City Council

Mayor
Brian Dalton

Council President
LaVonne Wilson

Councilor
Jim Brown

Councilor
Jim Fairchild

Councilor
Kelly Gabliks

Councilor
Beth Jones

Councilor
Jackie Lawson

Councilor
Kevin Marshall

Councilor
Murray Stewart

Councilor
Ken Woods, Jr.

City Staff

City Manager
Ron Foggin

City Attorney
Lane Shetterly

Community Development/
Operations Director
Jason Locke

Finance Director
Cecilia Ward

Fire Chief
Fred Hertel

Police Chief
Tom Simpson

Engineering Director
Fred Braun

City Recorder
Emily Gagner

Recording Secretary
Jeremy Teal

Dallas City Council Agenda

Mayor Brian Dalton, Presiding
Monday, November 3, 2014
7:00 pm
Dallas City Hall
187 SE Court St.
Dallas, OR 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.

	AGENDA ITEM	RECOMMENDED ACTION
1.	ROLL CALL	
2.	PLEDGE OF ALLEGIANCE	
3.	EMPLOYEE RECOGNITION / INTRODUCTION	
4.	COMMENTS FROM AUDIENCE This time is provided for citizens to comment on municipal issues and any agenda items other than public hearings. The Mayor may place time restrictions on comments. Please supply 14 copies of the material brought to the meeting for distribution.	
5.	PUBLIC HEARINGS Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.	
6.	CONSENT AGENDA The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.	
	a. Approve minutes of October 20, 2014 City Council meeting	PG. 3
	b. Recommend approval for the OLCC application for change of ownership for Rabbits	PG. 7
	c. Recommend approval for the OLCC application for change of ownership for Starlite Lanes	PG. 18
7.	ITEMS REMOVED FROM CONSENT AGENDA	
8.	REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS	
	a. General Comments from the Councilors and Mayor	
9.	REPORTS FROM CITY MANAGER AND STAFF	
	a. Updated Citizens Advisory Committee for Residential Streets recommendation	Information PG. 26
	b. Senior Center CDBG update	Information

Our Vision
Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.

Our Mission
The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.

Our Motto
Commitment to the Community. People Serving People.

City Hall
Dallas City Hall is accessible to persons with disabilities. 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 the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

	c. Council Goals	Information
	c. Other	Information
10.	RESOLUTIONS	
	a. Resolution No. 3308: A Resolution adopting amendments to the Dallas City Council Rules of Procedure.	Roll Call Vote PG. 30
	b. Resolution No. 3309: A Resolution approving the lease financing of fire apparatus.	Roll Call Vote PG. 33
11.	FIRST READING OF ORDINANCE	
12.	SECOND READING OF ORDINANCE	
	a. Ordinance No. 1772: An Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Dallas; and declaring an emergency.	Roll Call Vote PG. 38
13.	OTHER BUSINESS	
14.	ADJOURNMENT	

These minutes are supplemented by electronic recordings of the meeting, which may be reviewed upon request to the City Recorder. Audio files from City Council meetings from October 20, 2014, forward can be found online at http://www.dallasor.gov/archive under the corresponding agenda date. Staff reports, resolutions, ordinances, and other documents related to this meeting are also available at that site in the "Council Agendas" archive.

DALLAS CITY COUNCIL	**Monday, October 20, 2014**
The Dallas City Council met in regular session on Monday, October 20, 2014, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Brian Dalton presiding.	
Council: Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr.	
Staff: City Manager Ron Foggin, City Attorney Lane Shetterly, Chief of Police Tom Simpson, Fire Chief Fred Hertel, Community Development/Operations Director Jason Locke, Director of Engineering and Environmental Services Fred Braun, HR Manager Emily Gagner, and Recording Secretary Jeremy Teal.	
Pledge of Allegiance: Mayor Dalton led the Pledge of Allegiance.	

AGENDA	ACTION
EMPLOYEE INTRODUCTION/RECOGNITION	There were none.
COMMENTS FROM THE AUDIENCE	Joe Koubek, 565 SE Mifflin, Dallas, submitted a statement regarding the taxation of marijuana, a copy of which is attached to these minutes and incorporated herein.
PUBLIC HEARINGS	There were none.
1:38 CONSENT AGENDA Items approved by the Consent Agenda: a) October 6 , 2014, City Council meeting minutes; b) OLCC Application for Dallas Mini Mart	It was moved by Council President Wilson *to approve the Consent Agenda as submitted*. The motion was duly seconded and carried with a vote of 9-0.
ITEMS REMOVED FROM CONSENT AGENDA	There were none.
2:20 REPORTS OR COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS	Councilor Stewart shared his views regarding the use of medical and recreational marijuana. Mr. Shetterly advised that the Cave Junction case regarding medical marijuana ruled in favor of cities having the option to prohibit marijuana dispensaries in their communities.

DRAFT

REPORTS FROM CITY MANAGER AND STAFF	
9:45 MONTHLY DEPARTMENT STATISTICS	Mr. Foggin stated that monthly department statistics would be provided to the Council every month and the hope would be to start showing trends not just numbers.
15:00 PROPOSED COUNCIL RULES OF PROCEDURE UPDATE	Mr. Shetterly advised the rule update was regarding the use of any electronic device during a public meeting. It was moved by Councilor Brown *to direct staff to draft a resolution adopting the proposed changes to the Council Rules of Procedure.* The motion was duly seconded and carried with a vote of 9-0.
18:45 SEPTEMBER FINANCIALS	Mr. Foggin noted the revenues and department expenditures were tracking well.
20:30 COUNCIL GOAL UPDATE	Mr. Foggin noted that as part of the Council Retreat, goals were set including establishing a citizens academy. He reported the Dallas Leadership Academy was in production. He stated a group of citizens would take classes and graduate at the end of the course, and get a real feel for what running a city was like. He commented that a youth council was a possibility in the future.
27:30 OTHER	Mr. Foggin advised the IFA sent a rebuttal letter regarding the CDBG Senior Center project. He noted that there were a number of items that were questioned and were outside of the grant that would need to be discussed with the Council at a later date.

28:58 FIRST READING OF ORDINANCE	
Ordinance 1771 – An Ordinance amending Ordinance 1734 relating to solid waste management in the City of Dallas; and declaring an emergency.	Mayor Dalton declared Ordinance No. 1771 to have passed its first reading.
Ordinance 1772 – An Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Dallas; and declaring an emergency.	Mayor Dalton declared Ordinance No. 1772 to have passed its first reading.
32:42 SECOND READING OF ORDINANCE	
Ordinance 1768 – An Ordinance amending Dallas City Code Section 2.700 relating to public records retention; and repealing Ordinance No. 1748.	A roll call vote was taken and Mayor Dalton declared Ordinance No. 1768 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.

Ordinance 1769 – An Ordinance amending provisions of the Dallas Development Code adopting a new Dallas Sign Code; and repealing conflicting provisions.	A roll call vote was taken and Mayor Dalton declared Ordinance No. 1769 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
Ordinance 1770 – An Ordinance amending provisions of the Dallas City Code Section 8.802, relating to exemptions from property maintenance regulations; and declaring an emergency.	A roll call vote was taken and Mayor Dalton declared Ordinance No. 1770 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
Ordinance 1771 – An Ordinance amending Ordinance 1734 relating to solid waste management in the City of Dallas; and declaring an emergency.	A roll call vote was taken and Mayor Dalton declared Ordinance No. 1771 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
37:50 RESOLUTIONS **Resolution No. 3305 –** A Resolution establishing a schedule of fees to be paid for certain Community Development Department land use and zoning permits and services; and repealing Resolutions 3200 and 3216.	A roll call vote was taken and Mayor Dalton declared Resolution No. 3305 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
Resolution 3306 – A Resolution approving changes in rates for refuse collection service and repealing Resolution No. 3217.	A roll call vote was taken and Mayor Dalton declared Resolution No. 3306 to have PASSED BY A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
Resolution 3307 – A Resolution authorizing the issuance, negotiated sale, execution and delivery of not to exceed $3,025,000 full faith and credit bond anticipation note, series 2014; and related matters.	Mr. Foggin advised that in an effort to fund some Water Department capital projects the City received some short term financing through Cashmere Valley Bank in Washington. He noted the financing was a fixed rate for two years and would roll to permanent financing at the end of that term. A roll call vote was taken and Mayor Dalton declared Resolution No. 3307 to have PASSED BY

DRAFT

	A VOTE OF 9-0 with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly Gabliks, Councilor Jackie Lawson, Councilor Beth Jones, Councilor Kevin Marshall, Councilor Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.
EXECUTIVE SESSION	
OTHER BUSINESS	There was none.

ADJOURNMENT	There being no further business, the meeting adjourned at 7:47 p.m.

Read and approved this _____ day of _____ 2014.

_____

ATTEST: Mayor

_____
City Manager

DRAFT

DALLAS CITY COUNCIL
REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

City of Dallas	**Agenda Item No.** **6 b**	**Topic:** OLCC Application for Rabbits
Prepared By: Jeremy Teal	**Meeting Date:** November 3, 2014	**Attachments:** Yes ■ No ☐
Approved By: Ron Foggin		

RECOMMENDED MOTION:

With approval of the consent agenda, the Council would be recommending to the OLCC to grant the license for full on-premises sales at Rabbits.

BACKGROUND:

Stacy and Noel Elder are requesting an OLCC application for a change of ownership and to allow full on-premises sales at Rabbits.

Staff has reviewed the OLCC application and found no items of concern with the information provided by Stacy and Noel Elder.

FISCAL IMPACT:

None

ATTACHMENTS:

OLCC Application for Rabbits
Memo from Police Department
Memo from Community Development

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

- [x] Full On-Premises Sales ($402.60/yr)
  - [x] Commercial Establishment
  - [ ] Caterer
  - [ ] Passenger Carrier
  - [ ] Other Public Location
  - [ ] Private Club
- [ ] Limited On-Premises Sales ($202.60/yr)
- [ ] Off-Premises Sales ($100/yr)
  - [ ] with Fuel Pumps
- [ ] Brewery Public House ($252.60)
- [ ] Winery ($250/yr)
- [ ] Other: _____

ACTIONS

- [x] Change Ownership
- [ ] New Outlet
- [ ] Greater Privilege
- [ ] Additional Privilege
- [ ] Other _____

90-DAY AUTHORITY

[x] Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

[ ] Limited Partnership [ ] Corporation [x] Limited Liability Company [ ] Individuals

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission:

_____ (name of city or county)

recommends that this license be:

☐ Granted ☐ Denied

By: _____ (signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: C Womandy

Date: 10-13-14

90-day authority: ☒ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① S & N 1, LLC ③ _____

② _____ ④ _____

2. Trade Name (dba): Rabbits

3. Business Location: 186 Court St. Dallas Polk OR 97338
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: _____
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-623-8880
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? [x] Yes [ ] No

7. If yes to whom: Wellvend, LLC Type of License: FOP

8. Former Business Name: Rabbits

9. Will you have a manager? [x] Yes [ ] No Name: Stacey Elder
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Dallas / Polk
(name of city or county)

11. Contact person for this application: Stacey Elder [redacted]
[redacted]r(s))
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Noel Elder, member Date 10/13/14 ③ _____ Date _____

② Stacey Elder, member Date _____ ④ _____ Date _____

RECEIVED
OREGON LIQUOR CONTROL COMMISSION
OCT 13 2014
SALEM REGIONAL OFFICE

OREGON LIQUOR CONTROL COMMISSION

LIMITED LIABILITY COMPANY QUESTIONNAIRE

Please Print or Type

LLC Name: S & N 1, LLC Year Filed: 2014

Trade Name (dba): Rabbits

Business Location Address: 186 Court St.

City: Dallas ZIP Code: 97338

List Members of LLC:	Percentage of Membership Interest:
1. Noel Elder (managing member)	50%
2. Stacy Elder (members)	50%
3.	
4.	
5.	
6.	

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: Stacy Elder **DOB:** 5-8-77

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Noel Elder, member 10/13/14

Signature: [illegible], member **Date:** 10/13/14

(name) (title)

1-800-452-OLCC (6522)

www.olcc.state.or.us

(rev. 8/11)

OREGON LIQUOR CONTROL COMMISSION

INDIVIDUAL HISTORY

1. Trade Name Rabbits 2. City Dallas

3. Name Elder Stacy [redacted]
(Last) (First) (Middle)

4. Other names used (maiden, other) [redacted]

5. *SSN [redacted] 6. Place of Birth [redacted] (State or Country) 7. DOB [redacted] (mm) (dd) (yyyy) 8. Sex M ○ F ☒

*SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC§ 552(a). If you consent to these uses, please sign here:

Applicant Signature: Stacy Elder

9. Driver License or State ID # [redacted] 10. State OR

11. Residence Address [redacted]
(number and street) (city) (state) (zip code)

12. Mailing Address (if different) _____
(number and street) (city) (state) (zip code)

13. Contact Phone [redacted] 14. E-Mail address (optional) [redacted]

15. Do you have a spouse or domestic partner? ☒ Yes ☐ No
If yes, list his/her full name: Noel Jordan Elder

16. If yes to #15, will this person work at or be involved in the operation or management of the business?
☒ Yes ○ No

17. List all states, other than Oregon, where you have lived during the past ten years:

18. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of driving a car with a suspended driver's license or driving a car with no insurance?
☐ Yes ☒ No ○ Unsure If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.

19. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of a misdemeanor or a felony ? ○ Yes ☒ No ○ Unsure
If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.

20. Trade Name Rabbits 21. City Dallas

22. Do you have any arrests or citations that have not been resolved? ○ Yes ⊗ No ○ Unsure
If yes or unsure, explain here or include the information on a separate sheet.

23. Have you ever been in a drug or alcohol **diversion program** in Oregon or any other state? (A diversion program is where you are required, usually by the court or another government agency, to complete certain requirements in place of being convicted of a drug or alcohol-related offense.) ○ Yes ⊗ No ○ Unsure
If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

24. Do you, or any legal entity that you are a part of, **currently hold** or **have previously held** a liquor license in Oregon or another US state? (Note: a service permit is not a liquor license.) ○ Yes ⊗ No ○ Unsure
If yes, list the name(s) of the business, the city (or cities) and state (or states) where located, and the date(s) of the license(s). If unsure, explain. You may include the information on a separate sheet.

25. Have you, or any legal entity that you are a part of, ever had an application for a license, permit, or certificate **denied or cancelled** by the OLCC or any other governmental agency in the US?
○ Yes ⊗ No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

Questions 26 and 27 apply if you, or any legal entity that you are part of, are applying for a Full On-Premises, Limited On-Premises, Off-Premises, or Brewery-Public House license. If you are not applying for one of those licenses, mark "N/A" on Questions 26 & 27.

26. Do you have any ownership interest in any other business that makes, wholesales, or distributes alcohol? ○ N/A ○ Yes ⊗ No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

27. Does, or will, a maker, wholesaler, or distributor of alcohol have any ownership interest in your business?
○ N/A ○ Yes ⊗ No ○ Unsure If yes or unsure, explain:

Question 28 applies if you, or any legal entity that you are part of, are applying for a Brewery, Brewery-Public House, Distillery, Grower Sales Privilege, Warehouse, Wholesale Malt Beverage & Wine, or Winery license. If you are not applying for one of those licenses, mark "N/A" on Question 28.

28. Do you, or any legal entity that you are part of, have any ownership interest in any other business that sells alcohol at retail in Oregon? ⊗ N/A ○ Yes ○ No ○ Unsure If yes or unsure, explain:

You must sign your own form (you can't have your attorney or a person with power of attorney sign your form).

I affirm that my answers are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to, criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [signature] Date: 10/7/14

OREGON LIQUOR CONTROL COMMISSION

INDIVIDUAL HISTORY

1. Trade Name Rabbits 2. City Dallas

3. Name Elder Noel [redacted]
(Last) (First) (Middle)

4. Other names used (maiden, other) _____

5. *SSN [redacted] Place of Birth [redacted] 7. DOB [redacted] 8. Sex M ● F ○
(State or Country) (mm) (dd) (yyyy)

*SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC§ 552(a). If you consent to these uses, please sign here:

Applicant Signature: Noel Elder

9. Driver License or State ID # [redacted] 10. State OR

11. Residence Address [redacted]
(number and street) (city) (state) (zip code)

12. Mailing Address (if different) _____
(number and street) (city) (state) (zip code)

13. Contact Phone [redacted] 14. E-Mail address (optional) _____

15. Do you have a spouse or domestic partner? ● Yes ☐ No
If yes, list his/her full name: Stacy Ann Elder

16. If yes to #15, will this person work at or be involved in the operation or management of the business?
● Yes ○ No

17. List all states, other than Oregon, where you have lived during the past ten years:

_____

18. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of driving a car with a suspended driver's license or driving a car with no insurance?
☐ Yes ● No ○ Unsure If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.

_____

19. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of a misdemeanor or a felony ? ○ Yes ● No ○ Unsure
If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.

_____

20. Trade Name Rabbits 21. City Dallas

22. Do you have any arrests or citations that have not been resolved? ○ Yes ● No ○ Unsure
If yes or unsure, explain here or include the information on a separate sheet.

23. Have you ever been in a drug or alcohol **diversion program** in Oregon or any other state? (A diversion program is where you are required, usually by the court or another government agency, to complete certain requirements in place of being convicted of a drug or alcohol-related offense.) ● Yes ○ No ○ Unsure
If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.
12/11/99 Classes were in 4/00

24. Do you, or any legal entity that you are a part of, **currently hold** or **have previously held** a liquor license in Oregon or another US state? (Note: a service permit is not a liquor license.) ○ Yes ● No ○ Unsure
If yes, list the name(s) of the business, the city (or cities) and state (or states) where located, and the date(s) of the license(s). If unsure, explain. You may include the information on a separate sheet.

25. Have you, or any legal entity that you are a part of, ever had an application for a license, permit, or certificate **denied or cancelled** by the OLCC or any other governmental agency in the US?
○ Yes ● No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

Questions 26 and 27 apply if you, or any legal entity that you are part of, are applying for a Full On-Premises, Limited On-Premises, Off-Premises, or Brewery-Public House license. If you are not applying for one of those licenses, mark "N/A" on Questions 26 & 27.

26. Do you have any ownership interest in any other business that makes, wholesales, or distributes alcohol? ○ N/A ○ Yes ● No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

27. Does, or will, a maker, wholesaler, or distributor of alcohol have any ownership interest in your business?
○ N/A ○ Yes ● No ○ Unsure If yes or unsure, explain:

Question 28 applies if you, or any legal entity that you are part of, are applying for a Brewery, Brewery-Public House, Distillery, Grower Sales Privilege, Warehouse, Wholesale Malt Beverage & Wine, or Winery license. If you are not applying for one of those licenses, mark "N/A" on Question 28.

28. Do you, or any legal entity that you are part of, have any ownership interest in any other business that sells alcohol at retail in Oregon? ● N/A ○ Yes ○ No ○ Unsure If yes or unsure, explain:

You must sign your own form (you can't have your attorney or a person with power of attorney sign your form).

I affirm that my answers are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to, criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [signature] Date: 10/7/14

OREGON LIQUOR CONTROL COMMISSION

BUSINESS INFORMATION

Please Print or Type

Applicant Name: S&N 1, LLC Phone: 503-623-8880

Trade Name (dba): Rabbits

Business Location Address: 186 Court St

City: Dallas ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday	10:00 pm	to	2:30 AM
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday	10:00 AM	to	

Outdoor Area Hours:

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

The outdoor area is used for:

☐ Food service Hours: _____ to _____

☐ Alcohol service Hours: _____ to _____

☐ Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

_____ (Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

- ☒ Live Music
- ☒ Recorded Music
- ☒ DJ Music
- ☒ Dancing
- ☐ Nude Entertainers
- ☒ Karaoke
- ☒ Coin-operated Games
- ☒ Video Lottery Machines
- ☐ Social Gaming
- ☒ Pool Tables
- ☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

SEATING COUNT

Restaurant: _____

Lounge: 67

Banquet: _____

Outdoor: 30

Other (explain): 5

Total Seating: 102

OLCC USE ONLY

Investigator Verified Seating: ____(Y) ____(N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Noel Elder, member **Date:** 10/13/14

Steve Elder, member 10/13/14

1-800-452-OLCC (6522)

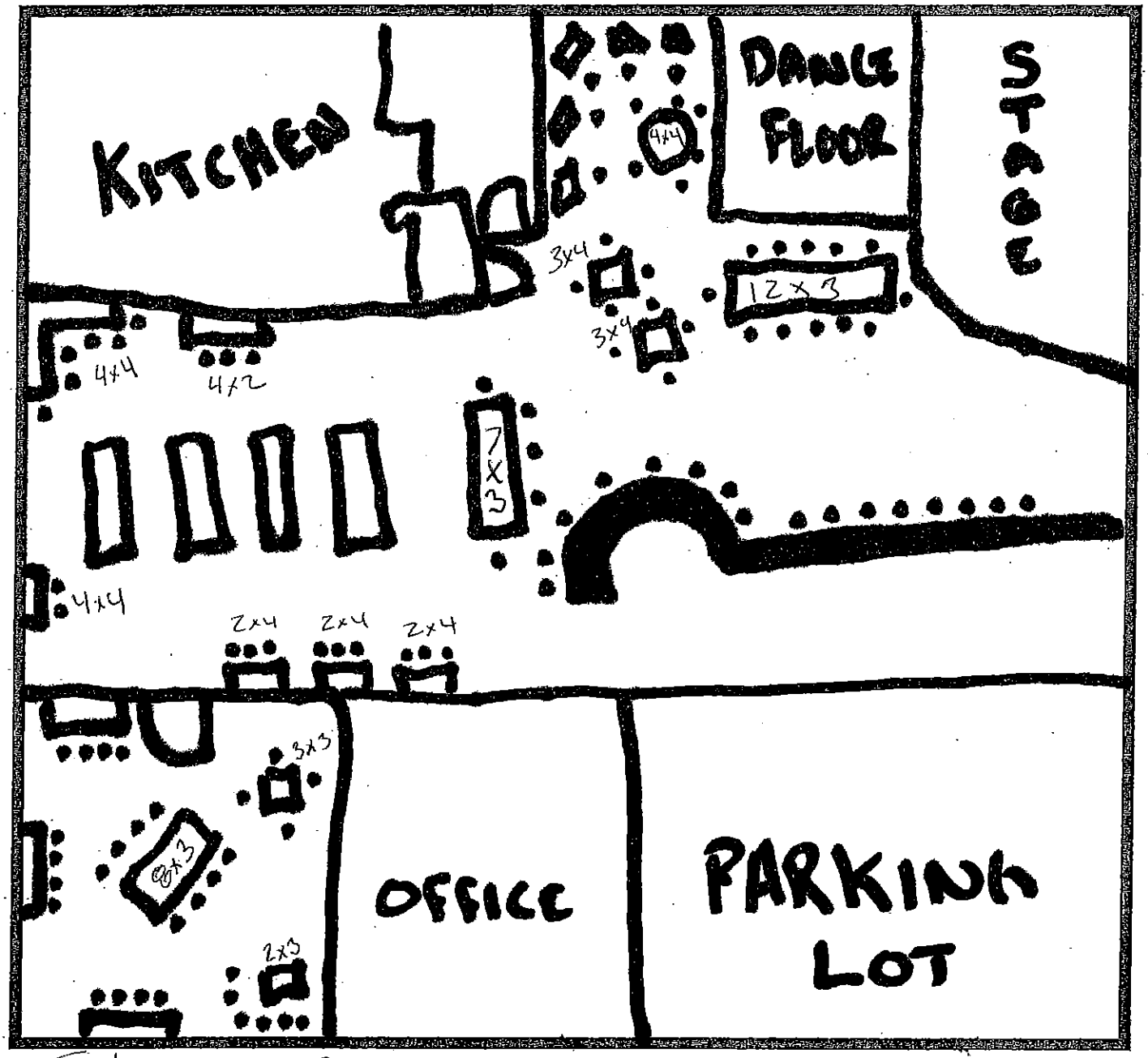
www.oregon.gov/olcc

(rev. 12/07)

OREGON LIQUOR CONTROL COMMISSION

FLOOR PLAN

- **Your floor plan must be submitted on this form.**
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.



S & N 1, LLC

Applicant Name

Rabbits

Trade Name (dba):

Dallas 97338

City and ZIP Code

.....OLCC USE ONLY.....

MINOR POSTING ASSIGNMENT(S)

Date:_____ Initials:_____

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 09/12)

M E M O

TO: RON FOGGIN
CITY MANAGER

FROM: TOM SIMPSON
CHIEF OF POLICE

RE: *Rabbit's*
Full-On Premise Sales
Location: 186 Court Street

DATE: October 21, 2014

This application is for Full-On Premise Sales. The applicants, Stacy Elder and Noel Elder are applying as a Limited Liability Company.

A routine background check has been completed and has revealed no recent items of concern.

THE CITY OF DALLAS OREGON

Community Development Department

Memo

To: Ron Foggin, City Manager

From: Jason Locke, Community Development/Operations Director

Date: October 21, 2014

Re: OLCC License application, 186 SE Court Street (Rabbits)

The zoning for the above property is appropriate for the use.

DALLAS CITY COUNCIL
REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

City of Dallas	**Agenda Item No.** **6 c**	**Topic:** OLCC Application for Starlite Lanes
Prepared By: Jeremy Teal	**Meeting Date:** November 3, 2014	**Attachments:** Yes ■ No ☐
Approved By: Ron Foggin		

RECOMMENDED MOTION:

With approval of the consent agenda, the Council would be recommending to the OLCC to grant the license for limited on-premises sales at Starlite Lanes.

BACKGROUND:

Michael Reed is requesting an OLCC application for a change of ownership and to allow limited on-premises sales at Starlite Lanes.

Staff has reviewed the OLCC application and found no items of concern with the information provided by Michael Reed.

FISCAL IMPACT:

None

ATTACHMENTS:

OLCC Application for Starlite Lanes
Memo from Police Department
Memo from Community Development

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

10-22-14 P04:39 RCVD

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales ($402.60/yr)
  - ☐ Commercial Establishment
  - ☐ Caterer
  - ☐ Passenger Carrier
  - ☐ Other Public Location
  - ☐ Private Club
- ☒ Limited On-Premises Sales ($202.60/yr)
- ☐ Off-Premises Sales ($100/yr)
  - ☐ with Fuel Pumps
- ☐ Brewery Public House ($252.60)
- ☐ Winery ($250/yr)
- ☐ Other: _____

ACTIONS

- ☐ Change Ownership
- ☐ New Outlet
- ☐ Greater Privilege
- ☐ Additional Privilege
- ☐ Other _____

90-DAY AUTHORITY

☒ Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

☐ Limited Partnership ☐ Corporation ☒ Limited Liability Company ☐ Individuals

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission: _____ (name of city or county)

recommends that this license be: ☐ Granted ☐ Denied

By: _____ (signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: _____

Date: _____

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Michael Reed ③ _____

② _____ ④ _____

2. Trade Name (dba): STARLITE LANES

3. Business Location: 394 MAIN ST (number, street, rural route) Dallas (city) _____ (county) OR (state) 97338 (ZIP code)

4. Business Mailing Address: SAME (PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 623-4267 (phone) (503) 623-8625 (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: LOREN FAXON Type of License: LIMITED

8. Former Business Name: STARLITE LANES

9. Will you have a manager? ☐ Yes ☒ No Name: _____ (manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Dallas (name of city or county)

11. Contact person for this application: MICHAEL REED (name) [redacted]

394 MAIN ST. (address) [redacted] (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Michael Reed Date 10-22-14 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

OREGON LIQUOR CONTROL COMMISSION

INDIVIDUAL HISTORY

1. Trade Name _____ 2. City Dallas

3. Name Reed Michael [redacted]
(Last) (First) (Middle)

4. Other names used (maiden, other) _____

5. *SSN [redacted]. Place of Birth [redacted] (State or Country) 7. DOB [redacted] (mm) (dd) (yyyy) 8. Sex M☒ F○

*SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC§ 552(a). If you consent to these uses, please sign here:

Applicant Signature: Michael Reed

9. Driver License or State ID # [redacted] 10. State OR

11. Residence Address [redacted]
(number and street) (city) (state) (zip code)

12. Mailing Address (if different) SAME
(number and street) (city) (state) (zip code)

13. Contact Phone [redacted] 14. E-Mail address (optional) [redacted]

15. Do you have a spouse or domestic partner? ☒ Yes ☐ No
If yes, list his/her full name: Maria Sandberg

16. If yes to #15, will this person work at or be involved in the operation or management of the business?
○ Yes ☒ No

17. List all states, other than Oregon, where you have lived during the past ten years:
NA

18. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of driving a car with a suspended driver's license or driving a car with no insurance?
☐ Yes ☒ No ○ Unsure If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.

19. In the past 12 years, have you been **convicted** ("convicted" includes paying a fine) in Oregon or any other state of a misdemeanor or a felony ? ○ Yes ○ No ☒ Unsure
If yes, list the date(s), or approximate dates, and type(s) of convictions. If unsure, explain. You may include the information on a separate sheet.
IF YOU COUNT SPEEDING TICKETS - YES - 2011 ish - SPEEDING + IMPROPER LANE CHANGE

20. Trade Name Starlite Lanes 21. City Dallas

22. Do you have any arrests or citations that have not been resolved? ○ Yes ⊗ No ○ Unsure
If yes or unsure, explain here or include the information on a separate sheet.

23. Have you ever been in a drug or alcohol **diversion program** in Oregon or any other state? (A diversion program is where you are required, usually by the court or another government agency, to complete certain requirements in place of being convicted of a drug or alcohol-related offense.) ○ Yes ⊗ No ○ Unsure
If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

24. Do you, or any legal entity that you are a part of, **currently hold** or **have previously held** a liquor license in Oregon or another US state? (Note: a service permit is not a liquor license.) ○ Yes ⊗ No ○ Unsure
If yes, list the name(s) of the business, the city (or cities) and state (or states) where located, and the date(s) of the license(s). If unsure, explain. You may include the information on a separate sheet.

25. Have you, or any legal entity that you are a part of, ever had an application for a license, permit, or certificate **denied or cancelled** by the OLCC or any other governmental agency in the US?
○ Yes ⊗ No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

Questions 26 and 27 apply if you, or any legal entity that you are part of, are applying for a Full On-Premises, Limited On-Premises, Off-Premises, or Brewery-Public House license. If you are not applying for one of those licenses, mark "N/A" on Questions 26 & 27.

26. Do you have any ownership interest in any other business that makes, wholesales, or distributes alcohol? ⊗ N/A ○ Yes ○ No ○ Unsure If yes, list the date(s), or approximate dates. If unsure, explain. You may include the information on a separate sheet.

27. Does, or will, a maker, wholesaler, or distributor of alcohol have any ownership interest in your business?
⊗ N/A ○ Yes ○ No ○ Unsure If yes or unsure, explain:

Question 28 applies if you, or any legal entity that you are part of, are applying for a Brewery, Brewery-Public House, Distillery, Grower Sales Privilege, Warehouse, Wholesale Malt Beverage & Wine, or Winery license. If you are not applying for one of those licenses, mark "N/A" on Question 28.

28. Do you, or any legal entity that you are part of, have any ownership interest in any other business that sells alcohol at retail in Oregon? ⊗ N/A ○ Yes ○ No ○ Unsure If yes or unsure, explain:

You must sign your own form (you can't have your attorney or a person with power of attorney sign your form).

I affirm that my answers are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to, criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Michael L. Reed Date: 10-21-14

OREGON LIQUOR CONTROL COMMISSION

BUSINESS INFORMATION

Please Print or Type

Applicant Name: Michael Reed Phone: (C) 503-508-0337

Trade Name (dba): Starlite Lanes

Business Location Address: 394 Main St.

City: Dallas, Ore ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday	10	to	10
Monday	10	to	10
Tuesday	10	to	10
Wednesday	10	to	10
Thursday	10	to	10
Friday	10	to	11
Saturday	10	to	11

Outdoor Area Hours:

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

The outdoor area is used for:

- ☐ Food service Hours: _____ to _____
- ☐ Alcohol service Hours: _____ to _____
- ☐ Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

_____ (Investigator's Initials)

Seasonal Variations: ☒ Yes ☐ No If yes, explain: 12pm.-9pm Sun-Thurs + 12-10 Fri-Sat. For Summer Hours

ENTERTAINMENT

Check all that apply:

- ☐ Live Music
- ☒ Recorded Music
- ☐ DJ Music
- ☐ Dancing
- ☐ Nude Entertainers
- ☐ Karaoke
- ☒ Coin-operated Games
- ☒ Video Lottery Machines
- ☐ Social Gaming
- ☒ Pool Tables
- ☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

SEATING COUNT

Restaurant: ~~24~~ 24 Outdoor: _____

Lounge: _____ Other (explain): 36 - Concession Area

Banquet: _____ Total Seating: 60

OLCC USE ONLY

Investigator Verified Seating: ____(Y) ____(N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [signature] **Date:** _____

1-800-452-OLCC (6522)

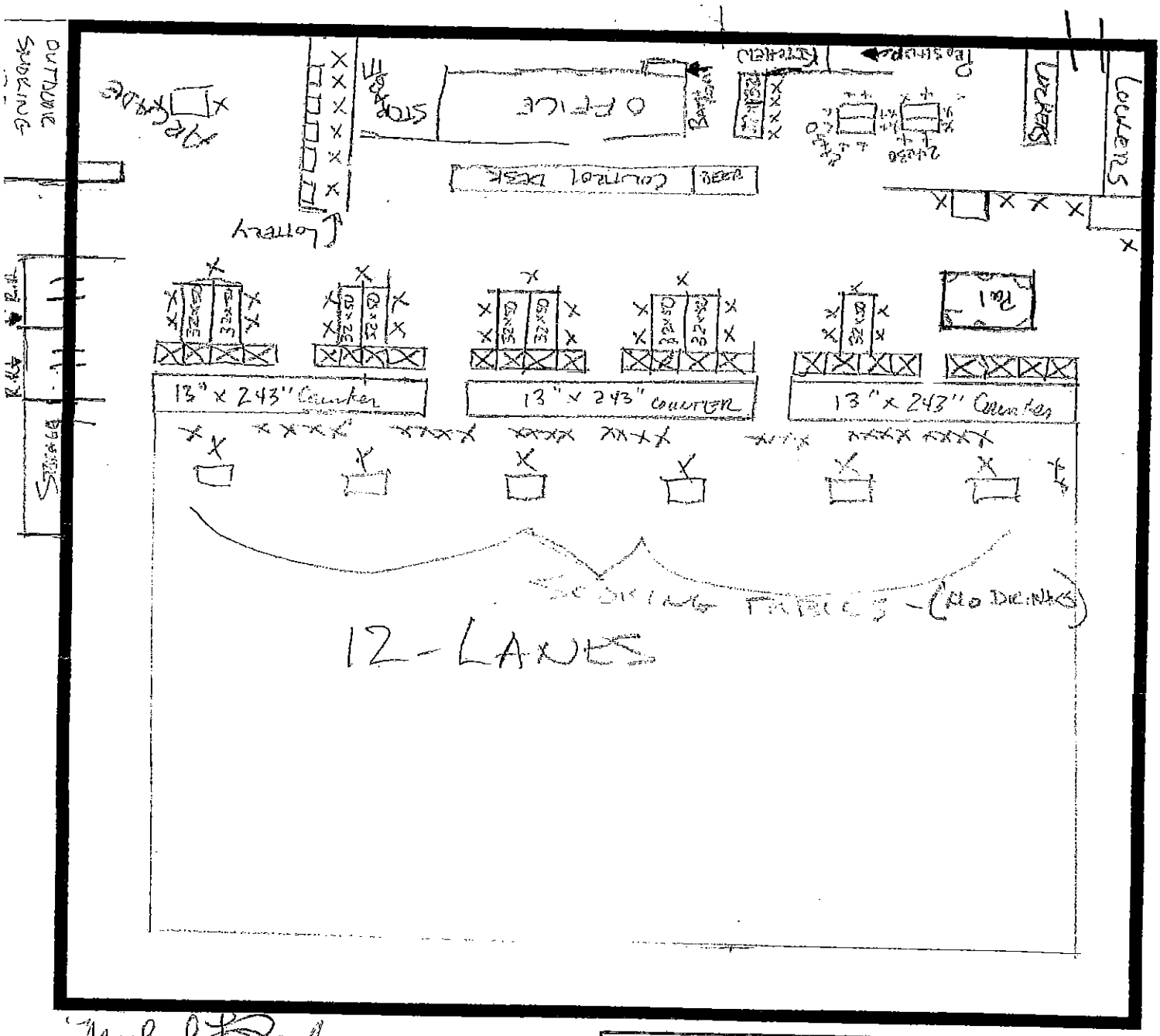
www.oregon.gov/olcc

(rev. 12/07)

OREGON LIQUOR CONTROL COMMISSION

FLOOR PLAN

- **Your floor plan must be submitted on this form.**
- Use a separate Floor Plan Form for each level or floor of the building.
- The floor plan(s) must show the specific areas of your premises (e.g. dining area, bar, lounge, dance floor, video lottery room, kitchen, restrooms, outside patio and sidewalk cafe areas.)
- Include all tables and chairs (see example on back of this form). Include dimensions for each table if you are applying for a Full On-Premises Sales license.



Applicant Name

STARLITE LANES

Trade Name (dba):

Dallas, OR 97338

City and ZIP Code

.....OLCC USE ONLY.....
MINOR POSTING ASSIGNMENT(S)

Date:_____ Initials:_____

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 09/12)

M E M O

TO: RON FOGGIN
CITY MANAGER

FROM: TOM SIMPSON
CHIEF OF POLICE

RE: *Starlite Lanes*
Limited-On Premise Sales
Location: 394 Main St

DATE: October 23, 2014

This application is for Limited-On Premise Sales. The applicant, Michael Reed is applying as a Limited Liability Company.

A routine background check has been completed and has revealed no recent items of concern.

THE CITY OF DALLAS OREGON

Community Development Department

Memo

To: Ron Foggin, City Manager

From: Jason Locke, Community Development/Operations Director

Date: October 22, 2014

Re: OLCC License application, 394 Main (Starlite Lanes)

The zoning for the above property is appropriate for the use.

THE CITY OF DALLAS OREGON

Community Development Department

Memo

To: Ron Foggin, City Manager, Mayor and City Council

From: Pete Christensen, Street CAC Chairman and Jason Locke, Community Development/Operations Director

Date: October 20, 2014

Re: Street CAC Final Recommendation revision

On October 14th, the Citizens Advisory Committee for Residential Street Funding met in a special meeting to consider the results of the new street condition report performed earlier this summer as well as the issue of a local gas tax, which is no longer prohibited by state law. The purpose of the meeting was to determine whether or not the Committee's original recommendation to the City Council needed to be amended.

Based on the discussion at the meeting, a vote was taken and the Committee recommended the following:

Recommendation No. 1:
That the City Council seek a General Obligation Bond in the amount of $10 million for 10 years. (No change to this recommendation)

Recommendation No. 2:
Within five years of Bond approval, the City Council should seek a street maintenance fee, local gas tax, utility surcharge, or other mechanism to generate $300,000 to $500,000 per year (in addition to the current $200,000 city funds for street maintenance) for ongoing street maintenance to protect the investment just made by taxpayers.

Attachment: CAC minutes of October 14, 2014

CITIZENS ADVISORY COMMITTEE
FOR RESIDENTIAL STREET FUNDING
Tuesday, October 14, 2014
Council Chambers

Chair Pete Christensen called the Citizens' Advisory Committee for Residential Street Funding meeting to order on Tuesday, October 14, 2014, at 5:30 p.m. in the Council Chambers of City Hall.

Committee members present: Pete Christensen, Greg Hansen, Dale Derouin, Ray Olmstead, and Dave Weston.

Members absent: Steve Large, Nancie Rogers, and Rich Wolcott.

Also present: Community Development/Operations Director Jason Locke, Mayor Brian Dalton, Admin Intern Daniel Adatto, Engineering and Environmental Services Director Fred Braun, and Recording Secretary Patti Senger.

REVIEW OF FINAL RECOMMENDATION

Chair Pete Christensen asked if the committee needed to review the recommendation in the Final Report to the Dallas City Council they prepared in December 2013; the consensus was they did not need to review the recommendation.

PRESENTATION OF NEW STREET CONDITION REPORT AND COSTS

Department of Engineering and Environmental Services Director, Fred Braun, explained the technical criteria used to analyze the condition of the streets, that it should be done every four or five years, but it had been eight since the streets had been analyzed. The estimated repair costs submitted to the Committee were based on a projected Pavement Condition Index (PCI) and not current, actual data.

Mr. Braun reported the City contracted with IMS to do an inspection of all of all of the streets using the latest technology available and they provided accurate and consistent data. He stated that 71% of the paved roadways were considered local streets, 8% arterials, and 21% were collector streets. There was a total of 57.8 linear miles of street and 10.8 million square feet that required maintenance. He noted this did not include the state highways that were maintained by the state.

Mr. Braun reported about functional classifications; 70% of the streets were paved, 1% was concrete, 8% asphalt arterial, and 21% asphalt collector. He said that the total valuation of all of the streets including the sub-base, curbs, sidewalks, and pavement was $50 million. He clarified that paving was just 25% of the valuation.

He reported that the overall PCI was 69, slightly better than projected showing a gain of three years over the original projected data. The local street system had a 65 PCI, which was in line with what was originally projected.

Mr. Braun reviewed the deferred maintenance estimated costs. To bring the average PCI to 80, the estimated costs would be $15 million, and that annual maintenance funding would be used to bring the some of the remaining streets up to a good condition. He

explained the original calculations used three types of overlays to repair the roads, with a conservative estimated cost of $20 million. The new rate was lower because they used a combination of six types of overlays, providing a more accurate number for repairs.

He explained that with a total valuation of $50 million for the entire street system, and a 75 year expected lifespan of a single street, the annual maintenance budget should be $660,000. The average annual spending for the last 15 years was about $200,000, which did not keep up with the maintenance requirements and why there was more than $15 million worth of deferred maintenance.

Mr. Braun emphasized that there was minimal difference between the original, projected data presented to the Committee prior to the new data received from the IMS analysis, and the conclusions were the same.

There was discussion of the variations of surface treatment and some of the pros and cons of those options.

Mr. Locke summarized the analysis was done as objectively as possible and the findings were similar to original data presented to the committee.

POSSIBLE LOCAL GAS TAX OPTION

Daniel Adatto reported about the provision of a gas tax in Dallas. He explained that a statewide moratorium on gas taxes ended in January 2014, which now allowed local governments the ability to pass a gas tax with local voter approval. He stated that 22 Oregon cities and two counties currently collected gas taxes, and they ranged from $.01 to $.05 per gallon; the most prevalent amount was $.03 per gallon.

Mr. Adatto chose Canby as a comparison city to Dallas, based on its size, population, distance from a major metropolitan area, lack of pass through traffic from tourism or commercial trucking, and similar commuting statistics. He reported that Canby received approximately $249,000 annually with $.03 gas tax per gallon.

Mr. Adatto presented a view from a Dallas resident's perspective. He stated that a typical Oregonian drove 13,000 miles per year typically at 25 mpg. If they purchased all of their gas in Dallas with a $.03 per gallon gas tax, they would pay $17.00 per year in gas taxes.

DISCUSSION OF REVISING FINAL RECOMMENDATION TO COUNCIL

Chair Christensen asked the Committee if they would like to revise the recommendation based on the new information received. Mr. Hansen pointed out the recommendation did not include enough maintenance funding. Mr. Derouin suggested using a gas tax as a way to increase the maintenance budget on Recommendation No. 2. Mr. Hansen said if they were to use only a gas tax, $.03 per gallon would not be enough, it would have to be $.05 to $.06 per gallon. There was discussion about residents purchasing gas elsewhere if the tax was too high and Mr. Locke indicated Dallas had lower gas prices than the neighboring communities.

The consensus was that the $10 million bond was a palatable amount for the voters and might accomplish more than originally expected and using the gas tax was a viable mechanism available to fund ongoing maintenance.

Ray Olmstead noted that a transportation fee on utility bills would go to everyone in the community who used the roads and the gas tax would only apply to those who purchased gas in Dallas.

Dave Weston made a motion to continue with the Recommendation No. 1: That the City of Dallas seek a general obligation bond for $10 million for 10 years and revised Recommendation No. 2 to include 'local gas tax or other method.' Mr. Hansen seconded the motion and it was approved unanimously.

Mr. Derouin urged the City Council obtain formal citizen input on methods to secure maintenance fees.

Joe Koubek, 565 SE Mifflin Street, Dallas, Oregon, asked about the gas tax applying to card lots such as Pacific Pride and suggested obtaining the gas tax sooner rather than later.

There was discussion about putting the bond and the maintenance together on the same ballot and the consensus was that it would confuse voters and increased the possibility that neither would pass.

Chair Christensen stated he would inform the Committee when the recommendation went before City Council.

ADJOURNMENT

The meeting adjourned at 6:18 p.m.

DALLAS CITY COUNCIL
REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

City of Dallas	**Agenda Item No.** **10 a**	**Topic:** Res. No. 3308- Council Rules of Procedure Amendment
Prepared By: Emily Gagner	**Meeting Date:** November 3, 2014	**Attachments:** Yes ■ No ☐
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Adopt Resolution No. 3308

BACKGROUND:

The City recently purchased tablets for the Council and Mayor's use, in the hopes of streamlining our meeting agenda distribution, etc. Along with our new technology come requirements to abide by state regulations governing open meetings, etc.

In order to ensure the Council is abiding by state regulations, and to give the rules some permanence and ownership by the Council, staff feels the best route would be to amend the Council Rules of Procedure to include in Section 6, a new subsection titled "Use of Electronic Communications During Council Meetings."

At the last Council meeting, the Council directed staff to prepare the attached Resolution adopting the amendment to the Council Rules of Procedure.

FISCAL IMPACT:

None.

ATTACHMENTS:

Resolution No. 3308

RESOLUTION NO. 3308

A Resolution Adopting Amendments to the Dallas City Council Rules of Procedure.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. The amendments to the Rules of Procedure for the City Council attached hereto as Exhibit 1, and by reference incorporated herein, are hereby approved and adopted and made a part thereof.

Section 2. This Resolution shall take effect upon passage.

Adopted: November 3, 2014
Approved: November 3, 2014

_____
BRIAN W. DALTON, MAYOR

ATTEST:

_____
RONALD W.FOGGIN, CITY MANAGER

APPROVED AS TO FORM:

_____
LANE P. SHETTERLY, CITY ATTORNEY

Exhibit 1

Amendment to Council Rules:

6.5 Use of Electronic Communications During Council Meetings.

The following shall govern the use of electronic communications by councilors during council meetings:

a) Councilors shall not send or receive electronic communications concerning any matter pending before Council during a Council Meeting.

b) Councilors shall not use electronic communication devices to review or access information regarding matters not in consideration before Council during a Council Meeting.

c) Councilors shall not access the internet concerning any matter pending before Council during a Council Meeting except to access Council agenda packet information.

d) Any electronic communications regarding a quasi-judicial matter to be considered by Council is an ex-parte contact and shall be disclosed as required by law.

e) In deference to the public meeting at hand, Councilors should make every effort to refrain from sending or receiving electronic communication of a personal nature during Council Meetings, though as volunteers it may sometimes be necessary to send or receive very urgent or emergency family or business communications during meetings.

DALLAS CITY COUNCIL
REPORT

TO: DALLAS CITY COUNCIL

City of Dallas	**Agenda Item No.** **10 b**	**Topic:** Lease Financing of Fire Apparatus
Prepared By: Cecilia Ward	**Meeting Date:** November 3, 2014	**Attachments:** Yes ☐ No ☐
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Approval of Resolution 3309 for lease financing of fire apparatus.

BACKGROUND:

The City requested quotes from various financial institutions for lease financing of fire apparatus. US Bank provided a quote with a rate and terms that meets the City's needs to finance the fire apparatus. By choosing the annual in arrears option the first payment will not be due until December 1, 2015, which will be after the equipment is delivered.

The terms require a resolution to approve the lease financing.

FISCAL IMPACT:

Annual appropriation of $44,813 beginning FY 2015-2016.

ATTACHMENTS:

Resolution 3309 with Exhibit 1

RESOLUTION NO. 3309

A RESOLUTION APPROVING A PROPOSAL FOR LEASE FINANCING OF A FIRE TRUCK AND RELATED EQUIPMENT FOR THE CITY OF DALLAS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AND OTHER DOCUMENTS RELATING THERETO.

WHEREAS, the City of Dallas is a political subdivision of the State of Oregon and is duly organized and existing pursuant to the Constitution and laws of the State; and

WHEREAS, the City Council of the City of Dallas is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the City; and

WHEREAS, the City Council hereby finds and determines that the lease financing of a fire truck and related equipment according to the second (Annual in Arrears) option set forth on the USBancorp Government Leasing & Finance, Inc. proposal dated October 29, 2014, attached hereto as Exhibit 1 and by reference incorporated herein (Proposal), is appropriate and necessary to the functions and operations of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. The lease financing of a fire truck and related equipment pursuant to the terms set forth under the second (Annual in Arrears) option in the US Bancorp Government Leasing & Finance, Inc Proposal attached hereto as Exhibit 1 is hereby approved.

Section 2. The City Manager is hereby authorized to negotiate, enter into, execute, and deliver a tax-exempt Lease in accordance with the terms set forth in the second (Annual in Arrears) option set forth in the Proposal, and to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the City Manager deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Lease is hereby authorized.

Section 3. The aggregate original principal amount of the Lease shall not exceed the amount stated in Exhibit 1, and shall bear interest as set forth therein.

Section 4. The City's obligations under the Lease shall be subject to annual appropriation or renewal by the City Council and the City's obligations under the Lease shall not constitute a general obligation of the City or indebtedness under the Constitution or laws of the State.

Section 5. The City of Dallas reasonably anticipates to issue not more than $10,000,000 of tax-exempt obligations (other than “private activity bonds” which are not “qualified 501(c)(3) bonds”) during the calendar year 2014 in which such Lease is issued and hereby designates the Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

Adopted: November 3, 2014
Approved: November 3, 2014

_____
BRIAN W. DALTON, MAYOR

ATTEST:

_____
RONALD L. FOGGIN,
CITY MANAGER

APPROVED AS TO FORM:

_____
LANE P. SHETTERLY,
CITY ATTORNEY

usbancorp.

All of us serving you®

Government Leasing and Finance

October 29, 2014

City of Dallas, OR
Attn: Cecilia Ward, Finance Director

At your request, U.S. Bancorp Government Leasing and Finance, Inc. ("USBGLF") has prepared for your consideration the following proposal for financing ("Proposal"). **This is only a proposal and does not represent a commitment by U.S. Bancorp Government Leasing and Finance, Inc.**

Customer:	**City of Dallas, OR**						
Lessor:	**U.S. Bancorp Government Leasing and Finance, Inc.**						
PROPERTY:	**Fire Truck**						
EXPIRATION:	**December 27, 2014**						
LEASE QUOTE:	**Amount**	**Rate**	**Payments**	**Factor**	**Pmts / Year**	**Term**	**Adv. / Arr.**
	385,795.00	**2.67%**	**43,316.00**	**0.1122772**	**1**	**120 Months**	**Advance**
X	**385,795.00**	**2.82%**	**44,813.00**	**0.1161575**	**1**	**120 Months**	**Arrears**

Notes: There are no fees associated with this offer including the establishment and use of a U.S. Bank, N.A. escrow account should one be required. Prepayment in whole, but not in part, on any payment date with no penalty.

The Lease will be structured as a tax-exempt municipal lease, with title in the Lessee's name and USBGLF holding a security interest in the equipment during the term. The lease is "triple-net" with the Lessee responsible for taxes, maintenance and insurance. Documentation will be provided by USBGLF, including (i) standard representations, warranties and covenants by the Lessee pertaining to the accuracy of information, organization, authority, essential use, compliance with laws, pending legal action, location and use of collateral, insurance, financial reporting and financial covenants; and (ii) standard USBGLF provisions pertaining to events of default and remedies available upon default. This offer is subject to the execution of all documentation by the Lessee within a reasonable time and in form and substance acceptable to Lessee, USBGLF and USBGLF's counsel, including terms and conditions not outlined in this Proposal.

This Proposal is conditioned on there being no material adverse change in the financial condition of the Lessee. Additionally, the terms and conditions outlined herein are subject to final review and approval (including collateral and essential use review) by USBGLF's business, legal, credit, and equipment risk management personnel.

Sincerely,

Thomas E. Seybold

Thomas E. Seybold
Vice President

ACCEPTANCE:
By accepting this Proposal, Lessee acknowledges that **this Proposal does not represent a commitment to provide financing** but only outlines general terms and conditions of the USBGLF's financing program currently available to qualified lessees.

ACCEPTED BY:

_____
Name / Title

dated: _____

usbank.com

Payment Table
(Assumes funding Dec 1, 2014)

Annual in advance option

	Totals	433,160.00	385,795.00	47,365.00	
*Prepayment balance equals 100% of principal outstanding after payment due.					
Pay #	Date	Payment	Principal	Interest	Prepayment Balance*
1	1-Dec-2014	43,316.00	43,316.00	0.00	342,479.00
2	1-Dec-2015	43,316.00	34,164.47	9,151.53	308,314.53
3	1-Dec-2016	43,316.00	35,077.39	8,238.61	273,237.14
4	1-Dec-2017	43,316.00	36,014.71	7,301.29	237,222.42
5	1-Dec-2018	43,316.00	36,977.08	6,338.92	200,245.35
6	1-Dec-2019	43,316.00	37,965.16	5,350.84	162,280.19
7	1-Dec-2020	43,316.00	38,979.64	4,336.36	123,300.55
8	1-Dec-2021	43,316.00	40,021.23	3,294.77	83,279.32
9	1-Dec-2022	43,316.00	41,090.66	2,225.34	42,188.66
10	1-Dec-2023	43,316.00	42,188.66	1,127.34	0.00

Annual in arrears option

	Totals	448,130.00	385,795.00	62,335.00	
*Prepayment balance equals 100% of principal outstanding after payment due.					
Pay #	Date	Payment	Principal	Interest	Prepayment Balance*
1	1-Dec-2015	44,813.00	33,932.68	10,880.32	351,862.32
2	1-Dec-2016	44,813.00	34,889.66	9,923.34	316,972.66
3	1-Dec-2017	44,813.00	35,873.63	8,939.37	281,099.03
4	1-Dec-2018	44,813.00	36,885.35	7,927.65	244,213.68
5	1-Dec-2019	44,813.00	37,925.60	6,887.40	206,288.08
6	1-Dec-2020	44,813.00	38,995.19	5,817.81	167,292.89
7	1-Dec-2021	44,813.00	40,094.95	4,718.05	127,197.94
8	1-Dec-2022	44,813.00	41,225.72	3,587.28	85,972.22
9	1-Dec-2023	44,813.00	42,388.38	2,424.62	43,583.83
10	1-Dec-2024	44,813.00	43,583.83	1,229.17	0.00

DALLAS CITY COUNCIL
REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

City of Dallas	**Agenda Item No. 12 a**	**Topic:** Ordinance 1772 – Marijuana Tax
Prepared By: Ron Foggin	**Meeting Date:** November 3, 2014	**Attachments:** Yes ■ No ☐
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Adopt Ordinance 1772.

BACKGROUND:

Citizens of Oregon are being asked to vote on the recreational use of marijuana. With the possibility of marijuana being legalized, cities across the State are passing ordinances to tax the sale of marijuana before the election in an effort to have the sales tax grandfathered in. The proposed marijuana legislation will not allow cities to adopt a marijuana sales tax after the law is approved by the voters. It is not known if the State and the courts will uphold cities' marijuana sales tax ordinances, but most cities are moving forward with sales tax ordinances just in case the Home Rule law is upheld.

With this in mind, it is being proposed that the City of Dallas adopt a marijuana sales tax prior to the November 4th election. The proposal is to tax medical marijuana at 5% and recreational marijuana at 10%. The proposed the tax rates are generally what most communities are going to.

Adoption of this ordinance will not permit medical or recreational marijuana dispensaries in the City, as the Zoning and Development Code requires uses to be in compliance with federal law, and marijuana is still a scheduled controlled substance under federal law.

FISCAL IMPACT:

Unknown at this time

ATTACHMENTS:

Marijuana Ordinance Memo
Ordinance 1772

MEMORANDUM

To: Mayor Brian W. Dalton and Dallas City Council

Cc: Ron Foggin, City Manager

From: Lane Shetterly, City Attorney

Re: Marijuana Tax Ordinance

Date: September 30, 2014

With this memorandum I am providing the council with a proposed form of ordinance adopting a tax on the sale of marijuana in Dallas. Given my earlier advice that the sale of marijuana is not permitted in Dallas on account of Section 1.2.050 of the Dallas Development Code, which provides that all "uses and development must comply with all other * * * federal regulations," there might be some confusion as to why this ordinance is being presented. The purpose of this memorandum is to explain that.

As you know, Ballot Measure 91 on the ballot this fall is a citizen initiative to legalize and regulate the production, sale and use of recreational marijuana. The measure also imposes a state tax on recreational marijuana, and includes an express preemption of taxes on marijuana by local governments:

> "No county or city of this state shall impose any fee or tax * * * in connection with the purchase, sale, production, processing, transportation and delivery of marijuana items." (Section 42.)

Notwithstanding the breadth of this preemption, there is some thought to the effect that it is applicable only prospectively -- that is, to prohibit the adoption of local taxes *after* the effective date of the measure -- and that local taxes adopted and in place *before* the measure takes effect will not be subject to preemption. Assuming that to be the case, there is a brief opportunity available prior to the effective date of the measure (which, if it passes, will be 30 days after the election, or December 4) for local governments to enact a tax on marijuana. Several cities around the state are doing so. This ordinance gives the council the opportunity to consider the adoption of a tax as well. It would impose a tax of 5% on sales of medical marijuana and 10% on sales of recreational marijuana in the city.

Obviously, the tax that this ordinance creates is subject to a number of contingencies. For one thing, Ballot Measure 91 has to be approved by the voters on November 3 (at least for the tax on recreational marijuana to become effective). Second, even if does pass, the tax will not become effective until and unless either (1) the council decides to allow the sale of marijuana in Dallas, notwithstanding Section 1.2.050 of the Development Code, or (2) a court determines that a local prohibition on the sale of marijuana, such as Dallas', is not enforceable, and the city is required to permit medical marijuana dispensaries and recreational sales. (There is a case pending in Josephine County that has begun the court process to address this issue.) A still further contingency is a determination at some point, probably by a court, as to whether Section 42 of the measure is broad enough to preempt local ordinances that were adopted prior to the effective date of the measure.

So the adoption of this ordinance by no means assures that a tax on marijuana sales will ever be imposed in Dallas. But if the council has any interest in ever having the right to impose such a tax, now would be the time to adopt one. There will clearly not be an opportunity to do so after the effective date of the measure, if it passes.

As noted above, this ordinance imposes a 5% tax on the sale of medical marijuana and a 10% tax on recreational sales. This is consistent with the approach of other cities that are adopting similar ordinances. At the same time, the actual rates can be adjusted before the tax ever becomes effective, so in many respects this ordinance is something of a "placeholder." Because of the risk that a court could ultimately determine that a local tax like this is preempted by the measure, I will also recommend that the city defer the actual collection of any taxes, in any event, until such a determination has been made. Otherwise, a city that has collected local taxes may be required to refund them, which could be administratively challenging (and a financial burden if the tax revenue has been spent).

Finally, for the purpose of this memorandum, Section 4 of the ordinance provides that this ordinance does not permit any use of property that is not allowed under the Development Code. That is to make clear that, by imposing a tax on the sale of marijuana in the city, this ordinance does not make the sale of marijuana in Dallas legal. As noted above, it will take either affirmative action by the council or a court ruling that says the city has to allow the sale of marijuana, notwithstanding the requirement of the Development Code that all uses comply with federal law, for such sales to legally occur.

I will be happy to answer questions about this at the council workshop.

ORDINANCE NO. 1772

An Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Dallas; and declaring an emergency.

WHEREAS, the City of Dallas is an Oregon home-rule municipal corporation having the authority and power under the terms of its Charter to exercise all the powers and authority that the constitution, statutes, and common law of the United States and this State expressly or impliedly grant or allow as fully as though each such powers were specifically enumerated therein; and

WHEREAS, except as otherwise provided, all powers of the City are vested in the Council; and

WHEREAS, the City Council desires to exercise that power to tax the sale or transfer of marijuana and marijuana-infused products within the City; Now, therefore,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following provisions are added to and made a part of Dallas City Code Chapter 7:

MARIJUANA TAX

7.940 Purpose.

For the purposes of this chapter, every person who sells marijuana, medical marijuana, or marijuana-infused products in the City of Dallas is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

7.942 Definitions.

As used in this ordinance, unless the context requires otherwise:

(1) "Director" means the Director of Finance for the City of Dallas or his or her designee.

(2) "Gross Sales" means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.

(3) "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every

compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(4) "Oregon Medical Marijuana Program" means the office within the Oregon Health authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

(5) "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

(6) "Purchase or Sale" means the acquisition or furnishing for consideration by any person of marijuana or marijuana-infused product within the City.

(7) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

(8) "Retail sale" means the transfer of goods or services in exchange for any valuable consideration.

(9) "Seller" means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

(10) "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

(11) "Taxpayer" means any person obligated to account to the Director of Finance for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

7.944 Tax Imposed.

A tax is hereby levied and shall be paid by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

7.946 Amount and Payment, Deductions.

(1) In addition to any fees or taxes otherwise provided for by law, every seller engaged in the sale of marijuana and marijuana-infused products shall pay a tax as follows:

(a) Five percent of the gross sale amount paid to the seller by a registry identification cardholder.

(b) Ten percent of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals who are not registry identification cardholders purchasing marijuana under the Oregon Medical Marijuana Program.

(2) The following deductions shall be allowed against sales received by the seller providing marijuana or marijuana-infused products:

(a) Refunds of sales actually returned to any purchaser;

(b) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

7.948 Seller Responsible for Payment of Tax.

(1) Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the City may establish shorter reporting periods for any seller if the seller or City deems it necessary in order to ensure collection of the tax and the City may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.

(2) At the time the return is filed, the full amount of the tax collected shall be remitted to the City.

(3) Payments shall be applied in the order of the oldest liability first, with the

payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.

(4) Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent of all taxes due to defray the costs of bookkeeping and remittance.

(5) Every seller must keep and preserve, in an accounting format established by the Director, records of all sales made by the dispensary and such other books or accounts as may be required by the Director for a period of three years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

7.950 Penalties and Interest.

(1) Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax, in addition to the amount of the tax.

(2) If the City determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalty stated in subsection (1) of this section.

(3) In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(4) Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.

(5) All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Dallas General Fund to offset the costs of auditing and

enforcement of this tax.

7.952 Failure to Report and Remit Tax – Determination of Tax by Director.

(1) If any seller should fails to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in section 69B.135. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.

7.954 Appeal.

(1) Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal such decision to the City Manager by filing written notice of appeal with the City Manager. Any appeal shall be filed within 30 days of the serving or mailing of the determination of tax due. The City Manager shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the City Manager shall be final and conclusive, subject to subsection (2) of this section.

(2) A person aggrieved by a decision of the City Manager may appeal to the City Council by filing written notice of appeal with the City Recorder within 20 days of personal service or mailing of notice of the City Manager's decision. The City Council shall give the appellant not less than 20 days advance written notice of the time and place of the hearing.

7.956 Refunds.

(1) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subsection (2) of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the City.

(2) The Director shall have 20 days from the date of receipt of a claim to review the

claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than 15 days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

(3) Any credit for erroneous overpayment of tax made by a seller taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a seller must be so taken or filed within three years after the date on which the overpayment was made to the City.

(4) No refund shall be paid under the provisions of this section unless the claimant establishes the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

7.958 Actions to Collect.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Dallas for the recovery of such amount. In lieu of filing an action for the recovery, the City of Dallas, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Dallas has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty $50.00 or fifty percent of the outstanding tax, penalties and interest owing.

7.960 Violation.

(1) Violation of this chapter shall constitute a civil infraction. It is a violation of this chapter for any seller or other person to:

(a) Fail or refuse to comply as required herein;

(b) Fail or refuse to furnish any return required to be made;

(c) Fail or refuse to permit inspection of records;

(d) Fail or refuse to furnish a supplemental return or other data required by the City;

(e) Render a false or fraudulent return or claim; or

(f) Fail, refuse or neglect to remit the tax to the city by the due date.

(2) Filing a false or fraudulent return shall be considered a Class B misdemeanor.

(3) The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

7.962 Confidentiality.

(1) Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

(a) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana or marijuana-infused products are sold or provided;

(b) The disclosure of general statistics in a form which would not reveal an individual seller's financial information;

(c) Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this chapter;

(d) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

(e) The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds five $5,000.

(2) The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS

192.501(5).

7.964 Audit of Books, Records, or Persons.

(1) The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.

(2) If the examinations or investigations disclose that any reports of sellers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

(3) The seller shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the seller paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of 1 percent per month, or the portion thereof, from the date the original tax payment was due.

(4) If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the Dallas Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

(5) Every seller shall keep a record in such form as may be prescribed by the City of all sales of marijuana and marijuana-infused products. The records shall at all times during the business hours of the day be subject to inspection by the City or authorized officers or agents of the Director.

(6) Every seller shall maintain and keep, for a period of three years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana and marijuana-infused products sold.

7.966 Forms and Regulations.

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection

of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

(1) A form of report on sales and purchases to be supplied to all vendors;

(2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

Section 2. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 3. Notwithstanding any amendment or repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

Section 4. Nothing in this ordinance shall be deemed or interpreted to authorize or permit a use of property within the City of Dallas that is not otherwise authorized or permitted under the Dallas Development Code.

Section 5. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist and this Ordinance shall take effect immediately upon its passage.

Read for the first time: October 20, 2014
Read for the second time: November 3, 2014
Adopted by the City Council: November 3, 2014
Approved by the Mayor: November 3, 2014

_____
BRIAN W. DALTON, MAYOR

ATTEST:

_____
RONALD W. FOGGIN,
CITY MANAGER

APPROVED AS TO FORM:

_____
LANE P. SHETTERLY,
CITY ATTORNEY