



## AGENDA FOR STUDY SESSION

### ASHLAND PARKS & RECREATION COMMISSION October 6, 2021 – 6:00 p.m. Electronic Meeting

#### Public Participation Instructions

This meeting will be held electronically via Zoom Webinar. Registration is required to view the meeting. A link to the meeting will be sent to you once registration has been completed: [https://zoom.us/webinar/register/WN\\_OJGdMIDKTM-GlxqINaytiw](https://zoom.us/webinar/register/WN_OJGdMIDKTM-GlxqINaytiw)

Written testimony will be accepted via email sent to [sean.sullivan@ashland.or.us](mailto:sean.sullivan@ashland.or.us). Please include "**Public Testimony for October 6, 2021 Study Session**" in the subject line. Written testimony submitted before Tuesday, October 5, 2021, 11:00 am will be made available to the Parks Commissioners before the meeting. All testimony will be included in the meetings minutes.

Oral Testimony will be taken during the electronic public meeting. If you wish to provide oral testimony, send an email to [sean.sullivan@ashland.or.us](mailto:sean.sullivan@ashland.or.us), preferably before Tuesday, October 5, 2021, 11:00 am. Late requests will be honored if possible. Please provide the following information: 1) make the subject line of the email "**October 6 Speaker Request**", 2) include your name, 3) the agenda item on which you wish to speak on, 4) specify if you will be participating by computer or telephone, and 5) the name you will use if participating by computer (Zoom Name) or the telephone number you will use if participating by telephone. Staff will provide information necessary to join the meeting upon request.

- I. CALL TO ORDER
- II. PUBLIC INPUT
- III. COMMISSIONER FOLLOW-UP DISCUSSION ON SEPTEMBER 21, 2021 CITY COUNCIL MEETING REGARDING FUNDING FOR APRC
- IV. ITEMS FROM COMMISSIONERS AND STAFF
- V. ADJOURNMENT

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Administrator's office at (541) 488-6002 (TTY phone number 1-800-735-2900). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title I).*

# ASHLAND PARKS & RECREATION COMMISSION

340 S PIONEER STREET • ASHLAND, OREGON 97520

COMMISSIONERS:

Mike Gardiner  
Leslie Eldridge  
Rick Landt  
Jim Lewis  
Julian Bell



Michael A. Black, AICP  
Director

541.488.5340  
AshlandParksandRec.org  
parksinfo@ashland.or.us

## PARKS COMMISSIONER STAFF REPORT

**TO:** Ashland Parks and Recreation Commissioners

**FROM:** Michael Black

**DATE:** September 30, 2021

**SUBJECT:** Commissioner Follow-up Discussion on September 21, 2021 City Council Meeting Regarding APRC Funding

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The City Council met on 9/21/2021 to talk about the future of funding for APRC. The memo from Gary Milliman regarding that meeting is attached.

The situation is that the City Council is required to take further action to ensure APRC has funding for the second year of the biennium. The budget document that was approved by the Council states that APRC's second year of funding would come from the Food and Beverage Tax, which is a change from past funding practices. The meeting that took place on the 21<sup>st</sup> was supposed provide direction to staff and move APRC toward a funding scenario that we could count on. For the most part, that happened. Although the City Council still needs to formalize their funding proposal through a resolution.

The memo provided to the Council by Gary Milliman laid out the following for the Council:

1. A brief history, including quotes from the Ashland City Charter
2. A statement on the unique relationship of the City and APRC from Mr. Milliman's point of view
3. A statement from the Food and Beverage Tax Ordinance outlining the approved uses of that fund and a discussion of how that fund can be used in the future
  - a. *"Beginning in fiscal year 2023, the Council may, through the statutory budget process, appropriate taxes under this chapter as follows:*
    - i. *Not less than twenty-five percent (25%) for the acquisition, planning, development, repair, and rehabilitation of City parks.*
    - ii. *Not less than an amount necessary to pay for debt service on any borrowing for street repair and rehabilitation per the City of Ashland Pavement Management Program.*
    - iii. *Up to two percent (2%) for the collection and administration of the tax.*
    - iv. *Except as provided [...], any remaining amounts shall be appropriated for purposes consistent with this chapter unless other purposes are approved by a Council-adopted ordinance enacted by a vote of the Ashland electorate."*

4. A discussion on the additional funding from the general fund of the City that would be required to “make APRC whole”
  - a. Note that the City is considering making APRC “whole” to be funding APRC to a level equal to \$1.89/\$1,000 which is less than the traditional funding level for APRC
  - b. Also note that the City does not mention the 25% of Food and Beverage Tax that APRC already receives that goes to the CIP for debt service and projects. This is an oversight by the City and will be addressed in the upcoming APRC Board of Commissioners meeting.
5. A discussion about the request for APRC Board of Commissioners to serve as a limited contract review board. This matter was not discussed in the 9/21/21 Council meeting; however, Gary has recommended that the Council not delegate these powers to the Board of Commissioners to “*exercise its fiduciary responsibility and oversight over all City funds.*”
  - a. ORS 279A.060 states that the “*governing body of a local contracting agency may, by charter, ordinance, or other local legislation, authorize a body, board, or commission other than the governing body to serve as the local contract review board of the local contracting agency.*”
  - b. This appears to allow the Council to do what was requested, but this would have to be discussed further at a future date, since it was not discussed in the meeting.
6. A discussing about the request from APRC to negotiate the central service fees. Although this matter was also not discussed, Gary did recommend that the City retain those services and not allow APRC to negotiate the services or potentially contract some of the services out.
  - a. I still believe that it is in the best interest of all involved, including Ashland residents, for APRC to be able to price shop certain services that are being provided exclusively by the City at this point. Those services that could be evaluated for outsourcing could include vehicle maintenance and other services that are provided competitively and readily in the private sector.

Gary ends his memo with his recommendation, which is several options for the Council to consider.

I attended the Council meeting and spoke on the matter of funding. Mike Gardiner was also in attendance and spoke. We both echoed the importance in keeping APRC and the parks and recreation system funded into the future and we both emphasized that the source of funding is less crucial than the funding itself. In other words, it does not matter as much whether the Council funds APRC through their general fund or through a hybrid of general fund and Food and Beverage Tax.

The Council agreed that APRC operations should be funded at the level in the budget and decided that they would like Gary to bring back a resolution for their approval that would allocate funding for APRC at the level requested from a combination of the general fund and the Food and Beverage Tax.

The approval of the resolution has not been accomplished and will be on a future Council meeting agenda.

The upcoming APRC Study Session will focus on the funding scenarios for APRC in the budget, the process for securing those funding sources for this biennium and the outlook for funding in future biennia. There is no request for action at the upcoming study session.

# Council Business Meeting

Date

<b>Agenda Item</b>	Proposal for Funding and Operational Relationship Changes from the Ashland Parks and Recreation Commission	
<b>From</b>	Gary Milliman	City Manager Pro Tem
<b>Contact</b>	Gary.milliman@ashland.or.us	

## **SUMMARY**

Discussion and possible action to implement a revenue allocation formula for the Ashland Parks and Recreation Commission (APRC) and APRC proposals for City/APRC operational relationship changes.

## **POLICIES, PLANS & GOALS SUPPORTED**

### **PREVIOUS COUNCIL ACTION**

The 2021-23 Biennium City Budget calls for the allocation of 98 per cent of the Food and Beverage Tax (FBT) to the Ashland Parks and Recreation Commission in Fiscal 2022-23. The City Council discussed this matter at its meeting with the APRC on August 23, 2021.

## **BACKGROUND AND ADDITIONAL INFORMATION**

### **Core Question**

The core question is, how does the City...and can the City... maintain the infrastructure of parks and recreation services that has been built up over the last 113 years in the face of rising costs and revenue limitations impacting all municipal services in the 2021-forward era?

### **Brief History**

The Council may already be fully aware of the unique relationship between the City and APRC. Briefly, the APRC was created by Charter amendment in 1908, and the voters approved a maximum property tax rate to be collected by the City and disbursed to the APRC. Following is the Charter provision with respect to APRC

*Funding. Section 3. Funding The said Park Commission shall have control and management of all the lands here dedicated for park purposes and of all other lands that may hereafter be acquired by the City for such purposes. They shall have control and management of all park funds whether the same is obtained by taxation, donation or otherwise, and shall expend the same judiciously for beautifying and improving the City's parks. At the time for making the tax levy for general City purposes in each year, the said Commission shall cause a careful estimate to be made of the money required for park purposes for the ensuing year and file the same with the City Recorder, whereupon there shall be included in said general levy not to exceed four and one half (4-1/2) mills on the dollar to meet such requirements, which, when collected, shall be deposited with the City Recorder subject to the order of said Commission. The levy herein authorized shall be outside the limitation on taxation set forth in Article XI, Section II of the Constitution of Oregon.*

Note that the above provision refers to “parks” and does not include “recreation.”

### **A Unique Relationship**

It is important to note just how unique the relationship is between the City and the APRC. The Charter provides for an allocation of tax revenue to APRC with an expectation that APRC functions, essentially, as an independent agency determining how the allocated funds are to be used. But, at the same time, the City performs those functions through its Parks Department. The Parks Department budget is included in the City Budget, adopted by the City

Council in accordance with the statutory budget process that does not contemplate a semi-autonomous entity within the City's government structure.

The services provided by APRC/Parks Department have evolved over time to include recreation. Just as the scope of the parks program has evolved over time as the City adopted benchmark criteria for the availability of parks through its Comprehensive Plan. Staff has chosen not to provide an exhaustive history of parks funding here. However, briefly, a property tax rate of \$2.09/\$1,000 of assessed value was established some years ago to fund APRC. In 1997 with the passage of Measure 50 the Parks and City tax limitations were merged. In 1999 the City and APRC agreed that parks would receive the equivalent of \$2.09/\$1,000 of the City's permanent property tax rate. In 2009 the City dedicated 20 per cent (20%) of the Food and Beverage Tax (FB Tax) to APRC for capital improvements and land acquisition, and in 2017 the City increased the allocation of Food and Beverage Tax to APRC to 25 per cent (25%) and expanded the permitted uses to include maintenance. In drafting the City budget for fiscal 2020-21 the City and APRC reached an agreement to reduce the funding to APRC to the equivalent of a tax rate of \$1.89/\$1,000. The City property tax rate is \$4.2865, exclusive of rates for fire station general obligation bonds. Thus, the current equivalent rate for APRC is approximately 44 per cent (44%) of the total property tax rate.

**The APRC July 30 Letter – Proposed Action Items**

The City received a letter from the APRC dated July 30, 2021, proposing certain actions by the City Council including:

1. Formalizing the allocation of 98 per cent the City's FBT to the APRC for a period extending until at least 2040, with the following use allocations:
  - a. 25 per cent for major maintenance and new projects at the discretion of the Commission.
  - b. 73 per cent for operations at the discretion of the Commission.

**The current tax expires December 31, 2030. Use of funds is prescribed as follows once wastewater debt service is retired (which occurred in FY 2020-21). AMC 4.34.020(B)(5):**

5. *Beginning in fiscal year 2023, the Council may, through the statutory budget process, appropriate taxes under this chapter as follows:*
  - a. *Not less than twenty-five percent (25%) for the acquisition, planning, development, repair, and rehabilitation of City parks.*
  - b. *Not less than an amount necessary to pay for debt service on any borrowing for street repair and rehabilitation per the City of Ashland Pavement Management Program.*
  - c. *Up to two percent (2%) for the collection and administration of the tax.*
  - d. *Except as provided in subsection   of this section, any remaining amounts shall be appropriated for purposes consistent with this chapter unless other purposes are approved by a Council-adopted ordinance enacted by a vote of the Ashland electorate.*

**There are several; issues here precedent to using FBT proceeds for the purposes as indicated in the budget.**

- A. **Question:** Has the wastewater treatment plant debt, which is listed as the primary use of FBT revenue, been paid off? **Answer:** Yes, thus making the FBT proceeds available for limited other purposes as enumerated in Section 5 above.
- B. **Question:** Has the amount necessary to pay for debt service on any borrowing for street repair and rehabilitation per the Ashland Pavement Management Program (PMP) been paid? **Answer:** The City is currently paying debt service of about \$140,000 annually for a project to construct Jefferson Street. This is a new street and is not included in the PMP; thus, the current debt service is not eligible for Food and Beverage tax proceeds.

However, the City is planning two major street rehabilitation projects during the current Biennium and is considering debt financing for these projects. These projects are Ashland Street (\$2.5 million estimate) and North Mountain Avenue (\$3.225 million estimate). Financing for Ashland Street is planned in the current fiscal year, and financing for North Mountain Avenue would occur in FY 2022-23. Both streets are in the PMP. Thus, it is likely that, by July 1, 2022 when the allocation of the additional 73 per cent of the FBT revenue for parks is scheduled to become operative, the City will be paying debt service on street projects included in the PMP. This debt service would have priority over the use of the funds for parks purposes and would result in a shortfall of about \$445,000 in meeting the FBT allocation to APRC.

The adopted budget provides for the dedication of a portion of Franchise Fees to service debt for street capital improvements, with \$620,899 allocated for FY 2022-23. This was included as a part of the movement of 73 per cent of FBT revenues to APRC.

So, a sub-question is: Does the AMC provision which provides that the City Council “may” (not “shall”) appropriate FBT revenues to pay “Not less than an amount necessary to pay for debt service on any borrowing for street repair and rehabilitation per the City of Ashland Pavement Management Program” mean that the City has the option of using these funds for debt service if another mechanism for said debt service payment has been approved by the Council?

- C. **Question:** Does park and facility maintenance fall into the definition of park “repair and rehabilitation?” **Answer:** This could certainly be subject to interpretation, but staff believes that yes, “maintenance” is could reasonably be considered as “repair.” In staff’s experience the terms “maintenance and repair” are often used together.

In a straw poll at the August workshop, it appeared that there was Council support for the above-mentioned allocation for fiscal year 2022-23 only.

Given that street debt service is in a higher legal position for use of FBT proceeds than parks, and that street debt service is expected to be approximately \$455,000 (Estimated debt payment on \$5.725 assuming a 15 year note with an interest rate of 2.29%) in FY 2022-23, and, the current wording in the AMC lacks some clarity as discussed above, the City Council may

wich to place a Measure on the March 8, 2022, ballot to clearly authorize the use of FBT revenues as budgeted for fiscal 2022-23. This would require the preparation of a ballot title by December 2021.

As an alternative, the City Council may wish to take action to affirm its interpretation of the AMC provision as authorizing use of FBT for parks purposes, recognizing that the need for street repair debt service is being satisfied with Franchise Fee revenues, and, thus, does not “trigger” AMC 4.34.020(B)(5)(b). The City Manager Pro Tem recommends that this interpretation be adopted by City Council Resolution.

If the City Council wishes to place this matter on the ballot for voter determination of the continuing use of FBT proceeds beyond FY 2022-23, and/or to extend the tax beyond its current sunset date, and/or modify the activities for which the tax can be used staff recommends that the City Council initiate action to place the Measure on the August 23, 2022 ballot. The deadline for the ballot title is June 3, 2022

Early decisions to move toward an election are recommended because it takes time to provide the public with an opportunity to gain an understanding of the issue. An 18-month lead time for public education on a ballot Measure is optimum.

2. In addition to the FBT allocation, enact an ordinance requiring that the total amount of City funds allocated to the APRC be equal to the amount of funds that would be produced through the application of a \$1.89/\$1,000 property tax. It is staff’s understanding that this means...if the amount of FBT received (98 per cent) is not equal to the amount that would be generated by the application of a \$1.89/\$1,000 property tax rate, the City would make up the difference from property tax revenues.

**The budget for FY 2022-23 shows that 98 per cent of the FBT...\$2,005,942...is allocated to the APRC, and \$3,546,997 in Property Tax revenue for a total of \$5,552,939. The amount of anticipated FBT proceeds falls short of the \$1.89/\$1,000 property tax formula by about \$3,232,000. So, under this proposal, there would be a continuing allocation from the General Fund of about \$3.2 million in addition to the FBT.**

The amount of funds needed to support recreation programming...net of recreation fees collected is projected to be \$993,017 in FY 2022-23. Recreation services is not included on the list of eligible activities for the use of Food and Beverage tax revenues. The current General Fund/property tax allocation is sufficient for this purpose. **But does the City Council wish to continue funding for recreation at this level beyond FY 2022-23?**

*Note: the last reported assessed value of the City was \$2,865,703,000. Using the current budget inflator of 4.0 per cent, that would increase the AV next year to \$2,980,331,000. \$1.89/\$1,000 would be \$5,632,826; assuming a 93 per cent collection rate would achieve \$5,238,528.*

3. Evaluate and, if possible, designate APRC as a Local Contract Review Board. This would eliminate the requirement that certain contracts be reviewed and approved by the City Council, which is the current Local Contract Review Board for those City projects not exempt pursuant to AMC 2.50.070. The Oregon Revised Statutes define local contract review board as follows:

ORS 279A.060

*If the governing body of a local contracting agency takes no action to provide otherwise, the governing body is the local contract review board of that local contracting agency. However, the governing body of a local contracting agency may, by charter, ordinance, or other local legislation, authorize a body, board, or commission other than the governing body to serve as the local contract review board of the local contracting agency.*

*ORA 279A.075*

*Unless otherwise provided in the Public Contracting Code, a person or agency that has an authority under the code may delegate and subdelegate the exercise of the authority in whole or in part.*

**This matter was not reviewed at the August 23 meeting. Staff believes the City Council should retain all its current powers with respect to serving as the Local Contract Review Board to adequately exercise its fiduciary responsibility and oversight over all City funds.**

4. APRC proposes to contract with the City to provide APRC with central services (i.e., fiscal services, HR, etc.); to be renegotiated every two years. A 2019 attachment outlines how this relationship currently works.

**This was also not discussed at the August 23 meeting. What this is saying is that the APRC would like the option of either directly assuming or contracting the operation of HR and fiscal services to a third party. This would presumably include payroll. The City maintains a rigorous system of separation of duties, general accounting, payroll, and other systems, and has ultimate responsibility for compliance with accounting standards, litigation, risk management and related administrative matters which could be adversely affected by the operation of a separate entity within the City organization.**

**APRC is not a legally incorporated entity. It has none of the constitutional or statutory authority of the City Council. It cannot impose taxes, appropriate funds, buy, sell, or own property (every square inch of park land is owned by the City, not APRC, regardless of what's on the title), enter contracts or -- here's the heart of the matter -- sue or be sued. Any liabilities or torts incurred by APRC accrue to the City. For that reason alone, it is imperative that the Council retain full control of the City's Legal, Human Resources and Finance Departments functions. Legal, Human Resources and Finance are the people who are the first line of defense against risk in all forms. All liabilities subrogate to the City Council. The City Council and its appointed chief executive must retain control of risk management.**

**According the Michael Black, APRC is concerned about the Central Services cost allocation formula, and whether efficiencies could be achieved through contracting some of those services to the private sector. The City Manager Pro Tem agrees with this perspective. This is a matter that is scheduled for review as a part of the City's financial planning review now in progress.**

**Staff believes that both Items 3 and 4 should be retained in their current configuration.**

**Services Provided to the City by APRC Under Separate Contract**



In addition to the property tax and F/B tax funding allocation, the City has a 2014 Memorandum of Understanding (MOU) with APRC for maintenance of landscape in several areas of town. This work is paid from the Street Fund and includes items such as electricity and water expenses for parking lots and median islands. The budgeted expenditure is \$180,000 for each year of the Biennium to pay Parks for the Plaza and landscape maintenance work. Public Works essentially “contracts” with Parks to do this work, and the funds come from the Street Fund.

The City Manager Pro Tem is advised by Public Works that the subject MOU needs updating. More detail on what specific services is provided through the MOU are available. Perhaps these services could be a part of a Parks funding plan going forward. Having APRC provide Plaza and landscape maintenance funded, at least in part, by the FBT provides a nexus between the downtown merchants who collect the tax and the use of the proceeds.

**Staff recommends that the services provided under separate contract...specifically the maintenance of the Plaza and street landscape areas...be collapsed into the Parks Department and funded through the FBT allocation beginning in FY 2022-23.**

### **STAFF RECOMMENDATION**

#### **Immediate Action Needed**

1. A. Given that street debt service is in a higher legal position for use of FBT proceeds than parks, and that street debt service is expected to be \$445,000 in FY 2022-23, staff recommends that the Council adopt a Resolution finding that AMC 4.43.020B(5)(b) is not activated as the City has budgeted to pay for street repair and rehabilitation debt service through Franchise Fee revenues.
2. **Or:** B. Place a Measure on the March 8, 2022, ballot to authorize the use of FBT revenues as budgeted for fiscal 2022-23. The next following election is May 17, 2022, but the City will be well into its FY 2022-23 budget preparation period by that time.

**Or:** C. Explore a street project schedule and debt service structure that would push the first payments to FY 2023-24. If this is not feasible, return to the above.

#### **Considerations for Future Decision Making and Actions**

1. Determine the level of funding that the City wishes to contribute to recreation facilities and programming.
2. A. If the Council desires to use more than 25 per cent of FBT revenue for parks...or parks and recreation...purposes beyond FY 2022-23, refer a continuing authorization of the allocation of FBT to the voters at the election of August 23, 2022. Schedule a workshop to provide guidance on a revised Measure/Ordinance and thereafter instruct staff to begin election preparation materials to meet June 2022 deadlines for the placement of a Measure on the August 23, 2022, ballot.

**Or:** B. Place a Property Tax levy Measure on the August 23, 2022, ballot that would supplant all or a portion of the FBT revenue provided to parks. The deadline for the ballot title would be June 3, 2022 and the Measure would need to be drafted by June 23, 2022. This would provide a 10-month window for drafting the Measure and undertaking a public information program.

**Or:** C. If the City Council does not wish to use FBT for parks purposes after FY 2022-23, notify APRC that FBT funding will not be available after FY 2022-23 and proceed to #8 below.

3. In conjunction with the above referenced ballot measures, designate downtown Plaza and landscape maintenance as a park repair service provided by APRC through the allocation of FBT or property tax levy funds beginning in 2023-24
4. Retain the existing City/APRC relationships with respect to the Contract Review Board and providing central services to APRC.
5. Adopt a Resolution indicating that, with the completion of parks projects currently in development, the City's general goal for providing park facilities as articulated in the criteria for new neighborhood parks found in the City's Comprehensive Plan has been met.
6. Stop talking about milage equivalencies. The milage rate for APRC was relevant in 1908, but not 2021. Develop an APRC funding strategy for the future within the context of today's tax, fee and operational systems. A combination of Property, FBT and Transient Lodging Tax , with a new funding allocation guidance formula should be developed over the next six months. Some considerations in this process:
  - a. When the APRC was formed and the tax structure was established in 1908, it is clear that Ashland voters did so with a desire to develop and maintain a robust parks program.
  - b. In more recent years the City and APRC have taken on the responsibility for maintenance and operation of facilities that could marginally be defined as "parks"; much of this has been assumed in response to public support. Chief among these is the Golf Course. Staff recommends an independent analysis of the golf course with a goal of determining its long-term viability as a self-sustaining enterprise and its value as a tourism asset. Depending upon the level of visitor use of the golf course, consider allocating a portion of the Transient Lodging Tax to subsidize operational costs not otherwise met by golf course-specific revenues, and notify the APRC of a date certain when no other General Fund revenues are to be used to support golf course operations. Staff believes it was highly unlikely that the voters of 1908 contemplated the APRC operating a golf course. Both the City Council and APRC should be involved in this golf course evaluation.
  - c. In cooperation with the Ashland Chamber of Commerce, the City and APRC should undertake a study to determine the value of Lithia Park as a visitor amenity/attraction. Perhaps research assistance could be provided through interns from Southern Oregon University. Once the value of Lithia Park as a visitor amenity/attraction is quantified, allocate a portion of the Transient Lodging Tax revenues for maintenance, operation, and development/rehabilitation. Include this as a part of a permanent, dedicated funding source for APRC.

### **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

Staff is seeking direction on the recommendations listed above and will return with specific action items needed to implement the direction given.

### **REFERENCES & ATTACHMENTS**

APRC letters of July 30, 2021, and August 20, 2021.