

Why are we asking this? Non-Profits must represent or have documented support from a local governmental body to be eligible for OCP funding. You must provide a letter of support for your application from the governmental body that will adopt any planning documents and/or own and maintain any capital assets developed through this grant. Letters of support should be uploaded in the "Attachments" section at the end of this application.

1.9 Are you located in an area of responsibility with 5,000 people or less?

Yes

Why are we asking this: ODOT is required to distribute a portion of federal funds to communities with populations <5,000.

1.10 Are you applying for more than one grant?

No

Part 2: Grant Type

*The Oregon Community Paths Program includes funding from state and federal sources. The local match and project delivery requirements are slightly different for state and federally funded grants. State grants have a higher local match (30%), but more flexible match and project delivery requirements. Federal grants have a lower local match (10.27%), but more stringent match and project delivery requirements. **Your project may receive a state or federally funded grant at ODOT's discretion depending upon a variety of criteria, including fund availability.** The following questions attempt to determine if your project is most appropriate for federal or state funding.*

The Oregon Community Paths Program offers grants for two types of projects:

- **Project Refinement** (planning and/or design without construction) grants are federally funded. ODOT limits work completed with Project Refinement grants to the first 30% of project design before the National Environmental Policy Act (NEPA) is invoked. To learn more about NEPA, visit

ODOT's webpage: <https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA.aspx>

- **Capital Improvement** grants may be state or federally funded. Capital improvement grants may include planning and design phases, but must result in construction of any planned or designed improvements.

2.1 Project Name

Hines Walking Path

2.2 Are you requesting funding for:

Capital improvements (must include project construction)

2.3 Are you requesting funding for improvements that will be part of a larger project? For example, will grant funds be used to construct path improvements in conjunction with a roadway improvement project?

No

2.4 Are you willing to accept federal funds for this project?

Yes

2.4a If yes, is your agency certified to deliver federally funded projects?

Yes

*Why are we asking this? Local agencies must be certified to deliver federal-aid highway projects. If an agency that is not certified to deliver federally funded projects, yet receives a federally funded grant, ODOT will administer the project for the local agency. Learn more about ODOT's Local Agency Certification Program at: <https://www.oregon.gov/odot/LocalGov/Pages/Certification.aspx>
Answering "No" to any of the questions above does not make you ineligible for OCP grants.*

2.5 Provide a high-level description of your PROJECT in a concise manner that can be used on a website or publication.

The Hines Walking Path project would create a paved walking trail around a portion of City owned land to allow greater access to walking and biking off street. The path would also provide access to City land that is designated as "recreational" but currently has no use.

If you are providing a more detailed or revised project description based on new information, please describe.

Limit 500 characters

Part 3: Eligibility Requirements

Please refer to Letter of Intent for this section.

To be eligible for OCP program funding:

- Project refinement grants must support planning and design of a "critical link" and/or a "regional path" for people walking and bicycling
- Capital improvement grants must construct or improve a "critical link" and/or a "regional path" for

people walking and bicycling

The following questions help us determine if your project meets the eligibility criteria for an OCP grant.

Critical Link

3.1 Will the Project Refinement or Infrastructure project contribute to development of accessible[1] biking and/or walking path to high need locations (i.e. transportation disadvantaged areas, schools, shopping or employment centers, medical services, connections to transit and regional paths, and downtowns)?

Yes

3.1a If Yes, please describe.

This project will improve connection to an existing nature trail, and it will make it possible for residents of all ages to bike or walk from a residential area to a downtown commercial. The nature trail is owned by Harney County and could be considered a "regional path." This Hines Walking Path would minimize the amount of on-street walking and/or biking that residents must travel in order to get to the nature trail. This new walking path would also increase the amount of recreational area within the City limits.

Limit 500 characters

[1] Paths funded through OCP must serve a transportation purpose and provide an accessible way for users with disabilities. Soft surface trails that are primarily designed for recreational use by hikers, equestrians, mountain bikers, and others are not eligible for OCP.

Path surfaces must be "firm and stable", per US Access Board guidelines. Concrete and asphalt (impervious or pervious) are the most common and durable firm/stable construction material for shared use paths. Some natural surfaces can be compacted so that they are firm and stable, but these surfaces can degrade and become inaccessible without regular maintenance. Applicants should demonstrate how their proposed path design meets ADA accessibility requirements.

More information about shared use path accessibility guidelines is available in the Oregon Bike & Ped Design Guide and on the Public Right-of-Way Accessibility Guidelines (PROWAG) website:
<https://www.access-board.gov/guidelines-and-standards/streets-sidewalks/shared-use-paths/supplemental-notice/proposed-supplements>)

3.2 Will the project Refinement or Infrastructure project contribute to development of a biking and/or walking path in areas where no connections exist, transportation options are limited, or significant safety concerns are addressed by the improvement?

Yes

3.2a If Yes, please describe.

Right now, there are no sidewalks in the City of Hines except along Highway 20. The Highway is very busy. Also, with no City sidewalks, residents must walk or bike in the streets. The only off-road path is the nature trail to the east of the City. This trail is gravel and follows the old railroad tracks. It is owned and cared for by Harney County Parks and Rec. The Hines Walking Path would create a new connection to the nature trail from City limits, and improve an existing connection. Also, the Hines Walking Path would add an additional mile of off-road pathway for residents to use, reducing on-street pedestrian and bike traffic and increasing safety.

Limit 500 characters

Regional Path

3.3 Will the project contribute to development of a continuous path made up of one or more connected segments?

No

3.3a If Yes, check all that apply:

☒ Is primarily physically separated from the roadway

☐ Connects two or more communities, with each community no more than 15 miles apart, or traverses through a single large community with a path that is 10 miles or longer. (Large community defined as any single community that can accommodate the proposed path 10 miles or longer within its boundaries)

☒ Will serve as a connection point for people commuting between communities, or is a part of an officially designated walking and bicycling route as shown in a local, county or regional plan

☐ Is endorsed by elected bodies along path alignment, as indicated in a local, county or regional plan. (An adopted plan that includes the project or policies in support of the project and/or letters of support from elected bodies along path alignment will suffice.)

3.3b Please describe how it meets each of these criteria, and will contribute to the development of regional paths.

This path would allow walkers and cyclists to be off the street. This path would connect residents from the highway close to "downtown" to the nature trail, which would then connect them to the City of Burns.

Limit 1,000 Characters

3.4 Is your Regional Path project included or supported in a local or regional plan (e.g. Comprehensive Plan, Transportation System Plan, Safe Routes to School Action Plan, Corridor plan, Area Master Plan, Active Transportation plan, or other locally adopted plan)?

No

3.5 Why is this project needed? What problem are you trying to solve?

Hines has nothing that is specifically designated as a walking path, or sidewalks off the highway. There are no truly "safe" spaces for pedestrian or cyclist travel as any of this travel must be done on the streets. There is the nature trail to the east of town and many residents use it, but there is only one dirt trail connection point from the City which is not conducive to wheelchair access, mothers pushing strollers, or those who may have trouble walking on unstable ground. Also, the nature trail is gravel which is only a slight improvement to the dirt trail connection point. The connection point from the City is located at the corner of East Pettibone Ave. and North Peter French Ave.

Limit 500 Characters

3.6 How does the proposed project (including project refinement), if constructed, address the above problem statement? Explain why the proposed project is the right solution to the problem.

The Hines Walking Path would solve the above problems by create a safe, stable surface to connect to the nature trail, and even more importantly, it would create approximately 1.5 miles of dedicated, off-street pathway suited for all ages and abilities - pedestrians and bikers.

This is the right solution because 100% of the land that the Hines Walking Path would traverse is owned by the City, and most of that land is designated as "public recreation" and must be used as such. This land owned by the City is also mostly natural landscape and undeveloped. The Hines Walking Path would allow people to enjoy these natural landscapes where now they cannot.

Lastly and simply put, the Hines Walking Path would make it easier to get from the highway to the nature trail, or from the southeast part of town, to downtown.

Limit 500 Characters

Part 4: Project Location Detail

The following questions help us understand where your proposed project is located, risks related to property acquisition, and the different agencies or property owners who will need to be involved in developing the project. Projects that have already acquired or developed a plan to acquire needed property and/or easements will receive a higher "project readiness" score than projects that have not identified property needs and acquisition strategy.

4.1 Provide a brief description of your project location. Describe path locations, or other location detail. Attach a map of proposed project, including start and end points. For Project Refinement, provide map showing proposed corridor(s).

The path would start at the intersection of East Barnes Ave. and Peter French Ave. The path would loop around the bare sage brush area to the east of North Peter French Ave. then travel west along East Pettibone Ave. At the intersection of East Pettibone Ave. and North Newport Ave., the path would continue north along Newport Ave. to where Newport intersects with Highway 20. At this intersection, the path would continue northeast to the end of the lot owned by the City between the Highway and the golf course. The path would connect back to the sidewalk here.

Limit 1000 Characters

4.1a Attach map of proposed project, including start and end points.
02.01.21 - Hines Proposed Walking Path v4.jpg

4.2 Is any part of your project located on public property or public right of way?

Yes

4.2a If Yes, attach documentation (resolution, adopted transportation plan, safe routes to school plan) that shows support from jurisdiction(s) along the proposed path.

Recreation Goals - Hines Comp Plan 1986.pdf

Transportation Goals - Hines Comp Plan 1986.pdf

4.3 Does your project include ODOT Right of Way?

No

4.4 Does your project include railroad right-of-way or crossings?

No

4.5 Are any bridges, tunnels, retaining walls or other structures required?

We Don't Know

Part 5: Benefit/Equity

The following questions help us understand the benefits the project provides, such as improving social equity and safety outcomes. Projects that serve transportation-disadvantaged areas and address safety barriers will receive a higher score than projects that do not.

"Transportation Disadvantaged Areas" are areas with a high proportion of residents/workers who are youth, seniors, low income, non-white, Hispanic, and/or have a disability. These areas generally have a higher reliance on walking, biking, and transit for transportation and have often experienced historic underinvestment in transportation facilities that serve community needs.

5.1 Does the project improve walking/biking connections within a transportation-disadvantaged area(s)?

Yes

5.1a If Yes, please describe.

Considering the demographics of Hines (mostly elderly and families with children), and the lack of any pedestrian or cycling transportation pathways, all of Hines would be considered "transportation-disadvantaged."

Limit 200 Characters

What is your transportation disadvantaged index score? (ODOT will annotate score from index. Please contact ODOT at CommunityPaths@odot.state.or.us prior to submission to develop score) *Transportation Disadvantaged Index (non-white/Hispanic, youth/senior, low income, ESL, zero vehicle, disability population)* (Up to 100 Points)

5.2 Describe how the project addresses the needs of transportation-disadvantaged residents.

The pathway would be the first of its kind in the City and would hopefully be the beginning of much more to come. There is currently no designated pedestrian walkway within the City except along Highway 20.

Limit 500 Characters

5.3 Does the project address/mitigate a safety barrier to walking, biking or other forms of non-motorized transportation? (25 Points)

No

5.4 Is the project intended to be an alternative to bicycling/walking on a specific road?

No

Part 6: Community Outreach and Support

Early and meaningful engagement of community stakeholders and neighboring property owners is an essential element of developing a successful path project. The following questions help us understand the level of community outreach that has been done related to your project and the level of community support

that exists for the project. Projects that have conducted outreach and have community support or have developed a plan to address community concerns will receive a higher score than projects that have not yet begun outreach.

6.1 What community outreach have you conducted? (Up to 20 Points)

Community outreach is in process

6.2 Provide a summary of any completed or in-work public outreach on this project.

The idea was presented by a community member and I have held a public meeting to discuss the plans. Mostly members of the local golf club attended to express their concerns of the original plan to traverse the north edge of the golf course. After discussing these concerns, the pathway was amended to exclude the portion that would have traversed through the golf course.

Limit 500 Characters

6.3 Identify any concerns that were raised in the public outreach process or that you anticipate being raised and how you anticipate addressing these issues. Identifying public concerns will not make your project ineligible for funding.

The concerns that the golf club had were that if the walkway traversed through the golf course, it would be a major safety hazard. This is why the plan was amended.

Other concerns were that residents along Peter French Ave. may not like the added foot traffic in their area, or that crime may increase in the area. It was unclear how to address those concerns at this time.

Limit 500 Characters

6.4 Will there be public outreach as part of the grant, if awarded? (20 Points)

Yes

6.5 Provide summary of the public outreach plan as proposed for this project, if awarded.

- 1 - A public walk through and explanation of the proposed course.
- 2- Write ups in local paper and local radio interviews to describe the project.
- 3- Public meetings to display designs and strategies and to gather feedback.
- 4- Public displays of approved designs.

Limit 500 Characters

6.6 Attach any letters of support from impacted property owners or other stakeholders. (e.g. Area Commission on Transportation, Metropolitan Planning Organization, local Bicycle and Pedestrian Advisory Committee.)

Councilor Quick - HINES WALKING PATH.pdf

Part 7: Project Readiness

Projects that receive federally funded OCP grants must be completed within 3 years of grant award. Projects that receive state funded OCP grants must be completed within 5 years of grant award. The following questions help us understand the stage of development the project is in and any coordination needs that may impact the project delivery timeline. Projects that are well-developed or "shovel-ready" will receive a higher score than projects that have not yet begun development.

7.1 Specify what stage the project is in. (Up to 20 Points)

Project is in preliminary planning and design phases

7.2 Are there any known environmental hazards within or adjacent to the project area? (10 Points)

No

Examples include but are not limited to: Hazardous waste sites/materials, and geologically unstable slopes.

7.3 Is your design approach to the project consistent with Oregon Bicycle and Pedestrian Design Guide, PROWAG, AASHTO, and/or other path design guidelines (e.g. anticipated facility width, surface type, separation from roadway)? (20 Points)

Oregon Bicycle and Pedestrian Design Guide

7.4 Please describe your design approach to project.

The design would be completed by Anderson Perry, Engineer of Record for the City of Hines. Anderson Perry has completed several projects similar to this in Oregon.

NOTE: OCP funds are for transportation infrastructure projects. Public art, trailheads, and other amenities that enhance user experience are encouraged through partnerships and leveraging other funding sources, but may not be eligible for OCP funding.

Limit 1,000 Characters

Right of Way

7.5 Do you currently own the property for the proposed project (including project refinement) or have an easement for the proposed project? (20 Points)

Yes, we own property or easement for entire length

7.6 Will this path go through restricted areas (farmland, agricultural reserves), that would require special-use permit(s)? (20 Points)

No, this project will not go through restricted areas.

Part 8: Project Cost and Schedule

The minimum and maximum grant amounts that can be awarded through OCP are:

- Project Refinement (planning up to 30% design): \$75,000-\$750,000
- Capital (must include construction) grants: \$200,000-\$4 Million

Total Project cost = Grant amount (state or federal funds) + local match

The local match amount and type required for an OCP grant depends upon whether you are awarded a state or federally funded grant. The table below summarizes the different match requirements for state and federal grants:

Grant and Match Type

| Type of Grant | Local Match | Allowable match type | Allowable match timeline |
|---------------|-------------|----------------------|--------------------------|
|---------------|-------------|----------------------|--------------------------|

| | | | |
|----------------|------------------------------|--|---|
| Federal grants | 10.27% of total project cost | Cash expenditures or in-kind contributions | Only expenditures after grant award and IGA signature |
| State grants | 30% of total project cost | Only cash expenditures | Direct expenditures within previous 10 years |

Note: Funding will follow Federal procedures unless the project is assigned State funds at the time of programming. You should describe match that can meet either federal or state fund requirements (10.27% and 30% of total project cost respectively).

The following questions help us understand the total estimated cost of your project, amount of grant funding being requested, and your ability to provide the required match.

Use the table below to provide a detailed cost estimate for your project. Two columns are provided to estimate your total project cost, grant award request, and required local match if you are awarded a state or federal funded grant. You may attached a more detailed cost estimate in the Attachments section at the end of this application, if desired.

DETAILED COST ESTIMATE / SCHEDULE

[Provide total project cost estimate, including match, for eligible components. Use additional sheets for detailed estimate].

| Phase | Estimated Timeline - Beginning Year | Federally Funded Project Estimate | State Funded Project Estimate |
|-----------------------------|-------------------------------------|--|--|
| Project Refinement | 2021-22 | \$10,000.00 | \$10,000.00 |
| Environmental | 2021-22 | \$10,000.00 | \$10,000.00 |
| Design/Engineering | 2021-22 | \$175,000.00 | \$175,000.00 |
| Right of Way | 2021-22 | \$0.00 | \$0.00 |
| Construction | 2022-24 | \$550,000.00 | \$550,000.00 |
| Contingency 30% Recommended | 2021-22 | \$300,000.00 | \$300,000.00 |
| | | Total Project Cost: \$1,045,000.00 | Total Project Cost: \$1,045,000.00 |
| | | Local Match (Minimum 10.27% for Federally funded) | Local Match (30% for State funded) |

\$107,321.50

\$313,500.00

Grant Request Amount
\$937,678.50

Grant Request Amount
\$731,500.00

Duration of Project Funding (Years)

3

Expected first year of billing

2023

Match Source and Amounts

Match Source

Match Amount

Budgeted park improvements, Capital Project Funds, and TLT funds

\$325,000.00

\$325,000.00

Funding source is dependent upon availability. ODOT will make final decision on funding source after review and collaboration with applicants. For non-certified agencies, ODOT will administer federally funded projects.

Licensed Engineer Review Confirmation

Confirm that a licensed engineer has reviewed your cost estimates and scope by providing engineer contact information.

Licensed Engineer Name

Brandon Mahon

Agency/Employer

Anderson Perry

Email

bmahon@andersonperry.com

Phone

(541) 963-8309

Signature of Licensed Engineer

Submission

Signature

Date

2/1/2021



Name of Person Authorized to Apply for Grants

Kirby Letham

Title of Person Authorized to Apply for Grants

City Administrator

Upon submitting this form you will receive an email containing your submission.

Note: ODOT anticipates scoring all applications, OBPAC ranking, and Oregon Transportation Commission approving awards within four months after application deadline. IGAs will be awarded in summer of 2021.

If you have any questions regarding how to complete this form, please contact Alan Thompson at Alan.L.Thompson@ODOT.State.OR.US or 503.986.7202

Required Attachments

Map of proposed project area, including start and end points

Documentation showing support from elected bodies (resolution, adopted transportation plan, safe routes to school plan)

Letters of support from impacted property owners or other stakeholders. (e.g. Area Commission on Transportation, Metropolitan Planning Organization, local Bicycle and Pedestrian Advisory Committee.)

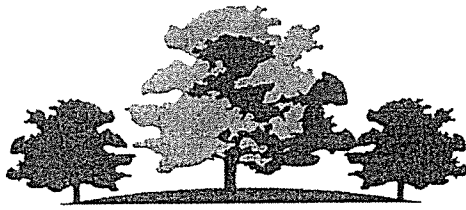
Detailed Cost Estimate/Budget

Detailed schedule by task

Other material that may support your application

Attachments

HinesWalkingPath_CostEstimate.pdf



You are welcome in HINES

101 E. Barnes Avenue / PO Box 336, Hines OR 97738 541-573-2251 FAX 541-573-5827 cityofhines.com

APPLICATION FOR BUSINESS LICENSE

BUSINESS NAME: Freedom Industries

BUSINESS PHONE NUMBER: 541-589-3166

CONTACT PERSON: Dustin Beers

MAILING ADDRESS: 623 Po box 1466

PHYSICAL ADDRESS: 623 W Pettibone Ave

EMAIL ADDRESS: D db.Freedom Industries@gmail.com

Description of the trade, shop, business, profession, occupation or calling:

Construction

Fiscal Year for Business License: **JULY 1, 2020 – JUNE 30, 2021**

Licensing Fee:

X **\$65.00** (\$40.00 in-county vendor or seasonal business plus \$25.00 application fee)

 \$105.00 (\$80.00 out of county business plus \$25.00 application fee)

Date: 1/26/2021

Dustin Beers
Signature of applicant or agent

Your information will be available on-line to the public at www.cityofhines.com unless you indicate otherwise (in writing).

If the business is required by the state to have registration, bonding or insurance, attach a copy of those documents to this application and fill in information below:

Registration No.: 174497892 Bond No.: 23245167

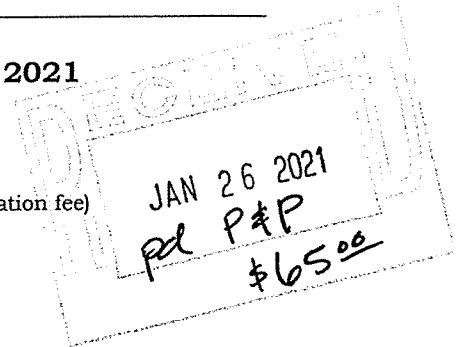
Insurance agent/agency: Alford Insurance

CCB License # 233663

Approved 2/9/21 - [Signature]

FOR CITY USE ONLY:

License No. Date issued: Annual fee:



Business Registry Business Name Search

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Business Entity Data

02-08-2021
15:41

| Registry Nbr | Entity Type | Entity Status | Jurisdiction | Registry Date | Next Renewal Date | Renewal Due? |
|--------------|------------------------|---------------|--------------|---------------|-------------------|--------------|
| 1744978-92 | DLLC | ACT | OREGON | 11-18-2020 | 11-18-2021 | |
| Entity Name | FREEDOM INDUSTRIES LLC | | | | | |
| Foreign Name | | | | | | |

[New Search](#)

Associated Names

| | | | | |
|--------|----------------|-----------------------------|-------|----------------------------------|
| Type | PPB | PRINCIPAL PLACE OF BUSINESS | | |
| Addr 1 | 623 WPETTIBONE | | | |
| Addr 2 | | | | |
| CSZ | HINES | OR | 97738 | Country UNITED STATES OF AMERICA |

Please click [here](#) for general information about registered agents and service of process.

| | | | | | | |
|--------|---------------------|------------------|------------|------------|--------------------------|--|
| Type | AGT | REGISTERED AGENT | Start Date | 11-18-2020 | Resign Date | |
| Name | DUSTIN | LEE BEERS | | | | |
| Addr 1 | 623 W PETTIBONE AVE | | | | | |
| Addr 2 | | | | | | |
| CSZ | HINES | OR | 97738 | Country | UNITED STATES OF AMERICA | |

| | | | | |
|--------|---------------------|-----------------|-------|----------------------------------|
| Type | MAL | MAILING ADDRESS | | |
| Addr 1 | 623 W PETTIBONE AVE | | | |
| Addr 2 | PO BOX 1466 | | | |
| CSZ | HINES | OR | 97738 | Country UNITED STATES OF AMERICA |

[New Search](#)

Name History

| Business Entity Name | Name Type | Name Status | Start Date | End Date |
|------------------------|-----------|-------------|------------|----------|
| FREEDOM INDUSTRIES LLC | EN | CUR | 11-18-2020 | |

Please read before ordering [Copies](#).

[New Search](#)

Summary History

| Image Available | Action | Transaction Date | Effective Date | Status | Name/Agent Change | Dissolved By |
|-----------------|--------------------------|------------------|----------------|--------|-------------------|--------------|
| | ARTICLES OF ORGANIZATION | 11-18-2020 | | FI | Agent | |



CCB License Summary:

FREEDOM INDUSTRIES LLC

About this Business

License #: 233663
Status: Active
First Licensed: 12/14/2020

[Learn more about this business](#)

Unpaid Debt (Covers past 10 years)

Unpaid Claims [?] \$0.00
Unpaid Civil Penalties [?] \$0.00

Complaint History (Covers past 10 years)

Any complaints (claims) filed against this contractor? **No**

Disciplinary History (Covers past 10 years)

Any civil penalties or other sanctions (license suspensions)? **No**

Administrative Suspensions (Covers past 10 years)

Has the CCB ever suspended this contractor for lack of bond/insurance? **No**

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Landscape Businesses Licenses [Landscape Contractor Board](#)
Workers' Compensation Insurance [Department of Consumer and Business Services](#)

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POLITICS

Oregon could limit bans on homeless camping



By Dirk VanderHart (OPB)

Feb. 2, 2021 3:08 p.m.

While not a ban on anti-camping laws, House Bill 3115 is designed to ensure cities around the state are aligned with recent federal rulings limiting how local governments can regulate camping.



STREAMING NOW
Here and Now

A tent at Portland's Laurelhurst Park. House Bill 3115 would make it harder for governments across Oregon to regulate how people live outdoors.

Kristyna Wentz-Graff / OPB

Cities and counties around Oregon would be unable to enact sweeping laws banning homeless people from camping on public land, under a bill introduced by House Speaker Tina Kotek Tuesday.

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Instead, under [House Bill 3115](#), local governments would be required to adopt policies that are “objectively reasonable” in regulating when, where and how people can live outdoors in the midst of a worsening housing crisis. If cities enforced more restrictive measures, impacted homeless people could sue to stop them.

While not a ban on anti-camping laws, House Bill 3115 is designed to ensure cities around the state are aligned with recent federal rulings limiting how local governments can regulate camping.

In [one of those cases](#), the federal Ninth Circuit Court of Appeals upheld a ruling limiting cities’ ability to criminalize camping violations. A [more recent federal ruling](#) said cities cannot fine houseless people for sleeping outside.

With those rulings in place, cities can already face challenges in federal court. Kotek’s bill — the product of months of work by city and county lobbying groups, along with the nonprofit Oregon Law Center — is a way to spur cities to proactively adopt policies that comply, supporters say.

“The goal of the bill is to clarify these constitutional principles as local jurisdictions in Oregon work to ensure their local laws are in compliance with this federal decision,” said Danny Moran, a spokesman for Kotek, D-Portland. “Many cities have been doing the work to update their ordinances and the hope is this bill will help with those continued efforts.”

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STREAMING NOW
Here and Now

The actual language of HB 3115 is somewhat vague, a move its supporters say will allow courts to take into account the divergent circumstances homeless Oregonians face.



House Speaker Tina Kotek in the House Chamber in 2019. Kotek has introduced a bill that would restrain how cities can enforce camping bans.

Kaylee Domzalski / OPB

“There is a recognition that what’s ‘objectively reasonable’ is going to be different in different parts of the state,” said Ariel Nelson, a lobbyist who helped negotiate the proposal on behalf of the League of Oregon Cities.

The bill would require that local laws addressing “sitting, lying, sleeping or keeping warm and dry outdoors on public property must be objectively reasonable ... with regards to persons experiencing homelessness.”

Whether a policy is “objectively reasonable” law, the bill says, would be “determined



STREAMING NOW
Here and Now

In other words, advocates say, cities will be able to take steps limiting or blocking camping in some public spaces, but not all public spaces. And local governments will have time to ensure they're in compliance with the law. The regulations in the bill wouldn't take effect until July 2023.

“Ordinances that say ‘no camping, anytime, anywhere,’ are unconstitutional,” said Becky Straus, a staff attorney at the Oregon Law Center, which has sued Portland and other cities on behalf of houseless people in the past. But Straus noted: “Many cities in Oregon with camping ordinances have kept their laws on the books and claim that they’re following the case law in the way they enforce their ordinances.”

One potential example of such an approach? The City of Portland, which has an outright camping ban on the books, but has grown more selective in recent years in choosing how to enforce it. City officials don’t believe Portland’s current practice of granting campers notice before pushing out campers and cleaning up campsites would be impacted by the ordinance.

“The on-the-ground effect of this bill is fairly limited,” Nelson said. “It’s really the state affirming what the court decided. This is one piece of a much bigger conversation.”

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TO: Hines City Council
FROM: Kirby Letham, City Administrator
DATE: February 9, 2021
SUBJECT: Discussion – Homelessness and “City Camping”

Attachment(s)

- HB 3115
- OPB article on “Homeless Camping”
- Several Resources from other Cities in Oregon

DISCUSSION:

A few years ago, the homelessness problem became very severe in the City of Boise. Boise tried to take action and was sued by the ACLU representing homeless individuals. The City of Grants Pass had a similar lawsuit last summer. Both cities lost their cases before the Supreme Court.

The results of these cases are that there are now big changes to how a city can or cannot address the issue of homeless camping.

We will start the discussion here. It is the City Administrator’s opinion and advice that the Council begin learning about what a city can do and proactively have a plan and ordinance in place.

House Bill 3115

Sponsored by Representative KOTEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that local law regulating sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness. Creates affirmative defense to charge of violating such local law that law is not objectively reasonable. Creates cause of action for person experiencing homelessness to challenge objective reasonableness of such local law. Authorizes court to award attorney fees to prevailing plaintiff in such suit in certain circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "City or county law" does not include policies developed pursuant to ORS 203.077 or 203.079.

(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions.

(B) "Keeping warm and dry" does not include using any measure that involves fire or flame.

(c) "Public property" has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:

(a) Was not seeking to vindicate an interest unique to the plaintiff; and

(b) At least 90 days before the action was filed, provided written notice to the governing

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

1 body of the city or county that enacted the law being challenged of an intent to bring the
2 action and the notice provided the governing body with actual notice of the basis upon which
3 the plaintiff intends to challenge the law.

4 (7) Nothing in this section creates a private right of action for monetary damages for any
5 person.

6 SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

7 SECTION 3. This 2021 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
9 on its passage.
10 _____



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

TO: Mayor Henry A. Porter and the Stayton City Council
FROM: Keith Campbell, City Manager
DATE: March 1th, 2021
SUBJECT: Homelessness (Martin v. City of Boise)

ISSUE

At the February 3rd, 2020 City Council meeting the Governing Body requested staff provide an informational presentation regarding homelessness. Staff has prepared a presentation on the issue of Martin v. City of Boise and the impacts to cities.

ENCLOSURE(S)

Martin v. City of Boise 920 F. 3d 584 (9th Cir. 2019)

BACKGROUND INFORMATION

The Eighth Amendment of the United States Constitution places limits or restrictions on the type of behaviors that government may criminalize. A noted example comes from Powell v. Texas 392 U.S. 514 (1968) where the court ruled that Eighth Amendment prohibited punishment against an individual for "an involuntary act or conditions if it is the unavoidable consequence of one's status or being."

The city of Boise, Idaho had enacted an ordinance that it referred to as a camping ordinance, which it defined broadly as, "the use of public property as a temporary or permanent place of dwelling, lodging, or residences or as a living accommodation at any time between sunset and sunrise, or as a sojourn." The ordinance further prohibited the use of "any of the streets, sidewalks, parks or public places as camping at any time."

The city of Boise provided alternatives to satisfy "adequate" shelter in lieu of camping. These locations had limited capacity, limits on lengths of stay, and in some cases "conditions" for entry which included passing a drug test or being required to be promulgated with religious doctrine.

In 2009 several homeless individuals cited under the ordinance petitioned the courts arguing against the constitutionality of Boise's ordinance. The case officially became known as Martin v. City of Boise 920 F. 3d 584 (9th Cir. 2019).

The 9th Circuit ruled in favor of Martin. The court noted that the government cannot criminalize being homeless or “conduct that is unavoidable consequence of being homeless-namely sitting, lying, or sleeping in the streets. The court opined that the validity of an ordinance as it relates to the Eight Amendment, “will depend, as here, on whether it punishes a person for lacking the means to live out the ‘universal and unavoidable consequences of being human’ in the way the ordinance prescribes.” In a dissenting opinion the court noted that the court’s ruling meant, “unelected colleagues [of] improperly inject[ing] themselves into the role of public policy making and thereby creating chaos for hundreds of local governments...and...millions of people.”

The Ninth Circuit noted that its ruling is intended to be narrow in scope. In the opinion the court noted the following:

- Cities are not required to provide adequate shelters for homeless persons.
- It may be possible for an ordinance to prohibit the obstruction of public rights-of-way.
- The ruling does not apply to people with access to adequate shelter but chose not to use it.

It is important to note that Boise ruling does not impact private property especially if the campers do not have permission or authorization to be on said property.

The seeming intent of the ruling is that the City should not regulate against the “status” of an individual. The City does not have to allow camping on all public property, it can select or designate areas where camping may be allowed. The City may still regulate the conduct of the campers. The lack of shelter options or shelter options with conditions will impact and implicate the City and the ability of the City to enforce any camping requirements or regulations.

CURRENT LEGAL STATUS

In December of 2019 the Supreme Court denied a petition from the City of Boise to review the 9th Circuit’s decision. This in effect upholds the 9th Circuit ruling of Martin v. Boise that homeless persons cannot be punished for sleeping on public property in the absence of adequate alternatives.

Blake v. City of Grants Pass (1:15-cv-01823-CL)

The City of Grants Pass created a system of fines for homeless individuals in the City. According to a public statement by the Mayor, and documents in the case, the purpose of the fines was to make it uncomfortable for homeless to be in the community and to encourage them to move elsewhere. On July 22nd, 2020 the Federal court ruled that Grants Pass civil penalties violated its homeless residents’ Eight Amendment rights. A summary from CIS says the following:

“Magistrate Judge Clarke issued a sweeping Opinion and Order that ruled against the City and sided with the class of homeless individuals.

While it's not apparent from reading Judge Clarke's Opinion, the parties were primarily arguing about the difference between the involuntary act of sleeping or resting, and the voluntary act of maintaining a campsite for an extended period of time on public property. The two sides also argued about whose burden it was — the government's or the homeless individual's — to prove that a person residing on public property had nowhere else to go.

Judge Clarke's opinion can only be interpreted as requiring all cities and counties to carve out exceptions – in their ordinances – where the homeless can lawfully engage in sleeping without risk of enforcement. While technically only applicable to jurisdictions that have more homeless than “available shelter”, the manner in which the number of homeless and the other options available are calculated leaves every jurisdiction subject to the same scrutiny as Grants Pass was on these legal issues.

Judge Clarke also determined that a monetary fine of any amount against the class of “involuntary homeless” individuals when no other alternatives are provided would be excessive under the Eighth Amendment.

Judge Clarke's Opinion still allows for citations to be issued to homeless individuals for littering, harassment, urinating and defecating in public. Judge Clarke felt these were the available “tools” in the local government's toolbox. One wonders, however, if such citations might also be challenged as equally “involuntary” aspects of being involuntarily homeless”

The case is on appeal. It is expected the appeal will take two years before a ruling.

This is an evolving legal area of the law, and legal challenges are already occurring. It is important that we have the framework of the legal issues and the limitation and requirements placed on the City.

Next Steps

At an upcoming City Council Meeting the Police Chief will be providing the strategies and policies of the police department in addressing the challenges of homeless in our community under the legal requirements of recent case law.