

# AGENDA

## City of Oregon City Parks and Recreation Advisory Committee

City Hall, Commission Chambers  
625 Center Street, Oregon City, OR 97045

Thursday January 26, 2012

### 6:00 P.M. – Special Meeting

1. Interview P.R.A.C. applicants
  - a. 6:00 P.M. – Lisa Normand
  - b. 6:30 P.M. – Bob Burns

### 7:00 P.M. – Regular Meeting

1. Call to order
2. Annual election of officers (Chair and Vice-chair)
3. Approval of minutes – December 1, 2011
4. Citizen comments on issues and items not on the agenda
5. General business
  - a. Pioneer Adult Community Center update – Kathy Wiseman
  - b. Dog park
  - c. Pocket parks
  - d. PRAC member re-appointments & applicants
  - e. Parks maintenance utility fee update
  - f. Follow-up on Citizen Involvement Council proposals from December 1 meeting
    - i) Veteran fee waiver for R.V. Park
    - ii) Handicap access fishing at Clackamette Park
  - g. Other general business
6. PRAC member reports
7. Staff reports
  - a. Canemah park project update
  - b. Ermatinger House update
  - c. Recreation update
  - d. Other
8. Next scheduled meeting date – February 23, 2012
9. Adjournment

**PARKS AND MEMORIALS****PAGE: 1****DETAILED PROJECT/LABOR ACTIVITY REPORT  
7/1/2010 THRU 6/30/2011**

<b>WORK PERFORMED</b>	<b>REG. HOURS</b>	<b>REG. RATE</b>	<b>TOTAL COST</b>
<b>Project: DEMENT PARK</b>			
HARD SURFACES	0.5	\$45.00	
HORT. SERVICES	3	\$45.00	
SPRAYING	1.5	\$45.00	
TURF MAINTENANCE	10.25	\$45.00	
TRASH REMOVAL	19.33	\$45.00	
PROJECT TOTALS	34.58	\$45.00	<b>\$1,556.10</b>
<b>Project: HAZELWOOD PARK</b>			
PLAYGROUND INSPECTIONS	16	\$45.00	
HARD SURFACES	1.25	\$45.00	
PLAYGROUND REPAIR/MAINT.	4.75	\$45.00	
TRAINING	0.25	\$45.00	
SPRAYING	1	\$45.00	
TURF MAINTENANCE	14.75	\$45.00	
TRASH REMOVAL	13.64	\$45.00	
PROJECT TOTALS	51.64	\$45.00	<b>\$2,323.80</b>
<b>Project: OAK TREE PARK</b>			
HARD SURFACES	1.25	\$45.00	
SPRAYING	4	\$45.00	
TURF MAINTENANCE	17.25	\$45.00	
TRASH REMOVAL	22.58	\$45.00	
IRRIGATION	1.25	\$45.00	
PROJECT TOTALS	46.33	\$45.00	<b>\$2,084.85</b>
<b>Project: SHENANDOAH PARK</b>			
HARD SURFACES	4.75	\$45.00	
SPRAYING	2	\$45.00	
TURF MAINTENANCE	19.75	\$45.00	
TRASH REMOVAL	31.98	\$45.00	

PROJECT TOTALS	58.48	\$45.00	<b>\$2,631.60</b>
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**Project: PETER SKENE WAY**

HARD SURFACES	0.5	\$45.00
STORM CLEANUP	1.25	\$45.00
HORT. SERVICES	2.5	\$45.00
SPRAYING	1	\$45.00
TURF MAINTENANCE	3.75	\$45.00
TRASH REMOVAL	17.25	\$45.00

PROJECT TOTALS	26.25	\$45.00	<b>\$1,181.25</b>
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**Project: POMPEI DR**

TURF MAINTENANCE	7.5	\$45.00
TRASH REMOVAL	5.35	\$45.00

PROJECT TOTALS	12.85	\$45.00	<b>\$578.25</b>
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<b>TOTALS FOR PERIOD</b>	<b>230.13</b>	<b>\$45.00</b>	<b>\$10,355.85</b>
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**Subject:** TWO PART CIC REQUEST

**From:** Kerry Hanlon (kerryhanlon47@yahoo.com)

**To:** dneeley@orccity.org; jnicita@orccity.org; rsmith@orccity.org; bmumm@orccity.org; kroth@orccity.org;

**Cc:** dfrasher@orccity.org; sarcher@orccity.org; nkraushaar@orccity.org; qmunicator@yahoo.com;  
William@smALLFLAGS.com; cwadsworth@ci.oregon-city.or.us;

**Date:** Wednesday, November 2, 2011 1:13 PM

Two part request:

a. that the city of OC adopt a policy to permit veterans, with a disabled ID card, camp at Clackamette Park up to 5 days, within a 30 day period, at no charge to the veteran. This policy to be in compliance with the Oregon State Park regulations.

b. that the city commission promptly develop handicap access for fishing near or at Clackamette Park. This policy to be in compliance with the ADA.

CIC representatives have discussed these ideas with City staff and feel that they are achievable goals.

These ideas have been unanimously approved by the CIC representatives

We would appreciate your prompt and considerate response to this request.

Thank you.

Tom Geil, Chair  
Larry Hanlon, Vice Chair  
William Gifford, Secretary

Submitted on January 11, 2012

Board or Commission Applying For: Parks and Recreation Advisory Committee

Name: Lisa Normand

Address: 19606 S. Ferguson Road

Home Phone: 503.632.4148

Cell Phone: 503.929.0404

Email Address: [lisa.normand@orecity.k12.or.us](mailto:lisa.normand@orecity.k12.or.us)

How long have you lived in Oregon City? 30 years -

#### Employment

Current Employer Name/Address:

Oregon City School District

Oregon City Community Education Programs and Services

1404 7th Street, Oregon City

Position: Administrator/Director

How long? 3 years

Work Phone: 503.785.8521

Work Experience: Kumon Center Owner 2000-2004; 21st Century Grant Director 2002-2005;

School Counselor 2005-2009; OCCE Director

2009-current

#### Education

Colleges: Marylhurst University, George Fox University, Lewis & Clark

Years Completed: Graduate School

Degrees: BA, MASC

Certifications: Education Administration

Describe volunteer activity within this or other communities:

Currently: Oregon City Together, Optimist Club, Stand for Children Chapter Leader

Past: Rotarian, PRAC, PTA/O/C, School Board, Oregon City Schools Foundation Do you

presently serve on a City board or committee? No If yes, which board or committee?

Explain your interest in this board/committee and why you think its issues are important: It relates directly to the work I do, the community I serve and the programs we create.

List any relevant experiences, skills, or interests that have helped to prepare you for a position on this board or committee: Previous experience on PRAC and as a School Board Member, my involvement in the community, and my current position.

I certify that the foregoing information is true and correct: Yes

Today's Date:

October 29 2011

City of Oregon City  
APPLICATION FOR APPOINTMENT

Please print or type  
May attach resume



Board or Commission Applying For: Parks & Recreation Adv. Committee

PERSONAL INFORMATION:

Name Bob Burns	How long in Oregon City? 37 yrs
Street 314 Cherry, OC, OR, 97045	Home phone 503-655-1642
E-mail address janieburns@comcast.net	Cell phone 503-510-0500

EMPLOYMENT:

Current Employer Name/Address Oregon Dept. of Education		
Position Deputy Superintendent	How long? Twenty yrs.	Work Phone
Work Experience: - Retired from OR Dept. of Education - 2009 - Oregon School Boards Assn. Dir Mgmt Svcs. 1983-1987 - Superintendent Clackamas ESD - 1980-1983 - Assistant Supt. Clackamas ESD - 1974-1980 - teacher-coach Carson High School, Nevada - 1960-1969		

EDUCATION:

Years Completed K-12, Bach, MA, PhD	Degrees PhD Educ. Admin.
Colleges U. of Nevada - Reno 1960 (BS) 1969 (MA) U. of Oregon 1973 (PhD)	
Certifications BS, MA, PhD Educ. Admin	

COMMUNITY INVOLVEMENT:

Describe volunteer activity within this or other communities I serve on UofO College of Educ. Adv. Comm. I am voluntary official for UofO track & Field program
Do you presently serve on a City board or committee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, which board or committee?

**INTEREST STATEMENT:**

Explain your interest in this board/committee and why you think its issues are important

I have had life long interest in physical activity and healthy living for all. In my early teaching days I was a teacher of Health and Physical Education, and coached high school track and field. At this time in our state and country we need appropriate venues and leadership to practice --

List any relevant experiences, skills, or interests that have helped to prepare you for a position on this board or committee.

healthy living!

1. teacher of PE and Health
2. coach of track & field
3. Director of Athletics -- High School
4. track & field official -- college
5. Coach T&F High School
6. Athletic Director - High School

Additional information

I have the time and interest to serve on this important committee.

Membership on City advisory boards, committees and commissions are open to all interested citizens subject to the qualifications determined by each individual committee, board and commission as necessary for the conduct of its business. There shall be no discrimination of applicants based on race, color, religion, sex, age, national origin, physical or mental disability, marital status, familial status, status as a Vietnam-era or special disabled veteran, or membership in any other group protected by law in accordance with applicable federal, state and local laws. The City of Oregon City encourages participation in its affairs by all people, especially those who are represented in public involvement.

**NOTE:** Oregon City Ordinance No. 01-1031 establishes a criminal history record check for public service volunteers and is determined by the City Manager based on the duties and responsibilities of the position or public safety. If you are chosen for this position, you may be required to complete the background check form.

Most advisory boards, committees and commissions require meeting at least once a month and the meeting hours may be evening or day depending on the committee. Some committees also require some investment of time outside of the meetings. Interested applicants are encouraged to attend a meeting of this commission prior to interviewing to serve.

**The information requested herein becomes public record upon submittal. A written request to not disclose certain information may be submitted to the City Recorder's Office for consideration.**

**I certify that the foregoing information is true and correct.**

Signed (Applicant)

Date

**For Office Use Only**

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

Term assigned: \_\_\_\_\_

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

Web site updated: \_\_\_\_\_

Send completed application to: City Recorder's Office, PO Box 3040, 625 Center St., Oregon City, OR 97045  
or Fax to 503-657-7026 or e-mail recorder@orcilcity.org. Questions? Call 503-496-1505



**To:** Scott Archer, City of Oregon City  
**From:** Todd Chase and John Ghilarducci, FCS GROUP  
**RE:** Parks and Open Space Utility Framework Analysis

**Date:** January 16, 2012

## INTRODUCTION

This memorandum includes preliminary findings from the Parks and Open Space Utility Fee Framework Study. The purpose of this study is to explore the process of establishing a parks and open space utility fee under Oregon regulations. This memorandum includes the following items:

- ◆ Purpose and Need
- ◆ Summary of Regulatory Requirements
- ◆ Oregon Case Studies
- ◆ Preliminary Sensitivity Analysis Findings
- ◆ Policy Issues and Considerations

## PURPOSE AND NEED

Like most local governments, Oregon City is facing fiscal challenges to meet current and planned levels of service for governmental functions, such as parks, police, and general administration. Following the recent national economic recession, general fund resources (including local property taxes and state shared tax revenues) in Oregon City for FY 2010-11 have fallen below FY 2007-08 revenue resource levels, as general fund expenditures have continued to increase along with population and overhead expenses.

The Oregon City General Fund is allocated among several departments, including Administration, Municipal Court, Police, Parks & Recreation, and several Non-Departmental functions. During each budget cycle these departments must “compete” for limited general fund resources, and there is risk of service level declines when adequate funding cannot be allocated to address existing service levels and associated maintenance requirements.

In addition to Parks maintenance, the Oregon City Parks & Recreation Department is responsible for the operations of the Swimming Pool, Pioneer Adult Community Center, recreation programs, Carnegie Center (currently operating as a temporary Library), Mountain View Cemetery, and city-wide facility maintenance. Unlike an enterprise fund, the Parks & Recreation Department is not self-sustaining and relies heavily on the General Fund to support its operations. As indicated in **Table 1**, the preliminary Parks & Recreation budget for FY 2010-11 anticipated a total general fund allocation of approximately \$2.1 million to sustain Parks & Recreation programs, facilities and maintenance levels.

January 16, 2012

## FCS GROUP Memorandum

The majority of the Parks & Recreation Department budget (\$1.1 million) is needed for parks maintenance. However, current maintenance funding does not begin to address a growing backlog of deferred maintenance items, estimated to total an additional \$1,276,000, as shown in **Appendix A**.

**Table 1 Oregon City Parks & Recreation Budget, FY 2010-11**

	Revenues	Expenses	Net
Parks Maintenance	\$438,500	(\$1,143,122)	(\$704,622)
Aquatics	\$240,700	(\$591,185)	(\$350,485)
Pioneer Comm. Center	\$173,866	(\$743,813)	(\$569,947)
Recreation	\$42,500	(\$219,209)	(\$176,709)
Carnegie	\$0	(\$38,192)	(\$38,192)
Cemetery	\$233,700	(\$526,678)	(\$292,978)
<b>Total</b>	<b>\$1,129,266</b>	<b>(\$3,262,199)</b>	<b>(\$2,132,933)</b>

*Source: Oregon City, March 2010, proposed budget document.*

Oregon City's parks and recreational facilities and programs are highly regarded. They address needs at every age level, and provide value for residents and visitors. While Oregon City continues to strive to expand parks and recreational facilities to meet the needs of existing and future citizens per the Oregon City Parks and Recreation Master Plan, and the Oregon City Trails Master Plan, an appropriate level of operating funding is required to keep existing service levels from falling and facilities from deteriorating.

Over the past few years, Oregon City Commissioners have approved annual budgets required to meet basic parks maintenance expenditures along with advance funding for boat ramp renovation (one time capital cost of approximately \$420,000). As such, parks maintenance expenditures increased from approximately \$523,948 in FY 2007-09 to \$1,143,122 (proposed) in FY 2010-11. As shown in **Table 2**, the share of General Fund expenditures allocated to parks maintenance increased from 3.5% in FY 2007-08 to 6.7% in FY 2010-11; and is likely to decrease in the next fiscal year once state grants are received for the boat ramp reimbursement.

**Table 2 Oregon City Parks Maintenance Expenditures as Share of General Fund Expenditures**

	Actual FY 2007-08	Actual FY 2008-09	Adopted FY 2009-10	Proposed FY 2010-11
Parks Maintenance	\$523,948	\$616,704	\$1,038,105	\$1,143,122
Total General Fund*	\$14,837,226	\$13,642,961	\$14,971,746	\$17,176,887
<b>Parks and Rec. % of Total</b>	<b>3.5%</b>	<b>4.5%</b>	<b>6.9%</b>	<b>6.7%</b>

*\* excluding contingency.*

*Source: Oregon City Budget, March 2010.*

Oregon City has an opportunity to consider a new funding mechanism to provide its Parks and Recreation Department a source of dedicated funding through a Parks & Open Space Utility. A Parks & Open Space Utility can provide a steady and reliable source of funding for parks and open space maintenance and help alleviate pressure on the General Fund to pay for the majority of Parks Maintenance funding requirements.

## SUMMARY OF REGULATORY REQUIREMENTS

Establishment of a parks utility fee in Oregon requires compliance with legal requirements at both state and local levels. **Appendix B** summarizes the primary legal requirements for establishing a parks utility and then provides recommendations based on that analysis. Based on our experience and understanding of Oregon state legal requirements, we offer three recommendations:

January 16, 2012

## FCS GROUP Memorandum

- ◆ **Design a parks and open space utility fee that is distinct from a property tax.** This can be accomplished by (1) distinguishing between utility customers and property owners, (2) not allowing uncollected fees to become a lien on property, and (3) designing a rate structure that is based on cost of service.
- ◆ **Draft an ordinance under Title 13 of the City's municipal code.** Such an ordinance is required to provide local authority to impose a parks and open space utility fee.
- ◆ **Provide a public hearing** prior to enactment to comply with ORS 294.160(1).

In recognition that Oregon City's local charter requires voter approval for any "bond" even if it's secured by obligations that are not property tax based, obtaining public input throughout the development of a parks and open space utility (even if bonds are not being issued) is very important. These findings and preliminary recommendations are intended to stimulate and guide a discussion of City policy, and should not be construed as legal advice. We recommend that the City address legal questions to qualified counsel if the City opts to establish a parks and open space utility.

## OTHER CITIES WITH PARKS UTILITY FEES

Currently there are three jurisdictions within the State of Oregon that charge a parks utility fee. The cities of West Linn, Medford and Talent charge customers within their city limits (service district) a monthly fee that is used primarily for maintaining city-owned parks and recreation facilities and open space. The monthly fees range from \$2.95 and \$3.00 in Medford and Talent, respectively, to \$10.70 in West Linn. Additional comparisons regarding the when the fees were adopted, amended, basis of the charges, amount of the charges, and special exemptions are noted in **Appendix C**.

## PRELIMINARY SENSITIVITY ANALYSIS FINDINGS

A preliminary sensitivity analysis is provided to illustrate the approximate level of cost recovery that could be achieved from implementation of a local parks & open space utility fee in Oregon City. The preliminary findings reflect potential new funding that could be obtained if the City were to implement a local parks utility similar to that which is now place in the cities of West Linn, Medford or Talent. The sensitivity analysis illustrates gross revenues that could be realized given the assumptions provided in **Appendix D**.

The sensitivity analysis is based on a preliminary annual parks and open space revenue requirement of \$1.76 million (probably the maximum the city may likely consider) with a monthly parks utility fee ranging from \$3.00 to \$15.00 per equivalent residential unit (ERU). The \$1.76 million annual revenue requirement reflects that current amount of general fund subsidy provided to the Parks & Recreation Department (\$1.63 million) plus 10% of the deferred maintenance requirements documented in **Appendix A** (\$127,600 each year for 10 years).

The sensitivity analysis tests three policy options for the Parks & Open Space Utility:

- A. Charge Residential Customers Only;
- B. Charge All Residential and Non-Residential Customers (except the local school district); and
- C. Charge All Residential and Non-Residential Customers.

The results shown in **Table 3** indicate that the \$9/month utility charge under Option C generates approximately \$1.47 million in gross revenues (84% of the preliminary revenue requirement). The residential customer groups provide about 70% of the total revenue potential, and the non-residential customer groups provides about 30% of the revenue. A slightly higher charge would be required if public school district facilities were excluded. In light of the fact that school district facilities are usually made available to the public, there may be a local policy option that exempts schools from this fee. However,

January 16, 2012

## FCS GROUP Memorandum

other public and private employers can and do benefit from local parks facilities and should likely be subject to the new fee.

**Table 3 Preliminary Parks & Open Space Utility Sensitivity Analysis**

<b>Oregon City, Annual Parks &amp; Open Space Revenue Requirements</b>						
Annual Parks and Recreation Revenues	\$1,129,266					
Annual Parks and Recreation Expenses *	(\$2,762,199)					
<b>Net General Fund Requirement</b>	<b>(\$1,632,933)</b>					
<b>Deferred Parks &amp; Rec. Maintenance Requirements</b>	<b>(\$1,276,000)</b>					
<b>Annual Req. Spread Over 10-Years</b>	<b>(\$127,600)</b>					
<b>Prelim. Annual Parks &amp; Open Space Utility Revenue Requirement</b>	<b>(\$1,760,533)</b>					
<i>*reflects estimated stabilized expenses.</i>						
<b>Sensitivity Analysis of Monthly Parks &amp; Open Space Utility Rate Revenues</b>						
Monthly Rate Per ERU	\$3.00	\$6.00	\$9.00	\$12.00	\$15.00	
Annual Rate Per ERU	\$36.00	\$72.00	\$108.00	\$144.00	\$180.00	
<b>Existing Residential Customers (ERUs)</b>						
Residential, SF	8,979	8,979	8,979	8,979	8,979	
Residential, MF	402	402	402	402	402	
Residential, Senior Citizens	185	185	185	185	185	
<b>Subtotal</b>	<b>9,566</b>	<b>9,566</b>	<b>9,566</b>	<b>9,566</b>	<b>9,566</b>	
<b>Existing Non-Residential ERUs</b>						
Non-Residential, All Customer Types	4,051	4,051	4,051	4,051	4,051	
Non-Residential, All Except Local School District	2,893	2,893	2,893	2,893	2,893	
<b>Potential Annual Gross Revenues Before Admin. Expenses</b>						
A. Charge Residential Customers Only	\$344,376	\$688,752	\$1,033,128	\$1,377,504	\$1,721,880	
B. Charge All Res. And Non-Res. Customers, Excl. Local School Dist.	\$448,531	\$897,062	\$1,345,592	\$1,794,123	\$2,242,654	
C. Charge All Res. And Non-Res. Customers	\$490,216	\$980,432	\$1,470,648	\$1,960,863	\$2,451,079	
<b>Preliminary Revenue Requirement Target</b>	<b>(\$1,760,533)</b>	<b>(\$1,760,533)</b>	<b>(\$1,760,533)</b>	<b>(\$1,760,533)</b>	<b>(\$1,760,533)</b>	
<b>Preliminary Revenue Requirement Coverage</b>						
A. Charge Residential Customers Only	20%	39%	59%	78%	98%	
B. Charge All Res. And Non-Res. Customers, Excl. Local School Dist.	25%	51%	76%	102%	127%	
C. Charge All Res. And Non-Res. Customers	28%	56%	84%	111%	139%	

Source: analysis by FCS GROUP based on preliminary assumptions included in Appendix D.

## POLICY ISSUES AND CONSIDERATIONS

Oregon City continues to face funding challenges that may require new sources of funding to maintain and enhance public service levels for parks and recreation facilities and open spaces. The Parks Utility is one funding technique that is being used by cities to help address the need for dedicated parks funding. If Oregon City desires to evaluate the feasibility of such a fee, a 6-9 month study could be conducted in the coming fiscal year to explore issues pertaining to public acceptance, charges, exemptions, collection/administration costs, and other implementation considerations. The expected cost for such a study would likely range from \$32,000 to \$38,000, depending upon the level of city staff assistance.

## APPENDIX A

### Oregon City Parks & Recreation Deferred Maintenance Needs



**OREGON  
CITY**

**Community Services Department**

625 Center Street | Oregon City OR 97045  
Ph (503) 657-0891

#### Deferred Maintenance Estimates

<b>Atkinson Park</b>	
Replace roadways and pathways	\$40,000
<b>Barclay Hills Park</b>	
Install automatic irrigation system	\$25,000
<b>Chapin Park</b>	
Replace/repair existing parking lot	\$100,000
Install automatic irrigation system on unimproved side of park	\$85,000
Install drainage system	\$10,000
<b>Clackamette Park</b>	
Replace/repair roadways and pathways	\$40,000
<b>D.C. Lautorette Park</b>	
Replace/repair existing tennis court	\$75,000
<b>Hartke Park</b>	
Install 8' high cyclone fence	\$5,000
Replace/repair existing tennis court	\$75,000
Replace/repair pathways	\$10,000
Install automatic irrigation system	\$10,000
<b>Hazelwood Park</b>	
Install automatic irrigation system	\$10,000
<b>Hillendale Park</b>	
Replace/repair pathways	\$25,000
<b>McLoughlin Promenade</b>	\$50,000
<b>Old Canemah Park</b>	
Replace/repair pathways & parking lot	\$35,000

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City of Oregon City | PO Box 3040 | 625 Center Street | Oregon City, OR 97045  
Ph (503) 657-0891 [www.oregoncity.org](http://www.oregoncity.org)

## APPENDIX A (CONTINUED)



**OREGON  
CITY**

**Community Services Department**

625 Center Street | Oregon City OR 97045  
Ph (503) 657-0891

Park Signage Replacement/Updating	\$50,000
Park Place Park	
Install/grade drainage swale toe of slope east side of park	\$5,000
Pioneer Community Center	
Replace/repair 10,568 square feet parking lot	\$40,000
Rivercrest Park	
Remodel/ repair restroom building	\$175,000
Update existing irrigation system/booster pump	\$30,000
Singer Creek Park	
Replace/repair pathways	\$65,000
Tree Maintenance – Various	\$50,000
Miscellaneous other (ADA updates, etc)	\$150,000
Sub-total	\$1,160,000
10% contingency	\$116,000
<b>Total</b>	<b>\$1,276,000</b>



## APPENDIX B

# LEGAL REQUIREMENTS

### Issue

Establishment of a parks utility fee in Oregon requires compliance with legal requirements at both state and local levels. This paper analyzes the legal requirements for establishing a parks utility and then provides recommendations based on that analysis.

### Analysis

#### **The State: Fees and Taxes**

A fee that is related to real property must be carefully distinguished from a tax on property as defined in Article XI, Section 11b(2)(b), of the Oregon Constitution. Otherwise, a fee risks classification (and limitation) as a property tax under Measure 5.

One way to distinguish a fee from a tax is to ensure that the fee meets the definition of an “incurred charge.” Article XI, Section 11b(2)(c), of the Oregon Constitution defines “incurred charges” as

*. . . those charges by government which can be controlled or avoided by the property owner.*

*(i) because the charges are based on the quantity of the goods or services used and the owner has direct control over the quantity;*

*or*

*(ii) because the goods or services are provided only on the specific request of the property owner; or*

*(iii) because the goods or services are provided by the governmental unit only after the individual property owner has failed to meet routine obligations of ownership and such action is deemed necessary to enforce regulations pertaining to health or safety.*

*Incurred charges shall not exceed the actual cost of providing the goods or services.*

Another way to distinguish a fee from a tax is to structure the fee in such a manner that it is clearly not a charge on property or on property ownership. This strategy helped the City of Roseburg successfully defend its stormwater fee against a legal challenge. In *Roseburg School Dist. v. City of Roseburg*, the Oregon Supreme Court held that Roseburg’s stormwater fee was not a property tax for two reasons: First, the fee was charged to the occupant of the property, which was not necessarily the owner. Second, the City’s stormwater ordinance did not make any provision for the fee to become a lien on the property.

A rate structure that reasonably matches the fee that a customer pays to the costs that the same customer imposes on the parks system provides additional support to the claim that a fee should not be subject to the same limitations as a property tax.

#### **The State: Required Process**

Although the City can impose a parks utility fee without voter approval, ORS

January 16, 2012

**FCS GROUP Memorandum**

294.160(1) requires at least a public hearing:

*The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.*

**The City: Authority to Charge**

The City must secure for itself the authority to charge a parks utility fee just as it did for the other utility fees described in Title 13 of the City's municipal code. An ordinance would accomplish this.

A good example of a parks utility ordinance can be found in Chapter 4 of the West Linn Municipal Code (<http://westlinnoregon.gov/general/west-linn-municipal-code>). This ordinance distinguishes the responsible party from the property owner (but could do a better job of defining "responsible party") and also provides for fees to be set and updated by resolution.

Based on the foregoing analysis, we offer three recommendations:

**Recommendation**

- ◆ **Design a parks utility fee that is distinct from a property tax.** This can be accomplished by (1) distinguishing between utility customers and property owners, (2) not allowing uncollected fees to become a lien on property, and (3) designing a rate structure that is based on cost of service.
- ◆ **Draft an ordinance under Title 13 of the City's municipal code.** Such an ordinance is required to provide local authority to impose a parks utility fee.
- ◆ **Provide a public hearing** prior to enactment to comply with ORS 294.160(1).

This paper is intended to stimulate and guide a discussion of City policy. It should not be construed as legal advice. We recommend that the City address legal questions to qualified counsel.



## APPENDIX C

### Comparison of Parks & Open Space Utility Fees in Oregon

	Medford	Talent	West Linn
<b>Adoption</b>	The City Council adopted the fee in June, 2005, with no opposition. In December, 2006, the fee was increased by \$0.07 per month for additional O&M and \$2.57 per month for debt service on park facilities bonds.	The City Council enacted Ordinances #795 and #828 on June 20, 2007. The fee was politically palatable because it was offset by a reduction in the monthly fixed charge for water.	Upon recommendation of its Budget Committee, the City Council adopted the parks maintenance fee in July, 2007. The fee was motivated by a failure to extend a police operating levy. According to the <i>West Linn Tidings</i> , there was some testimony in opposition to the amount of the fee but general consensus on the idea of a fee.
<b>Basis of Charge</b>	O&M and capital maintenance costs for Parks, facilities, beautification and right of way areas. Also supports revenue bond for debt service on \$1.8 million in community park for ball fields, and reimbursement to Water Commission for collection services. Non-Fund overhead (cost allocation for accounting, admin. etc.) limited to 5% of annual enterprise fund expenditures.	All surcharge revenues shall be used only for the O&M and administration of City parks and costs incidental thereto, as well as recreation programs to help provide a safe, well functioning parks program.	Existing parks, recreation facilities and open space O&M (currently) and related capital debt service (in the future). Qualifying expenses include employee-related costs, vehicle expense, insurance, utilities, equipment, communications, volunteer work coordination, and facilities repair/renovation. Funds may be used to modernize existing system, aesthetics of open space and natural areas, upkeep of flora, removal of invasive species, maintenance of driveways and walkways leading to City parks, and any other related actions.
<b>Amount of Charge</b>	\$0.31 per month per ERU when adopted. Now \$2.95 per month per ERU. ERUs are determined by the Water Commission for both residential and non-residential customers. Vacancy adjustments are provided.	\$2.00 per month per EDU when adopted. Now \$3.00 per month per EDU for both residential and non-residential customers. Non-residential customers are charged 1 EDU per 10 employees or fraction thereof. There is no provision to adjust for vacancy.	\$10.70 per month per single-family residence and \$10.16 per multi-family dwelling unit. The multi-family discount reflects an average vacancy rate (in lieu of individual vacancy adjustments). On July 1, 2012, these fees will increase to \$11.24 and \$10.67, respectively. A low-income discount is available.

January 16, 2012

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	Medford	Talent	West Linn
<b>Level of Cost Recovery</b>	In the 2011-13 biennium, the fee is expected to raise \$2,494,500, which represents 16 percent of the total Parks & Recreation budget (or 21 percent of the O&M budget).	In FY 2011-12, the fee is expected to raise \$104,000, which represents 50 percent of the total Parks Fund budget (or 63 percent of the O&M budget).	In the 2011-13 biennium, the fee is expected to raise \$2,548,200, which represents 33 percent of the total Parks & Recreation Fund budget (or 41 percent of the O&M budget).
<b>Tax-Exempt Properties</b>	No credits or exemptions are available for tax-exempt properties.	The only exemptions are for (1) schools and (2) water accounts that are for irrigation only (i.e., no water service to a building).	Since the fee is charged only to residences, most tax-exempt properties are not charged. Local Ordinance does not mention tax-exempt residences, but group homes and housing facilities for seniors (including non profits) are counted as a single residential unit.
<b>Misc. Remarks</b>	Medford also has a street utility fee that is expected to raise \$14.6 million in the 2011-13 biennium.	Talent also has a street utility fee that is expected to raise \$150,000 in FY 2011-12. This fee was enacted at the same time as the parks fee.	West Linn also has a street maintenance fee that is based on trip generation and is expected to raise \$1,759,000 in the 2011-13 biennium.

*Source: compiled by FCS GROUP, December 2011.*

## APPENDIX D

### Preliminary Oregon City Parks & Open Space Utility Fee Assumptions

#### Existing Customer Accounts in Oregon City

	Accounts	Units	
Residential, SF	8,979	Dwellings	
Residential, MF	402	Dwellings	
Residential, Senior Citizens	185	Dwellings	
<b>Subtotal</b>	<b>9,566</b>		
Non-Residential, Private*	489	6,268,000	SF
Non-Residential, Local School Dist.	13	6,135,000	SF
Non-Residential, Other Public	35	8,817,000	SF
Non-Residential, City	18	244,000	SF
<b>Subtotal</b>	<b>555</b>	<b>21,464,000</b>	
Non-Residential, Private*	489	4,410	Jobs
Non-Residential, Local School Dist.	13	4,316	Jobs
Non-Residential, Other Public	35	6,203	Jobs
Non-Residential, City	18	172	Jobs
<b>Subtotal</b>	<b>555</b>	<b>15,100</b>	<b>Jobs</b>
<b>Grand Total</b>	<b>10,121</b>		

\*excludes Blue Heron Paper site (now vacant)

Source: Oregon City Transportation Utility Fee (TUF) customer accounts as of November 2011.

Non-residential building area and jobs estimated by FCS GROUP based on Oregon City TUF study and Metro employment estimates.

#### Allocation Estimate of Parks and Open Space Usage

Customer Type	Weighted Avg. Hours Usage Per Year	Percent
Residential	84,124	77.1%
Non-Residential	25,027	22.9%
<b>Total</b>	<b>109,151</b>	<b>100.0%</b>
Non-Residential As Percent of Res. (ERU factor)		<b>29.8%</b>

Source: Derived from Oregon City Parks System Development Charge Methodology Report, October 2010.

#### Equivalent Residential Units (ERU) Calculations

Customer Type	ERUs	Percent
Residential	9,566	70.2%
Non-Residential	4,051	29.8%
<b>Total</b>	<b>13,617</b>	<b>100.0%</b>

Source: Calculations by FCS GROUP.

#### Non-Residential ERU unit cost factors

	Non Res ERUs	Units
Non-Residential ERUs Per Residential ERUs	0.423	per Res. ERU
Non-Residential ERUs per Non-Res. Customers	7.30	Per Customer
Non-Residential ERUs per Non-Res. Square Feet	0.189	Per 1,000 SF
Non-Residential ERUs Per Non-Res. Jobs	0.268	Per Job

Source: Calculations by FCS GROUP.

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