

Council Business Meeting

October 19, 2021

Agenda Item	Resolution Establishing Food and Beverage Tax Use Policy and Allocating Funds for Parks and recreation Purposes	
From	Gary Milliman	City Manager Pro Tem
Contact	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. At its meeting of September 21, 2021, the City Council authorized staff to prepare a Resolution establishing a policy for the use of Food and Beverage Tax revenue and allocating funding for street debt service and parks/recreation funding for Fiscal Year 2022-23.

BACKGROUND AND ADDITIONAL INFORMATION

Ashland Charter with respect to APRC funding:

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.”

AMC 4.34.020(B)(4) and (5):

4. *Any taxes collected by the City under this chapter and not used as described in subsections C.1-3 of this section shall be paid into the Street Fund and used for street maintenance and reconstruction.*
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 D 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.

In preparation for returning to the City Council with a Resolution concerning the matter, the City Manager Pro Tem and Interim Finance Director have further reviewed the FY 2022-23 budget with respect to use of FBT proceeds and the APRC allocation. The narrative on Page 35 of the budget document reads, in part, as follows:

*“The current (FB) ordinance specifies that the tax proceeds pay the Wastewater Treatment Plant Debt and intended that, after 2023, **the remainder be split between Streets and Parks Open Space Acquisition and Parks Maintenance** with a small percentage being used for administration of the program.*

***Within this recommended budget the APRC receives the full amount of F&B receipts less the two per cent administration fee paid to the General Fund beginning in FY2022-23 with a corresponding reduction in property tax allocation.**”*

We have emphasized the portions of the above referenced narrative that could be considered internally inconsistent and subject to interpretation in the context of the actual language of the FBT Code section. It is our understanding that it was the intent of the Administration at the time the budget was adopted to seek conforming language changes to the FBT Code section.

For FY 21-22, the budget provides for an allocation of \$1,400,000 in FBT revenue to the Streets Fund. There was no similar allocation approved in 2022-23. After consultation with Public Works Director Scott Fleury concerning the projected construction schedule for the two major street rehabilitation projects (Ashland Street and Mountain Avenue), staff believes that the \$1.4 million allocation is sufficient to carry forward with the planned street maintenance program for fiscal 2021-22, and anticipates that there will be sufficient residual funds available to complete the engineering/design for the two planned major street rehabilitation projects and pay the first year of debt service for those projects in 2022-23.

The budget itself shows the following allocations of the FBT and General Fund to APRC for FY 2022-23 as compared to the now-revised proposed Resolution:

Food and Beverage Tax Allocation	2022-23 Budget	Proposed Resolution
APRC CIP Funding		
APRC Repair and Maintenance	2,005,942	2,199,695
Street PMP		
General Fund for Administration	238,645 (10.6 %)	44,892 (2.0%)
Net F&B Proceeds to APRC	2,005,942	2,199,695
General Fund Allocation to APRC	3,546,997	3,353,244
Total Tax Proceeds allocation to APRC	5,552,939	5,552,939

For FY 2022-23, it appears that the APRC CIP Funding has been consolidated into the APRC Repair and Maintenance line.

The amount budgeted for Administration in FY22-23 is 10.6 per cent, not the 2.0 per cent prescribed in AMC.

The total amount of FB+GF tax proceeds allocated to APRC in FY 21-22 is \$6,114,939. **Thus, the current budget as adopted reduces funding to APRC by \$562,000 in FY 22-23.**

There is currently \$620,000 budgeted for Pavement Management Program debt service in the Street Fund. However, the source of these funds, in part, is a transfer of Franchise Fees from the General Fund. The City could transfer \$193,753 back from the Street Fund to the General Fund to accommodate the reduction in the Administrative allocation from the FB tax.

1. The proposed Resolution would:
 - a. Confirm the adopted FY 22-23 budget allocation to APRC.
 - b. Correct the amount allocated for Administration to the amount prescribed by law, thereby reducing the amount of FBT revenue going to the General fund for administration by \$193,753. However, this is offset by reducing the overall GF contribution to APRC by a similar amount.
 - c. Confirm that FBT revenues are indeed being used to pay for PMP debt service through FY 22-23.

STAFF RECOMMENDATION

If the City Council wishes to maintain the level of funding as designated for the Ashland Parks and Recreation Commission in the adopted FY 2022-23 budget as discussed at the September 21 City Council meeting, staff recommends the City Council adopt Resolution 2021-23.

If the City Council wishes to make further modifications to the formula and/or amount of FBT or General Fund allocations to APRC for FY 2022-23, provide direction to staff.

Staff will return with a budget amendment consistent with the action taken. The Interim Finance Director and City Manager Pro Tem are preparing to make recommendations for other unrelated budget amendments by the end of calendar 2021; this change will be incorporated into that budget amendment.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

Motion to adopt Resolution 2021-23

REFERENCES & ATTACHMENTS

Attachment 1. Resolution 2021-23

Attachment 2. Funding allocation chart

Attachment 3. Voter Pamphlet Statement from 2016

1 **RESOLUTION NO. 2021-23**

2 A RESOLUTION ADOPTING FINDINGS REGARDING THE USE OF FOOD AND
3 BEVERAGE TAX REVENUES FOR FISCAL YEAR 2022-23 AND ALLOCATING
4 FUNDING FOR STREET, PARK, AND TAX ADMINISTRATION PURPOSES.

5 **RECITALS:**

6 A. The City of Ashland (City) imposes a Food and Beverage Tax pursuant to Ashland
7 Municipal Code (AMC) 4.34.020; and

8 B. AMC 4.34.020(C)(5) provides for the appropriation of Food and Beverage Tax revenues as
9 follows:

10 5. Beginning in fiscal year 2023, the Council may, through the statutory budget process,
11 appropriate taxes under this chapter as follows:

12 a. Not less than twenty-five percent (25%) for the acquisition, planning, development,
13 repair and rehabilitation of City parks.

14 b. Not less than an amount necessary to pay for debt service on any borrowing for street
15 repair and rehabilitation per the City of Ashland Pavement Management Program.

16 c. Up to two percent (2%) for the collection and administration of the tax.

17 d. Except as provided in subsection D of this section, any remaining amounts shall be
18 appropriated for purposes consistent with this chapter unless other purposes are approved
19 by a Council-adopted ordinance enacted by a vote of the Ashland electorate; and

20 C. The City Council has adopted a biennium budget for Fiscal Years 2021-2022 and 2022-2023
21 which calls for the allocation of the funds provided for in AMC 4.34.020(C)(5)(d) to the Ashland
22 Parks and Recreation Commission for use in funding the acquisition, planning, development,
23 repair, maintenance, rehabilitation of the City of Ashland's parks; and

24 D. The City anticipates issuing debt for financing two street reconstruction projects which are
25 eligible for funding under AMC 4.34.020(C)(5)(b) with a total estimated cost of \$5.725 million
and an estimated annual debt service of \$445,000.00; and

26 E. The City allocated \$1,400,000.00 in Food and Beverage Tax revenues for street purposes in
27 Fiscal Year 2021-22, and such allocation is sufficient to pay for the anticipated street
28 maintenance program and related debt service through Fiscal Year 2022-23; and

29 F. The total Food and Beverage Tax revenue estimated to be received in Fiscal Year 2022-23 is
30 \$2,244,587.00; and

///

1 G. \$5,552,939.00 in City revenue (Food and Beverage Tax + General Fund) is required for
2 allocation to the Ashland Parks and Recreation Commission in accordance with the adopted
3 Fiscal Year 2022-23 Budget.

4 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ASHLAND, OREGON,
5 RESOLVES AS FOLLOWS:**

6 SECTION 1. The City Council of the City of Ashland (City Council) finds that Food and
7 Beverage Tax revenues will not be needed to meet debt service requirements for street repair and
8 rehabilitation projects as identified in the Ashland Pavement Management Program in Fiscal
9 Year 2022-23.

10 SECTION 2. The City Council finds that the use of Food and Beverage Tax revenues for the
11 acquisition, planning, development, repair, maintenance, and rehabilitation of the City of
12 Ashland's parks during Fiscal Year 2022-23 is consistent with the authorized use of Food and
13 Beverage Tax revenues as set forth in AMC Chapter 4.34.

14 SECTION 3. The Food and Beverage Tax revenues for Fiscal Year 2022-23 are to be allocated
15 as follows:

- 16 1. Two percent (estimated to be \$44,892.00) to be allocated to the City for collection and
17 administration of the tax.
- 18 2. Ninety-eight percent (estimated to be \$2,199,695.00) to be allocated to the Ashland Parks
19 and Recreation Commission for the acquisition, planning, development, repair,
20 maintenance, and rehabilitation of City of Ashland parks.

21 SECTION 4. The City Council has allocated \$3,353,244.00 from its General Fund discretionary
22 revenue to the Ashland Parks and Recreation Commission for parks and recreation operations
23 and maintenance purposes for Fiscal Year 2022-23.

24 SECTION 5. This resolution is effective upon adoption.

25 ADOPTED by the City Council this _____ day of _____, 2021.

26 ATTEST:

27 _____
28 Melissa Huhtala, City Recorder

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SIGNED and APPROVED this _____ day of _____, 2021.

Julie Akins, Mayor

Reviewed as to form:

Katrina L. Brown, City Attorney

	As Budgeted		Proposed	
	2022	2023	2022	2023
Food & Beverage Tax				
APRC CIP funding	1 562,000	2 -	562,000	3 -
APRC Repair & Maintenance	1 -	2 2,005,942	-	3 2,199,695
Street Fund	1,400,000	-	1,400,000	-
General Fund for Admin	60,000	238,645	60,000	44,892
Total Revenue Budgeted	2,022,000	2,244,587	2,022,000	2,244,587
Funding provided to APRC from the General Fund	1 5,552,939	2 3,546,997	5,552,939	3 3,353,244
Total Funding for Parks & Rec	sum 1 6,114,939	sum 2 5,552,939	6,114,939	sum 3 5,552,939

Proposed changes

Reduce amount going to the General Fund to 44,892. That is 2% of the total budgeted revenue
Reduce amount coming from the General Fund but keeping total appropriate 193,753

What if Food & Beverage tax revenue is greater than budgeted? There are 2 options

1. Parks would receive greater than budgeted revenue over all. (I believe the budget is overly conservative in estimating the Food & Beverage tax)
2. Parks would receive less funding from the General Fund but total revenue would still be 5,552,939 which would fund their approved appropriations

What if Food & Beverage tax revenue is less than budgeted?

1. Parks would need to reduce Park maintenance to keep expenditures equal to or less than revenue collected
2. The General Fund would need to increase the funding provided to APRC to provided funding for the approved appropriations.

History of Food & Beverage Tax Collections

	2016	2017	2018	2019	2020	2021
Parks General Fund	-	-	-	-	-	-
Parks Capital Improvement Fund	564,947	708,590	758,101	803,844	664,577	621,894
Street Fund		255,202	708,397	645,685	340,565	1,815,932
Wastewater Fund	2,259,785	2,004,952	1,608,600	1,600,600	1,600,000	-
Central Service Fund/General Fund	57,647	60,586	60,648	64,308	53,166	49,752
Total Food and Beverage Tax	2,882,378	3,029,331	3,135,746	3,114,437	2,658,308	2,487,577

EXPLANATORY STATEMENT FOR COUNTY VOTERS= PAMPHLET

NAME OF PERSON RESPONSIBLE FOR CONTENT: Dave Lohman, City Attorney, City of Ashland, Oregon.

NAME OF ORGANIZATION PERSON REPRESENTS, IF ANY: City of Ashland, Oregon

BALLOT TITLE CAPTION: Approve use of food and beverage tax for street maintenance

MEASURE NUMBER:

15-156

The City of Ashland first enacted a food and beverage (F&B) tax – a tax on prepared food and non-alcoholic beverages sold at restaurants and caterers – in 1993. The tax was created to provide a revenue stream for the acquisition of open space (parkland). The City Council subsequently amended the F&B tax to allow its use for debt service on the City's waste water treatment plant. Of the taxes collected, 20% goes to parks and 80% goes to waste water debt. Passage of this ballot measure will enact an ordinance approved by the Ashland City Council that amends the Ashland Municipal Code to redirect a portion of the City's food and beverage (F&B) tax revenue to street maintenance and to increase the portion of F&B tax revenue that is directed to the Ashland Parks and Recreation Commission from 20% to 25%. Enough revenue is generated by the F&B tax to fully fund current waste water treatment debt, a pavement management program to overlay or reconstruct all arterial and collector streets and to increase the share of F&B revenue for Parks from 20% to 25% of total collections. The ordinance does not change the current tax rate of 5% and it does not change the tax's sunset date of December 31, 2030.

If approved, this ordinance will fix the amount of F&B tax provided for waste water debt at a specific number rather than a percentage, and direct tax revenues over that amount to the City's street fund, where it will be available to pay for street repair, rehabilitation and reconstruction. The street repair program would apply to the City's arterial and collector streets.

Result of a "No" Vote

If this measure does not pass, the existing food and beverage tax ordinance will remain in place, with all tax revenues directed to parks (20%) and waste water treatment debt (80%).

WORD COUNT TOTAL: 309

THE TOTAL WORD COUNT CANNOT EXCEED 500 WORDS.


SIGNATURE OF PERSON RESPONSIBLE FOR THE CONTENT OF THE EXPLANATORY STATEMENT

8/16/16
DATE