

CITY OF SILVERTON
CITY COUNCIL REGULAR MEETING
Monday, April 1, 2024 – 7:30 PM



Council Chambers – 421 South Water Street and Zoom

Americans with Disabilities Act – The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City at 503-874-2216 at least 48 hours prior to the meeting.

A copy of the full packet is available on the City’s website at <https://silverton.or.us/meetings>. In accordance with House Bill 2560 and City of Silverton Resolution 22-06, the meeting will be held in a hybrid format: in person, and electronically using the Zoom web conference platform. Please submit written comments to publiccomment@silverton.or.us by 3:00 PM on Monday, April 1, 2024. Comments received will be shared with the City Council and included in the record. If you wish to participate through the Zoom web conference platform, see meeting information below.

Zoom meeting link:

<https://us02web.zoom.us/j/88223483990?pwd=UIBURi9zQjltUjBxMFJqaWh1ZnllQT09>

Webinar ID: 882 2348 3990

Passcode: 061387

Telephone: 253 215 8782

AGENDA

7:30 PM WORK SESSION

1. Discussion on “Twenty is Plenty” Speed Limit Reduction from 25 MPH to 20 MPH on Local Residential Streets – City Manager Cory Misley
2. Proposed Amendments to Municipal Code Chapter 3.12 Transient Occupancy Tax – City Manager Cory Misley

8:00 PM REGULAR MEETING

1. **OPENING CEREMONIES – Call to Order, Pledge of Allegiance and Roll Call**
2. **APPROVAL OF MINUTES**
 - 2.1 Minutes from March 4, 2024, Regular City Council Meeting, and the March 18, 2024, Joint City Council and Planning Commission Meeting
3. **PUBLIC COMMENT** – This is a business meeting of the City Council. The City values and welcomes public input. Please address the Council as a whole and not individual Council Members. Do not address staff or members of the audience. Council action on items brought up in Public Comment is limited by the Oregon Open Meeting Law. The Council may direct staff to study the matter and reschedule it for further consideration later. Items on the agenda will not be heard or discussed during Public Comment but will be accepted at that place on the agenda. Individuals are limited to three (3) minutes.
4. **PROCLAMATIONS**
 1. Oregon Military Purple Up Day- April 11, 2024

2. Earth Day – April 22, 2024
3. Arbor Month – April 2024
4. Child Abuse Prevention Month – April 2024

5. **SCHEDULED PRESENTATIONS**
 - 5.1 Silvertown Chamber of Commerce Monthly Report – Executive Director Stacy Palmer

6. **DISCUSSION/ACTION**
 - 6.1 Second Reading of Ordinance 23-06 – Amending the Urban Growth Boundary to Add 40 Acres of Land Adjacent to Ike Mooney Road, Designate it Public on City’s Comprehensive Plan Map and Annex the Property for the Development to a Public Park and Public Use – Community Development Director Jason Gottgetreu

 - 6.2 Discussion on City Hall and Change Order Ratification – Community Development Director – Jason Gottgetreu


7. **CONSENT**
 - 7.1 Transfer Resolution No. 24-06 – a Transfer Resolution to Transfer Funds Due to Unforeseen Expenditures to Increase Appropriations to Replace the Bucket Truck – Maintenance Division Supervisor Mike Dahlberg

8. **COMMITTEE APPOINTMENTS**

9. **CITY MANAGER UPDATE**

10. **COUNCIL COMMUNICATIONS**

11. **ADJOURNMENT**

	Agenda Item No.:	Topic:
	1	“Twenty is Plenty” Speed Limit Reductions from 25 MPH to 20 MPH on Local Residential Streets
	Agenda Type:	
	Work Session	
Meeting Date:		
April 1, 2024		
Prepared by:	Reviewed by:	Approved by:
Cory Misley	Cory Misley	Cory Misley

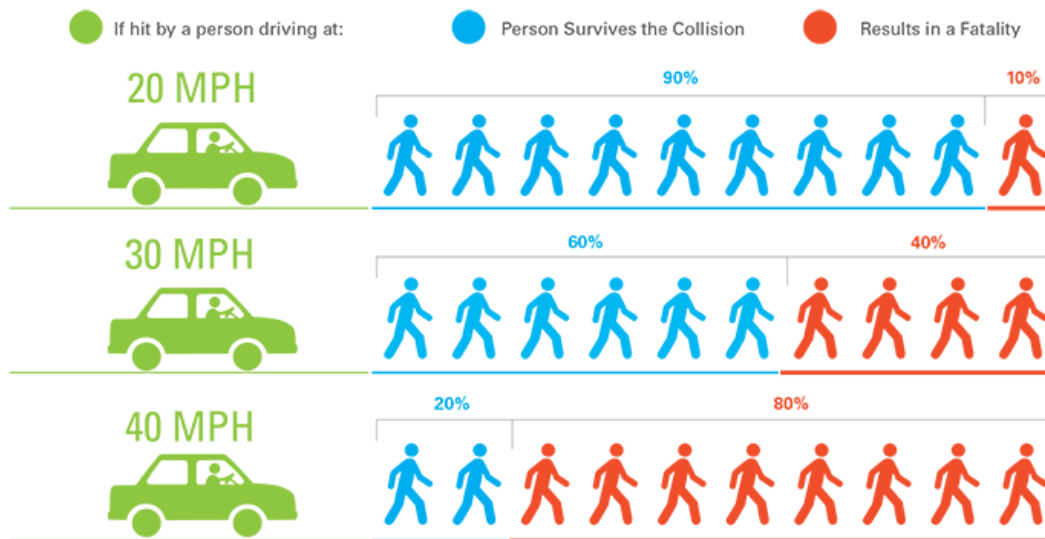
Background:

In 2019, the state legislation gave cities across Oregon the authority to designate speed limits 5 miles per hour (MPH) lower than statutory speed limits on non-arterial streets in “residence districts.” Some cities have taken advantage of this speed reduction that has become known under the moniker of “20 is Plenty” – referring to 20 MPH being fast enough for vehicles on local, residential streets to travel especially in relation to the associated safety benefits.

Below are some graphs that outline a portion of the research and statistics regarding general visibility while traveling at different speeds and the related severity of pedestrian collisions.



Source: <https://visionzeronetwork.org/resources/safety-over-speed/>



Source: <https://www.ite.org/technical-resources/topics/speed-management-for-safety/speed-as-a-safety-problem/>

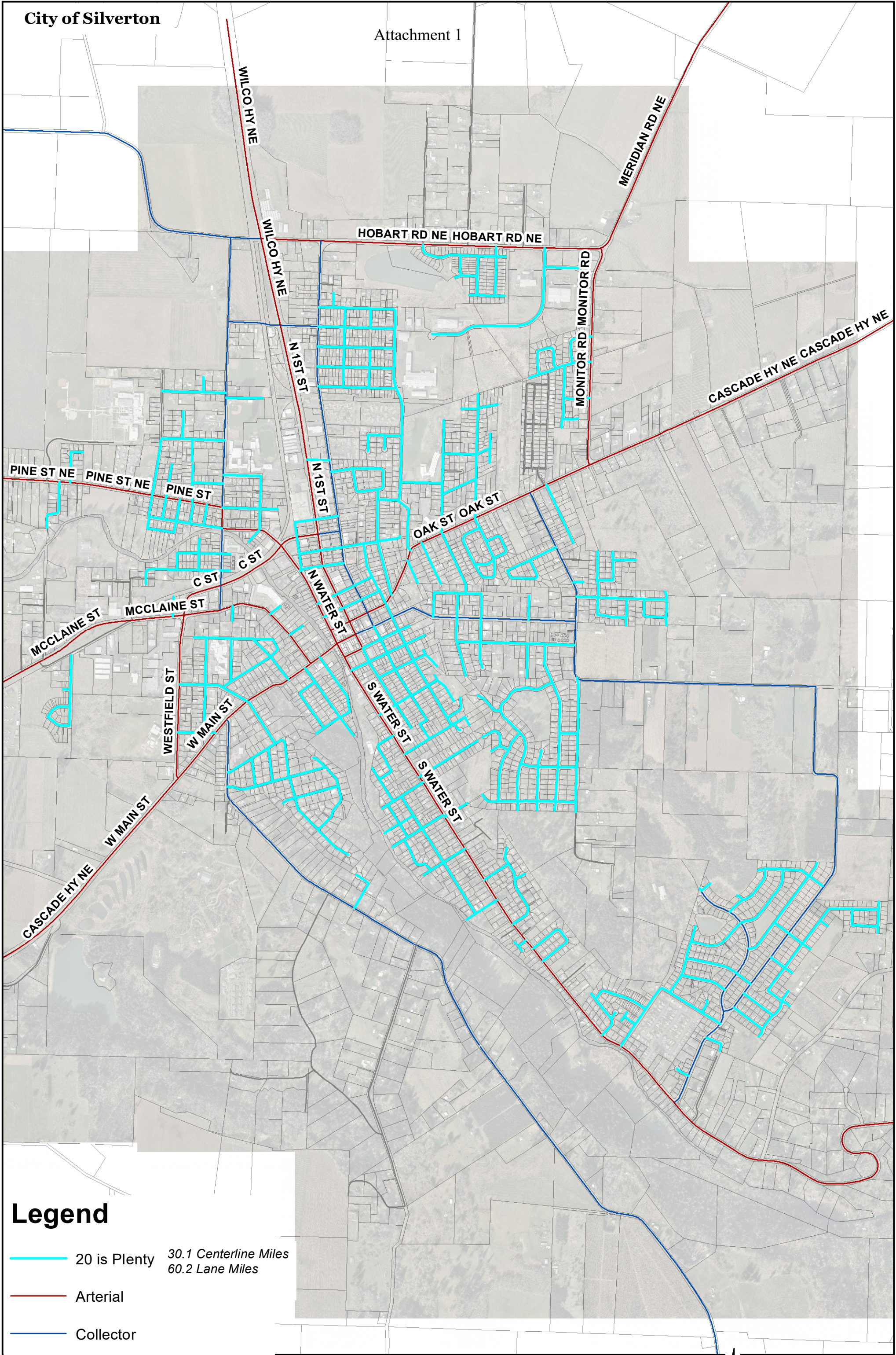
As outlined in City Council Goals, the City is approaching improving pedestrian safety through many approaches/treatments and with other partners. Pursuing a 20 is Plenty initiative is as much about raising public awareness as it is reducing speeds and changing driver behavior, and certainly will not in and of itself mitigate the challenges faced for improving pedestrian safety in Silverton.

At the City Council meeting on Marh 4th, Council discussed this topic and provided direction to staff to move forward with gathering additional information for consideration of formally adopting and implementing this change. This staff report includes a map of the applicable roads and we have estimated that approximately 50 speed signs will need to be changed costing between \$10,000-\$15,000 for materials and supplies. We will also want to consider the costs of yard signs to show support and raise awareness for the changes. Once Council adopts an ordinance and it takes effect, the rollout could begin and we do not yet have a firm timeline on how long that would entail but it would likely be a several months to integrate the work into our existing utility schedule. The new 20 MPH speed limits legally would go into effect on each street when the existing speed limit signs are replaced.

Budget Impact	Fiscal Year	Funding Source
\$10,000-\$15,000	FY 2023-24 & 24-25	Street Fund

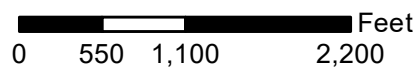
Attachments:

1. Map of Local Roads Subject to potential Speed Reduction to 20 MPH
2. Sample Ordinance from the City of Tigard implementing 20 is Plenty (*For Reference Only*



Legend

- 20 is Plenty *30.1 Centerline Miles
60.2 Lane Miles*
- Arterial
- Collector
- Local (Non-City Jurisdiction)



Disclaimer:
This map was published by the City of Silverton Community Development Department as a general planning tool. Due to the differing quality of source data, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

[SAMPLE ORDINANCE]

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 21-05**

AN ORDINANCE TO ALLOW THE CITY OF TIGARD TO IMPLEMENT 20 MPH SPEED ZONES IN SELECT AREAS

WHEREAS, the 2019 Oregon Legislature passed SB 558, amending ORS 810.180 to authorize cities to designate by ordinance a speed that is five MPH lower than statutory speed on non-arterial streets in "residence districts" under their jurisdiction; and

WHEREAS, reduced vehicle speeds supports Goal 3, Policy 6 of the adopted Transportation System Plan: The city shall develop and implement public street standards that recognize the multi-purpose nature of the street right-of-way; and

WHEREAS, reduced vehicle speeds supports Goal 3, Policy 7 of the adopted Transportation System Plan: The city shall design all projects on Tigard city streets to encourage pedestrian and bicycle travel; and

WHEREAS, reduced vehicle speeds supports Goal 4, Policy 1 of the adopted Transportation System Plan: The city shall consider the intended uses of a street during the design to promote safety, efficiency and multi-modal needs; and

WHEREAS, reduced vehicle speeds supports Goal 4, Policy 7 of the adopted Transportation System Plan: The city shall enhance and maintain a neighborhood traffic management program to address issues of excessive speeding and through traffic on local residential streets; and

WHEREAS, the City has adopted a Complete Streets Policy, which states, "The City will utilize current and emerging best practices in transportation network and facility design to best serve the multi-modal transportation needs of all users, including review of operating speeds."

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

SECTION 1: Consistent with ORS 810.180, the City of Tigard establishes a designated speed of 20 MPH, 5 MPH lower than the statutory speed of 25 MPH, on local streets in "residence districts" as defined by ORS 801.430 and 810.180(12).

SECTION 2: Per ORS 810.180, the designated speed established by this Ordinance will take effect on a segment of a local street upon the City's removal of any 25 MPH signs and installation of 20 MPH signs on that street segment. The City Engineer will have the authority to approve eligible locations and direct staff to install necessary signage.

SECTION 3: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By UNANIMOUS vote of all council members present after being read by number and title only, this 23rd day of February, 2021.

ORDINANCE No. 21-05

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Carol A. Krager
Carol A. Krager, City Recorder


APPROVED: By Tigard City Council this 23rd day of February, 2021.

Jason B. Snider
Jason B. Snider, Mayor

Approved as to form:

JR
City Attorney

Date

	Agenda Item No.:	Topic:
	2	Proposed Amendments to Municipal Code Chapter 3.12 Transient Occupancy Tax
	Agenda Type:	
	Work Session	
	Meeting Date:	
April 1, 2024		
Prepared by:	Reviewed by:	Approved by:
Cory Misley	Cory Misley	Cory Misley

Background:

In 2008, the City of Silverton adopted Ordinance 2008-05 amending the Municipal Code, Title 3, Revenue and Finance, and added Chapter 3.12 Transient Room Tax (TRT). This created a nine percent tax on the overnight rent charged by an operator of any short-term rental, 30 consecutive calendar days or less. These taxes are also referred to as Transient Occupancy Tax (TOT) which the City changed to that terminology via Ordinance 2018-06, and Transient Lodging Tax (TLT) which these proposed amendments include another name change and to be consistent with the terminology used by the state. More importantly, these amendments provide more specificity and teeth for the City to have intermediaries (such as AirBnb, Vacasa, VRBO, etc.) collect and remit TLT to the City on behalf of their users (Operators) by creating a definition for Hotel Hosting Platform. We currently do not know how many houses are being used as short-term rentals and our code does not provide for a short-term rental program with specific policies outlining their allowance and associated regulations. These amendments will also require Operators to register with the City, allowing us to have a better sense of the existing and future operators.

These code amendments were prepared by Ashleigh Dougill, City Attorney with BEH, at my direction after receiving an email from BEH to their clients titled “Updating Your Transient Lodging Tax Ordinance” (see attachment) and consulting with her that we could make some surgical amendments to improve our code without overhauling it.

Separate but related, the City should explore the creation of a short-term rental program and through future Code amendments provide for more clarity and continuity of policies concerning short-term rental permitting and operations.

A brief LOC Presentation on TLT is attached for additional background. Much of what is included goes beyond the purview of these proposed code amendments, nonetheless it is good to keep in mind the breadth of discussions related to the revenues and expenditures of TLT.

Budget Impact	Fiscal Year	Funding Source
TBD (Revenue)	2023-24 (and future FYs)	Transient Lodging Tax

Attachments:

1. Draft Amendments to the Silverton Municipal Code Chapter 3.12 Transient Occupancy Tax
2. Email from BEH regarding Updating Your Local Transient Lodging Tax Ordinance (*For Reference Only)
3. LOC Overview Presentation on Local Lodging Taxes (*For Reference Only)

Attachment 1

3.12.010 Title.

This chapter shall be known as the transient occupancy lodging tax ordinance of the city of Silverton, (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 1, 2008)

3.12.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- A. "Accrual accounting" means the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.
- B. "Cash accounting" means the operator does not enter the rent due from a transient on the records until rent is paid.
- C. "Council" means the city council.
- D. "Executive apartment" means a dwelling unit in an apartment complex that is typically rented to corporate executives, company employees, or guests for 30 consecutive calendar days or less.
- E. "Hotel" means any structure, or any portion of any structure, which is occupied, intended or designed for temporary use for dwelling, lodging or sleeping purposes, regardless of whether it is used temporarily or permanently, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, roominghouse, executive apartment, public or private dormitory, fraternity, sorority, public or private club, space in a recreational vehicle park, or similar structure or space or portions thereof so occupied.
- F. "Hotel hosting platform" means a business or other person that facilitates the retail provision of hotels by connecting transients with operators, either online or in any other manner, and by collecting and/or receiving a fee for booking services through which a business or other person may offer a hotel. For purposes of this definition, a "hotel hosting platform" may provide booking services through an online platform that (a) allows a business or other person to advertise the hotel through a website provided by the hotel hosting platform, and (b) provides a means for the hotel hosting platform to conduct a transaction by which prospective transients arrange occupancy and payment of rent directly to the hotel hosting platform. For the purposes of this chapter, "hotel hosting platforms" are "operators."
- GF. "Occupancy" means the use or possession, or the right to the use or possession, of any hotel for lodging or sleeping purposes.

HG. "Operator" means (1) any person who provides a hotel for occupancy to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents, or any other person allowed to process reservations and accept payment for the transient lodging on behalf of the transient lodging provider; or (2) any person who facilitates the reservations of a hotel and collects the payment for the hotel from the transient; or (3) any transient lodging provider, transient lodging intermediary, or transient lodging tax collector as defined in ORS 320.300~~the person who is proprietor of the hotel in any capacity. Where the operator performs the functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as the principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.~~

IH. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

JJ. "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

KJ. "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient ~~occupancy lodging~~ tax under this chapter shall be the same charge made for rent when not a part of a package plan.

LK. "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the transient is required to report the collections.

ML. "Tax administrator" means the finance director of the city, or the designee or delegee of the director, as applicable.

NM. "Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 2, 2008)

3.12.030 Tax imposed.

A. For the privilege of occupancy in any hotel in the city, each transient shall pay a tax in the amount of nine percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is collected if the operator keeps records on the cash

accounting basis, and when earned if the operator keeps records on the accrual accounting basis paid.

The operator shall enter the tax on its records when rent is collected if the operator keeps its records on the cash accounting basis and when earned if the operator keeps its records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities.

B. The city shall dedicate net revenue from the transient occupancy-lodging tax per the provisions of ORS 320.350(6).

C. The council shall establish a process to award grants related to the promotion of tourism and to support tourism-related facilities in the city of Silverton. (~~Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 3, 2008~~)

3.12.040 Exemptions.

No tax imposed under this chapter shall be imposed upon:

A. Any occupant of a dwelling unit leased or otherwise occupied by the same person for more than 30 consecutive calendar days with respect to any rent imposed for the period commencing after the first 30 days of such consecutive occupancy. The requirements of this subsection are satisfied even if the hotel unit changes during the consecutive period, if (a) all hotel units occupied are within the same hotel; and (b) the occupant paying for the hotel is the same person throughout the consecutive period;

B. Any occupant whose rent is of a value less than \$2.00 per day;

C. A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;

D. A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

E. A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;

F. A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter.

G. A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people, or to a public institution owned and operated by a unit of the government. (~~Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 4, 2008~~)

3.12.050 Tax collected by operator – Enforcement.

A. Every operator renting hotel rooms or space for lodging or sleeping purposes in the city, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.

B. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

C. The tax administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

E. The operator shall be permitted to deduct as a personal collection expense five percent of the amount of taxes collected. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 5, 2008)

3.12.060 Operator – Duties and responsibilities.

A. Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.

B. Every operator is deemed to hold the amount of city tax imposed pursuant to this chapter collected in trust for the city. While holding the payment in trust for the city, an operator may commingle the tax proceeds with the operator's funds, but the operator is not the owner of tax proceeds, except that, when a return is filed, the operator becomes the owner of the administrative fee authorized to be retained. Operators may choose to file returns and remit payment based on amounts accrued but not yet collected. The operator is liable for any tax that should have been collected from the transient, except in cases of nonpayment of rent by the transient. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 6, 2008)

3.12.070 Hotel Hosting Platform Fees.

A. A hotel hosting platform may collect a fee for booking services in connection with hotels only when those hotels are lawfully registered as operators with the city, and have obtained and maintain all applicable permits, certificates, and approvals to operate in the city.

B. Operators who receive any portion of the rent and the hotel hosting platform that provides booking service are jointly and severally liable for the tax, which shall in no event be collected more than once.

3.12.080 Registration of Operator.

A. Every person who is an operator of a hotel in the city must register with the tax administrator on a form provided by the city. Operators engaged in business at the time this section takes effect must register no later than 30 calendar days after this section takes effect. Operators starting business after this section takes effect must register within 15 calendar days after commencing business.

B. Delay in registration does not relieve any person from the obligation of payment or collection of the tax. The registration must state the name under which the operator conducts business, the business location, and other information as the tax administrator may require. The operator must sign the registration. Within 10 days of registration, the tax administrator will issue a certificate of authority to each registrant to collect the tax. Certificates are not assignable or transferable and must be surrendered to the tax administrator upon the cessation of business at the location named or upon its sale or transfer of the business. Each certificate will state the place of business to which it is applicable and must be prominently displayed to be seen and recognized by all occupants and persons seeking occupancy. Each certificate will state:

1. The name of the operator;
2. The address of the hotel;
3. The date the city issued the certificate; and

C. This certificate shall signify that the operator named has fulfilled the requirements of the Transient Lodging Tax Ordinance by registration with the tax administrator to collect the transient lodging taxes imposed by the city and remitting them to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without compliance with all local applicable laws.

3.12.0970 Payment – Returns – Due date.

A. The tax imposed by this chapter shall be paid by the transient to the operator at the time rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a not later than quarterly basis on the fifteenth day of the following month for the preceding month(s), and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify and/or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable monthly or quarterly period.

B. On or before the fifteenth day of the month following each collection period, a return for the preceding month's or quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

C. The operator is entitled to the administrative fee. If a hotel has multiple operators, they are not entitled to retain additional fees.

D. If a hotel is sold, or ownership is otherwise transferred during a calendar quarter, the amount of taxes collected in such partial quarter shall be paid by the operator to the tax administrator prior to or concurrent

with ownership transfer, and shall be considered delinquent on the last day of the month in which they are due.

EC. Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

ED. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

GE. For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the council. Any operator to whom an extension is granted shall pay interest ~~at the rate of one percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due are not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter in accordance with Section 3.12.100.~~

HF. The tax administrator, if deemed necessary in order to ensure payment or facilitate collection by the city of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods. ~~(Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 7, 2008)~~

3.12.10080 Delinquent returns – Penalties and interest.

A. Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to the delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.

B. Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the amount of the tax and the 10 percent penalty first imposed. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 8, 2008)

C. Interest. In addition to any other penalties imposed by this chapter, any operator that fails to remit any tax imposed by this chapter must pay interest on delinquent taxes at the same rate established under

ORS 305.220 for each month, or fraction of a month, from the date on which the remittance first became delinquent until paid. Penalties that are owed are not included for the purpose of calculating interest. If an operator fails to file a return or pay the tax as required, a penalty shall be imposed in the same manner and amount provided under ORS 314.400.

3.12.11090 Fraud.

If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in SMC 3.12.0803.12.100. (~~Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 9, 2008~~)

3.12.1200 Failure to report.

In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 10, 2008)

3.12.1340 Penalties merged with tax.

Every penalty imposed and such interest as accrues under the provisions of this section and SMC 3.12.10080, 3.12.11090, 3.12.1200 and 3.12.1420 shall be merged with and become a part of the tax required to be paid by this chapter. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 11, 2008)

3.12.1420 Petition for waiver.

Any operator who fails to remit the tax levied in this chapter within the time stated in this chapter shall pay the penalties stated in this chapter; provided, however, the operator may petition the council for waiver and refund of the penalty or any portion thereof and the council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 12, 2008)

3.12.1530 Deficiency determinations – Notification procedures.

A. If the tax administrator determines that the returns are incorrect, the tax administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within the tax administrator's possession or that may come into the tax administrator's possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as provided in this chapter after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in SMC 3.12.10080 through 3.12.1420.

BA. In making a determination the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in SMC 3.12.10080 through 3.12.1420.

CB. The tax administrator shall give to the operator or occupant a written notice of determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at the address as it appears on the records of the tax administrator. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

DC. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

ED. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the tax administrator has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as provided in this chapter. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 13, 2008)

3.12.1640 Failure to collect tax.

If any operator fails or refuses to collect the tax or to make within the time provided in this chapter any report and remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit the tax, the tax administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the administrator has given notice thereof; provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as provided in this chapter. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 14, 2008)

3.12.1750 Operator delay.

If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, the tax administrator shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as provided in this chapter shall be immediately due and payable, and the operator shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the tax administrator. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 14, 2008)

3.12.1860 Petition for redetermination and refund.

A. Any person against whom a determination is made under SMC [3.12.1530](#), [3.12.1640](#) or [3.12.1750](#), or any person directly interested, may petition for a redetermination of redemption and refund within ~~the time required in SMC [3.12.130](#), [3.12.140](#) or [3.12.150](#) 10 business days of service of notice of a determination.~~ ~~If a petition for redetermination and refund is not filed within the time required in SMC [3.12.130](#), [3.12.140](#) or [3.12.150](#), the determination becomes final at the expiration of the allowable~~ ~~The determination of the tax administrator becomes final 10 days after service of notice upon the person, unless appeal of such order or decision is filed with the tax administrator within 10 days after service of such notice.~~time.

B. If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and, if the person has so requested in the petition, shall grant the person an oral hearing and shall give 10 days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

C. The tax administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined such increase shall be payable immediately after the hearing.

D. The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the council within 10 days after service of such notice.

E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions of this chapter. (~~Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 15, 2008~~)

3.12.1970 Security for collection.

A. The tax administrator, whenever deemed necessary to ensure compliance with this chapter, may require any operator subject thereto to deposit security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average quarterly liability for the period for which a return is filed, determined in such manner as the tax administrator deems proper, or \$5,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the tax administrator subject to the limitations provided in this chapter.

B. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of the state, or any other state, or of the United States, in the name of the city to collect the amount delinquent together with penalties and interest. The city is entitled to pursue reasonable attorneys' fee in any legal action brought to collect on amount owed to the city under this section. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 16, 2008)

C. The city may record a lien in the city's lien docket against any real property owned by an operator who receives any portion of the rent from a hotel located within the city as to any delinquent remittances by the operator.

3.12.20180 Refund procedures.

A. Refunds by City to Operator. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded, provided a verified claim in writing thereof, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to such operator or the operator's administrators, executors or assignees.

B. Refunds by City to Transient. Whenever the tax required by this chapter has been collected by the operator, and deposited by the operator with the tax administrator, and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator, it may be refunded by the tax administrator to the transient, provided a verified claim in writing thereof, stating the specific reason on which the claim is founded, is filed with the tax administrator within three years from the date of payment. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 17, 2008)

C. Refunds by Operator to Occupant. If an occupant has paid tax to an operator but stays a total of 30 or more consecutive days in the same hotel, the operator shall refund the occupant any tax collected for any

portion of the continuous stay. The operator shall account for the collection and refund to the city manager. If the operator has remitted the tax prior to the refund or credit to the occupant, the operator shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.

D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

3.12.2190 Recordkeeping.

Every operator shall keep guest records of room sales and accounting books and records of the room sales at the location of the hotel in the city. All records shall be retained by the operator for a period of three years and six months after they come into being. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 18, 2008)

3.12.2200 Examination of records.

The tax administrator, or any person authorized in writing by the tax administrator, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid. Examination of the records shall take place at the hotel location. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 19, 2008)

3.12.2340 Confidentiality.

The tax administrator or any person having an administrative or clerical duty under the provisions of this chapter shall protect the confidential business operations or similar information obtained to implement this chapter; provided, that nothing in this section shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, another city official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed under this chapter.
- B. The disclosure, after the filing of a written request to that effect, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; provided, however, that the tax administrator approves each such disclosure and that the tax administrator may refuse to make any disclosure referred to in this subsection when the public interest would suffer thereby.
- C. The disclosure of the names and addresses of any person owning/operating a transient lodging facility.
- D. The disclosure of general statistics regarding taxes collected or business done in the city.

E. The disclosure of information in accordance with the public records law. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 20, 2008)

3.12.2420 Appeals to council.

Any person aggrieved by any decision of the tax administrator may appeal to the council, by filing a notice of appeal with the tax administrator within 10 days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator shall transmit the notice of appeal, together with the file of such appealed matter, to the city manager, who shall fix a time and place for hearing such appeal from the decision of the tax administrator. The city manager shall give the appellant not less than 10 days' written notice of the time and place of hearing of such appealed matter. Action by the council on appeals shall be decided by a majority of the members present at the meeting where such appeal is considered. The city council may agree to a compromise of the amount of tax remittance if there is a good faith dispute over the amount owing. Action by the council on appeals is final. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 21, 2008)

3.12.2530 Violation – Penalty.

Any operator or other person who fails or refuses to register as required under this chapter; or fails or refuses to furnish any return, supplemental return or other data required in this chapter or by the tax administrator, or, with intent to defeat or evade the determination of any amount due under this chapter, shall make, render, sign or verify any false or fraudulent report, commits an offense which constitutes a violation of this chapter punishable in accordance with the general penalty provisions of SMC 1.08.010. (Ord. 18-06 § 1 (Exh. A), 2018; Ord. 08-05 § 22, 2008)



The COVID pandemic, recent inflation, and general trends have resulted in changes to the tourism industry in Oregon, and we thought it would be a good time for you to review and consider updating your transient lodging tax (“TLT”) ordinance.

As a reminder, a transient lodging (or room) tax is a tax on occupied hotels, motels, inns, cabins, condominiums, apartment units or other dwelling units that are used for temporary occupancy. The state has its own transient lodging tax, and state law dictates the use of certain transient lodging tax revenues by local governments. (This firm and the League of Oregon Cities prepared a [Legal Guide to Collecting Lodging Tax in Oregon](#), last updated in February 2020, that includes general information about the tax, as well as a model ordinance.)

TLT ordinances at the local level have been enacted and amended at various times – some are several decades old and others are relatively new. Quite often, once the ordinance is enacted, a jurisdiction fails to review the tax to see if updates are needed. We have identified a few specific and common areas that you should review to ensure that your TLT ordinance reflects best practices. If your TLT ordinance does not already include the following, you may want to consider amendments to explicitly state:

- The TLT is paid by the occupant and held in trust by the lodging operator for the local government. This should be stated expressly

bankruptcy or receivership.

- How tax liability should be handled in the event the dwelling property is sold mid-quarter. Most often, TLT filings and payments are due on a quarterly basis even though they are collected by the operator daily. If a property is sold in between filings, a question can arise as to how the already-collected funds should be paid. Is the tax liability rolled up in the closing costs and paid by the title company, or is the operator responsible for the partial quarter? If the operator is responsible, is the liability due before closing? Local jurisdictions should provide procedures so that in the event of mid-quarter transfers of property receipt of full payment is ensured.
- A definition of “transient lodging intermediaries” that specifically includes a person or entity that “receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.” In 2018, the legislature clarified that online transient lodging platforms, such as Airbnb and VRBO, are considered “transient lodging intermediaries” under ORS 320.300, unless otherwise provided by city or county ordinance, resolution, or agreement. Jurisdictions wishing to require hosting platforms and online travel companies to collect and remit the local TLT should ensure their ordinance includes this language in its definition of “transient lodging intermediaries.”

Please don't hesitate to reach out with questions or concerns; our office is happy to help review your TLT ordinance and advise what makes the most sense for your jurisdiction.

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Local Lodging Taxes



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Local Lodging Tax...Basic Facts

- Lodging taxes are a local option & rate is set by city/county
- Approximately 91 cities and 16 counties have a tax
- Tax rate ranges are 2% to 13.5%. (Most are 6-9%.)
- Cities and counties have imposed lodging taxes since at least 1930s.
- State tax began with 2003 legislation and 2016 legislation raised tax from 1% to 1.8% via HB 4146.



State Tax Stats (don't have local tax
break down by accommodation type)

Lodging Statistics by Accommodation Type

Table 1.1 - Annual Lodging Tax Receipts by Accommodation Type (Dollars)								
Calendar Year	Bed & Breakfast	Campgrounds & RV Sites	Hotel	Motel	Vacation Home	Lodging Intermediary	Multiple ¹ & Other	Total
2005	165,577	266,056	4,722,575	3,054,408	268,347	N/A	612,573	9,089,536
2006	185,931	335,455	5,180,700	3,417,539	797,932	N/A	813,491	10,731,048
2007	206,764	349,773	5,703,323	3,671,511	904,703	N/A	870,570	11,706,644
2008	217,132	326,391	5,935,295	3,450,981	999,525	N/A	802,464	11,731,788
2009	191,207	333,024	5,262,565	3,089,753	963,954	N/A	693,885	10,534,389
2010	200,669	387,310	5,742,810	3,205,390	1,048,333	N/A	581,948	11,166,460
2011	200,859	361,438	6,237,208	3,277,140	1,131,626	N/A	607,507	11,815,778
2012	237,287	380,415	6,762,564	3,363,655	1,274,219	N/A	653,086	12,671,227
2013	252,920	432,088	7,456,848	3,584,728	1,283,448	64,592	704,972	13,779,597
2014	257,757	452,411	8,296,419	3,863,329	1,474,344	410,578	754,089	15,508,927
2015	276,343	491,958	9,403,850	4,039,527	1,669,100	1,153,382	763,642	17,797,802

Source: DOR Report (rev. April 2016)

https://www.oregon.gov/DOR/programs/gov-research/Documents/state-lodging-report_604-005.pdf

Intermediary category is seeing largest growth.

Intermediaries, OTCs & home rentals– not just hotels anymore

Definitions: (Apply to State and Local TLT):

“**Transient lodging intermediary**” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging. ORS 320.300(12)

“**Transient lodging provider**” means a person that furnishes transient lodging. ORS 320.300(13)

“**Transient lodging tax collector**” means a transient lodging provider or a transient lodging intermediary. ORS 320.300(14)

State TLT:

“The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for the occupancy of the transient lodging.” ORS 320.305(1)(c)

“Every transient lodging tax collector is responsible for collecting the tax imposed under ORS 320.305 **and** shall file a return with the Department of Revenue, ...” ORS 320.315(1)

Local TLT:

“The tax shall be collected by the transient lodging tax collector *that receives the consideration* rendered for the occupancy of the transient lodging.” ORS 320.350(7)(b)

Goal: If you collect/facilitate payment for transient lodging from customers, than you must collect and file/remit the taxes. (Includes OTCs and intermediaries)

State regulation of local government: 2003

- Moratorium on use of local transient lodging tax revenues: may not decrease percentage of total TLT revenues that were actually expended or agreed to be expended to fund “tourism promotion” or “tourism-related facilities” as of July 2, 2003. (ORS 320.350)

Frozen at 2003 percentage
dedicated to tourism!



State regulation of local government: 70/30 split

If local government increases lodging tax or imposes a new tax (post-2003):

- 70% of net revenue from the new or increased tax shall be used for: “**tourism promotion**” or “**tourism-related facilities**” or finance/refinance debt of “tourism-related facilities”
- No more than 30% may used to fund **city or county services**

Thus, total percentage of local tax revenues that are restricted to tourism is highly variable around the state. (Need pre and post- 2003 percentages to figure out number.)

3 Key Definitions (ORS 320.300):

#1

(7) “**Tourism promotion** ” means any of the following activities:

- (a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming **tourists**;
- (b) Conducting strategic planning and research necessary to stimulate future **tourism** development;
- (c) Operating tourism promotion agencies; and
- (d) Marketing special events and festivals designed to attract tourists.

3 Key Definitions: (ORS 320.300)

#2

(9) “**Tourism-related facility**” means:

- (a) A **conference center, convention center or visitor information center**; and
- (b) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting **tourism** or accommodating **tourist** activities.

Many cities and counties don't have a facility as defined by (9)(a)

Subsection (b) is the catch-all for permitted use of revenues in the 70% category. It was intended to provide flexibility to cover roads, sewers, restrooms, etc. associated with tourism support.

Still, it isn't clear or flexible. It has 3 components to qualify: 1) real property; 2) useful life of 10 or more years; and 3) substantial purpose of supporting tourism or accommodating tourist activities.

3 Key Definitions: (ORS 320.300)

#3

(10) **“Tourist” means** a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person’s community of residence, and that trip:

- (a) Requires the person to travel more than 50 miles from the community of residence; or
- (b) Includes an overnight stay.

Change NEEDED:

Local lodging tax revenue restrictions need to be made more flexible to allow more local control— one size doesn't fit all.

Options:

- Eliminate or revise the pre-2003 frozen percentage dedicated back to tourism
- Eliminate or lower the 70/30% revenue split on new/increased taxes
- Expand the definitions of “tourism promotion” and/or “tourism-related facility” that apply the 70/30% definitions to make less marketing/ facility focused and still tourism-related



Goal: continue to invest in tourism and grow tourism sector of economy, but allow local flexibility to address local tourism needs and costs

HB 2064 (2017) -1 language **WIN!!** (ORLA agreement for 2019 bill)

11 “(7) ‘Tourism promotion’ means any of the following activities:

12 “(a) Advertising, **marketing**, publicizing or distributing information for
13 the purpose of attracting and welcoming tourists;

14 “(b) Conducting strategic planning and research necessary to stimulate
15 future tourism development;

16 “(c) Operating tourism promotion agencies; *[and]*

17 “(d) *[Marketing special events and festivals designed to attract tourists.]*

18 **Providing for a tourism program, including tourism activities,**
19 **tourism-generating special events, sporting events and festivals de-**
20 **signed to encourage tourism or accommodate tourists; and**

21 “(e) **Developing or improving the tourist industry by enhancing**
22 **tourist attractions, tourism-related facilities or tourism-generating**
23 **special events, including, but not limited to, beautification projects**
24 **and constructing or improving tourist amenities, such as benches.**

What can you do?

- Make sure your ordinances are up to date:
 - Registration Requirements—zoning, limits, etc.
 - Definitions/exemptions: for lodging tax coverage
 - Forms updated
 - Intermediaries— agreements, ordinances
 - Sharing info with state
 - Audits
 - Enforcement Software
 - Communicate with ORLA early and often
 - Be visionary with lodging tax funds
-
- Assist League with Advocacy in 2019!
 - Funding mechanism for optional state collection (\$900K)
 - Definition expansion

Thank You!

- **Questions??**

**CITY OF SILVERTON
CITY COUNCIL REGULAR MEETING MINUTES**



Council Chambers 421 S Water Street and Zoom Web Conference Platform

March 4, 2024, 7:00 p.m.

I. OPENING CEREMONIES – Call to Order, Pledge of Allegiance & Roll Call

Mayor Freilinger called the meeting to order at 7:06 p.m. The City Council and staff were present both in person and through the virtual meeting platform Zoom.

<u>Present</u>	<u>Absent</u>	
<u>X</u>	<u> </u>	Mayor Jason Freilinger
<u>X</u>	<u> </u>	Council President Elvi Cuellar Sutton
<u>X</u>	<u> </u>	Jess Miller
<u>X</u>	<u> </u>	April Newton
<u>X</u>	<u> </u>	Eric Hammond
<u>X</u>	<u> </u>	Marie Traeger
<u> </u>	<u>Excused</u>	Matt Gaitan

STAFF PRESENT:

City Manager Cory Misley, Deputy City Manager Kathleen Zaragoza, Community Development Director Jason Gottgetreu, Police Chief Jim Anglemier, Police Captain Todd Engstrom, Public Works Director Travis Sperle, Assistant to City Manager/City Clerk Jamie Ward.

II. APPROVAL OF MINUTES

Councilor Sutton moved to approve the February 5, 2024, Regular Session Meeting Minutes, the February 6, 2024, City Council Goals Meeting Minutes, and the February 26, 2024, Work Session Minutes. Councilor Newton seconded. Councilor Hammond abstained from voting on the February 26, 2024, Work Session Minutes due to not being present at the meeting. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

III. PUBLIC COMMENT

Barbara Dahlem, Silverton Oregon and Mary DeSantis, Silverton Oregon,

Ms. Dahlem and Ms. DeSantis presented Council with information (attachment A) regarding the placement of a statue in honor of Stu Rasmussen. Ms. Dahlem stated that she visited Portland and toured the studio of Martin Eichinger, whom they would like to have construct the statue. They are seeking Council permission to move forward with placing the life-size statue on the corner of North Water and Oak Streets, near the stop sign outside of the Place Theatre. Ms. Dahlem indicated that she had reached out to the Oregon Department of Transportation (ODOT) and received a response stating that the portion of Oak Street between 1st Street and Water Street has been eliminated from the state highway system and relinquished to the City of Silverton for its jurisdiction, control, and maintenance.

Councilor Traeger inquired about the dimensions of the statue asking if it was life size. Ms. DeSantis answered saying it would be life size plus ten (10) percent and would be placed on a pedestal.

Councilor Newton inquired whether this description accurately reflects the proposed location for the statue and if it could be relocated if necessary for sidewalk improvements. Ms. Dahlem stated that she is unsure of how that will work at this point in the process.

Councilor Sutton asked if the dimensions would still allow for ADA accessibility on the sidewalk. Ms. Dahlem answered yes, and it shouldn't take up any more space than the tables that were previously placed on the sidewalk.

Councilor Traeger asked Community Development Director Jason Gottgetreu if there were any specific regulations that the City would need to follow regarding the sidewalk, and if Ms. Dahlem had discussed these specifics with the City. Ms. Dahlem responded, stating that she had reviewed the City's ordinances, and according to them, there must be pedestrian access.

City Manager Mисley noted that this was the first time he had seen this proposal and mentioned that he had inquired with Director Gottgetreu about whether the City had any existing public art programs related to the placement of statues.

Director Gottgetreu reiterated that during his initial conversation with ODOT, they expressed reluctance to permit non-frangible items, such as statues, to be placed in the right of way due to the potential for interaction with vehicles. He emphasized that objects in the right of way are typically designed to withstand being struck by a car, and it's crucial to consider the safety implications if a collision were to occur. Consequently, ODOT initially declined permission for a statue within their jurisdiction's right of way for these reasons. Director Gottgetreu further explained that this is the first time he's heard that ODOT has transferred jurisdictional control of the right of way to the City. However, he emphasized that safety considerations regarding the placement of non-frangible items in the right of way still need to be thoroughly evaluated by the City before proceeding with any plans.

Council expressed interest in the project and directed staff to collaborate with Ms. Dahlem and Ms. DeSantis to determine the necessary steps to move forward with it.

IV. SCHEDULED PRESENTATIONS

4.1 Silverton Sustainability in Action Presentation – Republic Service Municipal Relationship Manager Cindy Rogers and Republic Service Municipal Contract Administrator Travis Comfort.

Ms. Rogers and Mr. Comfort introduced themselves to Council and presented the PowerPoint presentation that was included in the packet, which reviewed essential services provided for the City of Silverton in 2022.

There were technical issues with the video recording during this section of the meeting. The full PowerPoint presentation can be found in the March 4, 2024, City Council packet.

Ms. Rogers and Mr. Comfort highlighted that Republic Services operates with 14 drivers serving 3,224 homes in Silverton. In addition, the company sponsors various local events such as the Silverton Pet Parade, Silverton Fire Department Mother's Day Breakfast, Homer Davenport Days, Silverton Arts Fine, Silverton Christmas Tree Lighting, and contributes monthly to the Santiam Canyon Wildfire Relief Fund. Additionally, Republic Services organizes two leaf hauling events annually in November and December and participates in the Silverton High School Career Expo.

Ms. Rogers provided a brief overview of the statement of income, highlighting that they concluded 2022 with an operating income of 2.2% of revenue and a net income of 1.4% of revenue. She also presented a table of expenses, noting that they paid the city over \$150,000 in franchise fees. Ms. Rogers explained that since 2018, they have experienced a notable increase in the cost to process recycling, and since 2020, the cost of labor has also risen due to the labor shortage.

Mr. Comfort provided a comprehensive overview of the accepted recycling list for the different carts provided by Republic Services. Additionally, he discussed the Saturday recycling program, noting that one of the Silverton Environmental Management Committee's initial tasks was to review the program, and this information has been included in the annual reports.

Mr. Comfort elaborated on the waste disposal process, explaining that Oregon counties have jurisdiction over waste management destinations. In Marion County, waste is designated to Covanta Marion Inc. He further mentioned that their operating agreement with the State of Oregon is set to expire in June. They are currently in discussions for a 5-year extension but have not received any updates yet. He assured Council that they will provide further information once they hear back regarding the extension.

Mr. Comfort highlighted that a substantial amount of his time has been devoted to crafting compliance reports in accordance with the State of Oregon's regulations, especially those related to the Opportunity to Recycle Laws and directives from the Department of Environmental Quality (DEQ). He mentioned that he has been working closely with Public Works Director Travis Sperle and City Manager Misley on these reports, seeking the City's approval. Mr. Comfort informed the Council that they have recently wrapped up the 2022 report with DEQ, which is currently undergoing final review by the City. Additionally, he emphasized that all Oregon cities with a population over one hundred thousand (100,000) are subject to the same DEQ requirements. Mr. Comfort discussed new legislation and laws set to take effect in Oregon on July 1, 2025, and outlined their implications for municipalities like Silverton.

Ms. Rogers concluded the presentation by informing the Council that Republic Services will return to discuss the Recycling Modernization Act, propose a rate adjustment in the Spring, and conduct a review of 2023 in late 2024. She assured the Council that they will coordinate with staff to schedule these presentations. Additionally, Ms. Rogers mentioned Republic Services' charitable foundation, which donates to nonprofit organizations annually, and encouraged Silverton nonprofit organizations to reach out to her for potential support.

4.2 Silverton Chamber of Commerce Executive Director, Stacy Palmer
Mayor Freilinger stated that Mrs. Palmer is out of town and will not be doing a monthly report but wanted to share that 6 local businesses were selected to the digital boost program.

V. DISCUSSION/ACTION

5.1 Ordinance No. 24-02 – An Ordinance of the Silverton City Council Granting a Term Extension for the Extension Non-Exclusive telecommunications Franchise with Lightspeed Networks, Inc., Declaring an Emergency and Stating an Effective Date – City Manager Cory Misley.

City Manager Misley provided a concise overview of the staff report, noting the previous passage of a franchise agreement with LS Networks by the City Council on March 5, 2018, through Resolution 18-07. He highlighted that both parties have continued to adhere to the terms of this agreement and intend to extend it for an additional two years, expiring on March 5, 2024. Misley added that the emergency declaration language in the agreement aims to ensure its immediate effect rather than waiting for the standard 30-day period.

Mayor Freilinger asked if LS is one of the utility companies currently doing upgrades throughout the City.

Councilor Miller would like to see Ordinances include a requirement to remove all unused cable that is left in the ground.

Councilor Hammond inquired about the purpose of adding the verbiage "Declaring an Emergency" and asked what conditions would classify a situation as an emergency.

City Manager Misley reiterated that the inclusion of the emergency declaration language was intended to ensure the immediate effect of the ordinance. Ordinarily, there is a 30-day waiting period after an ordinance is passed, but this language bypasses that waiting period, allowing the ordinance to take effect immediately upon passage.

A motion was made by Councilor Sutton to have the first reading of Ordinance No. 24-02, by title only. Councilor Newton seconded the motion. Freilinger, Traeger, Sutton, Miller, and Newton voted aye, Hammond voted nay; the motion carried (5-1-1). Councilor Hammond that it could be read but he was not intending on voting for it.

Council clarified that the vote needed to be unanimous for the Ordinance to pass tonight.

City Manager Misley stated it would be brought back if it is not unanimous.

Mayor Freilinger also expressed interest in gathering more information about the services provided by Lightspeed Networks, Inc., for the City of Silverton, as well as the number of customers they serve. He suggested that having this information brought back for discussion at the next meeting would be acceptable to him.

City Manager Misley sought clarification from Council regarding what specific information they were requesting. He indicated that depending on their needs, he could bring back the requested information for further discussion and clarification at a future meeting.

Councilor Hammond expressed concerns regarding the declaration of an emergency and questioned the necessity of such a measure. He doesn't feel we should be using an emergency declaration to get a contract.

Councilor Newton asked if it was a tool because the contract had expired and that allowed the City to move forward.

City Manager Misley acknowledged Councilor Hammond's concerns about declaring the ordinance as an emergency. He noted that he had been involved in several ordinances adopted under emergency circumstances, and he admitted that none of them were technically what one would categorize as emergencies.

Council held a discussion on striking the language declaring an emergency from the title of the Ordinance and decided to move forward with this amendment.

The original motion was rescinded.

A motion was made by Mayor Freilinger to have the first reading of Ordinance No. 24-02, by title only. Councilor Miller seconded the motion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

City Manager Cory Misley read Ordinance No. 24-02 as amended by title only.

A motion was made by Councilor Sutton to pass Ordinance No. 24-02 on its first reading striking the language declaring an emergency. Councilor Miller seconded the motion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

A motion was made by Councilor Sutton to have the second reading of Ordinance No. 24-02, by title only. Councilor Miller seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

City Manager Cory Misley provided the second reading of Ordinance No. 24-02.

A motion was made by Councilor Sutton to adopt Ordinance No. 24-02 on its second and final reading as amended. Councilor Hammond seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

5.2 Ordinance No. 24-03 – An Ordinance of the Silverton City Council Adding Chapter 12.49 to Adopt Limitation of Liability for Certain Claims Arising From the Use Of Trails Or Structures Within Public Easements and Unimproved Rights Of Way Under ORS 105.668 – City Manager Cory Misley.

City Manager Misley provided an overview of the staff report, indicating that it was shared by the City Attorney, Ashleigh Dougill, concerning recreational immunity. He mentioned that he had provided additional information via email, detailing the background on the shifting legal landscape and erosion of recreational immunity. This immunity has historically served as a fundamental protection for public entities regarding public open spaces, imposing limitations on liability claims.

Councilor Hammond requested information regarding the content of the "whereas" statements, particularly questioning the inclusion of specific details such as the one related to population.

City Manager Misley stated that is an Oregon Revised Statutes (ORS) citation that this Ordinance relates to.

Councilor Miller asked about the scope and if it would include sidewalks.

City Manager Misley responded that the proposed ordinance would not include sidewalks because they are considered transportation facilities rather than public open spaces.

A motion was made by Councilor Miller to have the first reading of Ordinance No. 24-03, by title only. Councilor Newton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

City Manager Cory Misley read Ordinance No. 24-03 by title only.

A motion was made by Councilor Miller to pass Ordinance No. 24-03 on its first reading. Councilor Newton seconded the motion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

A motion was made by Councilor Hammond to have the second reading of Ordinance No. 24-03, by title only. Councilor Newton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

City Manager Cory Misley provided the second reading of Ordinance No. 24-03.

A motion was made by Councilor Hammond to adopt Ordinance No. 24-03 on its second and final reading. Councilor Newton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

5.3 Resolution No. 24-02 – Approving of Fiscal Year 2024-25 City Council Goals – City Manager Cory Misley. City Manager Misley concluded by stating that he doesn't have any additional comments to add, and that staff is currently focused on preparing the budget for the upcoming season.

A motion was made by Councilor Miller to adopt Resolution 24-02 – Approval of Fiscal Year 2024-25 City Council Goals. Councilor Sutton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

5.4 Update on City Hall and Change Order Request Ratification – Community Development Director Jason Gottgetreu.

Community Development Director Jason Gottgetreu explained that change order request ratifications, which were previously placed as consent items on the agenda, will now be discussed under Discussion/Action to provide more updates on the new City Hall project to both the Council and residents.

Director Gottgetreu provided an update on the ongoing work in the new City Hall project. This week's activities include the installation of staircase railings and the generator pad. However, progress on electrical gear is hindered by supply chain issues, particularly the delay in shipping the manual transfer switch needed for final occupancy. Interior finish work is progressing well, with carpet installation completed and plumbing underway for sinks and restroom facilities. Council Chambers are taking shape, with accent walls installed and plans to install the dais within the next two weeks. Acoustics are also being installed to minimize disruptions during dais installation. Additionally, audiovisual equipment is being installed, and television units are being set up in the Police briefing rooms and Council Chambers.

Director Gottgetreu elaborated on the importance of reviewing the changes in person rather than solely relying on paper documents. He emphasized the significance of making adjustments to ensure a well-designed project in the end. Director Gottgetreu mentioned there were issues with the faucets in the restroom not aligning correctly over the basin as expected. Consequently, they were returned and reordered, leading to an additional deposit requirement. He emphasized that while these adjustments may incur extra costs, they are essential for ensuring a more functional building in the long run.

Councilor Hammond asked about the manual transfer switch or the generator stating he assumed it would be an automatic transfer switch.

Director Gottgetreu answered yes there will be a manual transfer switch although he is unclear how it will play into the system.

Councilor Sutton reiterated that it is a building code requirement to have both manual and automatic switches.

A motion was made by Councilor Newton to ratify the City Manager amendments to the construction contract with Corp Inc. from \$15,361,941.84 to \$15,414,889.04, an increase of \$52,947.20. Councilor Sutton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

5.5 Discussion on "20 is Plenty" Speed Limit Reductions from 25 MPH to 20 MPH on Local Residential Streets – City Manager Cory Misley.

City Manager Misley went over his staff report mentioning in 2019, the State Legislature granted cities the authority to designate speed limits five (5) miles per hour lower than statutory limits on non-arterial streets in full residential districts. He noted that some cities have utilized this reduction, which has been coined as "20 is plenty," indicating that 20 miles per hour is considered fast enough for vehicles on local residential streets to travel, particularly in terms of associated safety benefits.

The Transportation Advisory Committee (TAC) briefly discussed this concept at their January 29th meeting. While there was partial support for the concept, many questions were raised regarding the area it would cover, associated costs, and the tangible impact it would have. There was a suggestion to have Council consider the concept further and decide whether to proceed, potentially directing TAC to delve deeper into the parameters of the potential shift.

City Manager Misley went on to explain the graphs provided in the staff report regarding statistics of visual clearance and survival rates at various speeds.

Mayor Freilinger asked what happens if a street has commercial on one side and residential on the other.

City Manager Misley stated that he was not sure, but his guess was that it would not apply. Councilor Sutton inquired if a street that did not fall under these requirements could be included in this initiative.

City Manager Misley responded, noting that as Council recently experienced with the reduction requests and studies associated with South Water, it's a complicated and prescriptive process even for local streets. Prior to the legislation, cities couldn't lower speed limits below 25 mph, and even with the new legislation, certain parameters still apply. If the City wanted to pursue this approach, it would likely involve applying a blanket speed limit reduction across all local streets it applied to. City Manager Misley added that this would be a systemic change that requires time and energy in terms of signage and other considerations, and it will take some time to roll out.

City Manager Misley stated staff is seeking to determine if Council is interested in pursuing this initiative further and if they would like the Transportation Advisory Committee (TAC) to conduct a more in-depth analysis within certain parameters to ascertain its feasibility and applicability to Silverton.

Councilor Sutton asked if this would add extra pressure to the Silverton Police Department.

Silverton Police Chief Anglemier emphasized that the implementation of this initiative would require an initial focus on educating residents through public service announcements and warnings rather than issuing citations right away.

Council engaged in a brief discussion regarding the effects of the speed reduction on South Water Street.

Councilor Traeger inquired about the availability of funds in the "20 is Plenty" initiative for this project, highlighting the expense for new signage stating the need for budgetary consideration.

City Manager Misley mentioned that there isn't any state, federal, or nonprofit funding associated with the initiative, but he agreed that other than staff time, the primary cost for implementation would be signage.

Councilor Miller expressed full support for the initiative, citing the clear evidence of injury reduction associated with lower speed limits. He noted that the Council has heard a lot from residents about this issue. However, he also emphasized the importance of considering individuals who commute through or around the area, as the lower speed limits may slow them down.

Council agrees and would like to move forward with this idea.

City Manager Misley asked how in-depth Council would like TAC to spend on this.

Councilor Miller added that he would like the information to come back to TAC written as an ordinance.

City Manager Misley sought clarification on the appropriate response if the TAC requests more information or statistics on the matter. He suggested that his response to them would be, no, that Council sees value in the initiative, even if it only results in a slight reduction in speeds.

Councilor Newton sought clarification on the specific aspect that Council is asking the TAC to weigh in on at this point, given that Council has already decided to move forward with the initiative.

Councilor Miller suggested that the only task for the TAC would be to wordsmith the ordinance, similar to the one implemented by Tigard.

Council reached a consensus not to send this matter to the TAC but to provide them with an update indicating that Council supports the initiative, and that implementation will proceed.

VI. CONSENT

A motion was made by Councilor Sutton to approve the Consent Agenda including agenda items 6.1-6.2. Councilor Miller seconded. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

6.1 Transfer Resolution No. 24-03 – A Transfer Resolution to Increase the Facilities Maintenance Appropriation.

6.2 Extension of Agreement with Silverton Area Seniors Inc. (SASI)

VII. COMMITTEE APPOINTMENTS

Mayor Freilinger conducted interviews with candidates for various committees, including the Transportation Advisory Committee, the Affordable Housing Task Force, the Budget Committee, and the Tourism Promotion Committee. Based on these interviews, he recommended the following candidates for appointment:

- Carl Krigbaum for the Transportation Advisory Committee.
- Rebecca Delmar for the Affordable Housing Task Force.
- Peter Hulseman for the Budget Committee.
- Becky Ludden for the Silverton Chamber Seat on the Tourism Promotion Committee.
- Norm English for the Mural Society for the Tourism Promotion Committee.

Mayor Freilinger added that there are two positions on the Tourism Promotion Committee that he is still working on and will bring his recommendations back in April. Adding that all of these positions end on December 31, 2026

A motion was made by Councilor Miller to appoint Carl Kirgbaum to the Transportation Committee, Rebecca Delmar to the Affordable Housing Task Force, Peter Hussleman to the Budget Committee, Becky Ludden to the Tourism Promotion Committee, and Norm English to the Tourism Promotion Committee with terms ending in December 2026. Councilor Sutton seconded. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, and Hammond voted aye; the motion carried (6-0-1).

VIII. CITY MANAGER UPDATE

City Manager Misley expressed his opinion that it would be beneficial to have the City Attorney, Ashleigh Dougill, continue to attend some meetings. He highlighted the potential benefits of her input and the importance of building rapport with her in the context of a new arrangement. Additionally, he mentioned that she is planning to participate in the joint meeting with the Planning Commission.

City Manager Misley continued by expressing his observation that there has been a significant amount of turnover, and certain ongoing projects, such as those related to the Oregon Gardens or the Pettit Lake area, have roots stretching back decades. He emphasized that there is a lack of alignment regarding the current status and future direction of these projects among stakeholders. Misley stressed the importance of taking significant time to become familiar with the history of these projects to establish a better baseline before moving forward with any efforts. Misley added that he is unsure about the timing of when these tasks will be undertaken but emphasized the significant amount of staff time required to compile the necessary information for these work sessions. To facilitate this, he would like to continue scheduling meeting dates as both work sessions and regular sessions. This approach allows for in-depth discussions on various topics, providing education while still ensuring that items can be approved, similar to the upcoming Joint City Council and Planning Commission Meeting scheduled for March 18th.

City Manager went on to state the City did get out an Request For Proposals (RFP) for the Pickleball and Pettit Trail design and received four (4) proposals in response and have scored them and have been in negotiations with the top scoring firm. Although they had tentatively planned to bring the contract to this meeting, additional discussions were needed around the scope and associated price it is slated to come before Council during the March 18, 2024, meeting.

City Manager Misley mentioned that the joint Silver Falls School Board meeting scheduled for April 8, 2024, is still on the agenda. He is actively working to schedule a meeting with the Superintendent, Chair, and/or Vice Chair to discuss potential agenda items for the upcoming joint meeting.

City Manager Misley added we are continuing to work on staffing, filling vacancies, and ensuring that our team is running smoothly to handle the workload. However, we are currently at a fragile point in terms of bandwidth and capacity, trying to navigate all the ongoing tasks and prepare for the upcoming year.

Councilor Sutton proposed the idea of inviting former councilors to discussions or conversations as an educational tool to provide historical context and bring current councilors and staff up to speed on projects such as Pettit Trails and Pickleball.

City Manager Misley responded, expressing that while inviting former councilors could provide valuable historical context and perspectives, it could also introduce additional viewpoints and memories that might cloud the current council's authority to make decisions. He implied that while the input could be beneficial to some extent, it's essential to maintain clarity and focus on the current council's responsibilities and decision-making process. Misley gave an example of Pettit Lake and pulling out the history of what exactly the family conveyed when it changed hand from the family to the City.

Councilor Newton asked City Manager Misley who determines how City Council meetings operate, particularly in reference to Misley's suggestion of treating each meeting as both a work session and a regular meeting rather than solely one or the other.

City Manager Misley stated that the guidelines for City Council meetings are outlined in the Council Rules and Procedures. However, Council has the authority to modify and update these rules as needed. He mentioned that in Sisters, the usual practice was to allocate an hour for a work session followed by a regular meeting. However, the duration of each segment can vary depending on the complexity of the agenda items being discussed.

Councilor Newton asked if that change was something that Council could discuss.

Mayor Freilinger affirmed that the Mayor's role involves collaborating with the City Manager to develop the agenda. He noted that according to council protocols, there is typically a general meeting followed by a work session. Mayor Freilinger acknowledged that City Manager Misley has proposed splitting the meetings, and while he is open to the idea, he wanted to gauge Council's readiness for this change. He expressed that he sees potential efficiency gains but wanted to ensure Council's agreement before proceeding.

City Manager Misley suggested that this could be an opportune time, following the League of Oregon Cities training, to convene a work session to discuss the Council Rules and Procedures, possibly during the 18th of March meeting. This would allow for dialogue and ensure that Council is in agreement with the proposed changes. He suggested aiming for this discussion sometime in the Spring, indicating that it would be an appropriate time to consider implementing any adjustments to the meeting structure.

Council engaged in a discussion about how to incorporate public comment effectively into meetings without causing

residents to wait for extended periods or disrupting the flow of the meeting. Council also discussed the importance of balancing the need for public input with the efficiency of the meeting process.

Councilor Traeger asked if there was an update regarding the lease with the community center.

City Manager Misley said he has been in continuous communication with the current tenants but has not received a response yet from the Oregon Military Department. He will follow up on this matter and bring it back to the next meeting.

IX. COUNCIL COMMUNICATION

Council Traeger said there is a Parks and Recreation Advisory Committee meeting scheduled for tomorrow and the Silverton girls' basketball team has made it to State. They play on Thursday at 1:30 p.m. at Linfield University.

Councilor Miller would like direction and city staff whether it could be appropriate for the TAC meeting to take on the adopted Council Goals and look at the Transportation Master Plan to see if they recommend revision of the properties.

City Manager Misley expressed his belief that any substantial changes to the pedestrian infrastructure should be made carefully and thoughtfully, in collaboration with Public Works, the City Engineer, and other transportation partners. However, in the short term, he mentioned a concept that has been discussed, which is the pedestrian crossing flag program, stating that if the TAC is interested in exploring this further, it could be beneficial.

Mayor Freilinger asked when the next TAC meeting is scheduled for.

City Manager Misley mentioned that during the TAC meeting on January 29th, they discussed not meeting in February but meeting in March, and not meeting in April but meeting in May. This aligns with the approval of the goals and occurs after the budget meetings. Misley further elaborated that he believes this is one of the conversations that needs to be had, similar to discussions about the frequency of work sessions and the structure of meetings. It's essential to determine how items between the commission, subcommittees, and the Council can work together efficiently.

City Manager Misley and Councilor Miller will work together on this.

Councilor Newton stated that the Meals on Wheels is back up and running out of one of the churches.

Councilor Sutton said the 6th grade girls' basketball team are second time state champions.

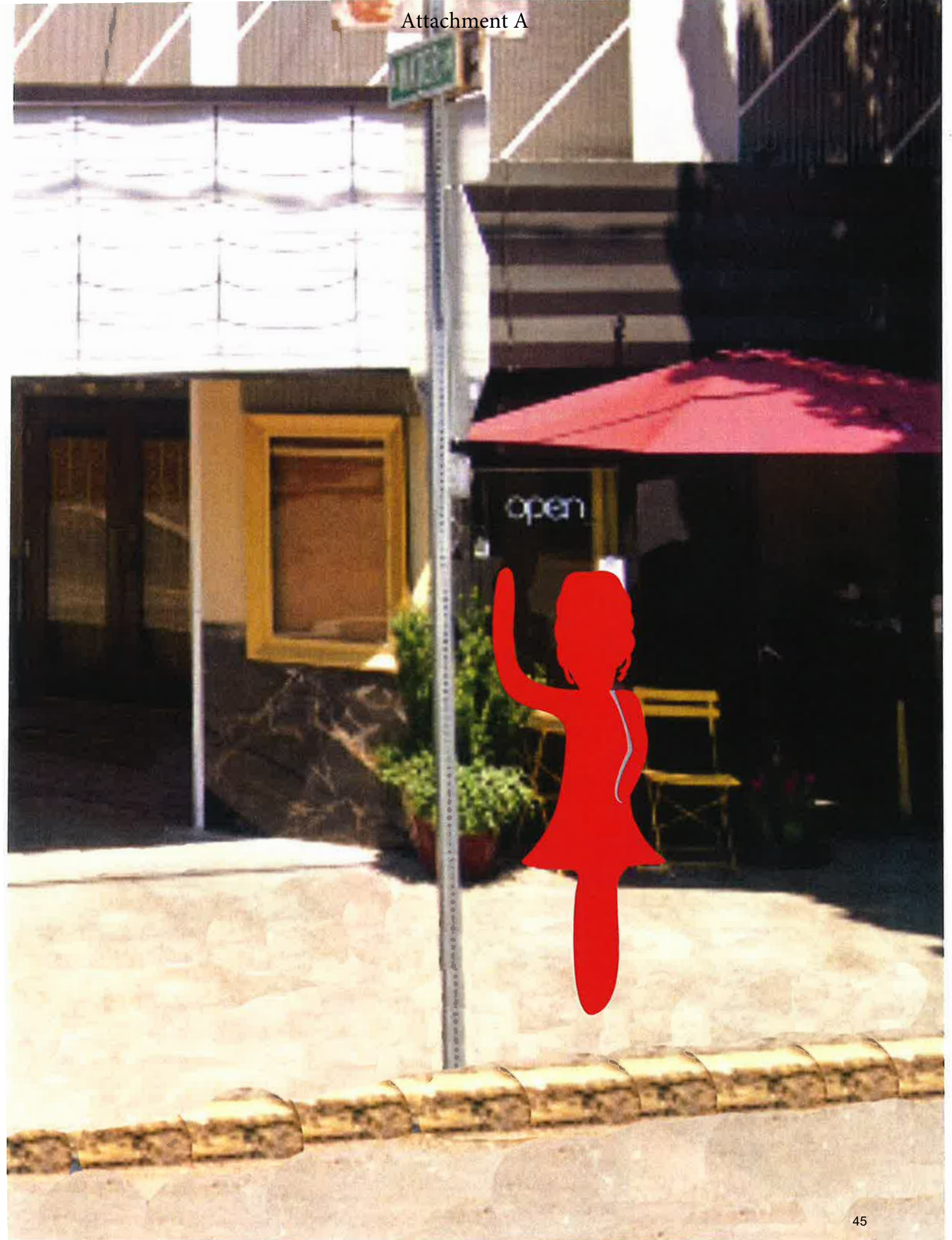
Mayor Freilinger expressed his recognition of the challenges the city staff has faced with turnover over the past few years, which has impacted operational efficiency. He thanked City Manager Misley and the Department Heads for their efforts in addressing these challenges and navigating through changes together. He acknowledged the hard work and dedication of the staff in overcoming obstacles and expressed gratitude for their commitment to the city's efficiency and success.

X. ADJOURNMENT

A motion was made by Councilor Sutton to adjourn. Meeting Adjourned at 8:47 p.m.

Respectfully submitted by:

/s/Jamie Ward – Assistant to the City Manager/City Clerk





RE: ODOT Inquiry - Silverton Statue QB-ID-00880

NGUYEN Cuong <Cuong.NGUYEN@odot.oregon.gov>

on behalf of

ODOT Property Management <ODOTPropertyManagement@odot.oregon.gov>

Wed 2/7/2024 5:43 PM

To:Victoria Sage <victoria@zebra97381.com>;HAYES Kyle <Kyle.HAYES@odot.oregon.gov>

Cc:ODOT Property Management <ODOTPropertyManagement@odot.oregon.gov>

Hi Victoria,

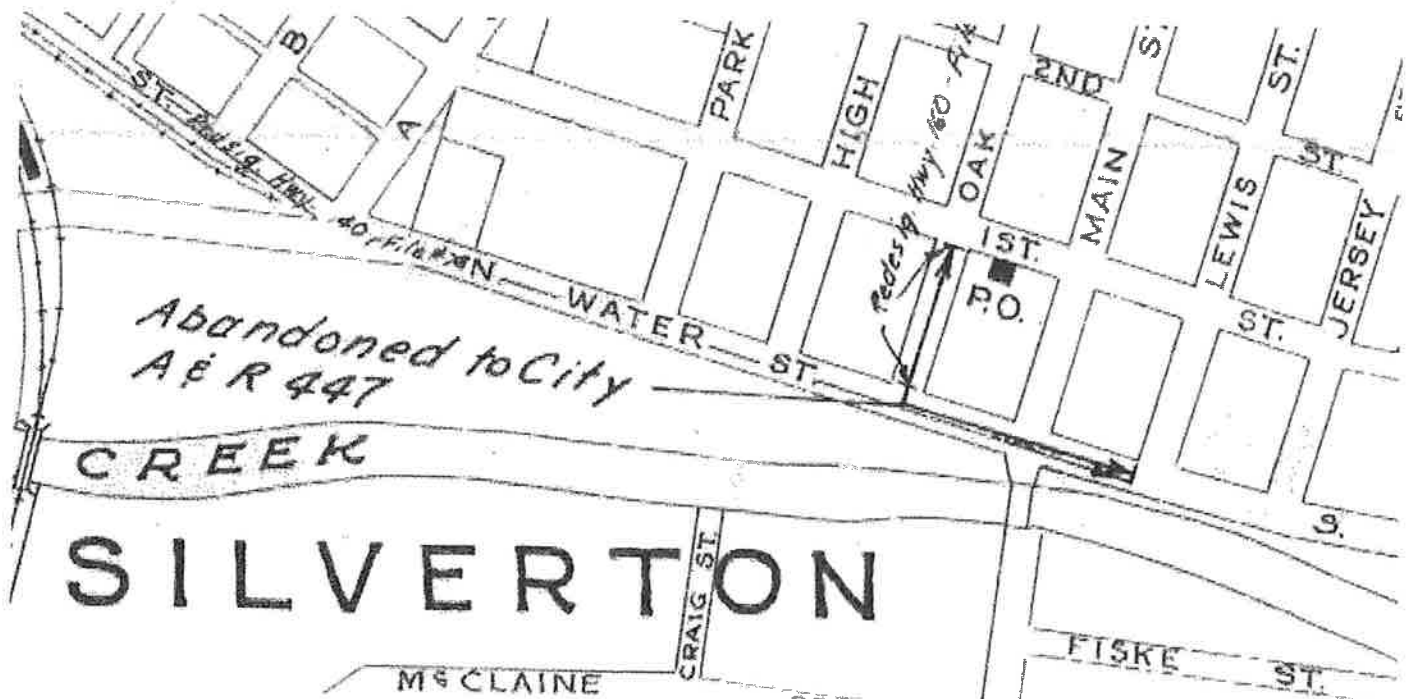
Based on our research, we believe that the City of Silverton has jurisdiction over this corner by way of A&R (abandonment and retention) Agreement 447.

The General Provisions it also states that the City will continue to have control over the sidewalks within this area.

GENERAL PROVISIONS:

1. It is expressly understood and agreed by the parties hereto that any existing sidewalks within the city limits affected by the project shall be replaced or realigned as a part of the project. City shall have full jurisdiction and control of those portions of the rights of way, including sidewalks, which are located outside of the curb lines of the project and within the city limits. Therefore, any repair or maintenance after completion of the project of said sidewalks shall be the responsibility of either City or the abutting property owners, as may be provided by city charter or ordinance.

Here are screenshots of our RW map referencing the agreement, and location, and the relevant parts of the A&R (abandonment and retention) Agreement.

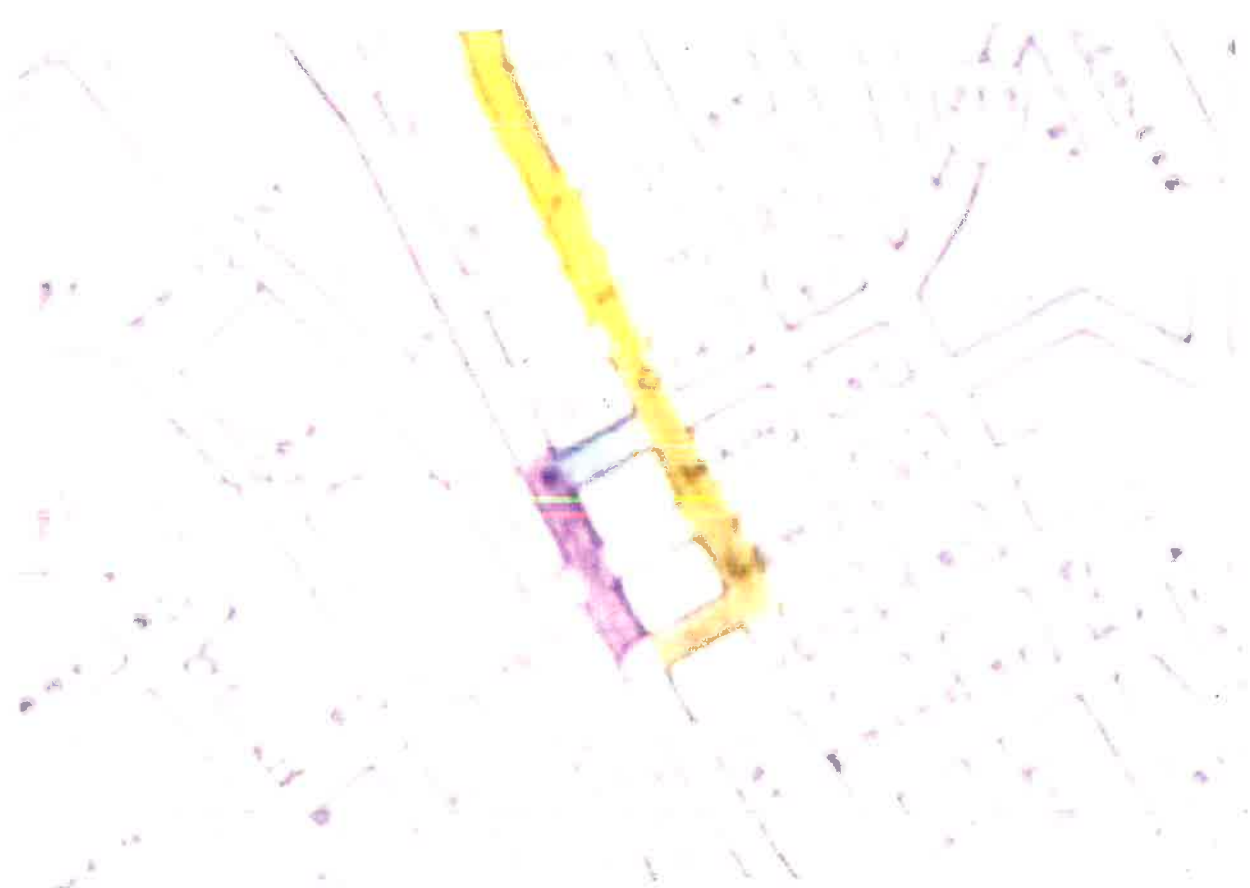


NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, by the State Highway Commission that:

1. The portion of the Cascade Highway, State Secondary Highway No. 160 (Oak Street), approximately as shown colored in green on Exhibit A, between 1st Street and Water Street as presently routed; and also that portion of the Silver Creek Falls Highway, State Secondary Highway No. 163 (Water Street), approximately as shown colored in purple on Exhibit A, between Lewis Street and Oak Street as presently routed are hereby eliminated from the state highway system and relinquished to the City of Silverton; and that portion of the relocated Hillsboro-Silverton Highway, approximately as shown colored in yellow on Exhibit A is hereby designated as a part of said Hillsboro-Silverton Highway, State Secondary Highway No. 140, said routing to follow 1st Street to Lewis Street, thence westerly on Lewis Street to Water Street in the City of Silverton.

Adopted by Highway Commission
Date _____
<i>Thoyt C. ...</i>
Secretary

2. Pursuant to ORS 373.010 and ORS 373.015, said portions of Oak Street and Water Street as heretofore described be eliminated as part of the state highway system and returned to the City of Silverton for its jurisdiction, control and maintenance.





**CITY OF SILVERTON
JOINT CITY COUNCIL AND PLANNING COMMISSION SPECIAL MEETING
MINUTES**

Oregon Gardens – Natural Resources Education Center 879 W. Main St. and Zoom Web Conference Platform

March 18, 2024, 6:30 p.m.

I. OPENING CEREMONIES – Call to Order, Pledge of Allegiance, & Roll Call

Mayor Freilinger called the meeting to order at 6:34 p.m. The City Council and staff were present both in person and through the virtual meeting platform Zoom. Mayor Freilinger explained the meeting was being held in a hybrid format, pursuant to City of Silverton Resolution 22-06, adopted March 7, 2022.

City Council Members:

Present	Excused	
<u> X </u>	<u> </u>	Mayor Jason Freilinger
<u> X </u>	<u> </u>	Council President Elvi Cuellar-Sutton
<u> X </u>	<u> </u>	Councilor Jess Miller
<u> X </u>	<u> </u>	Councilor April Newton
<u> X </u>	<u> </u>	Councilor Eric Hamond
<u> X </u>	<u> </u>	Councilor Marie Traeger
<u> X </u>	<u> </u>	Councilor Matt Gaitan

Planning Commissioners Present:

Present:	Excused:	
<u> X </u>	<u> </u>	Chairman Clay Flowers
<u> X </u>	<u> </u>	Madam Vice-Chair Cara Kaser
<u> X </u>	<u> </u>	Commissioner Peter Matzka
<u> X </u>	<u> </u>	Commissioner Morrey Jones
<u> X </u>	<u> </u>	Commissioner David Castle
<u> </u>	<u> X </u>	Commissioner Randall Walling
<u> </u>	<u> X </u>	Commissioner Evan Clark

STAFF PRESENT:

City Manager Cory Misley, Deputy City Manager/Finance Director Kathleen Zaragoza, Community Development Director Jason Gottgetreu, Public Works Director Travis Sperle, Assistant to City Manager/HR Coordinator, and Assistant to City Manager/City Clerk Jamie Ward.

II. Proclamation

2.1 Mayor Freilinger read the proclamation proclaiming Tuesday, March 19, 2024, Silverton High School Girls Basketball Team Day.

III. Council and Planning Commission Discussion

3.1 Land Use Presentation and Discussion – Beery Elsner and Hammond LLC Assistant Attorney, Ashleigh Dougill.

Ms. Dougill introduced herself and delivered a PowerPoint presentation to the Council and Commission members, focusing on legal issues related to land use and quasi-judicial decision-making authority. The presentation provided a brief overview of land use basics, including a historical overview of Oregon land use law, roles of the State and cities, and types of land use decisions. Specific topics covered in the presentation included Bias, Ex Parte Contacts for Conflicts of Interest, Other Government Ethics Issues, Public Meeting Issues, Hearing Requirements and for Issues, Criteria for Findings, Appeals, 120-Day and Fixed Goalpost

Rules, Clear and Objective Requirements, and Constitutional Issues. Ms. Dougill gave a few lessons from Oregon Land Use Board of Appeals (LUBA) and recent court decisions siting.

Ms. Dougill highlighted that last year marked the 50th anniversary of the origin of land use practice in Oregon, which began with the adoption of Senate Bill 100 in 1973. The main purpose of this legislation is to manage land uses to achieve a variety of competing and complementary goals, as reflected in the statewide planning goals. Local Comprehensive Plans are required to be consistent with these statewide planning goals. These plans are reviewed by the State's Land Conservation and Development Commission (LCDC). Once LCDC approves a city's Comprehensive Plan, it becomes acknowledged, and then serves as the controlling document for that area.

Ms. Dougill continued her presentation by explaining the two types of land use decisions the Planning Commission and City Council are required to act on: Legislative and Quasi-Judicial Decisions. Legislative decisions involve the adoption of general applicable policies and standards that apply to a variety of factual situations with a broad class of people. Examples include amending the comprehensive plan, zone change that applies to broad large areas, or changes to the development. Ms. Dougill noted that because legislative decisions are expressions of City policy, the City is not required to reach a decision on a legislative proposal and may table the issue or decline to review it. Bias and ex parte requirements do not apply to legislative decisions.

Ms. Dougill then explained the primary difference between Legislative and Quasi-Judicial Decisions, as established in the Strawberry Hill 4-Wheelers v Benton County Board of Commissioners case in 1979. She outlined three key factors: Quasi-Judicial decisions typically involve a single property or a small group of properties, decisions are based on pre-existing criteria, and the city is obligated to make a decision. Ms. Dougill emphasized the "judicial" aspect of Quasi-Judicial decisions, indicating members essentially act as judges to assess compliance with applicable criteria and requirements. Given this higher standard, additional requirements such as bias, ex parte contacts, and conflicts of interest apply. Ms. Dougill provided definitions and examples of these requirements offering guidance on how to address such situations. She further highlighted, government ethics issues, including the use of position or office and accepting gifts, extend to relatives, household members, and businesses, and may result in personal liability for officials, including fines up to double the financial gain. Ms. Dougill recommended that members with questions should contact the Oregon Government Ethics Commission for clarification.

Next, Ms. Dougill covered Oregon Public Meeting Law, underscoring that both the Planning Commission and City Council are bound by its provisions. According to this law, all meetings must be publicly noticed and open to the public. It applies to gatherings where decisions or deliberations on matters of official business take place, extending to electronic communication channels like email or social media. Ms. Dougill further elucidated the Quasi-Judicial process regarding Criteria and Findings, outlining the appeals process at both the local and state levels, and explaining the 120-Day Rule and the fixed goalpost rule in public hearings. She stressed the importance of adhering to these procedures to ensure fairness and legality in land use decision-making. Additionally, Ms. Dougill provided the definition of clear and objective standards, noting that while they may seem straightforward, their implementation can often be complex and involved in practice.

Ms. Dougill transitioned to Constitutional issues regarding land use, particularly focusing on the concept of "taking" outlined in the Fifth Amendment. Taking refers to the governmental appropriation of private property, which should not occur without just compensation according to the Constitution. Such taking can result from regulations limiting property use or through exactions, which are conditions of approval requiring the transfer of private property like road dedication or construction of improvements. Exactions must meet two criteria to be valid: Nexus and Rough Proportionality, which Ms. Dougill illustrated with a few examples.

Ms. Dougill concluded her presentation by highlighting lessons from recent decisions by LUBA and courts. She noted a clear trend toward strictly interpreting "clear and objective" standards in residential context, almost akin to a mathematical standard. This trend is expected to be litigated in the near future. Additionally, she emphasized issues with ambiguous code language in nonresidential contexts. Cities should ensure clarity in how the code will be applied and interpreted, and parties should be given the opportunity to respond with evidence while the record is open.

3.2 Comprehensive Plan Overview and Legislative Update – Melissa Ahrens, Oregon Department of Land Conservation and Development (DLCD) Mid-Willamette Valley Regional Representative.

Ms. Ahrens provided Council and the Commission with an overview presentation of the Department of Land Conservation and Development (DLCD), outlining its role and services. DLCD serves as a support network for local governments and land use planning, offering funding opportunities, regional coordination, and guidance on state law. Staffed to the Land Conservation and Development Commission (LCDC), DLCD is legislatively directed to manage urban growth, protect farm and forest lands, coastal areas, and natural resource lands. Additionally, DLCD is tasked with fostering safe and livable communities in alignment with the vision of local communities.

Ms. Ahrens provided a brief history of land use planning in Oregon, highlighting the establishment of periodic review as a framework from the first comprehensive planning acknowledgment period in 1976 until around 1986. This process mandated regular updates of local governments' comprehensive plans following their initial acknowledgment if updates were deemed necessary. Although periodic review is no longer a requirement, it remains a voluntary process outlined in state law.

Ms. Ahrens referenced statewide planning goals and provided a review list, emphasizing the presentation would mainly concentrate on Goal 2 – Land Use Planning. She outlined Goal 1, which mandates citizen involvement programs for cities and counties to ensure citizen participation in all planning phases. Moving on to Goal 2, she highlighted the requirement for local governments to have comprehensive land use plans and implement ordinances in compliance with applicable Statewide Planning Goals. Additionally, decision-making must be based upon adequate factual base, and coordination with other affected governments is necessary.

Ms. Ahrens proceeded to explain that a comprehensive plan must be built upon an adequate factual base, typically established through resources such as historical inventory, geotechnology and topography mapping, and wetland assessments, all of which are acknowledged during the initial period and updated during periodic reviews and comprehensive plan updates. This plan comprises goals, policies, and statements of intent to guide implementation measures. Implementing measures are commonly found in zoning and development codes. Additionally, a comprehensive plan includes land use and resource maps, along with sections detailing the planning program's history and community values or vision, which many jurisdictions find beneficial. The goal of a comprehensive plan update is to refresh and modernize outdated plans, ensuring their relevance and effectiveness with policies and measures meaningful for the next twenty (20) years.

Ms. Ahrens provided an overview of the comprehensive plan update process, outlining two types of updates cities can choose: Post-acknowledgement Plan (PAPA) or Voluntary Periodic Review (PR). Typically, cities hire a consultant team to assist in updating the factual basis, conducting public outreach, and aiding in policy work. In the PAPA process, PAPAs are appealable to DLCD, with each separate PAPA being subject to potential appeal. On the other hand, in Voluntary Periodic Review, cities are paired with a state agency periodic review assistance team for support. This approach involves establishing a work plan from the beginning, providing a more structured process with organized submittals and phases per work task, rather than separate PAPAs. Ms. Ahrens mentioned historically there have been technical assistance grants from DLCD for either one of these processes to assist local governments in going through this process. A comprehensive plan update step by step overview includes Data/Analysis, Policy/Plan Evaluation, Draft update of background factual documents and policies, and noticing a legislative process for adoption. All of these steps incorporate public input and equitable engagement.

Ms. Ahrens handed over the meeting to Celestina Tava, Housing Planner with the Oregon Department of Land Conservation and Development (DLCD), to discuss legislative updates related to housing land use adjustments in Senate Bill 1537.

Ms. Tava started the presentation by explaining that due to the recent passage of the bill, comprehensive slide decks are not yet prepared. However, she said a FAQ document will be developed and made available to local governments soon.

Ms. Tava elaborated on Senate Bill 1537, underscoring that the housing land use adjustment section spans sections 37-43, with a primary focus on section 38, which mandates adjustments to housing development standards. She began a brief overview by delineating the types of applications covered under the housing land use adjustments portion of the bill. She emphasized the presence of both technical eligibility requirements and housing-related eligibility requirements.

Regarding technical eligibility considerations, Ms. Tava explained they are oriented toward development on land with a current land use approval for residential uses or mixed-use residential, ensuring conformity with the target density for the city size. For example, in Silverton, this would mean 6 units per residential acre development within the Urban Growth Boundary (UGB).

Ms. Tava emphasized that eligibility for land use adjustments warrant one requirement be met for consideration for housing land use adjustments, the application eligibility necessitates stating how at least one of the requirements must be met, whereas technical applications must fulfill all the requirements. She provided a few examples to illustrate this, ranging from allowing development to having a net increase in housing units, compared to what would be possible without the land use adjustment. Ms. Tava explained the adjustment could decrease the sale or rental price of the units, thus increasing affordability. Additionally, Ms. Tava addressed land use adjustments affecting affordable housing developments creating an increase in affordable housing due to allocations from under the land use change.

Ms. Tava presented a table illustrating the legislation's approach, identifying specific development standards and allowable adjustments under the process. These adjustments can be requested and processed accordingly. The housing standards are applicable to all housing applications, while development standards umbrella manufactured dwelling parks, multifamily housing, and mixed-use residential housing applications, specifically for non-single unit detached standards. Design standards for all housing types can include façade materials, color or pattern, roof forms and materials, entry and garage door materials. Additionally, for housing types other than single unit detached, considerations can include balconies, porches, or requirements for recesses and offsets, aiming to streamline design standards to prioritize housing production.

Next, Ms. Tava explained that limited land use decision statutes were amended in HB 1537, stating that all limited land use decisions proceed according to the prescriptive process outlined in the bill. Additionally, several other types of land use decisions were explicitly added to the category of limited land use decisions. These include replats, property line adjustments, and changes to non-conforming uses. Ms. Tava noted that these updates will be included in the FAQ document that is currently under development.

Ms. Tava proceeded by stating local governments have the option to apply for an exemption to the housing accountability and production office by January 1, 2026. In order to qualify for the exemption, a city must meet specific criteria: the local government should review requested design and development adjustments for all applications for housing development within its jurisdiction, ensuring that all listed development and design adjustments are eligible for an adjustment under the local government process. Additionally, within the previous 5 years, the city must have approved 90 percent of the received adjustment requests, or alternatively, the adjustment process should be flexible and accommodating to project needs. This flexibility should be demonstrated by testimonials from housing developers who have utilized the adjustment process within the previous five years. These qualifications were emphasized as crucial for local governments seeking exemption under the legislation. Ms. Tava then proceeded to explain the exemption application process.

Ms. Tava emphasized the mandatory housing land use adjustment statute will come into effect starting January 1, 2025, and is set to sunset on January 1, 2032.

Council and Commission took a break from 7:54 p.m. to 8:00 p.m.

3.3 Adopted City Council FY 2024-25 Goals

City Manager Misley explained the focus of this agenda item was to provide the Planning Commission with the opportunity to ask questions regarding the adopted fiscal year 2024-25 City Council Goals. Misley

mentioned staff is currently in the process of compiling the proposed budget for the fiscal year, with the first budget hearing scheduled for Tuesday, May 7, 2024. Over the course of two or three hearings, the budget committee will approve the budget, which will then be sent to the Council for adoption in June, taking effect on July 1, 2024.

Misley noted that while some goals may be fairly abstract, there are more specific department objectives and budget line allocations that will fund and support the work. These allocations may include funding for staff, consultants, or capital projects aimed at advancing these goals and bringing them to fruition.

Misley emphasized the goal under Silverton 2050, which is to initiate a full update to the City's Comprehensive Plan. This update aims to prepare for and manage expected growth while guiding investments in land use and public facilities. Misley highlighted this will be a significant undertaking, requiring substantial time from the Planning Commission, City Council, potential community advisory and stakeholder groups, as well as an internal project management team. The plan is to spend the next six months getting oriented on what the City wants the process to look like, officially starting the process sometime in the Fall. This endeavor is expected to take a minimum of a year to eighteen months.

Commissioner Jones inquired if the title Silverton 2050 signifies when the complete Comprehensive Plan will lead us to and about the Aquifer Storage and Recovery project.

Councilor Gaitan inquired about City Manager Misley's experience in Sisters and whether they had a Comprehensive Plan that was already developed, or if he oversaw the development of one from scratch.

City Manager Misley responded to all three questions in detail.

Commissioner Kaser inquired whether the City was planning on hiring a consultant to assist with the plan update and what the timeline was for the remainder of the year.

City Manager Misley responded affirmatively and provided a brief overview of what the timeline could potentially look like, along with funding possibilities.

Chairman Flower inquired about previous surveys that the City used to conduct. Council and Commission engaged in discussion with staff regarding the past surveys submitted and the possibility of conducting surveys in the future. They also explored different approaches to gathering community feedback.

3.4 Update on Proposed Silverton Tree Code Amendments

Community Development Director Jason Gottgetreu provided an update to the Council and Commission on the tree code amendment process and the steps being taken. He highlighted the current tree preservation ordinance, established in 2008, is being revised to incorporate clear and objective standards, which have become a significant part of the legislative landscape since then. Staff is currently working on updating the tree code amendments to include clear and objective standards in sections where they are not yet applied.

The process has undergone review by the Planning Commission and the Environmental Management Committee and is currently under legal review. The general intent is to establish a tree canopy percentage standard based on the site's characteristics. This involves a mathematical equation to determine the appropriate tree canopy standard for each site.

During the development process, a list of significant trees will be required to be preserved at the current standard canopy with a specific requirement percentage for allowable removal. Any removed trees will need to be replaced as part of the development process. If further reduction of trees is necessary beyond the established threshold standard, developers will need to provide a subjective justification to the Planning Commission. However, a clear and objective path will be available for developers throughout the process.

Director Gottgetreu further explained one of City Council's goals is to create an urban forestry program to document and make policy decisions for the city as a whole. The intent is to scale back the development code

to focus community development, addressing the current gap in regulatory authority related to tree preservation. He mentioned legal review is ongoing, and once it is complete and reviewed by staff, they will proceed to finalize the tree preservation amendments as they relate to the development code. The amended package will then undergo review by the Planning Commission and the Environmental Management Committee as part of the adoption process.

Mayor Freilinger excused the Planning Commission from the meeting and expressed gratitude for their presence at the joint meeting.

IV. City Council Discussion/Action Items

4.1 Authorizing the City Manager to Sign the Professional Service Agreement with NV5 Subject to Legal Revision for Engineering Design and Construction Administration of the Pettit Trail and Pickleball Courts in the Amount Not to Exceed \$397,347

Community Development Director Jason Gottgetreu presented his staff report regarding the engineering design and construction management contract with NV5 for Pettit Trails and Pickleball Courts. He provided a brief history of the Request for Proposals process, mentioning that the City received four submittals for the design. Following this, negotiations began with NV5, the top-rated design firm, who subsequently provided a scope of work for the two projects. City staff then met with NV5 to address cost concerns, as the initial costs were higher than anticipated. The consultant successfully reduced the overall scope by approximately ten percent.

Director Gottgetreu proceeded to provide the council with a breakdown of the two projects. For the Pettit Trail design services, the cost will be \$187,000, with an additional \$38,000 allocated for construction administration and bidding. This contract will cover the pre-design phase, including surveying the site and preliminary trail layout, followed by the 60% design phase, which involves a public meeting with the City Council. Subsequently, the final design will be presented before being sent out for bidding. NV5 will also oversee the contractor hiring process and administer construction administration, ensuring the project is completed according to specifications and plans through site visits. Director Gottgetreu noted that this project entails significant design work due to the topography of the site, with the design costs expected to represent half of the overall project cost. Typically, this process accounts for about 10 to 15 percent of the project cost.

Council asked questions regarding the challenging layout of the land, inquired about the overall cost of the project, and the opportunity for volunteer work with Salem Area Train Alliance (SATA).

Director Gottgetreu proceeded to explain the pricing for the Pickleball design service. The original plan was to focus on Phase 1, which included three courts and some additional gravel parking. However, an alternative option was presented for a full build-out project, which would include parking on-site and the potential relocation of the dog park, along with six courts. Staff is recommending the full build-out project due to the potential affordable housing project currently in the RFP process. This full build-out project would also entail the extension of Davenport Lane, resulting in the removal of the current parking for the dog and skate park.

Director Gottgetreu discussed the next agenda item, which involved Council authorizing the submission of an Oregon Parks and Recreation Department (OPRD) grant to assist with the construction costs of the pickleball courts. He explained that the OPRD Local Government grant cycle is currently open, with applications due by April 1, 2024. The grant operates on a 60-40% cost-sharing basis, with the grant covering 60% of the project costs.

Director Gottgetreu noted there is more funding available in this round than in previous rounds, allowing the City to pursue the full phase of the pickleball courts and the associated parking lot. He explained that for every \$4 the City invests, OPRD will contribute \$6. However, as the exact cost of the project is unknown, the City is erring on the side of caution by estimating higher costs. While it's not possible to spend grant dollars if awarded more than estimated, if the project costs are lower, the City will only receive the amount requested and will need to cover any shortfall from its own funds.

Director Gottgetreu explained the majority of the design work occurs during the 60% design phase. However, the intent is to double-check some of these cost estimates with NV5 before the April 1, 2024, deadline to ensure that the City is requesting an appropriate amount of funding and is in the correct ballpark for project costs.

Council engaged in discussion with staff regarding the grant process and community engagement, seeking clarification on the scope of the project, and expressed interest in ensuring the project is ADA accessible.

Councilor Sutton inquired about the potential expansion of the Skate Park.

A motion was made by Councilor Sutton to authorize the City Manager to sign the Professional Service Agreement with NV5 Subject to legal Revision for Engineering Design and Construction Administration of Petit Trail and Pickleball Courts in the Amount Not to Exceed \$397,347.00. Councilor Miller seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan and Hammond voted aye; the motion carried (7-0).

4.2 Resolution No. 24-04 Authorizing the City of Silverton to Apply for a Local Government Grant from the Oregon Parks and Recreation Department

Director Gottgetreu discussed this agenda item during the 4.1 presentation.

A motion was made by Councilor Miller to adopt Resolution 24-04 – Authorizing the City of Silverton to Apply for a Local Government Grant from the Oregon Parks and Recreation Department. Councilor Newton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan and Hammond voted aye; the motion carried (7-0).

4.3 Ordinance No. 24-04 An Ordinance of the Silverton City Council Amending Silverton Municipal Code Chapters 13.02 and 13.52 to Comply with State and Federal Requirements

City Manager Misley stated this is the same ordinance and the language is the same information that was discussed with Water Quality Supervisor Brad Jensen, City Attorney Ashleigh Dougill, Public Works Director Travis Sperle and himself during the March 18, 2024, City Council Special Meeting.

A motion was made by Councilor Traeger to have the first reading of Ordinance No. 24-04, by title only. Councilor Miller seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan, and Hammond voted aye; the motion carried (7-0).

City Manager Cory Misley read Ordinance No. 24-04 by title only.

A motion was made by Councilor Hammond motion to pass Ordinance No. 24-04 on its first reading. Councilor Sutton seconded the motion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan, and Hammond voted aye; the motion carried (7-0).

A motion was made by Councilor Newton to have the second reading of Ordinance No. 24-04, by title only. Councilor Sutton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan, and Hammond voted aye; the motion carried (7-0).

City Manager Cory Misley provided the second reading of Ordinance No. 24-04.

A motion was made by Councilor Sutton to adopt Ordinance No. 24-04 on its second and final reading. Councilor Miller seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan, and Hammond voted aye; the motion carried (7-0).

4.4 Lease Extension to June 30, 2024, for the Community Center (National Guard Armory) with the Oregon Military Department and Authorize the City Manager to Extend Sub-Leases with SACA and Jazzercise until June 30, 2024.

City Manager Misley explained that lease extensions have been a topic of discussion for several months, particularly navigating the change of plans with the YMCA not continuing the sublease agreement with the Oregon Military Department beyond March 31, 2024. Following discussions and direction given to staff, conversations were held with SACA and Jazzercise to extend the lease by 90 days through June 30, 2024. Additionally, it was decided to allow SACA to take over the lease if they deem it appropriate and are willing and able to do so before that date. If they choose to continue after that date, they will need to manage it independently.

This amendment constitutes a sublease between the City and SACA, as well as the City and Jazzercise, to continue through that time period. Activities associated with the YMCA, the Hoke Family Foundation, and any other entities under the umbrella of the lease and insurance will end on March 31, 2024.

Council held discussion regarding the facilities maintenance that the Public Works department currently takes care of in that building and if they will give those duties over to the subleases.

A motion was made by Councilor Miller to approve the Lease Extension to June 30, 2024, for the Community Center (National Guard Armory) with the Oregon Military Department and Authorize the City Manager to Extend Sub Leases with SACA and Jazzercise. Councilor Sutton seconded the motion. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan and Hammond voted aye; the motion carried (7-0).

V. Consent

A motion was made by Councilor Sutton to approve the Consent Agenda including agenda item 5.1. Councilor Miller seconded. There was no discussion. Freilinger, Traeger, Sutton, Miller, Newton, Gaitan and Hammond voted aye; the motion carried (7-0).

5.1 Resolution No. 24-05 – A Transfer Resolution to Increase Appropriations for the Second Street Project.

VI. Council Communication

Mayor Freilinger asked Councilor Traeger how the preparation for the grand opening of the new City Hall is going.

Councilor Traeger said it was going well she just needs the opening date and a budget.

Councilor Hammond expressed concern about the absence of a City park on the Northeast side of town, particularly in the Mark Twain School area. He indicated that residents in that area heavily rely on that property. Councilor Hammond suggested that the city should approach the school district and negotiate a purchase agreement to acquire the property, thereby integrating it into the city and utilizing it as a park.

Mayor Freilinger added he is intrigued by the idea but emphasized the school district has a very specific mission that is extremely important. Their primary focus is on educating the youth and creating an environment conducive to that goal, all while operating within a limited budget. While there have been concerns about some actions taken by the school district, Mayor Freilinger noted that understanding their decisions within the context of their mandate is crucial. However, he expressed interest in exploring possibilities because the space in question is currently only used for soccer games and picnics. Mayor Freilinger suggested potentially partnering with the school district to develop a more suitable use for that area.

Community Development Director Jason Gottgetreu added the Parks and Recreation Master Plan Advisory Group conducted an analysis revealing deficiencies in parkland. Additionally, they reviewed the 2008 project list, which included plans that were not implemented. Among these was the Mark Twain School Park

Acquisition and Development project, which involved partnering with the Silver Falls School District to designate and acquire a 3-acre oak grove and greenspace as a neighborhood/school park, as well as utilizing a 1.4-acre triangle for a large functional open space. He further noted if the Council expresses interest in pursuing this initiative in the future, it will be incorporated into the Parks and Recreation Master Plan Update and the Capital Improvement Plan.

Councilor Newton mentioned she and Councilor Traeger recently toured the new facilities at the hospital, which opened their doors today. She shared that despite a little chaos, everything she heard indicated that the opening went well.

Councilor Miller inquired about the material presented today, expressing his belief that the City is well positioned for the Housing Land Use Adjustment (HOPA) office for mandatory adjustments. He noted some recent Council decisions on zoning or development changes were split decisions, but in retrospect, with this bill, the City could position itself well with all those approvals by becoming more local and retaining the ability to exempt itself from those decisions. Councilor Miller feels the city meets the criteria for such an exemption. He expressed his desire to see support from other councilors to have this matter placed on the agenda for discussion in July.

Mayor Freilinger acknowledged Councilor Miller's point as interesting and emphasized the importance of working with facts. He noted that Councilor Miller's suggestion is something to keep in mind, but also pointed out the decision will depend heavily on what transpired three to five years ago. Mayor Freilinger expressed openness to exploring the possibility of an exemption in the future based on past actions.

City Manager Misley added his thoughts align with keeping in touch with the DLCD representatives. He emphasized the importance of understanding that whenever there's something new, there are always details to iron out. By staying in touch with DLCD and gaining a deeper understanding of the facts, the city can better comprehend what the process entails. Additionally, he suggested looking into how other cities handle similar situations. This approach would allow the city to gather more information and insights before revisiting the matter in the future.

Community Development Director Gottgetreu added the House bill discussed doesn't go into effect until January 1, 2025.

VII. Adjournment

Meeting Adjourned at 8:37 p.m.

VIII. Executive Session

Mayor Freilinger read ORS provisions of 192.660(2)(i) – To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

Council went into Executive Session at 9:31 p.m.

Council came back from Executive Session at 10:32 p.m.

Respectfully submitted by:

/s/Jamie Ward – Assistant to the City Manager/City Clerk



CITY OF SILVERTON PROCLAMATION

OREGON MONTH OF THE MILITARY CHILD AND PURPLE UP! FOR MILITARY KIDS' DAY

WHEREAS, Silvertonian's appreciate the sacrifices made by our servicemen and women who defend our country against all enemies, foreign and domestic; and

WHEREAS, children of military families face unique challenges and we appreciate their strength and sacrifices as they support their enlisted family members: at times enduring long periods of separation; and

WHEREAS, the children of military families are directly impacted by the deployment of one, or sometimes both parents, on full-time duty status in military service, including members of the National Guard and Reserves on active duty orders; and

WHEREAS, we acknowledge the role we play in supporting children of military families to help them be successful in life, educational pursuits and community involvement while their parent is deployed; and

WHEREAS, Month of the Military Child was established in 1986 to recognize military children for their commitment, sacrifice, strength, and unconditional support of our troops, and to remind us of the opportunity to provide support and encouragement; and

WHEREAS, April 11, 2024, is "Purple Up! For Military Kids" in Oregon and all Silvertonian's are encouraged to wear purple – the color symbolizing all branches of the military – as a visible icon of support and appreciation for military children.

NOW THEREFORE, as Mayor of the City of Silverton, I do hereby proclaim April 11, 2024, as:

"MONTH OF THE MILITARY CHILD AND PURPLE UP! DAY"

And urge all citizens to show support for the children of military families by recognizing their sacrifice, resilience, and courage and to thank the parents who serve to protect our freedoms.

IN WITNESS WHEREOF, I hereunto set my hand and cause the seal of the City of Silverton to be affixed this 1st day of April 2024.

Mayor Jason Freilinger



CITY OF SILVERTON PROCLAMATION

Earth Day

WHEREAS, the first Earth Day was proclaimed in 1970 in order to foster public awareness of the need to protect the environment and conserve resources; and

WHEREAS, state and local communities can lead the way in taking such steps to protect and preserve our natural resources by encouraging sustainable energy, resource consumption, land use, transportation practices, and waste reduction; and

WHEREAS, the annual celebration of Earth Day in the City of Silverton seeks to involve all of its citizens in improving their local environment and becoming more aware of their global environment; and

WHEREAS, in furtherance of this objective the City, service groups, and community volunteers offer a variety of activities in which residents and businesses can donate their time and money including: cleaning up City parks, facilities, greenways, creeks and schools; picking up litter along streets and in commercial areas; taking steps to reduce water usage in public spaces and at home; and, sharing community meals.

NOW THEREFORE, as Mayor of the City of Silverton, I do hereby proclaim April 22, 2024, as:

“EARTH DAY”

And urge all citizens to celebrate this special observance, and to further reflect on ways that we can, together, contribute to a healthy environment and make the City of Silverton an even greater place to live, work, and raise a family.

IN WITNESS WHEREOF, I hereunto set my hand and cause the seal of the City of Silverton to be affixed this 1st day of April, 2024.

Mayor Jason Freilinger



CITY OF SILVERTON PROCLAMATION

Arbor Month

WHEREAS, in 1872, the Nebraska Board of Agriculture established a special day to be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, producing life-giving oxygen, and providing habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel from our fires, and countless other wood products; and

WHEREAS, trees in Silverton increase property value, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees – wherever they are planted – are a source of joy and spiritual renewal.

NOW THEREFORE, as Mayor of the City of Silverton, I do hereby proclaim the month of April 2024, as:

“ARBOR MONTH”

And urge all citizens to plant trees to rebuild Silverton’s urban forest and promote the well-being of this and future generations.

IN WITNESS WHEREOF, I hereunto set my hand and cause the seal of the City of Silverton to be affixed this 1st day of April 2024.

Mayor Jason Freilinger



CITY OF SILVERTON PROCLAMATION

CHILD ABUSE PREVENTION MONTH

WHEREAS, every child deserves to live in a safe, loving, and caring family environment;
and

WHEREAS, in 2023, there were 10,711 reported victims of child abuse and neglect in Oregon, of which 1,098 were victims in Marion County; and

WHEREAS, we stand together as individuals, organizations, and government agencies to commit to preventing child abuse in our county, by raising awareness throughout the community and by educating and supporting caregivers;

WHEREAS, we assert that strong families and safe, stable, and nurturing environments free from violence, abuse, and neglect are essential for children's optimal growth and success, which ensures a secure future for our communities, where the needs of children are a priority and the needs of families are met;


NOW THEREFORE, the Silverton City Council asks everyone to commit to protecting our children, and does hereby proclaim April 2024 as

“CHILD ABUSE PREVENTION MONTH”

And ask everyone to join together as individuals, organizations, and government agencies to protect our children and prevent child abuse in our community.

IN WITNESS WHEREOF, I hereunto set my hand and cause the seal of the City of Silverton to be affixed this 1st day of April 2024.

Mayor Jason Freilinger

	Agenda Item No.:	Topic:
	6.1	Ordinance No. 23-06 - Amending the Urban Growth Boundary to add 40 acres of land adjacent to Ike Mooney Road, designate it Public on the City's Comprehensive Plan Map and Annex the property for the development of a public park and public use.
	Agenda Type:	
	Discussion/Action	
	Meeting Date:	
April 1, 2024		
Prepared by:	Reviewed by:	Approved by:
Jason Gottgetreu	Cory Misley	Cory Misley

Recommendation:

Adopt Ordinance No. 23-06 on its second and final reading, amending the Urban Growth Boundary to add 40 acres of land adjacent to Ike Mooney Road into the Silverton Urban Growth Boundary, designate it Public on the City's Comprehensive Plan Map and Annex the property for the development of a public park and public use. The Planning Commission recommends the City Council approve the request.

Background:

On March 6, 2023, the City Council made a motion to initiate expansion of the Urban Growth Boundary and annexation of the City owned property along Ike Mooney Road. The Planning Commission reviewed the application at the July 11, 2023, regular meeting and the August 8, 2023, regular meeting and recommends that City Council approve the application.

The City Council approved the Ordinance on its first reading at the September 11, 2023, City Council meeting.

The Urban Growth Boundary Amendment will be reviewed by the Marion County Board of Commissioners at the May 15, 2024, meeting.

Budget Impact	Fiscal Year	Funding Source
None	2023-2024	N/A

Attachments:

1. Ordinance No. 23-06

ORDINANCE
23-06

AN ORDINANCE OF THE SILVERTON CITY COUNCIL AMENDING THE URBAN GROWTH BOUNDARY TO ADD 40 ACRES OF LAND ADJACENT TO IKE MOONEY ROAD INTO THE SILVERTON URBAN GROWTH BOUNDARY, DESIGNATING IT PUBLIC ON THE CITY'S COMPREHENSIVE PLAN MAP AND ANNEXING THE PROPERTY FOR THE DEVELOPMENT OF A PUBLIC PARK AND PUBLIC USE AND ZONING THE PROPERTY PUBLIC. MARION COUNTY ASSESSOR'S MAP 071W01 TAX LOT 00100.

WHEREAS on March 6, 2023, the City Council made a motion to initiate expansion of Urban Growth Boundary and annexation of City owned 40-acre property along Ike Mooney Road; and

WHEREAS after proper legal notice, a public hearing before the Planning Commission on July 11, 2023, was held to consider the application, evidence in the record, testimony received and continued the public hearing to the August 8, 2023, meeting; and

WHEREAS after proper legal notice, a public hearing before the Planning Commission on August 8, 2023, was held to consider the application, evidence in the record, testimony received; and

WHEREAS the Planning Commission, after review of the Urban Growth Boundary Amendment (UGB-23-01) application, testimony, and evidence in the record, found the application meets the applicable review criteria; and

WHEREAS the area proposed for annexation is described as a tract of land situated in Section 1, T7S, R1W, W.M. Marion County Oregon and described as follows:

Beginning at a point at the Northwest corner of that tract described in Reel 884, Page 54 Deed Records.

Thence South 0 00' 49" East 1,315.57 feet

Thence South 89 59' 27" East 1,336.23 feet to the center line of Ike Mooney Road

Thence North 0 00' 49" West 1,265.95 feet

Thence North 33 40' 30" West 64.89 feet

Thence South 89 48' 59" West 1,304.03 feet to the point of beginning

NOW, THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1 The City Council finds the burden of proof for the Urban Growth Boundary expansion and Comprehensive Plan Map amendment have been met based on evidence in the record and the findings of fact, identified as Exhibit "A" located within the case files are incorporated by reference, and adopted in support of this decision.

Section 2 The Second Reading of the Ordinance shall after the Marion County Board of Commissioners has approved the Urban Growth Boundary Amendment.

Section 3: **Legislative Annexation.** In accordance with ORS 222.120:

(1) The City Council hereby sets the final boundaries of the area to be annexed by a legal description and proclaims the annexation. A public hearing before the Council was held on September 11, 2023, at which time the electors of the city had an opportunity to appear and be heard on the question of annexation.

(2) The area described above and as shown on Exhibit “B” is hereby annexed to the City of Silverton, effective 30 days after the passage of the Ordinance.

Section 4: **Consent to Annexation.** In accordance with ORS 222.125 the City Council finds there is no need to hold an election in the city or in any contiguous territory proposed to be annexed as all of the owners of land in that territory, and not less than 50 percent of the electors, if any, residing in the territory, have consented in writing to the annexation of the land in the territory and statement of their consent is filed with the Council.

Section 5: **Timing of Consents.** The City Council finds that only statements of consent to the annexation which are filed within one-year period prior to the hearing have been submitted and describes the 40 acres of real property, all located in Marion County, Oregon that shall be annexed into the City of Silverton upon recording with the Secretary of State.

Section 6: **Notice to Utilities.** In accordance with ORS 222.005 the City Recorder shall, no later than 10 working days after passage of this ordinance approving the proposed annexation, provide by certified mail to all public utilities, electric cooperatives and telecommunications utilities operating within the city, each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change and a copy of the City Council's resolution or ordinance approving the proposed annexation.

Section 7: **Notice to County.** In accordance with ORS 222.010, the City Recorder shall report to the Marion County Clerk and County Assessor all changes in the boundaries or limits of the city. The report shall contain a detailed legal description of the new boundaries established by the city. The report shall be filed by the city within 10 days from the effective date of the change of any boundary lines.

Section 8: **Assessor Valuation.** In accordance with ORS 222.030 the City Recorder shall request that the Assessor shall furnish within 20 days, a statement showing for the current fiscal year the assessed valuation of the taxable property in the territory to be annexed.

Section 9: **Notice to Secretary of State.** In accordance with ORS 222.177 the City Recorder shall transmit to the Secretary of State:

(1) A copy of this ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract

of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum, if a referendum petition was filed, with respect to the ordinance adopted under ORS 222.120.

Section 10: **Exhibits.** The City Council adopts the Findings of Fact, attached hereto as Exhibit ‘A’, and a map of the area being annexed as Exhibit ‘B’, which shall be incorporated by reference herein.

Section 11: **Zone Designation.** Upon annexation the property shall have a City of Silverton zoning designation of P (**Public**).

Section 12: **Effective Date.** In accordance with ORS 222.180 the effective date of annexation shall be 30 days after passage.

Ordinance passed by the City Council of the City of Silverton by a vote of ___ “for” and ___ “against” on this 1st day of April 2024.

Mayor, City of Silverton
Jason Freilinger

ATTEST:

City Manager /Recorder, City of Silverton
Cory Misley

EXHIBIT A
UGB 23-01

The City Council of the City of Silverton adopts the following findings:

1. The City Council adopted Resolution 14-26 on June 2, 2014 authorizing the submittal of Land Use Applications to the City of Silverton and Marion County to amend the Silverton Urban Growth Boundary and Comprehensive Plan by adding one parcel located along Ike Mooney Road identified as Marion County Assessor's Map 071W01 Taxlot 00100 and designate it Public.
2. On March 6, 2023 the City Council made a motion to initiate Urban Growth Boundary expansion and annexation of City owned property along Ike Mooney Road.
3. Notice was mailed to all property owners within 700 feet of the subject area on June 21, 2023. The notice was published in the Statesman Journal on June 28, 2023. The site posted on June 30, 2023.
4. The Planning Commission reviewed the application at their July 11th and August 8th meetings and recommends the City Council approve the application.
5. The application was reviewed by the City Council on September 11, 2023.
6. The proposed UGB amendment is to add a 40 acre parcel to the Silverton Urban Growth Boundary and designate it Public with the intent to develop the parcel as a park in the future. The City of Silverton adopted a Parks and Recreation Master Plan in 2008 that has a 20-year planning period. The projected 2030 population was 14,400 which is a 5,201 increase from the estimated 2007 population of 9,205. The Parks Master Plan found that there was an additional 115 acres of developed park land needed to serve future population and an additional 20 acres of natural areas needed to serve future population. The Vision Diagram in the Parks Master Plan identified acquiring and developing a new community park (30-50 acres) east of Abiqua Heights and near Pioneer Village as a high priority. The proposed UGB amendment will allow the future development of a community park in the area identified in the Parks and Recreation Master Plan in order to accommodate additional population.
7. No residential or commercial property will be added as part of the UGB amendment.
8. The proposed UGB amendment is to add a 40 acre parcel to the Silverton Urban Growth Boundary and designate it Public with the intent to develop the parcel as a park in the future. The property is located adjacent to the City Limits, which is a requirement for future annexation and provides for orderly development of public facilities due to the proximity of exiting public facilities. The property was donated to the City in 2009 thereby negating the need to purchase property for the future identified park. The Fire District was also provided space on the parcel for future development of a sub-station, which will increase public services in the surrounding area.

A 2009 park land analysis was undertaken in response to a 2008 Parks and Recreation Master Plan recommendation for the acquisition of a community park in the southeast section of Silverton. The location was conceptual in nature in the plan and additional analysis was

required to evaluate sites in the identified area prior to a site selection. Two of the four sites were located outside the Urban Growth Boundary. The addendum was intended to determine if any other land within the Urban Growth Boundary could be used to satisfy the identified need.

A new 30 to 50-acre community park is recommended for acquisition and development east of Abiqua Heights and near Pioneer Village to meet not only future needs, but also fulfill a shortfall of parkland for community-wide use and reduce current over use of Coolidge & McClaine Park. The ideal site will be between 30-50 acres and will be capable of providing community-based recreation needs while preserving special landscapes and natural habitats. Possible improvements could include a pavilion, picnic facilities, playground, court sports, and infrastructure including parking, restrooms, and a pathway system. Trail connections should be provided to adjacent neighborhoods. Further input and design is needed to determine actual park facilities.

The plan recommended acquisition in 5-10 years with an estimated cost of \$600,000 and development in 10-20 years with an estimated cost of \$2,500,000.

9. There are four areas within the Urban Growth Boundary that can be considered for potential park land acquisition and development within the Parks Master Plan required proximity of Abiqua Heights and Pioneer Village.
10. The land use of the parcel will be Public and is the location of a future community park. A community park is identified as a 30-50 acre parcel. Possible improvements listed in the Master Plan include, a pavilion, group and family picnic facilities, playground for children and youth, court sports, and infrastructure including parking, restrooms, and pathway system with trail connections to adjacent neighborhoods. There has also been preliminary discussion of a disc golf course on the site. A site plan will have to be developed in the future that includes getting public input on what specific amenities citizens want in the future park. The only undeveloped parcel within the existing Urban Growth Boundary larger than 30 acres is the location of the Pioneer Village VII subdivision.

At 40 acres, the Pioneer VII site is the largest vacant parcel zoned for residential development inside the City Limits. There 3 other largest vacant parcels zoned for residential development range in size from 9.54 to 12.62 acres in size and total 37.72 acres. These four parcels represent the vast majority of vacant land for residential development in the City. Pioneer VII represents about a two year supply of residential building lots. Purchasing a significant portion of the developable residential land in the City for development as a park is not in the City's best interest and would put pressure on annexing additional land for residential development. Amending the UGB to add the 40 acre parcel will allow future development of a community park in the identified area without reducing residential land supply.
11. The site is location of an old Christmas tree farm that is no longer active. The area is surrounded by active farms. By utilizing this parcel for park development there is no need to look at acquiring adjacent farmland for park development.
12. The proposed is for a new community park with possible amenities being a pavilion, picnic facilities, playground, court sports, and infrastructure including parking, restrooms, and pathway system with trail connections to adjacent neighborhoods. The proposed use is not

anticipated to have negative impacts on surrounding agricultural activities due to the passive nature of park use.

13. A new community park would be an additional amenity for the area and for the City. Development of the parcel as a park will have limited environmental or energy impact given most of the land will be retained as green space. Parks are a social amenity that foster community interaction and the addition of a new 40 acre park will increase the area's social well-being.
14. The Goal of the Urbanization element of the Comprehensive Plan is to "Provide adequate land to meet anticipated future demands for urban development in a logical and orderly manner." The UGB amendment will add 40 acres of land for future park development which is the identified size range and in the identified area for park development according to the Parks and Recreation Master Plan. The parcel is adjacent to the City Limits and represents a logical area for expansion.

The Goal of the Agricultural Lands element is to "Preserve and maintain agricultural lands". There are four different soil types on the 40 acre parcel. 53% of the site (21.2 acres) is made up of a combination of Nekia Very Stony Silty Clay Loam 2 to 30 percent slopes and Nekia Very Stony Silty Clay Loam, 30 to 50 percent slopes. These soils are in the areas in excess of 12% slope. These are not identified as High Value and each has a Soil Class of 6. Soil classes greater than 4 are not typically suitable for agricultural use.

39.5% of the site (15.8 acres) is made up of Nekia Silty Clay Loam, 7 to 12 percent slopes. This soil type is in the areas with slopes between 7% and 12%. This is identified as High Value and has a Soil Class of 3.

The remaining 7.5% (3 acres) of the site is made up of Nekia Silty Clay Loam, 2 to 7 percent slopes. This soil type is in the areas with slopes between 2% and 7%. This is identified as High Value and has a Soil Class of 2.

The identified conceptual area for a future Community Park is made up of mostly High Value soil types. The 40 acre parcel is split 50:50 with High Value and Non-High Value soil types. This is due to the topography of the site. This allows park amenities to be developed on the flatter portion of the site with trails and natural features to be utilized on the areas with steeper slopes. This is the only property in the area that contains such a balance. By utilizing this parcel for park development there is no need to look at acquiring adjacent farmland for park development. Most other properties in the area are actively being farmed due to the High Value soil type and low slopes.

An Objective of the Open Space, Natural and Cultural Resources element is to "Ensure adequate open space to meet the needs of Silverton residents". As noted above, the Parks Master Plan has identified a need for a new 30-50 acre community park in the area. Amending the UGB will allow the future development of the park to meet the open space needs of Silverton residents.

The Objectives of the Natural Hazards element are to, "Inventory known hazards and Insure that appropriate protective measures are taken to prevent potential damage in hazard areas". A portion of the site contains steep slopes, which is identified as a hazard area. Development of the site will likely take place on the areas outside of the hazard area due to lower costs of

development. The sloped area will likely remain mostly natural with a trail system. While the design of the park will be done in the future, these are typical design features and methods.

Two Objectives of the Public Facilities and Services element are to, “Ensure the safety of Silverton citizens through adequate Police and Fire Protection, and provide an adequate amount of parkland for local use and provide a variety of recreation facilities to meet the needs of all age groups.” A portion of the site was dedicated for the future location of a Silverton Fire District Sub-Station, which will increase Fire Protection services in the area. As noted above, the 40 acre parcel will fill an identified need of parkland for local use.

The Goal of the Citizen Involvement element is to “Insure that the citizens of Silverton and those residents in the planning area have an opportunity to be involved with all phases of the planning process.” The Parks and Recreation Master Plan was developed with public input and adopted by the Planning Commission and City Council in Public Hearings. Future development of the park will be done with public input to ascertain what amenities are desired for the future park.

15. The site is currently outside the UGB and does not have a Silverton Comprehensive Plan Designation. The parcel is to be designated Public and will be developed in the future as a park as identified in the Parks and Recreation Master Plan. The Public designation is the only designation that meets relevant comprehensive plan policies.
16. The relevant area plan adopted by the City Council that applies to this area is the City’s Parks and Recreation Master Plan. The Public designation is consistent with the Parks Master Plan as the Plan identified a need for a new 30-50 acre park in the area.
17. The area is surrounded by Single Family Uses and Agricultural Uses. The Public designation will allow the parcel to be developed in the future as a park. The only negative impact could be an increase in traffic by people utilizing the park. The site is accessed via Ike Mooney Road. Residents outside the Pioneer Village area will likely utilize South Water Street, Pioneer Drive and Ike Mooney Road to access the park. South Water is classified as an Arterial Street with Pioneer and Ike Mooney being classified as Collectors. These roads are designed to act as the thoroughfares to get people to places, therefore people utilizing these roads to access the park are within the roadway classification.
18. The only other available property designated Public available for park development is the City owned Westfield property that is the location of the Skate Park and Dog Park. The Westfield property is 11.6 acres in size, less than half the minimum requirement of 30 acres for a community park.
19. The City is working with the Department of Land Conservation and Development to ensure the designation is consistent with the statewide planning goals. The application will also have to be reviewed by the Marion County Board of Commissioners to ensure compliance with statewide planning goals. .
20. The site will have a primary access off of Ike Mooney Road NE which is classified as a collector roadway.
21. The Goal of the Urbanization element of the Comprehensive Plan is to “Provide adequate land

to meet anticipated future demands for urban development in a logical and orderly manner.” The annexation will add 40 acres of land for future park development which is the identified size range and in the identified area for park development according to the Parks and Recreation Master Plan. The parcel is adjacent to the City Limits and represents a logical area for expansion.

22. The water system, sanitary sewer system, storm water system and transportation network exist adjacent to the site. Development of the site will require the public facilities to be extended into the site in accordance with Public Works Design Standards. Adequate public facilities exist to serve the site and no upgrades are necessary.
23. Ike Mooney Road NE in the annexation area lacks continuous curbs and sidewalks and does not currently meet City standards. Typically when areas are annexed, associated public facilities need to meet City standards. In this case, Ike Mooney Road NE is currently under Marion County jurisdiction and the City will not assume jurisdiction of the roadways with the annexation. Since the roadways will stay under Marion County jurisdiction sidewalk and curb upgrades to City standards will not be required at this time.

The water system, sanitary sewer system, storm water system and transportation network exist adjacent to the site. Development of the site will require the public facilities to be extended into the site in accordance with Public Works Design Standards. Adequate public facilities exist to serve the site and no upgrades are necessary.

24. The area is contiguous to the City. The site abuts the City Limits along the southern and south western property lines. The annexation represents a logical direction for city expansion.
25. The area considered for annexation is not currently within the Urban Growth Boundary. An Urban Growth Boundary amendment and Comprehensive Plan Map amendment are concurrently being requested.
26. There are no areas within the annexation boundary that are identified as floodplain. Steep slopes do exist on parts of the site but the slopes will work well with trails and natural areas and are not an issue.
27. There are no areas on the site identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas.
28. The annexation will have minimal physical and environmental impacts on the community. There will be no additional residential, commercial or industrial development as a result of the annexation. Based on the findings listed above, the annexation will not have a significant adverse effect on the community as a whole.

Testimony was received indicating concern regarding traffic/access/parking, tree removal, drainage, noise, affected property taxes, design & location of features and potential for residential housing. The answer to most of these items will be determined at a later time through a public process to design and develop the public park. The future process will determine location and type of amenities/facilities and the detailed impact those amenities have on the property. Residential homes will not be development on the property and the adjacent home property taxes will not be affected due to the 3% tax rate limit.

29. The proposed UGB amendment is to add a 40 acre parcel to the Silverton Urban Growth Boundary and designate it Public with the intent to develop the parcel as a park in the future. The property is located adjacent to the City Limits, which is a requirement for future annexation and provides for orderly development of public facilities due to the proximity of existing public facilities. The property was donated to the City in 2009 thereby negating the need to purchase property for the future identified park. The Fire District was also provided space on the parcel for future development of a sub-station, which will increase public services in the surrounding area.
30. Two Objectives of the Public Facilities and Services element in the comprehensive plan are to, “Ensure the safety of Silverton citizens through adequate Police and Fire Protection, and provide an adequate amount of parkland for local use and provide a variety of recreation facilities to meet the needs of all age groups.” A portion of the site was dedicated for the future location of a Silverton Fire District Sub-Station, which will increase Fire Protection services in the area. As noted above, the 40 acre parcel will fill an identified need of parkland for local use.
31. The 2020 City of Silverton Housing Needs Analysis identified a need for 1,158 new dwelling units between 2020 and 2040. The analysis also determined the average net density for dwelling units per net acre to be 4.8 which amounts to a need for 241 acres of residential development. Adding 25% to the 241 acres equals 60 acres for streets, parks and school facilities. The subject 40 acre property is designated to be a park and would fulfill 2/3 of the identified need as allowed within the safe harbor subsection.
32. The City of Silverton is not adding capacity for residential, industrial or employment lands to the UGB. The proposal is to add a 40 acre lot for the use as a public park which will be zoned Public. In addition, by annexing land for a public park the city is not taking from the current residential and industrial properties which would lower needed inventories in those zones.
33. The proposed UGB amendment is to add a 40 acre parcel to the Silverton Urban Growth Boundary and designate it Public with the intent to develop the parcel as a park in the future. The City of Silverton adopted a Parks and Recreation Master Plan in 2008 that has a 20-year planning period. The Parks Master Plan found there was an additional 115 acres of developed park land needed to serve future population and an additional 20 acres of natural areas needed to serve future population. The Vision Diagram in the Parks Master Plan identified acquiring and developing a new community park (30-50 acres) east of Abiqua Heights and near Pioneer Village as a high priority. The proposed UGB amendment will allow the future development of a community park in the area identified in the Parks and Recreation Master Plan in order to accommodate additional population.

The property is located adjacent to the City Limits, which is a requirement for future annexation and provides for orderly development of public facilities due to the proximity of existing public facilities. A 2009 park land analysis was undertaken in response to the 2008 Parks and Recreation Master Plan recommendation for the acquisition of a community park in the southeast section of Silverton. The study details are addressed earlier in this report.

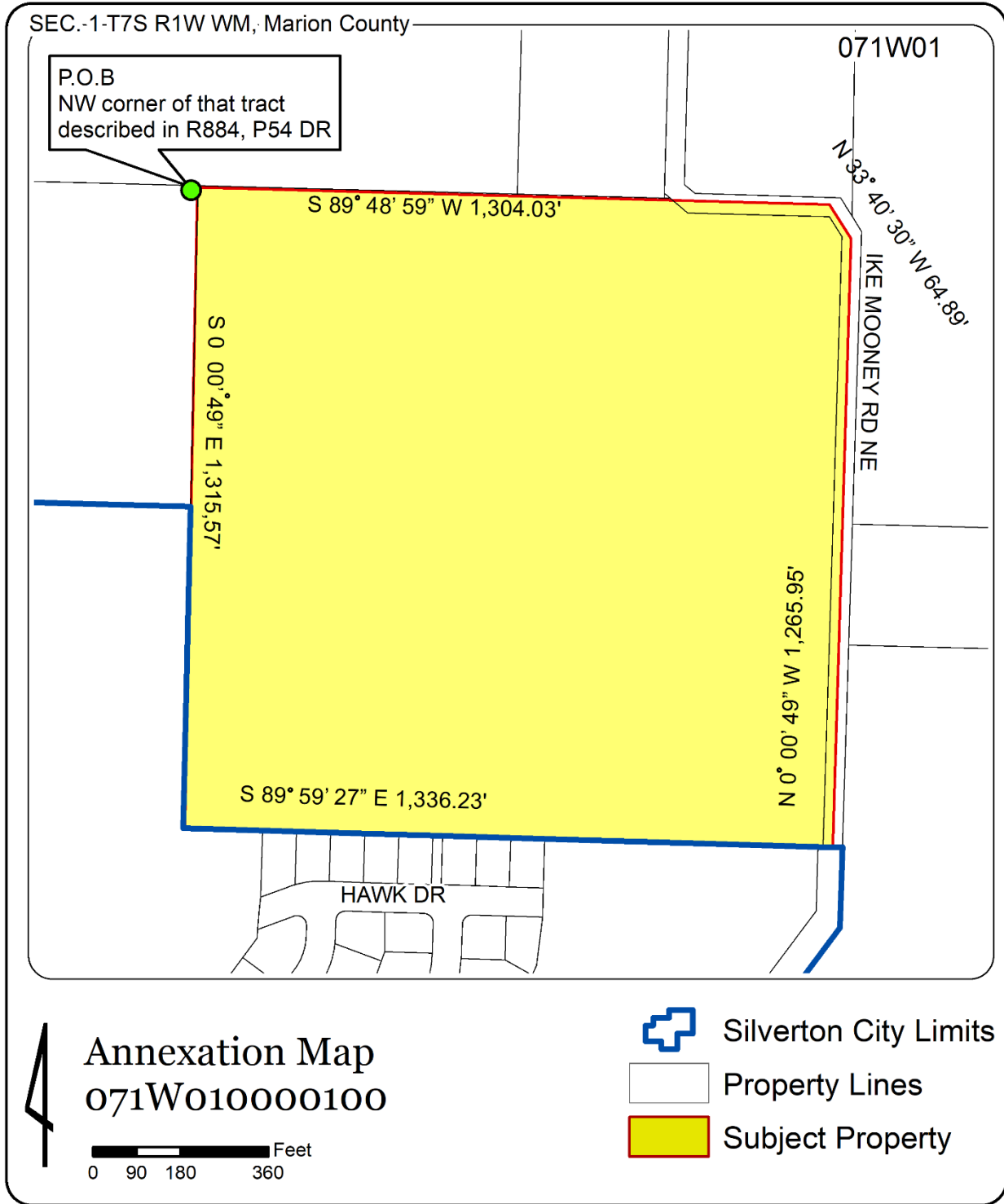
The ideal site will be between 30-50 acres and will be capable of providing community-based recreation needs while preserving special landscapes and natural habitats. Possible


improvements could include a pavilion, picnic facilities, playground, court sports, and infrastructure including parking, restrooms, and a pathway system. Trail connections should be provided to adjacent neighborhoods. Further input and design is needed to determine actual park facilities.

34. OAR 660-024-0067 requires an evaluation of the study area by priorities. Silverton has no adjacent urban reserves, exception lands, nonresource lands, or marginal lands. Lands adjacent to Silverton are predominantly high value farmland, soil class I through IV, with some class VI land to the east and south. The majority of adjacent land to the west, north and east is zoned exclusive farmland and adjacent land to the south is zoned a combination of acreage residential and farm timber.

The subject property is approximately 42% class VI soils and 58% class III soils with class III soils being considered high value farmland. The majority of Silverton's adjacent class VI soils have steep slopes that would not be suitable for a portion of the proposed park that would contain a parking lot and other facilities requiring gentler slopes. The 40 acre proposed property has a combination of steep slopes and gentler slopes to accommodate the variety of needs for a passive park. The property is also located in the identified area of the 2008 Parks Master Plan for a community park identified as a high priority. In addition, the property borders the city limits which helps reduce impact to the surrounding farmland.

Exhibit 'B'



	Agenda Item No.:	Topic:
	6.2	City Hall Update and Change Order Ratification
	Agenda Type:	
	Discussion/Action	
	Meeting Date:	
April 1, 2024		
Prepared by:	Reviewed by:	Approved by:
Jason Gottgetreu	Cory Misley	Cory Misley

Recommendation:

Ratify the City Manager amendments to the construction contract with Corp Inc. from \$15,414,889.04 to \$15,468,084.08 an increase of \$53,195.04.

Background:


As noted during the August 7, 2023, City Council meeting, the City Council adopted modified purchasing policies for the Civic Center project to allow contract modifications of up to \$60,000 to be staff approved. The intent moving forward is to have the contract amendments ratified by Council each month rather than the previous practice of informing the Council through the Community Development Department Monthly Report.

The Civic Center is under construction. The steel frame is erected roof installed and the second floor has been poured. The exterior walls are framed, and exterior sheathing is complete. The steel re-work has been completed on the second floor. The interior framing is installed on the first floor and second floor. Mechanical, Electric, and Plumbing is generally finished on the first floor and second floor. Insulation and drywall are installed on the first floor and second floor. The lobby floor polish finish is complete. Site concrete work is complete. Roadwork on N Water St is complete for the season. Road paving on A Street and the south parking lot is complete. Sidewalks around the site are installed. Site walls are being installed. The windows are installed. Painting of the interior is mostly complete. Tile work in the bathrooms is complete. Landscape irrigation is completed, and plants are installed. The City of Silverton Public Works crew graded and seeded the southern portion of the site. Casework is installed. Flooring is mostly complete. Doors are being installed. Interior wood accent walls are being installed. Wall sound baffles are installed. High density storage units are complete. Plumbing fixtures are being installed. The elevator is installed. Bike racks, trash cans, and benches are installed on site. The generator and electrical pads have been poured and site work in that area is underway. The site wall foundation around the generator area has been poured. The site wall around the generator area is under construction. The MTS has arrived on site. The generator has been delivered. Audio visual equipment is being installed. Electric outlets, switches, and other trim are being installed. Security cameras and systems are being installed. Stair re-work is underway. The City Council Dais has been installed.

The construction contract amount was initially \$14,750,000. There have been several Change Order Requests as part of the project that to date have added an additional \$718,084.08 to the contract for a new contract total of \$15,468,084.08, a 4.87% increase. This is an increase of

\$53,195.04 from the February Council report. As of the February payment requests there is a \$586,294.76 remaining balance to finish.

Budget Impact	Fiscal Year	Funding Source
\$53,195.04	2023-2024	Civic Center Project Fund

	Agenda Item No.:	Topic:
	7.1	Resolution No. 24-06- A Transfer Resolution to Transfer Funds Due to Unforeseen Expenditures to Increase Appropriations to Replace the Bucket Truck.
	Agenda Type:	
	Consent	
	Meeting Date:	
April 1, 2024		
Prepared by:	Reviewed by:	Approved by:
Mike Dahlberg	Travis Sperle	Cory Misley

Recommendation:

Adopt Resolution 24-06 – A Transfer Resolution to Transfer Funds Due to Unforeseen Expenditures to Increase Appropriations to Replace the Bucket Truck.

Background:

The City of Silverton purchased a used 1995 Chevy aerial truck from PGE in 2003 for \$1. This piece of equipment is utilized for various tasks, including the installation of the large Main Street banner. However, during the annual testing, it was discovered that the main boom has a broken knuckle, and unfortunately, replacement parts are no longer available.

The plan is to have these funds available while we monitor the used market for bucket trucks. We hope to replace this piece of equipment sooner than later but will work to find the best available used model at the best available price. We anticipate using this truck for even more activities including streetscape banners, tree trimming, and other beautification-related activities.

Budget Impact	Fiscal Year	Funding Source
\$60,000.00	2023-24	Street Capital Replacement 020-020-81003

Attachments:

1. Resolution No. 24-06

RESOLUTION
24-06

A RESOLUTION OF THE SILVERTON CITY COUNCIL TO TRANSFER FUNDS DUE TO UNFORESEEN EXPENDITURES TO INCREASE APPROPRIATIONS TO REPLACE THE BUCKET TRUCK.

WHEREAS certain expenditures could not be foreseen such as the need to replace the current bucket truck; and

WHEREAS Local Budget Law, ORS 294.463, authorizes the transferring of funds in these situations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SILVERTON, AS FOLLOWS:

Section 1: The following transfers and appropriations are made:

<u>STREET</u>	<u>Increase</u>	<u>Decrease</u>
Capital		
020-020-81003 Capital Replacement	\$60,000	
Contingency		
020-010-90001 Contingency		\$60,000

Section 2: That this resolution is and shall be effective after its passage by the City Council.

Resolution adopted by the City Council of the City of Silverton, this 1st day of April 2024.

Mayor, City of Silverton
Jason Freiling

ATTEST

City Manager/Recorder, City of Silverton
Cory Misley