



# CITY OF EAGLE POINT

*"Gateway to the Lakes"*

OREGON

EAGLE POINT CITY COUNCIL  
17 BUCHANAN AVE. SOUTH, EAGLE POINT, OREGON

JUNE 23, 2015

## REGULAR MEETING MINUTES

### 1. CALL TO ORDER – 7:00 P.M.

Council President Bilden called the meeting to order at 7:00 p.m.

Council Members Present: Jonathan Bilden, Wayne Brown, Bill Fierke, Ruth Jenks, Aaron Prunty and Kathy Sell.

Council Members Absent: Bob Russell.

Staff Members Present: Henry Lawrence, City Administrator; Joe Kellerman, City Attorney; Robert Miller, Public Works Director; Melissa Owens, Finance Officer; Vern Thompson, Police Chief; Mike Upston, Planning Director; and Cindy Hughes, City Recorder.

Guests: Suzi Collins, Planning Commissioner; Char Hoppe, Parks and Recreation Commissioner; Lorin Myers, Budget Committee; Millie Wewerka, Budget Committee and Planning Commissioner; and members of the public.

### 2. FLAG SALUTE AND INVOCATION

Council President Bilden led the Pledge of Allegiance and Chaplain Lorin Myers offered an invocation.

### 3. AUDIENCE QUESTIONS OR COMMENTS CONCERNING ITEMS NOT ON THE AGENDA

There were no audience questions or comments concerning items not on the agenda.

### 4. PRESENTATIONS

There were no presentations.

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### 5. PUBLIC HEARINGS

- 5.1 A Public Hearing to receive comments from interested parties for the proposed use of state revenues.

Council President Bilden opened the public hearing at 7:01 p.m. to receive comments from interested parties for the proposed use of state revenues. Melissa Owens, Finance Officer, discussed the requirement of passing a Resolution to request and receive state revenues which are shared throughout the state on a per capita bases. Two public hearings are required as well. The first public hearing was held on May 28, 2015 at the Budget Committee Meeting, and this was the second public hearing. Ms. Owens further explained the purpose of the public hearing was to receive public comment and explained that state revenues for liquor taxes and cigarette taxes would go to the General Fund, and gas taxes would go to the Street Fund. A brief discussion followed about revenue sharing for marijuana taxes which had not been fully determined by the State. There was no testimony and Council President Bilden closed the Public Hearing at 7:04 p.m.

- 5.2 A Public Hearing to accept comment regarding adoption of the 2015-2016 Budget as approved by the Budget Committee.

Council President Bilden opened the public hearing at 7:05 p.m. to accept comment regarding adoption of the 2015-2016 Budget as approved by the Budget Committee. Melissa Owens, Finance Officer, explained the purpose of the public hearing was to receive public comment regarding adoption of the 2015-2016 Budget that was approved by the Budget Committee on May 28, 2015, with one change to the proposed budget. That change was to add a new line item in General Fund Non Departmental for City Flower Baskets in the amount of \$14,000 and reduce Contingency by the same amount.

Ms. Owens further noted publication of a summary of the budget as approved by the Budget Committee and the announcement of the Public Hearing was published in the Upper Rogue Independent, the City website, and the City utility billing newsletter. This Public Hearing was the second Public Hearing to provide the public with two opportunities to speak regarding the proposed budget. The first Public Hearing was during the Budget Committee meeting of May 28, 2015.

Council President Bilden invited members of the audience to provide public testimony. There being no public testimony, Council President Bilden closed the public hearing at 7:06 p.m.

### 6. CONSENT CALENDAR

- 6.1 Presentation of Regular Meeting Minutes of June 9, 2015.

Council President Bilden announced the Consent Calendar and asked for a motion. Councilor Fierke moved to approve the Consent Calendar as presented and

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Councilor Sell seconded the motion. There was no discussion. Roll call: Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; and Bob Russell, absent. The motion passed unanimously by those present.

### 7. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

There were no items considered for removal from the Consent Calendar.

### 8. PRESENTATION OF BILLS TO BE PAID

Council President Bilden asked if there were questions about the bills to be paid. There were no questions regarding the bills to be paid. Councilor Jenks moved to approve the Bills to be Paid in the amount of \$109,275.31, and the additional bills list (Submission No. 1) in the amount of \$29,878.33. Councilor Prunty seconded the motion. There was no discussion. Roll call: Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; and Bob Russell, absent. The motion passed unanimously by those present.

### 9. OLD BUSINESS

There was no old business.

### 10. NEW BUSINESS

#### 10.1 Ordinance No. 2015-04. An Ordinance in the matter of exclusion from City Property for persons that violate an applicable provision of law on City Property.

Vern Thompson, Chief of Police, reported on complaints originating from Centennial Plaza and discussed the proposed Ordinance as a tool to eliminate bad behavior. Since January, there had been 27 complaint calls which resulted in four arrests. Chief Thompson further discussed penalties and an appeals process. Henry Lawrence, City Administrator, noted that adults use the Plaza in addition to students. Furthermore, Chief Thompson reported there were serious crimes occurring such as drug dealing. Council's discussion covered increasing penalties, offenses and regulation by the State of Oregon.

Council President Bilden asked for a motion to adopt Ordinance No. 2015-04. Councilor Jenks made a motion to adopt Ordinance No. 2015-04 and Councilor Brown seconded the motion. There was considerable discussion regarding the proposed Ordinance. Councilor Prunty spoke in opposition of the Ordinance, stating it was too broad, and no law should restrain assembly. He also believed the Ordinance was in conflict with the Oregon Constitution. While Councilor Prunty felt the Ordinance was well written, he expressed that the third WHEREAS section was inappropriate as it addressed a specific age group and population, and he was not in support of the remedy of exclusion. Discussion continued about penalties, shortening the Ordinance to become more specific, enforcement, and posting regulations in parks. Discussion ensued and Chief Thompson explained that one

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individual had been arrested 15 times on City property for multiple offenses, and that the Ordinance was written for such offenders. Ultimately, Councilor Jenks requested an amendment to the motion to include removal of the third WHEREAS section from the Ordinance, and Councilor Brown seconded the amendment. Roll call: Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Ruth Jenks, aye; Bill Fierke, nay; Aaron Prunty, nay; and Bob Russell, absent. The motion passed with four aye votes and two nays. (*Attachment No. 1 - Letter of Dissent and Protest filed by Councilor Prunty on June 25, 2015.*)

- 10.2 Ordinance No. 2015-05. An Ordinance amending the Eagle Point Municipal Code Chapter 12.28, Park and Facility Use Regulations.

Henry Lawrence, City Administrator, explained that this Ordinance was in response to a citizen request for no smoking in all parks. The proposed Ordinance is modeled after Central Point's no smoking code and would add a new Section 12.28.085 to Eagle Point's Municipal Code. Mr. Lawrence credited a citizen editor for offering the following revised language to Section A.1 (Page 4), to revise the definition of Smoke Free to begin the sentence with "Any location where ..." and end it with "... is prohibited". There were additional minor housekeeping revisions to that section of the Municipal Code. Further, park use fees were removed as they had not been charged in some time and acceptance of fees would probably eliminate the City's recreational immunity from law suit on those properties.

Additional discussion addressed e-cigarettes and marijuana vapor products; and revising Section 12.28.140 Restrooms (Page 5), to provide one portable restroom and hand washing facility for every 125 people in attendance.

Council President Bilden asked for a motion to adopt Ordinance No. 2015-05. Attorney Kellerman suggested making a motion to approve Ordinance No. 2015-05 with the following amendments: Section 12.28.085, Definitions Section A.1 to add three words to the beginning after the words "Smoke Free", to include "Any location where" and add at the end, two words "is prohibited"; and, also amending Section 12.28.140 by omitting the first sentence and changing 500 to 125. Councilor Prunty made a motion to adopt Ordinance No. 2015-05 as proposed by Attorney Kellerman and Councilor Sell seconded the motion. There was no discussion. Roll call: Jonathan Bilden, aye; Wayne Brown, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Bill Fierke, nay; and Bob Russell, absent. The motion passed with five aye votes and one nay.

- 10.3 Resolution No. 2015-31. A Resolution appointing Jason Tilley to the Parks & Recreation Commission.

Council President Bilden reported a vacancy on the Eagle Point Parks and Recreation Commission had been advertised in the Upper Rogue Independent, and on the City's website and bulletin board at City Hall. In accordance with the Eagle Point City Charter, applicant Jason Tilley was selected for appointment beginning immediately through December 31, 2016.

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Council President Bilden asked for a motion to approve Resolution No. 2015-31. Councilor Fierke made a motion to approve Resolution No. 2015-31 and Councilor Prunty seconded the motion. There was no discussion. Roll call: Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.4 Resolution No. 2015-32. A Resolution authorizing adjustments to Revenues and Expenses within various funds for the 2014-2015 Fiscal Year.

Melissa Owens, Finance Officer, reported the proposed Resolution No. 2015-32 (Submission No. 2) had been placed at the dais for each Councilor. Ms. Owens explained that Resolution No. 2015-32 included the changes to revenues and expenditures for the end of the fiscal year. Comments and changes were as follows:

- General Fund (Administration) – correction of typo from \$310,150 to \$316,150
- General Fund \$25,000 higher than anticipated
- Building Permit Fees covering Building Department costs
- Increasing Planning Department Financials
- General Fund, Street/Water Fund brought in more revenue than anticipated
- Franchise Fees – additional \$5,000 into the General Fund
- Municipal Court Department increased by \$5,000
- Transferring allocation from non-departmental to Municipal Court
- Street Fund additional \$5,000 was actually more but for adjustment purposes transferring out to General Fund
- In regard to USDA Projects, the Water Capital Project Fund budgeted to spend \$400,000 this year for water projects. The City purchased land and paid for the cost of preliminary engineering; however, interim financing had been budgeted to pay for those expenses but was not in place due to some new rules with the USDA. The Water Fund will be paid back for the expenses.
- In the Water Fund, \$205,000 was transferred to the Water Capital Fund (\$200,000) and the General Fund (\$5,000).
- The Water SDC Fund was higher than anticipated due to a greater number of permits being issued, and also as a result of the rate increase by the Medford Water Commission which resulted in higher SDCs being collected and paid to them.
- \$17,000 from Capital Outlay to Debt Service.
- The Sewer Fund Debt Service and Bond Fees increased by \$1,500 but RVSS reimbursed the City in the same amount.

A brief discussion followed in which Ms. Owens clarified that expenses through the end of the fiscal year had been budgeted and there would not be additional changes.

Council President Bilden asked for a motion to approve Resolution No. 2015-32. Councilor Fierke made a motion to approve Resolution No. 2015-32 and Councilor Prunty seconded the motion. There was no discussion. Roll call: Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden,

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aye; Wayne Brown, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.5 Resolution No. 2015-33. A Resolution certifying that the City of Eagle Point provides four or more municipal services.

Melissa Owens, Finance Officer, explained that the City must certify that it provides four or more services to meet the eligibility requirements to receive state revenues. The City of Eagle Point currently provides five services: police protection; street construction maintenance and lighting; storm sewers; planning, zoning, and subdivision control; and water provisions.

Council President Bilden asked for a motion to approve Resolution No. 2015-33. Councilor Fierke made a motion to approve Resolution No. 2015-33 and Councilor Sell seconded the motion. There was no discussion. Roll call: Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.6 Resolution No. 2015-34. A Resolution declaring the City's election to receive state revenues.

Melissa Owens, Finance Officer, Melissa Owens, Finance Officer, explained that a public hearing was held earlier in the meeting to receive public comment regarding the City's election to receive state revenues. The purpose of this Resolution was to declare the City's election to receive state revenues.

Council President Bilden asked for a motion to approve Resolution No. 2015-34. Councilor Fierke made a motion to approve Resolution No. 2015-34 and Councilor Jenks seconded the motion. There was no discussion. Roll call: Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.7 Resolution No. 2015-35. A Resolution adopting the 2015-2016 Budget, declaring tax levied, making appropriations for the 2015-2016 Fiscal Year, and categorizing the tax levy.

Melissa Owens, Finance Officer, explained the purpose of this Resolution was to adopt the 2015-2016 Budget as approved by the Budget Committee. There was a brief discussion about \$20,000 reserved for future planning which Ms. Owens confirmed would be brought back to the Council for approval.

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Council President Bilden asked for a motion to approve Resolution No. 2015-35. Councilor Fierke made a motion to approve Resolution No. 2015-35 and Councilor Sell seconded the motion. There was no discussion. Roll call: Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.8 Resolution No. 2015-36. A Resolution authorizing the extension of Workers' Compensation Coverage to Public Safety Volunteers of the City of Eagle Point for Policy Year 2015-2016.

Melissa Owens, Finance Officer, explained there was not a police reserve program in place; however, this Resolution authorizes Workers' Compensation Coverage in the event the City has the opportunity to create a reserve program. There was no further discussion.

Council President Bilden asked for a motion to approve Resolution No. 2015-36. Councilor Fierke made a motion to approve Resolution No. 2015-36 and Councilor Prunty seconded the motion. There was no discussion. Roll call: Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.9 Resolution No. 2015-37. A Resolution authorizing the purchase of an Accident Policy for all volunteers other than Police Reserves.

Melissa Owens, Finance Officer, explained that volunteers help with a lot of projects in the City and beginning last year, the City began providing Worker's Compensation Coverage for its volunteers with the exception of public safety volunteers.

Council President Bilden asked for a motion to approve Resolution No. 2015-37. Councilor Fierke made a motion to approve Resolution No. 2015-37 and Councilor Jenks seconded the motion. For the benefit of the audience, Councilor Fierke explained that most of the items for approval were technically housekeeping items and therefore did not require a lot of deliberation. There was no further discussion. Roll call: Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; and Bob Russell, absent. The motion passed unanimously by those present.

- 10.10 Resolution No. 2015-38. A Resolution authorizing the purchase of playground equipment related to the Lucas Park Natural Playground Grant.

Robert Miller, Public Works Director, explained that the City of Eagle Point was able to obtain a grant from the Oregon Parks and Recreation Department (OPRD) for the Lucas Park Natural Playground. The playground grant proposed natural colors (earth tones and greens) for the natural looking playground equipment and educational equipment to match the aesthetics of the hillside, existing trees, and

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(now completed) Lucas Park and trail. The Parks and Recreation Commission reviewed and recommended the conceptual elements in September and November 2013. The grant was formally approved by OPRD in November of 2014, with a total estimated cost of \$105,000. Expenses are reimbursed from OPRD at 60 percent after completion of the project, up to \$63,000. Matching costs would come from staff time, labor to install (Public Works), and design and materials purchased (gravel, bark, etc.). John Galbraith of Galbraith & Associates is providing design services, mapping, and technical review of the designs.

The City advertised a request for proposal (RFP) from playground manufacturers and suppliers for the Lucas Park Natural Playground in the Daily Journal of Commerce on May 6, 2015, and the Medford Builder's Exchange. The request formalized three separate areas: main playground, hillside, and outdoor educational classroom.

Mr. Miller further explained that proposals were received from five companies by the May 20, 2015 deadline: Playcraft Direct, Inc., Allplay Systems LLC, Ross Recreation Equipment, Northwest Playground Equipment, Inc., and GameTime. One proposal was received after the 2:00 p.m. deadline and was not opened. The Lucas Park Playground Review Team comprised of the Parks and Recreation Commission Chair and Vice-chair, City Council Liaison to the Parks and Recreation Commission, John Galbraith of Galbraith & Associates, and staff reviewed all of the proposals with recommendations of the following:

- Playcraft Equipment– Lucas Park Main Playground
- Northwest Playground Equipment – Outdoor Educational Classroom (log seating)
- Gametime - Hillside Equipment (slide)
- Ross Recreation/Gametime - Log crawl through

The allowable cost of the playground equipment is \$70,000:

Main Playground .....	\$35,000
Outdoor Educational Classroom ...	\$31,000
Hillside, Slide .....	\$3,800
Log crawl through .....	\$5,500

Mr. Miller explained that the Playcraft equipment selected by the review team was represented by two companies, Allplay Systems LLC and Playcraft Direct, Inc. The two designs were reviewed by the Parks and Recreation Commission at their June 22, 2015 meeting, and they made a recommendation of Playcraft Direct, also the most local company out of Grants Pass. Last, Mr. Miller presented overhead slides of the proposed equipment, included in the Agenda Packet, and recommended approval of the purchase.



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Councilor Prunty noted that the equipment presentation by Playcraft Direct, Inc., was definitely at the top of the list. In addition, faux rocks were discussed but not selected as part of the project as natural rocks were located locally by John Galbraith, to be included as part of all three areas. Mr. Miller also discussed a newly available class on creating natural playgrounds and planned to compare Lucas Park with the class models.

Council President Bilden asked for a motion to approve Resolution No. 2015-38. Councilor Prunty made a motion to approve Resolution No. 2015-38 and Councilor Fierke seconded the motion. Discussion ensued wherein Mr. Miller reported it would be four to six weeks before the equipment could be delivered and then additional time for Public Works to install the equipment. There was no further discussion. Roll call: Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; and Bob Russell, absent. The motion passed unanimously by those present.

### 11. REPORTS FROM CITY COUNCIL AND CITY COMMITTEE REPRESENTATIVES

Councilor Fierke reported on the School Board meeting. General enrollments were down but enrollments were up counting the Charter School. The fund balance at the end of the year was projected to be approximately \$4M, insurance costs were up by about 8%, and the budget of approximately \$55M was approved. Additionally, Councilor Fierke reported being pleased with the information on population studies described in the Friday Letter. Councilor Fierke also reported very positively about attending a fund raiser for Kids Unlimited and the benefits of the program.

Councilor Jenks reported on the Rogue Valley Metropolitan Planning Organization (RVMPO) Policy Meeting which included presentations by the cities of Medford and Central Point regarding expansion of urban reserves and city limits. The City of Phoenix is also working on expanding reserves. In addition, there was discussion about the State increasing the gas tax and registration fees. On a final note, Councilor Jenks reported participating in the recent heritage walk which was enjoyable and educational.

Councilor Prunty reported on the Parks and Recreation Commission meeting which had mostly focused on the purchase of playground equipment.

Councilor Brown reported reviewing new equipment for Rogue Valley Sewer Services (RVSS), personnel matters, rate charges, and operations.

Council President Bilden reported volunteering with the Eagle Point bike ride, and attending the Southern Oregon Regional Economic Development Inc. (SORED) annual dinner.

### 12. STAFF REPORTS

Mike Upston, Planning Director, reported on presentations by the cities of Medford and Central Point on their conceptual plans during the Rogue Valley Metropolitan Planning

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Organization (RVMPO) meeting. Talent and Phoenix are also working on the conceptual planning process. On the local front, the 2005 Cottonwood Subdivision Phase II developer would like to reactivate its application, and the process will begin with the Planning Commission. Staff is working towards a Zoning Ordinance amendment to allow for reactivation of applications that had not been completed due to the recession. Previously, a temporary Resolution had extended Planning Actions but many of the projects were not completed. The goal would be to provide a way to allow for reactivation of projects that could be completed without changes from the original plans. Additionally, Mr. Upston reported on new preliminary flood maps by Federal Emergency Management Agency (FEMA) consultants which indicate the City's floodplain boundary is smaller than in the past, which may benefit some property owners by reducing insurance costs.

Melissa Owens, Finance Officer, noted the Financial Report, in the Agenda Packet, had information about the City's excellent scores for General Liability and Property Liability, which were well above average. The average loss per claim is also lower than average, all helping to keep the City's costs down. There was additional statistical information in the staff report about Municipal Court, utility billing, business licenses, billing payment, and website usage. Last, in response to a compliment from Councilor Fierke about the excellent insurance scores, Ms. Owens explained that it was a coordinated effort by all departments.

Robert Miller, Public Works Director, reported on the Main Street Lighting Project, and eight landscape contractors as well as staff working on landscaping. The USDA contract is anticipated to be presented at the next Council meeting. Discussion ensued about vegetation, dead or flooded areas, at Lucas Park. Mr. Miller explained that staff had been inundated but was working toward resolving those issues.

Henry Lawrence, City Administrator, reported on the Friday Letter, and preparations for a grand opening at Lucas Park later in the year. Discussion followed about eradicating weeds.

Cindy Hughes, City Recorder, reported on recruitment for the vacancy on the Economic Development Commission; and on the featured article on small towns in the July edition of Country Extra magazine (Submission No. 3).

13. INFORMATION

There were no information items to discuss.

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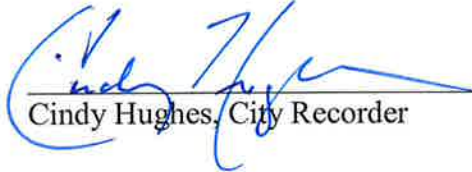
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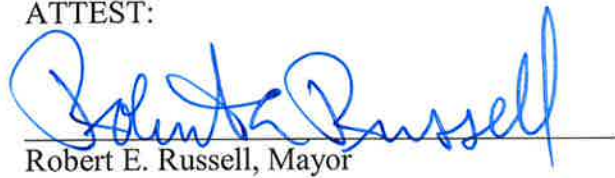
14. ADJOURN

There being no further business, Council President Bilden closed the meeting at 8:43 p.m.

Respectfully submitted,

  
Cindy Hughes, City Recorder

ATTEST:

  
Robert E. Russell, Mayor

Ordinance 2015-04 is overly broad, intended to target special classes, and abridges fundamental rights guaranteed by our state and federal constitutions.

I

Ordinance 2015-04 is overreaching. A person in charge of City Property may exclude any person who violates an applicable provision of the law..., which is defined in the ordinance as any City Ordinance, rule or regulation promulgated by the Parks and Recreation Department, and includes *any offense or traffic offense of the State of Oregon*, etc. (emphasis added). This is far too broad. If we wish to regulate offenses related to city property, we should name those offenses and provide an appropriate penalty. Additionally, it is important to remember, *all* of those offenses are already named as offenses in other city ordinances or state statute.

It is not hard to imagine a person receiving a parking citation (warning) one day and exclusion the next. Or an otherwise peaceful protester being excluded without warning, for obstructing vehicular or pedestrian traffic on a public way or making an unreasonable level of noise (per ORS 166.025, Disorderly Conduct) while picketing.

Ordinance 2015-04 is a feel-good measure that does nothing to further city interest. All offenses at the state and local level are now restated under another new ordinance. It is unnecessary and will have no substantive impact on conduct or behaviors.

II

The purpose of this ordinance, *prima facie*, is to limit disruptive conduct, and disruptive and offending behaviors. As previously stated, we already have ordinances and statutes that address these issues. Therefore, the purpose or intent must be found elsewhere.

Those who have attended our council meetings and heard our deliberations should clearly recognize the intent is to decrease the number of transient or indigent persons, and those school-aged, who gather on city property, especially our parks.

The intent of this ordinance is to target specific classes, based on wealth and age, and prevent them from assembling on city property. The intent is to limit access and assembly of those classes in our public forums because they cause discomfort and inconvenience. We must remember though that assembly is often meant to cause discomfort and inconvenience. An employee strike for example has far less impact if some people are not inconvenienced. That inconvenience is signal to the overall message.

The message this ordinance is attempting to quash, by removing those classes of people, is that the City does not provide them other opportunities. Their message is found in and by their assemblage. They are limited, based on their class, in how they can deliver that message in other meaningful ways.

This ordinance is a method of moving that message from the forefront by excluding those people from our public forums. It makes it easier for us to eat our lunches in peace and tranquility without feeling uncomfortable or inconvenienced by those certain classes of people. We no longer have to see the problem or hear their message.

It's been stated many times that our kids have nothing else to do. Ordinance 2015-04 tells our youth to do that "nothing" somewhere else, somewhere more convenient for the rest of us.

### III

Article 1, Section 1 of the Oregon Constitution states all men are equal in right. Section 20, no law shall be passed granting to any citizen or class of citizens privileges or immunities which upon the same terms not equally belong to all citizens. Finally, Section 26, *no law shall be passed restraining any of the inhabitants of the State from assembling together* (emphasis added). Section 26 is unambiguous.

This ordinance abridges fundamental rights guaranteed by our state and federal constitutions. The exclusion of people, whether we believe them to be part of a special class or not, from our public forums is unconstitutional. An ordinance abridging fundamental rights must be more narrowly tailored than Ordinance 2015-04.

As an example of what it means to be narrowly tailored and serve a governmental interest; in Oregon the Governor may exclude someone from public property based on a declared emergency period. There must be a publicized emergency proclamation, the property must be clearly identified and limited, and the proclamation must be limited to a period of time (ORS 131.705 through 131.735). When the danger no longer exists, the governor must rescind the exclusion. An excluded person has *immediate* access to the circuit court for review of the exclusion order, and that review is given priority over all other cases on the docket of the circuit court. Ordinance 2015-04 does not have similar limits or protections.

Ordinance 2015-04 excludes persons from lawful assemblage, a right guaranteed by the Oregon and federal constitutions. It is not narrow in scope (includes all offenses at the state and local level). It is not based on a governmental interest (i.e., an emergency or a clear and present danger). It is inherently unlawful.

It is for these reasons I respectfully dissent.

Aaron Prunty