



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

## AGENDA

### CITY COUNCIL – REGULAR MEETING

TROUTDALE CITY HALL  
104 SE KIBLING AVENUE  
TROUTDALE, OR 97060-2099

**Tuesday, January 11, 2011 – 7:00PM**

#### Mayor

Jim Kight

#### City Council

David Hartmann  
Matthew Wand  
Norm Thomas  
Glenn White  
Barbara Kyle  
Doug Daoust

#### City Attorney

David J. Ross

1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**
2. **MOTION:** A motion to appoint a citizen to fill City Council Position #2 (terms expires on December 31, 2012).
3. **OATH OF OFFICE:** Judge Raymond Young will administer the Oath of Office to the appointed City Councilor to fill Position # 2.
4. **ELECTION:** Election of the 2011 Council President.
5. **PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items. *Remarks shall be limited to 5 minutes for each speaker unless a different time is allowed by the Mayor. The Mayor and Council should avoid immediate and protracted response to citizen comments.*
6. **PUBLIC HEARING/ORDINANCE (Introduced December 14, 2010):** An ordinance amending the Troutdale Municipal Code by changing all references to City Administrator to City Manager. David Ross, City Attorney
7. **PUBLIC HEARING/ORDINANCE (Introduction):** An ordinance amending Troutdale Municipal Code Title 5, Business Licenses and Regulations, by adopting a new Chapter 5.10, Liquor Licenses. David Ross, City Attorney
8. **RESOLUTION:** A resolution revising the Business Incentive Program Affected Fees and Charges. Erich Mueller, Finance Director

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**9. MOTION:** Revisions to Council Committees and Subcommittees for 2011

*Erich Mueller, Finance Director*

**10. STAFF COMMUNICATIONS**

**11. COUNCIL COMMUNICATIONS**

A – MPAC Appointments

**12. ADJOURNMENT**

*Mayor Jim Kight*  
\_\_\_\_\_  
Mayor Jim Kight

Dated: *January 5, 2011*  
\_\_\_\_\_

City Council Regular Meetings are broadcast live on Comcast Cable Channel 30 and Verizon Cable Channel 38. Replays of the meeting are shown on the weekend following the meeting - Saturday at 2:30pm and Sunday at 9:00pm.

Further information and copies of agenda packets are available at: Troutdale City Hall, 104 SE Kibling Avenue Monday through Friday, 8:00 a.m. - 5:00 p.m.; On our Web Page [www.troutdale.info](http://www.troutdale.info) or call Debbie Stickney, City Recorder at 503-674-7237.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to: Debbie Stickney, City Recorder 503-674-7237.



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** Ordinance amending Troutdale Municipal Code to change references from City Administrator to City Manager.

**MEETING TYPE:**

City Council Regular Mtg.

**MEETING DATE:** January 11, 2011

**STAFF MEMBER:** David Ross

**DEPARTMENT:** Legal

**ACTION REQUIRED**

Ordinance - Adoption

**ADVISORY COMMITTEE/COMMISSION**

**RECOMMENDATION:**

Not Applicable

**PUBLIC HEARING**

Yes

**Comments:**

**STAFF RECOMMENDATION:** Adopt ordinance

**EXHIBITS:**

A. None

**Subject / Issue Relates To:**

Council Goals

Legislative

Other (describe)

**BACKGROUND:**

This is the first of several Troutdale Municipal Code revisions necessitated by the Charter amendment which was approved by the voters on November 2, 2010. This ordinance amends the Troutdale Municipal Code by changing each reference to "City Administrator" to "City Manager."

Reviewed and Approved by City Administrator:

**Current Year Budget Impacts**  Yes - Municipal Code Corporation  N/A

**Future Fiscal Impacts:**  Yes (*describe*)  N/A

**City Attorney Approved** N/A  Yes

**Community Involvement Process:**  Yes - election  N/A

# ORDINANCE NO.

## AN ORDINANCE AMENDING THE TROUTDALE MUNICIPAL CODE BY CHANGING ALL REFERENCES TO CITY ADMINISTRATOR TO CITY MANAGER

### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. On November 2, 2010, electors of Troutdale passed Ballot Measure 26-115, which amended the City's Charter to, among other things, change the name of the office of *city administrator* to that of *city manager*.
2. The charter amendments are effective on January 1, 2011.

### NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. Troutdale Municipal Code is amended to change all references to the City Administrator to the City Manager.

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

\_\_\_\_\_  
**Mayor Jim Kight**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Debbie Stickney, City Recorder**

**Adopted:**



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** Ordinance Establishing Chapter 5.10 – Liquor Licenses

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** January 11, 2011

**STAFF MEMBER:** David Ross  
**DEPARTMENT:** Legal

**ACTION REQUIRED**  
Ordinance - Introduction

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
Yes

**Comments:**

**STAFF RECOMMENDATION:** Adopt Ordinance at Second Reading

**EXHIBITS:**

A. State Criteria for Issuance and Maintenance of Licenses

**Subject / Issue Relates To:**

Council Goals

Legislative

Other (describe)

**Issue / Council Decision & Discussion Points:**

- ◆ To establish a process for evaluating and providing recommendations to the Oregon Liquor Control Commission (OLCC) for Liquor License Applications for businesses or events in the City of Troutdale, including yearly renewals.

Reviewed and Approved by City Administrator:

**BACKGROUND:** The Oregon Liquor Control Commission (OLCC) has the responsibility of reviewing applications for and issuing liquor licenses throughout the State of Oregon. As part of their statutorily prescribed review process, cities are given the opportunity to review the liquor license applications within its jurisdiction and make a recommendation to the OLCC.

Historically, in accordance with ORS 471.166(1)<sup>1</sup>, this review was performed by city council. Some years ago, however, council decided to have the review performed administratively, but never formally delegated that authority. The new code provision would not only make that delegation express, but would also clarify the procedures and criteria to be used, and provide for a hearing before council, if requested by the applicant, prior to an unfavorable recommendation being rendered.

**PROS & CONS:**

Pros:

- Complies with both the spirit and the letter of the law relating to the city's responsibility for liquor license review.
- Clarifies the roles and responsibilities of the City Manager and City Council.

Cons

- Might require council to conduct a public hearing, if requested by the applicant, prior to an unfavorable recommendation being made to the OLCC.

<b>Current Year Budget Impacts</b> <input type="checkbox"/> Yes ( <i>describe</i> ) <input checked="" type="checkbox"/> N/A
<b>Future Fiscal Impacts:</b> <input type="checkbox"/> Yes ( <i>describe</i> ) <input checked="" type="checkbox"/> N/A
<b>City Attorney Approved</b> N/A <input checked="" type="checkbox"/> Yes
<b>Community Involvement Process:</b> <input checked="" type="checkbox"/> Yes ( <i>public hearing</i> ) <input checked="" type="checkbox"/> N/A

<sup>1</sup> "The Oregon Liquor Control Commission may require that every applicant for issuance or renewal of a license under this chapter acquire a written recommendation ...from the city council if the place of business of the applicant is within an incorporated city. The commission may take such written recommendation into consideration before granting or refusing the license."

**OREGON LIQUOR CONTROL COMMISSION**

**CRITERIA FOR ISSUANCE AND MAINTENANCE OF LICENSE (excerpted)**

**ORS 471.166 Local government recommendations on license issuance and renewal; rules; fees. (1)**

The Oregon Liquor Control Commission may require that every applicant for issuance or renewal of a license under this chapter acquire a written recommendation from the governing body of the county if the place of business of the applicant is outside an incorporated city, and from the city council if the place of business of the applicant is within an incorporated city. The commission may take such written recommendation into consideration before granting or refusing the license.

(2) If the commission requires that an applicant for issuance of a new license acquire the written recommendation of a local government, the applicant must give notice to the local government when an application is made for issuance of the license. If the local government files a favorable recommendation with the commission within 45 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless, within 45 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(3) If the commission requires that an applicant for renewal of a license acquire the written recommendation of a local government under this section, the commission shall give notice to the local government when an application is due for renewal of the license. If the local government files a favorable recommendation with the commission within 60 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless within 60 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(4) The commission shall suspend consideration of an application subject to this section for a reasonable period of time if a local government requests additional time under subsection (2)(b) or (3)(b)

of this section and the grounds given by the local government are valid grounds for an unfavorable determination under this chapter or rules adopted by the commission. The commission shall by rule establish the period of time that shall be granted to a local government pursuant to a request under subsections (2)(b) and (3)(b) of this section.

(5) The commission shall by rule establish valid grounds for unfavorable recommendations by local governments under this section. Valid grounds established by the commission under this section for an unfavorable recommendation by a local government must be limited to those grounds considered by the commission in making an unfavorable determination on a license application.

(6) A person filing an application for issuance or renewal of a license that is subject to this section must remit to the local government the fees established under subsections (7) and (8) of this section. The commission shall give notice to the applicant for license renewal of the amount of the fees and the name of the local government collecting the fees. The commission is not responsible for collecting the fees charged by the local government or for ensuring that the fees have been paid. An applicant for a license renewal shall certify in the application form filed with the commission that the applicant has paid any fees required under this section.

(7) An applicant required to seek a written recommendation from a local government must pay an application fee to the local government, in an amount determined by the governing body of the city or county, for each application for a license. The application fee established by a local government under this subsection may not exceed \$25.

(8) After public notice and hearing, the governing body of a city or county may adopt an ordinance, rule or resolution prescribing licensing guidelines to be followed in making recommendations on license applications under this chapter and in allowing opportunity for public comment on applications. If the guidelines are approved by the commission as consistent with commission rules, after public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing a system of fees that is reasonable and necessary to pay expenses of processing the written recommendation. Processing fees under this subsection are in lieu of fees under subsection (7) of this section. In no case shall the processing fee under this subsection be greater than \$100 for an original application, \$75 for a change in ownership, change in location or change in privilege application, and \$35 for a renewal or temporary application. [1999 c.351 §20; 2003 c.337 §1]

**ORS 471.313 Grounds for refusing to issue license.** The Oregon Liquor Control Commission may refuse to license any applicant under the provisions of this chapter if the commission has reasonable ground to believe any of the following to be true:

(1) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

(2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

(4) That the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.

(e) Has maintained an insanitary establishment.

(f) Is not of good repute and moral character.

(g) Did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the commission when previously licensed.

(h) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

(i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(j) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity

of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege. [Formerly 471.295; 2001 c.785 §1]

#### **OAR 845-005-0301**

##### **Purpose and Interpretation**

(1) ORS 471.313 is the primary statute that gives the reasons for which the Commission may deny an alcoholic beverage license application. The rules in this Division describe how the Commission applies these and other licensing-related statutes in granting, denying, modifying or renewing alcoholic beverage licenses and related privileges.

(2) The Commission liberally applies these rules to:

- (a) Minimize health or safety problems caused by the use and abuse of alcoholic beverages;
- (b) Encourage moderation in the use of alcoholic beverages;
- (c) Ensure that qualified persons obtain available licenses and operate in compliance with alcoholic beverage laws;
- (d) Prevent access to alcoholic beverages by minors;
- (e) Provide the opportunity for public participation in license decisions;
- (f) Provide guidelines for local governments in making recommendations to the Commission;
- (g) Ensure availability of alcoholic beverages to the public.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implements: ORS 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

#### **OAR 845-005-0304**

##### **Local Government Recommendations: Requirements for Local Governments and License Applicants**

(1) ORS 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on initial and renewing licenses, and allows the Commission to extend by rule the time allowed a local government to render its written recommendation.

(2) If the local government has not provided a written recommendation to the Commission within the time frames allowed by Sections (5) and (6) of this rule, the Commission shall proceed as if the local government has made a favorable recommendation.

(3) The Commission requires each applicant for an initial license to provide to the local government written notice of the filing of the application. The form of the written notification shall consist of a legible

copy of the Commission's Liquor License Application form for license applications, and legible copies of each Individual History form and Business Information form submitted with the license application.

(4) The applicant shall submit to the Commission a dated copy of a receipt or other appropriate dated documentation of compliance with subsection (3) of this rule, within ten days of applicant's provision of notification to the local government.

(5) Following notification by the applicant as stated in section (4) of this rule, the Commission shall allow a local government 45 days in which to provide a written recommendation to the Commission on the initial license application. However, if within 45 days of the date the applicant for an initial license gives notice to the local government, the local government files with the Commission a written request that meets the requirements of section (7) of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the license application.

(6) The Commission provides written notice to each local government of the annual licenses in the locality that are both due to expire within three months and are subject to local government renewal recommendations. If, within 60 days of the date the Commission has given notice to the local government, the local government files a written request with the Commission that meets the requirements of section (7) of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the application to renew a license.

(7) The local government's written request must set forth the reason additional time is needed, state that the local government is considering making an unfavorable recommendation, and state the specific grounds being considered toward an unfavorable recommendation. Valid grounds for an unfavorable recommendation are stated in OAR 845-005-0308(3).

(8) For the purposes of this rule an unfavorable recommendation is a recommendation to deny a license or to issue a restricted license.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implements: ORS 471.166

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 22-2003, f. 12-16-03, cert. ef. 1-1-04

## **OAR 845-005-0306**

### **Procedures for Public Notice of License Applications**

(1) The Commission will provide written notice to the public at least 14 calendar days before the Commission grants or denies:

(a) An initial annual license;

(b) A change of license privileges;

(c) The addition of alcoholic beverage sales or service to an outdoor area;

(d) A change of licensee where the Commission determines that the potential exists for problems with unlawful activities, noise or disturbances in or around the premises that are related to the sale or service of alcoholic beverages;

(e) Any change for which OAR 845-006-0480 requires Commission approval where the Commission determines that the potential exists for problems with unlawful activities, noise or disturbances in or around the premises that are related to the sale or service of alcoholic beverages.

(2) The Commission will provide the written notice as follows:

(a) Conspicuous notice posted on the premises proposed to be licensed;

(b) Notice to licensed child care facilities, elementary or secondary schools, places of worship, hospitals, nursing facilities, convalescent homes, parks, children-oriented recreational facilities, and alcohol and other drug rehabilitation facilities within 500 feet of the premises in urban or suburban areas and 1,500 feet in rural areas; and

(c) Notice to the neighborhood organization(s) for the area in which the proposed premises are located if the organization is recognized by the appropriate city or county and registered with the Commission. If there is no recognized organization, the Commission will notify any organization registered with the Commission that represents at least 25 households in the area.

(3) The written notice will include:

(a) Name of applicant. If applicant is not an individual, the name(s) of the person(s) who will have primary responsibility for operating the business;

(b) Address of premises proposed to be licensed;

(c) Type of license;

(d) Legal hours of operation; and

(e) How to contact the Commission within 14 days for further information about:

(A) The application;

(B) Providing information to the Commission to help determine the applicant's eligibility for a license; and

(C) Participating in the Commission's licensing process.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implements: ORS 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 8-2005, f. 11-21-05, cert. ef. 12-1-05

**OAR 845-005-0308**

**Valid Bases for Adverse Local Government Recommendations and for Commission Use of Information Received from the Public**

(1) ORS 471.166(1) authorizes the Commission to take into consideration the recommendation of the local governing body before granting or denying a license. ORS 471.166(5) requires the Commission to state by rule the valid grounds for a local governing body[']s unfavorable recommendation on any license application, and requires the Commission to limit valid grounds to those considered by the Commission in making an unfavorable determination on a license application.

(2) For purposes of this rule an unfavorable determination is license refusal or license restriction.

(3) For the unfavorable recommendation of a local governing body to be valid, the grounds must be found in the license refusal bases of ORS 471.313(4), 471.313(5), OAR 845-005-0320, 845-005-0325 or 845-005-0326, or the license restriction bases of OAR 845-005-0355, and must be supported by reliable factual information.

(4) Organizations, facilities, government agencies, or individuals may give the Commission reliable factual information concerning whether there is a basis to grant or deny a license or to impose license restrictions under the laws specified in section (3) of this rule. Reliable factual information includes personal observations of activities in or around the proposed licensed location, as opposed to opinion, hearsay, feelings, beliefs or speculation.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & 471.730(5)

Stats. Implemented: ORS 471.166 & 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

## **ORDINANCE NO.**

### **AN ORDINANCE AMENDING TROUTDALE MUNICIPAL CODE TITLE 5, BUSINESS LICENSES AND REGULATIONS, BY ADOPTING A NEW CHAPTER 5.10, LIQUOR LICENSES.**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. The Oregon Liquor Control Commission (OLCC) requires that every applicant for issuance or renewal of a liquor license seek written recommendation from its local governing body.
2. The OLCC allows governing bodies to adopt liquor license issuance review guidelines consistent with the Oregon Liquor Control Act.
3. It is in the public interest that the city amend the Municipal Code to establish guidelines specifying the procedure for city review of liquor license applications and renewals.

#### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. Troutdale Municipal Code Title 5, Business Licenses and Regulations, is amended by adding Chapter 5.10, Liquor Licenses, as set forth in Attachment A.

**YEAS:**

**NAYS:**

**ABSTAINED:**

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**Mayor Jim Kight**

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**Date**

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**Debbie Stickney, City Recorder**

**Adopted:**

Resolution #

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## Troutdale Municipal Code 5.10

### Chapter 5.10 LIQUOR LICENSES

#### Sections:

- 5.10.010 Purpose.**
- 5.10.015 Delegation of Authority**
- 5.10.020 Forms.**
- 5.10.030 Temporary Licenses.**
- 5.10.040 Regular Licenses.**
- 5.10.050 Investigation.**
- 5.10.060 City Manager Recommendation.**
- 5.10.065 City Manager Review.**
- 5.10.070 City Council Review.**
- 5.10.080 Contents of Public Hearing Notice.**
- 5.10.090 Publication of Public Hearing Notice.**
- 5.10.100 Public Hearing Procedures.**
- 5.10.110 Recommendation of OLCC.**
- 5.10.120 Resubmission of Application.**

#### **5.10.010 Purpose.**

These sections establish criteria for recommending to the Oregon Liquor Control Commission (OLCC) that it grant, deny, modify or renew liquor licenses for businesses within the City. This process is intended to make fair, effective, and efficient recommendations. These sections are necessary to ensure that premises licensed to sell or dispense liquor meet community expectations, and that such businesses are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of the City and its neighborhoods.

#### **5.10.015 Delegation of Authority**

The City Council hereby delegates to the City Manager or designee (hereinafter, "City Manager") the authority granted to the City Council pursuant to ORS 471.166 to investigate and review applications for the issuance of all liquor licenses and renewals of liquor licenses, and to make recommendations to the Oregon Liquor Control Commission.

#### **5.10.020 Forms.**

Applicants for OLCC licenses shall provide the City Manager with the appropriate OLCC license application forms. The City Manager may require additional information appropriate for conducting the investigations required for City recommendations.

#### **5.10.030 Temporary Licenses.**

The City Manager is authorized to approve applications for temporary OLCC licenses such as special events, special beer and special wine licenses. Such applications may be processed administratively after the fee established by City Council has been paid. The City Manager may make an unfavorable recommendation to the OLCC if the City Manager finds that the applicant

does not meet the criteria established by TMC 5.10.060. Either the applicant or City Manager may refer an application to the City Council for a public hearing.

**5.10.040 Regular Licenses.**

The City Manager accepts new applications for regular OLCC liquor licenses only when the following conditions are met: (1) all required forms are properly completed and in order. (2) the applicant has obtained a city business license; and (3) the processing fee established by City Council resolution has been paid. For purposes of this Chapter, a "regular license" means any license that the OLCC may issue for an annual period. Notice of renewal applications are received directly from OLCC.

**5.10.050 Investigation.**

The City Manager shall coordinate an investigation of each application to determine the appropriate recommendation to the OLCC. The City Manager shall provide a copy of each application to the appropriate city departments for investigation and report. Reports from these departments must be included with the City Manager's unfavorable recommendation.

**5.10.060 City Manager Recommendation.**

(1) The City Manager may make an unfavorable recommendation on any application based upon the following guidelines:

- (a) Is the applicant in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess;
- (b) Has the applicant made false statements to the city or OLCC in connection with the application;
- (c) Is the applicant incompetent or physically unable to carry on the management of the establishment proposed to be licensed;
- (d) Has the applicant been convicted of violating any of the alcoholic liquor laws of this state, general or local, or been convicted at any time of a felony;
- (e) Has the applicant maintained an unsanitary establishment or not maintained the premises in accordance with the building code and fire code of the city and the state;
- (f) Is the applicant of good repute and moral character;
- (g) Does the applicant have a good record of compliance with the alcoholic liquor laws of this state and the rules of OLCC when previously licensed;
- (h) Is the applicant the legitimate owner of the business proposed to be licensed, or do other persons have ownership interests in the business that have not been disclosed;
- (i) Has the applicant demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed;
- (j) Is the applicant able to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the OLCC;
- (k) Has the applicant maintained the premises in accordance with the building code and fire and life safety code of the city and the state;

- (l) Does the applicant seek licensing of premises not consistent with city land use designations;
- (m) Has the applicant demonstrated an unwillingness or inability to cooperate with the city or neighbors to resolve driving under the influence of intoxicants concerns or community disputes related to a licensed establishment; or
- (n) Is there any other specific reason consistent with the purposes of these provisions that the City Manager concludes warrant an adverse recommendation based upon public health, safety, welfare, convenience, or necessity.
- (o) Does the applicant comply with ORS 471.313(4) and (5) and OAR 845-005-0320, 325, 326, and 355.

(2) The City Manager may make an unfavorable recommendation on any application if there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes but is not limited to, obtrusive or excessive noise, music or sound vibrations, public drunkenness, fights, altercations; harassment, unlawful drug sales, alcohol or related litter, trespassing on private property, and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(3) The City Manager's unfavorable recommendation must be supported by reliable factual information which includes but is not limited to personal observations of activities in or around the proposed licensed locations, as opposed to opinion, hearsay, feelings, belief or speculation.

#### **5.10.065 City Manager Review.**

The City Manager is authorized to file a favorable recommendation with the OLCC for all regular OLCC liquor license original applications and renewals which receive a favorable City recommendation.

#### **5.10.070 City Council Review.**

If the City Manager's decision is to provide an unfavorable recommendation, notice of the City Manager's decision shall be provided to the applicant no later than fifteen days before the recommendation is to be provided to the Oregon Liquor Control Commission. Notice may be by personal delivery, certified or registered mail, return receipt requested, or signature confirmation. Notice to the applicant shall be sent to the applicant's address stated in the application. The notice shall state the grounds for the unfavorable recommendation, and advise the applicant that the City Manager's decision may be appealed to the City Council by filing a written notice of appeal with the City Recorder within ten days of the date of the City Manager's decision. If,

before the date the decision is to be provided to the Oregon Liquor Control Commission, the City Recorder receives a request for appeal from an unfavorable recommendation by the applicant, the City Manager shall file with the OLCC a written request for additional time to submit the recommendation and the hearing shall be scheduled so that a recommendation can be filed within the time limit of the extension.

**5.10.080 Contents of Public Hearing Notice.**

Notice of the public hearing must be given to the applicant either personally or by certified mail, return receipt requested, or signature confirmation, postmarked not later than 10 days prior to the hearing. The notice shall contain: (1) the date, time and place of the hearing; (2) a copy of the recommendation of the City Manager together with all supporting reports and documents; and (3) a statement that information about procedures and rights of parties may be obtained from the City Manager.

**5.10.090 Publication of Public Hearing Notice.**

If a public hearing is scheduled, the City Manager shall publish in a newspaper of general circulation in the city a notice specifying a time, date and location of the hearing and business name and address of applicant. The notice shall inform the public that testimony may be given for or against the application

**5.10.100 Public Hearing Procedures.**

When a public hearing before the City Council is held: (1) The applicant and the City Manager may present written and oral evidence and may rebut opposing evidence; (2) The hearing shall be limited to production of evidence relevant to the recommendation of the City Manager, unless the council decides to hear additional evidence; (3) After consideration of all relevant evidence, the City Council shall make its recommendation. The recommendation shall be based on substantial evidence relative to the TMC 5.10.060 criteria and shall be final. In the case of an adverse recommendation, the City Council shall make findings of fact which shall be forwarded to the OLCC along with the City Council recommendation against the application.



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A Resolution Revising the Business Incentive Program Affected Fess and Charges.

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** January 11, 2011

**STAFF MEMBER:** Erich Mueller  
**DEPARTMENT:** Finance

**ACTION REQUIRED**  
Resolution

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
No

**Comments:** Economic Development Subcommittee review September 14, 2010.

**STAFF RECOMMENDATION:** Adopt the Revision to the Business Incentive Program resolution as drafted by staff.

**EXHIBITS:** A. Resolution 2051  
B. Redline of Business Incentive Program Affected Fees and Charges

**Subject / Issue Relates To:**

Council Goals                       Legislative                       Other (describe)

**Issue / Council Decision & Discussion Points:**

- ◆ A revision is to *where* the cost of Business Incentive Program fee subsidy is allocated
- ◆ A wording clarification of the existing program
- ◆ **No** changes to eligibility, timing or other program criteria
- ◆ Was adopted as a temporary pilot program, subject to revision as needed.

Reviewed and Approved by City Manager:

## **BACKGROUND:**

To support and encourage economic development the City of Troutdale at the May 25, 2010 City Council Meeting instituted a Business Incentive Program related to vacant existing commercial space. The program was also referred to as the vacant storefront program.

The Business Incentive Program is available to all commercial and industrial zones within the City. The Program provides for the City to provide either a 50% or 100% fee subsidy for affected fees and charges as outlined in the original resolution.

At the time of adoption it was, and it remains so, difficult to estimate the ultimate program costs. Projected costs were based on the limited information available and estimated at a few thousand dollars per storefront.

### **Language Revision:**

As a pilot program it was expected that actual experience would reveal features which would require adjustment. Part of the language in Attachment A of the original resolution 2051 has caused some questions, and staff would like to take this opportunity to clarify the text to better reflect the original intent.

Included for your review is a redline version of the document listing the text revisions (Exhibit B). The text revision is to clarify that the 5,000 square foot calculation for the fee subsidy is based upon the vacant space to be newly occupied under the program, and that the calculation is not to include any existing square feet that the business may already occupy.

### **Cost Allocation Revision:**

At the September 14, 2010 Economic Development Subcommittee meeting staff briefed the members on the necessary changes to the program.

The intent discussed by both the Subcommittee and with the Council was to promote economic activity. As such it was presented as an economic development cost rather than a product marketing cost, the intent was to fill "empty" storefronts, not to "sell" more water!

An unintended consequence has arisen in that the program was modeled on the Gresham program and several aspects were customized for Troutdale. One aspect not anticipated was a very large SDC cost being incurred by the utility fund rather than the General Fund.

Under the current program there is the potential of a single \$48,000 sewer SDC cost that would be charged to the Sewer Utility Fund. This charge would directly undermine the Sewer Utility rate increase approved for this year.

The Finance Director would like to revise the Business Incentive Program such that the General Fund would incur the cost for all subsidized SDC fees rather than the corresponding utility operating fund.

The resolution amends only the schedule of fees attached to the original resolution 2051, by charging the fee subsidies to the General Fund from the corresponding utility operating fund.

**SUMMARY:**

The resolution does not change the size, scope or cost of the program, only changes which fund will incur the cost, and clarifies some existing language and original intent.

**PROS & CONS:**

- A. Approve the revisions to continue to support and encourage economic development with Business Incentive Program.
- B. Not approve the revisions and negatively impact the utility operating funds and undermine the previously approved user rate increases.

**Current Year Budget Impacts**  Yes

It is difficult to predict how many vacant business spaces will be occupied under this program and equally difficult to know how much it will cost for fee supplements.

The one pending large potential SDC charge of \$48,000 is anticipated.

The original analysis of the five most recent tenant improvements of vacant commercial space of less than 5,000 square feet indicated the average building permit fee was \$1,773 and the average plan review fee was \$803. The standard business license fee is \$65. Only one of the five tenant improvements triggered an additional System Development Charges, which was \$1,064.

The original analysis of the three most recent tenant improvements of vacant commercial space over 5,000 square feet in size indicated average building permit fees of \$4,210 and average plan review fees of \$2,629. No additional SDC charges were triggered by these improvements. Two of the three uses required the need for a conditional use permit, which was a \$600 land use fee.

**Future Fiscal Impacts:**  Yes (*describe*)  N/A

None beyond FY 2010-11 since this program is scheduled to terminate on June 30, 2011 unless extended.

**City Attorney Review:**  Yes  N/A

**Community Involvement Process:**  Yes, Economic Development Subcommittee review.

## **RESOLUTION NO. 2051**

### **A RESOLUTION ESTABLISHING A BUSINESS INCENTIVE PROGRAM**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. Due to the lengthy and continuing economic recession, commercial and industrial areas in Troutdale are plagued by high vacancy rates.
2. High vacancy rates negatively affect the activity of surrounding businesses and threaten even further decline.
3. Establishing and expanding businesses within empty commercial buildings will bring new customers and activity that benefit existing businesses but current economic conditions are making it very difficult for business entrepreneurs to set up or expand their business.
4. The City desires to reduce financial barriers for business entrepreneurs in order to encourage them to act now to start or expand a business in Troutdale.
5. The City Council has determined that certain fees should be waived or reduced for a limited period of time and that certain fees should be paid by the City or by the Troutdale Urban Renewal Agency.

#### **NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

**Section 1.** The City Council hereby authorizes a Business Incentive Program as follows:

- A. To qualify for the Business Incentive Program, a business must:
  1. Locate within an area of the city that is designated Commercial or Industrial on the Troutdale Comprehensive Land Use Plan Map;
  2. Be moving into existing vacant commercial building space that received approval of a final building inspection on or before March 31, 2010;
  3. Not be currently located in Troutdale or be an existing business located in Troutdale that is:
    - a. Expanding into adjacent vacant commercial building space, or
    - b. Opening a new satellite location in vacant commercial building space, or
    - c. Relocating to a vacant new site and is increasing its square footage;

4. Receive a permanent Certificate of Occupancy for a Commercial Tenant Improvement within 180 days of the initial tenant improvement building permit and the initial permit is issued between May 1, 2010 and June 30, 2011.
- B. Notwithstanding Section 1A, a business does not qualify for the Business Incentive Program if the business:
1. Is currently located in Troutdale and expands into adjacent existing commercial building space or relocates to a vacant new site but increases its square footage size by less than ten percent of its current size;
  2. Excludes minors at all hours of the day;
  3. Expands its existing commercial building space by new construction that adds square footage;
  4. Converts occupied or vacant residential building space to commercial space; however, the owner of vacant upper floor commercial space within the Central Business District zone qualifies for the Business Incentive Program when converting this vacant commercial space to a residential use.
  5. Does not commence construction within thirty days of issuance of the initial Tenant Improvement building permit, fails to continuously perform the tenant improvement construction work, or fails to obtain a permanent Certificate of Occupancy within 180 days of issuance of the initial Tenant Improvement building permit;
  6. Is a non-profit entity that is exempt from paying property taxes and is buying rather than leasing the building space it will occupy;
  7. Must obtain a Type III land use permit in order to occupy the building space.
- C. Reductions or waivers of fees and charges for a business that qualifies for the Business Incentive Program or for allowed conversions to residential use shall be as described in Attachment A.
- D. To receive the benefits of the program a qualifying business shall execute an agreement at the time of building permit application or at the time of business license application if no building permit is necessary. The agreement shall certify that the business qualifies for the Business Incentive Program. The agreement shall also include the provision that if the business does not meet program qualifications, the business will pay all applicable fees and charges before issuance of a temporary or permanent Certificate of Occupancy.

**Section 2.** This resolution shall take effect immediately.


**Section 3.** This program shall automatically sunset on June 30, 2011 unless extended by resolution of the City Council. Prior to June 30, 2011, the

City Administrator shall prepare a final program evaluation that discusses the program's success and whether there is a need for it to be extended.

YEAS: 7  
NAYS: 0  
ABSTAINED: 0

  
\_\_\_\_\_  
Jim Kight, Mayor

Date May 27, 2010

  
\_\_\_\_\_  
Debbie Stickney, City Recorder  
Adopted: May 25, 2010

**BUSINESS INCENTIVE PROGRAM  
AFFECTED FEES AND CHARGES**

- A. A business that has a possessory right in, or control over, no more than 5,000 square feet of building space, including any expansion at the time of completion, shall be entitled to waivers of all of the following fees and charges as applicable.
- B. A business that has a possessory right in, or control over, more than 5,000 square feet of building space, including expansion at the time of completion, shall be entitled to waivers of one-half of the following fees and charges as applicable.
- C. Conversion of vacant upper floor commercial space to residential within the Central Business District zone shall be entitled to waivers of all of the following fees and charges as applicable.
- D. Fees and charges that are subject to waivers under the Business Incentive Program are:

<u>Fee or Charge</u>	<u>Outside Urban Renewal Area (URA)</u>	<u>Inside Urban Renewal Area</u>
Business License, including 1. New license 2. Renewal of Existing 3. Change of Address	Paid by General Fund	Paid by URA
Land Use Review, including sign permits	Paid by General Fund	Paid by URA
Building Permits*	Paid by General Fund*	Paid by URA*
Plan Review	Paid by General Fund	Paid by URA
Transportation SDC	Paid by Street Fund	Paid by URA
Sewer SDC	Paid by Sewer Fund	Paid by URA

**Attachment A**  
**to Resolution #2051**

Water SDC	Paid by Water Fund	Paid by URA
Stormwater SDC	Paid by Storm Sewer Fund	Paid by URA
Public Works Permit	Paid by General Fund	Paid by URA
Engineering Plan Review	Paid by Applicable Utility Fund(s)	Paid by URA

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\* Building permit fees include various surcharges and taxes imposed by other governmental entities but are collected by the City on their behalf. The following fees cannot be waived and must be paid in full by the applicant. However, the City will work with these agencies to seek their cooperation in granting a waiver of their surcharge or tax.

- State surcharge on building permits
- Metro Construction Excise Tax
- Reynolds School District Construction Excise Tax

**BUSINESS INCENTIVE PROGRAM  
AFFECTED FEES AND CHARGES**

A. A business that has a possessory right in, or control over, no more than 5,000 square feet of vacant building space to be newly occupied, ~~including any expansion at the time of completion,~~ shall be entitled to have waivers of all of the following fees and charges paid by the city or Urban Renewal Agency, as applicable.

B. A business that has a possessory right in, or control over, more than 5,000 square feet of vacant building space to be newly occupied, ~~including expansion at the time of completion,~~ shall be entitled to have waivers of one-half of the following fees and charges paid by the city or Urban Renewal Agency, as applicable.

C. Conversion of vacant upper floor commercial space to residential within the Central Business District zone shall be entitled to have waivers of all of the following fees and charges, as applicable, paid by the city.

D. Fees and charges that are subject to be paid by the city or Urban Renewal Agency ~~waivers~~ under the Business Incentive Program are:

<u>Fee or Charge</u>	<u>Outside Urban Renewal Area (URA)</u>	<u>Inside Urban Renewal Area</u>
Business License, including 1. New license 2. Renewal of Existing 3. Change of Address	Paid by General Fund	Paid by URA
Land Use Review, including sign permits	Paid by General Fund	Paid by URA
Building Permits*	Paid by General Fund*	Paid by URA*
Plan Review	Paid by General Fund	Paid by URA
Transportation SDC	Paid by <u>General Street Fund</u>	Paid by URA

Sewer SDC	Paid by <u>General Sewer-Fund</u>	Paid by URA
Water SDC	Paid by <u>General Water-Fund</u>	Paid by URA
Stormwater SDC	Paid by <u>General Storm-Sewer-Fund</u>	Paid by URA
Public Works Permit	Paid by General Fund	Paid by URA
Engineering Plan Review	Paid by <u>General</u> Applicable Utility-Fund(s)	Paid by URA

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\* Building permit fees include various surcharges and taxes imposed by other governmental entities but are collected by the City on their behalf. The following fees ~~cannot be waived and~~ must be paid in full by the applicant. However, the City will work with these agencies to seek their cooperation in granting a reduction or waiver of their surcharge or tax.

- State surcharge on building permits
- Metro Construction Excise Tax
- Reynolds School District Construction Excise Tax

## **RESOLUTION NO.**

### **A RESOLUTION REVISING THE BUSINESS INCENTIVE PROGRAM AFFECTED FEES AND CHARGES**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. Due to the lengthy and continuing economic recession, commercial and industrial areas in Troutdale are plagued by high vacancy rates.
2. High vacancy rates negatively affect the activity of surrounding businesses and threaten even further decline.
3. To reduce financial barriers for business entrepreneurs the City Council determined that certain fees should be waived or reduced for a limited period of time and that certain fees should be subsidized by the City.
4. That in an effort to improve economic conditions the City Council instituted a Business Incentive Program on May 25, 2010 through Resolution 2051.
5. The Business Incentive Program is a pilot program and requires some minor revisions from time to time.

#### **NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

- Section 1 That a revised schedule of Affected Fees and Charges, of the Business Incentive Program, be adopted as attached.
- Section 2. Upon adoption this Resolution shall be effective as of May 25, 2010.
- Section 3. This program shall automatically sunset on June 30, 2011, as previously adopted, unless extended by resolution of the City Council.

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

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**Jim Kight, Mayor**

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**Date**

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**Debbie Stickney, City Recorder**  
**Adopted:**

**BUSINESS INCENTIVE PROGRAM  
AFFECTED FEES AND CHARGES**

- A. A business that has a possessory right in, or control over, no more than 5,000 square feet of vacant building space to be newly occupied shall be entitled to have the following fees and charges paid by the city or Urban Renewal Agency, as applicable.
- B. A business that has a possessory right in, or control over, more than 5,000 square feet of vacant building space to be newly occupied shall be entitled to have one-half of the following fees and charges paid by the city or Urban Renewal Agency, as applicable.
- C. Conversion of vacant upper floor commercial space to residential within the Central Business District zone shall be entitled to have the following fees and charges, as applicable, paid by the city.
- D. Fees and charges that are to be paid by the city or Urban Renewal Agency under the Business Incentive Program are:

<u>Fee or Charge</u>	<u>Outside Urban Renewal Area (URA)</u>	<u>Inside Urban Renewal Area</u>
Business License, including	Paid by General Fund	Paid by URA
1. New license		
2. Renewal of Existing		
3. Change of Address		
Land Use Review, including sign permits	Paid by General Fund	Paid by URA
Building Permits*	Paid by General Fund*	Paid by URA*
Plan Review	Paid by General Fund	Paid by URA
Transportation SDC	Paid by General Fund	Paid by URA
Sewer SDC	Paid by General Fund	Paid by URA

Water SDC	Paid by General Fund	Paid by URA
Stormwater SDC	Paid by General Fund	Paid by URA
Public Works Permit	Paid by General Fund	Paid by URA
Engineering Plan Review	Paid by General Fund	Paid by URA

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\* Building permit fees include various surcharges and taxes imposed by other governmental entities but are collected by the City on their behalf. The following fees must be paid in full by the applicant. However, the City will work with these agencies to seek their cooperation in granting a reduction or waiver of their surcharge or tax.

- State surcharge on building permits
- Metro Construction Excise Tax
- Reynolds School District Construction Excise Tax



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** Revisions to Council Committees and Subcommittees for 2011

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** January 11, 2011

**STAFF MEMBER:** Erich Mueller  
**DEPARTMENT:** Finance  
as assigned Staff Member for 5 of 7 Subcommittees

**ACTION REQUIRED**  
Motion

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
No

**Comments:**

**STAFF RECOMMENDATION:** Revisions as per staff suggested motion.

**EXHIBITS:** None

**Subject / Issue Relates To:**

- Council Goals
  Legislative
  Other (describe)

**Issue / Council Decision & Discussion Points:**

- ◆ Recommended changes to Council Committees and Subcommittees for the new year

**BACKGROUND:**

In March 2010 Ron Garzini Interim City Administrator suggested the Council establish subcommittees to look at various topics. By Council motion, several subcommittees were established and they have varied in their meeting activity during the year. As we enter a new year, and with several changes in the Council membership, staff is recommending some changes to the Subcommittees.

Reviewed and Approved by City Manager:

Both former Councilors Kyle and Wand were on the same 3 subcommittees:

- Organization Improvement Study Group
- Business Income Tax Shared Revenue
- Fire Service Cost Containment

leaving each of these 3 subcommittees with one remaining member.

Additionally in December 2009 the Council had also created two other Committees; The Committee on Mayor and Council Expenses, and the Renewable Energy Committee.

**STAFF'S RECOMMENDATION:**

For a variety of reasons, including departures of Council members, lack of activity, limited staff time to support subcommittees, completion of initial task, reassignment of purpose, alternative method to address the topic, or no longer an urgent priority task, the staff therefore recommends dissolving some of the committees and subcommittees.

**Staff Requested Motion:**

“I move to dissolve the Organization Improvement Study Group, Business Income Tax Shared Revenue, Council Meeting Rules and the Fire Service Cost Containment Subcommittees, AND also to dissolve the Committee on Mayor and Council Expenses, and the Renewable Energy Committee.”

The members of the Economic Development Subcommittee, (Councilors Daoust, Thomas and White), have expressed a desire to continue their subcommittee membership. The Budget Oversight Subcommittee has just begun their activities associated with the new police facility project. Therefore, staff recommends no changes these subcommittees. The seventh subcommittee, City Administrator Recruitment, has already been dissolved.

**Current Year Budget Impacts**    Yes (*describe*)    N/A

**Future Fiscal Impacts:**    Yes (*describe*)    N/A

**City Attorney Approved**   N/A    Yes

**Community Involvement Process:**    Yes (*describe*)    N/A