



Dallas City Council Agenda

Monday, August 3, 2009, 7:00 p.m.
 Mayor Jim Fairchild, Presiding
 Dallas City Hall
 187 SE Court Street
 Dallas, Oregon 97338

City Council

Mayor
 Jim Fairchild

Council President
 Brian Dalton

Councilor
 Warren Lamb

Councilor
 Jackie Lawson

Councilor
 Kevin Marshall

Councilor
 Wes Scroggin

Councilor
 David Shein

Councilor
 David Voves

Councilor
 LaVonne Wilson

Councilor
 Ken Woods, Jr.

Staff

City Manager
 Jerry Wyatt

Asst. City Manager
 Kim Marr

City Attorney
 Lane Shetterly

Community Development
 Director
 Jason Locke

Finance Director
 Cecilia Ward

Fire Chief
 Bill Hahn

Police Chief
 John Teague

Public Works Director
 Fred Braun

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 raise your hand to be recognized after the Mayor calls the item, or sign in on the provided card.

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE TO THE FLAG	
3. APPROVAL OF MINUTES Approval of minutes of the July 20, 2009, Council meeting p. 3	Approval
4. QUESTIONS OR COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to address the Council or introduce items for Council consideration on any matters other than those on the agenda.</i>	
5. PUBLIC HEARINGS <i>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.</i>	
6. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS	
7. REPORTS OF SPECIAL COMMITTEES AND CITY OFFICERS City Manager's Reports	
a. Jen's Place CDBG Application Process p. 7	Motions
b. Transportation Improvement Fee p. 12	Motion
c. Public Strategy Fee p.23	Information
d. Oregon Healthy Kids Program p. 24	Information
e. Other	
8. COMMUNICATIONS AND PETITIONS	
9. RESOLUTIONS	
a. <u>Resolution No. 3189</u> – A Resolution relating to Fair Housing. p. 28	Roll Call Vote

Dallas City Council Agenda

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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.*

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.

10. FIRST READING OF ORDINANCE

11. SECOND READING OF ORDINANCE

- a. Ordinance No. 1704 - An Ordinance amending provisions of Roll Call Vote the Dallas City Code Sections 5.380, 5.386 and 5.388, relating to dogs, and repealing conflicting ordinances. [p. 30](#)
- b. Ordinance No. 1705 - An Ordinance amending provisions of Roll Call Vote Dallas City Code Section 5.020, relating to unnecessary noise, and repealing conflicting Ordinances. [p. 39](#)

12. OTHER BUSINESS

13. ADJOURNMENT

1
2
3

4 The Dallas City Council met in regular session on Monday, June 20, 2009, at 7:01 p.m. in the
5 Council Chambers of City Hall with Mayor Jim Fairchild presiding.

6 **ROLL CALL**

7 Council members present were: Council President Brian Dalton, Councilor Jackie Lawson,
8 Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor Dave
9 Voves, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. Excused was: Councilor
10 Warren Lamb

11 Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Police Chief John
12 Teague, Fire Chief Bill Hahn, Finance Director Cecilia Ward, Public Works Director Fred
13 Braun, Assistant City Manager Kim Marr, and Recording Secretary Emily Gagner.

14 **PLEDGE OF ALLEGIANCE TO THE FLAG**

15 Mayor Jim Fairchild led the Pledge of Allegiance to the Flag.

16 **APPROVAL OF MINUTES**

17 Mayor Fairchild declared the minutes of the June 15, 2009, Council meeting approved as
18 previously corrected.

19 **QUESTIONS OR COMMENTS FROM THE AUDIENCE**

20 Marsha Heeter, who lives in the apartments at the corner of Academy and Levens Streets,
21 mentioned that three times in the past year, her apartment building's owners failed to pay the
22 garbage bill, which results in Allied Waste not picking up the garbage. She indicated they
23 normally pick up the garbage 3 times per week, so when they don't pick it up, it piles up fast.
24 She asked if there was anything the City could do to have Allied Waste pick up the garbage at
25 least one time per week, noting she is reluctant to contact the owners because she may be evicted
26 if she complains. Mr. Wyatt stated the City is getting more efficient at citing people for this type
27 of issue. He stated he would monitor the situation, noting it does create a health hazard.

28 **PUBLIC HEARINGS**

29 **REPORTS OR COMMENTS FROM COUNCIL MEMBERS**

30 Council President Dalton indicated the vine sculpture arbor is up in front of the Fox Theater,
31 adding it is not bolted down yet, but they will find a place to put it soon.

32 Councilor Lawson asked if the Council would be discussing the backyard burn at the meeting, as
33 she had a number of people approach her to discuss it. Mr. Wyatt stated it will be a future
34 agenda item and he is working on finalizing the staff report.

35 Councilor Marshall asked if the City had received any input on the trees on Main Street. Mr.
36 Wyatt stated testing showed we would not have to replace the dirt where the dead trees were
37 located. He added staff is working on a replanting plan, with planting to be completed this fall.

38 Council President Dalton stated that he recently represented the Council at a meeting with
39 Senator Jeff Merkley at a townhall meeting in Monmouth. He reviewed his discussion with the
40 Senator.

41 **REPORTS OF SPECIAL COMMITTEES AND CITY OFFICERS**

42 **EMPLOYEE AND VOLUNTEER OF THE QUARTER**

43 Jerry Wyatt presented the Employee and Volunteer of the Quarter awards. He explained there
44 were co-winners of the Employee of the Quarter award, and both were from Public Works. Mr.
45 Wyatt presented Ron Krebs, Public Works Foreman in the Street Department, and Jake Dyer,
46 Engineering Tech I in the Engineering Department with their awards. Mr. Wyatt then presented

1 Susie Futrell, a volunteer at the Library, with her Volunteer of the Quarter award.

2 Mayor Fairchild thanked the award recipients on behalf of the Council, adding the City is blessed
3 to have great employees and volunteers.

4 ISO PUBLIC PROTECTION CLASSIFICATION RATING

5 Fire Chief Hahn reviewed the letter from Derrick Thomas at the Insurance Services Office, or
6 ISO which explained the City's updated Public Protection Classification of 4. He explained that
7 after reviewing the ISO documents, staff believes the City could make some improvements to
8 move that Public Protection Classification to a 3 category. Mr. Hahn indicated in the current
9 economic situation, it would not be feasible to maintain an ISO 2, which was the prior rating the
10 City had. He stated an ISO 3 is a good positive rating that the City should be very satisfied with.

11 In response to a question, Mr. Hahn stated the rating scale goes from 1 to 10 with a 10 being no
12 fire protection. In response to a question, Mr. Hahn indicated the change in classification should
13 have minimal impact on residential insurance rates, but he did not know what impact it would
14 have on commercial properties.

15 Councilor Shein asked if the bond had passed last year, would the City have retained an ISO 2
16 rating. Mr. Hahn indicated that based on the evaluation, the passage of the bond would not have
17 helped.

18 ECONOMIC DEVELOPMENT COMMISSION COUNCIL APPOINTMENT

19 Mr. Wyatt reported that Councilor Lawson's position is up on the Economic Development
20 Commission, and Councilor Lawson has expressed an interest in continuing.

21 Councilor Wilson moved to reappoint Jackie Lawson to the Economic Development
22 Commission as one of the Council representatives. The motion was duly seconded and
23 CARRIED UNANIMOUSLY with Council President Brian Dalton, Councilor Jackie Lawson,
24 Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor Dave
25 Voves, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.

26 PARK RESERVATION REQUEST – VETERAN STAND DOWN

27 Mr. Wyatt indicated the City received a request to use the park for a Veteran Stand Down, noting
28 the staff recommendation is to move forward on that.

29 Bill Adams, of Serving our Veterans at Home (SOVAH) stated we have a number of veterans
30 living in bad situations in our area. A Veteran Stand Down brings them together to provide an
31 enclosed area for the vets to come and have shelter and food, and also provides personal care
32 areas for things like haircuts, dog care, medical sites, and includes healthcare professionals
33 providing health, dental, and eye care. Mr. Adams indicated the Veterans Affairs people are
34 helping the veterans take advantage of the opportunities available to them without making them
35 travel to Salem. Mr. Adams reported this will be a one-day event and include a security group.
36 He noted he chose the Levens Street site in the park because it is removed from the more
37 crowded areas of the park, especially those with a lot of children.

38 In response to a question, Mr. Adams indicated he expects at least four to five hundred veterans
39 from surrounding small communities to attend throughout the day and noted the VA will provide
40 transportation for people.

41 Councilor Shein moved to approve the request by Serving our Veterans at Home for use of the
42 Dallas City Park for a Veteran Stand Down event on September 19, 2009, from 7 a.m. to 4 p.m.
43 The motion was duly seconded and CARRIED UNANIMOUSLY with Council President Brian
44 Dalton, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Wes Scroggin,
45 Councilor David Shein, Councilor Dave Voves, Councilor LaVonne Wilson, and Councilor Ken
46 Woods, Jr. voting YES.

47 SPEED ZONE INVESTIGATION ON KINGS VALLEY HIGHWAY

48 Mr. Wyatt stated that earlier in the year, the Council requested that ODOT conduct a speed study

1 on Kings Valley Highway. He reviewed the current speeds and the new ODOT
2 recommendations.

3 Councilor Marshall moved to approve the ODOT recommended speeds for Kings Valley
4 Highway. The motion was duly seconded and CARRIED UNANIMOUSLY with Council
5 President Brian Dalton, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Wes
6 Scroggin, Councilor David Shein, Councilor Dave Voves, Councilor LaVonne Wilson, and
7 Councilor Ken Woods, Jr. voting YES.

8 BLUE GARDEN UPDATE

9 Mr. Wyatt indicated the property owner is moving forward with repairs, noting staff performed a
10 site inspection earlier in the day. He reported there has been a significant amount of work, with
11 three large dumpsters filled and removed. He explained that the City is going ahead and
12 forwarding the matter to the City Attorney's office for citation in Municipal Court, adding the
13 owners can continue to work on the property during that process.

14 REPORT ON THE JULY 14, 2009 PLANNING COMMISSION MEETING

15 Mr. Wyatt reviewed the report on the July 14 Planning Commission meeting, noting there was
16 one public hearing for a subdivision off Miller Avenue.

17 DEPARTMENT REPORTS FOR THE MONTH OF JUNE

18 There were no questions on the Department reports for the month of June.

19 OTHER

20 Mr. Wyatt reported that the City applied for a Park Trail Grant through the State Park and
21 Recreation Department, and the City was awarded a \$224,220 grant. The grant will be used to
22 construct the section of the park trail from the Dallas Aquatic Center to the east behind the
23 properties on Barberry Avenue.

24 Mr. Wyatt indicated the City is working with the Rural Development Initiative and the Ford
25 Family Foundation to have a leadership program in Dallas. He indicated the program allows the
26 City to tap into a lot of money, which can be used for leverage to get more money. Mr. Wyatt
27 explained the leadership program will work with the City on community-wide visioning, and will
28 involve the Chamber of Commerce, the City, the School District, and Chemeketa Community
29 College.

30 Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce, stated she has
31 applied for the Ford Family to have a five-year leadership program based in Dallas. Once we
32 complete the process, it opens up a world of new grants through Ford Foundation and others.
33 Ms. Pope indicated the Dallas School Board is very much in favor of moving forward.

34 Mr. Wyatt reported the Dallas Visitor Center is working with the City to host an outdoor movie
35 night on two nights in August at the performing arts stage.

36 COMMUNICATIONS AND PETITIONS

37 RESOLUTIONS

38 FIRST READING OF ORDINANCE

39 **Ordinance No. 1704:** An Ordinance amending provisions of the Dallas City Code Sections
40 5.380, 5.386, and 5.388, relating to dogs, and repealing conflicting ordinances.

41 Mayor Fairchild declared Ordinance No. 1704 to have passed its first reading.

42 **Ordinance No. 1705:** An Ordinance amending provisions of Dallas City Code Section 5.020,
43 relating to unnecessary noise, and repealing conflicting ordinances.

44 Mayor Fairchild declared Ordinance No. 1705 to have passed its first reading.

1 **SECOND READING OF ORDINANCE**

2 Ordinance No. 1703: An Ordinance granting to Qwest Corporation a telecommunications
3 franchise.

4 Mayor Fairchild declared Ordinance No. 1703 to have passed its second reading. Council Mayor
5 Fairchild declared Ordinance Number 1703 to have PASSED BY A UNANIMOUS VOTE with
6 Council President Brian Dalton, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor
7 Wes Scroggin, Councilor David Shein, Councilor LaVonne Wilson, and Councilor Ken Woods,
8 Jr. voting YES.

9 **OTHER BUSINESS**

10 There being no further business, the meeting adjourned at 8:20 p.m.

11 Read and approved this _____ day of _____ 2009.

12
13
14

15 _____
16 Mayor

16 ATTEST:

17 _____
18 City Manager

DRAFT

DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 7 a	Topic: Jen's Place CDBG Application Process
Prepared By: Emily Gagner	Meeting Date: August 3, 2009	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

- 1) Move to adopt the Policy of Nondiscrimination on the Basis of Handicapped Status
- 2) Move to approve the Grievance Procedure
- 3) Move to approve the Excessive Force Policy
- 4) Move to designate Jason Locke as the "Certifying Officer" for the 2009 CDBG Housing Rehabilitation Project HR 903

BACKGROUND:

The state requires us to review and adopt the following items in order to complete the CDBG application process for the Jen's Place off-site infrastructure. In addition to those items, the Council must adopt a Fair Housing Resolution. We will address that later in the agenda.

FISCAL IMPACT:

None

ATTACHMENTS:

Copies of documents that need to be adopted/approved for CDBG Process

Policy of Nondiscrimination on the Basis of Handicapped Status

City of Dallas

The City of Dallas does not discriminate on the basis of handicapped status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

The person named below has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24CFR Part 8: dated June 2, 1988)

Jerry Wyatt, City Manager, City of Dallas
187 Court Street, Dallas, Oregon 97338

PH: 503.623.2338

Oregon Telecom Relay Services
TDD 503.623.7355

Date: _____



**Grievance Procedure
Complaints of Alleged Discrimination Based on Disability**

1. A complaint shall be submitted in writing to the city manager for resolution. A record of the complaint and action taken will be maintained. A decision by the designated official will be rendered within 15 working days.
2. If the complaint cannot be resolved to your satisfaction by the designated official,
 - a. It will be forwarded to a committee appointed by the governing body. This committee's membership, its ground rules or procedures for hearing complaints, and how the committee can be contacted will be available to the public. The committee will be directed to hear such complaints in an objective, public manner, and after adequate public notice. A written decision will be made within 30 working days. Proceedings of the committee will be recorded and maintained.

OR

- b. The complaint will be heard by the governing body and discussed at an open, public meeting of the elected body. A written decision will be made within 30 working days. The decision of the governing body is final.
3. A record of action taken on each complaint will be maintained as a part of the record or minutes at each level of the grievance process.

Adopted this 3rd day of August, 2009

	Jerry Wyatt	City Manager
Signature of Chief Administrative Officer	Print Name	Title

Attest: _____
Emily Gagner, Assistant City Recorder



Exhibit 1D— Excessive Force Policy

It is the policy of the *City of Dallas* that:

- (1) its law enforcement personnel shall not use excessive force against any individual(s) engaged in nonviolent civil rights demonstrations, and
- (2) applicable state and local laws that prohibit physically barring entrance to or exist from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction shall be enforced

The existing policy for the City of Dallas meets or exceeds the policy stated above.

Effective Date

Jerry Wyatt, City Manager

Date

John Teague, Chief of Police



City of Dallas CDBG Housing Rehabilitation Grant Project HR903

Certifying Officer

“ An entity receiving CDBG funding must designate a “Certifying Officer. The Certifying Officer is attesting to the Recipient’s compliance with HUD’s environmental review procedures and will be held legally responsible for defending the environmental clearance if it is challenged. The responsibilities of the certifying officer are described in §58.13.

The Certifying Officer is the Recipient’s chief elected official. If any person other than the chief elected official is the Certifying Officer, the city council or county board must officially designate a person, such as the city manager, city administrator, city recorder and county administrator. A copy of the resolution designating someone other than the chief elected official and or the minutes from the meeting that describe the designation must be kept in the Recipient’s environmental review record. Failure to document the authority of the certifying officer can be the basis for a legal objection to the Recipient’s Request for Release of Funds. Consulting engineers, architects, and staff of another unit of government or persons employed by agencies providing grant administration services cannot be certifying officers. Environmental data gathering and analysis may be done by consultants, but the Recipient’s federal certifying officer is responsible for the accuracy and validity of the data and the conclusions drawn. ”

CDBG Grant Management Handbook 2009

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As required by the CDBG program the Dallas City Council designates *Jason Locke*, its Community Development Director, as the “ Certifying Officer ” for the 2009 CDBG Housing Rehabilitation Project HR 903

Dallas City Council Meeting  
August 3, 2009

\_\_\_\_\_  
Emily Gagner, Assistant City Recorder

Attached: City Council Minutes 8/03/09

# DALLAS CITY COUNCIL

## REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

|                                 |                                        |                                                                                         |
|---------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------|
| <i>City of Dallas</i>           | <b>Agenda Item No.<br/>7 b</b>         | <b>Topic:</b> Transportation Improvement Fee                                            |
| <b>Prepared By:</b> Jerry Wyatt | <b>Meeting Date:</b><br>August 3, 2009 | <b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| <b>Approved By:</b> Jerry Wyatt |                                        |                                                                                         |

**RECOMMENDED ACTION:**

Set a Public Hearing on August 17, 2009 to discuss the adoption of a Transportation Improvement Fee.

**BACKGROUND:**

Since the early 1990's with the implementation of Measure 5, 50 and 47 the base tax rates for municipal governments has had limits on taxable value increases as well as an established permanent tax rate. The "frozen" permanent tax rate for cities continues to fall further behind due to inflationary cost increases that has a direct impact on routine maintenance of infrastructure, facilities and the operation of general and essential services.

Currently, the primary funding source for maintaining the City's street system is the State Gas Tax and a small percentage of the Federal Gas Tax. The shared revenues received from the State Highway Fund are budgeted by the City to the Street Fund. The Street Fund is used for operations and maintenance within the public right-of-way, including pavement maintenance; traffic signal operations and maintenance; traffic control for special events and emergency response; street signage; striping; street light maintenance and power; vegetation control, street sweeping and leaf harvest; emergency weather response; and part of the operations contract; and administration.

The state gas tax has not been increased since 1992 and an increase is not certain within the foreseeable future. Fuel efficiency in motor vehicles has led to less fuel consumption for the same miles driven (fewer gallons sold). Even if fuel costs increase, gas tax receipts will not because we are taxed per gallon of gas (not per dollar). Furthermore, the downturn in the economy has resulted in less demand for gasoline (fewer gallons sold). The amount available from gas tax revenues for pavement overlay and reconstruction is forecast to decrease while the wear and tear on our roads will not.

It is important to note that since 2000, our road miles have increased from about 42 miles to 55 miles (about 30%), and our population has increased from 12,000 to 15,500 (about 29%). The shrinking dollars and a larger city have resulted in a growing backlog of paving and repair needs. Money received from the gas tax will continue to be used for the services mentioned above.

The City performed a comprehensive pavement evaluation in 2002. The overall pavement condition index (PCI) was rated at 73 in 2003. The City Council adopted a goal of keeping the

City's pavement condition at or above a PCI of 70 as part of GASB 34. The latest pavement evaluation was completed in Fall 2008. The overall citywide PCI has dropped to 69.

A Transportation Improvement Fee (sometimes known as a Street Maintenance Fee, Street Utility Fee, Road User Fee, or Street Improvement Fee) is a monthly fee based on use of the transportation system that is collected from residences and businesses within the city limits of Dallas. The fee is based on the number of trips a particular land use generates and is collected through the City's regular utility bill. It is designated for use in the maintenance and repair of the City's transportation system. Users of the road system share the costs of the corrective and preventive maintenance needed to keep the street system operating at an adequate level.

**FISCAL IMPACT:**

Single-family residential properties will be charged \$2.50 per month the first year. The fee will increase annually by \$1.00 per month for each of the next two years, reaching a maximum of \$4.50 per month. Multi-family residential units and mobile homes will be charged about 70% of the single-family fee per unit.

Non-residential bills depend upon the type and size of the development. Business groups will be established based on similar trip rates per square feet of gross floor area (GFA). In the first year, business charges will range from \$0.05 to \$.50 per square feet of GFA, depending on the type of use and trip generation. This range will gradually increase to \$0.09 to \$0.95 per square foot of GFA over the following two years.

The fee will generate approximately \$300,000 annually towards transportation maintenance, repairs and improvements in the first year.

**ATTACHMENTS:**

Brochure

# Transportation Improvement Fee

## What is a Transportation Improvement Fee?

A Transportation Improvement Fee (sometimes known as a Street Maintenance Fee, Street Utility Fee, Road User Fee, or Street Improvement Fee) is a monthly fee based on use of the transportation system that is collected from residences and businesses within the city limits of Dallas. The fee is based on the number of trips a particular land use generates and is collected through the City's regular utility bill. It is designated for use in the maintenance and repair of the City's transportation system. Users of the road system share the costs of the corrective and preventive maintenance needed to keep the street system operating at an adequate level.

## Why is the City considering a Transportation Improvement Fee?

Currently, the primary funding source for maintaining the City's street system is the State Gas Tax and a small percentage of the Federal Gas Tax. The shared revenues received from the State Highway Fund are budgeted by the City through the Street Fund. The Street Fund is used for operations and maintenance within the public right-of-way, including pavement maintenance; traffic signal operations and maintenance; traffic control for special events and emergency response; street signage; striping; street light maintenance and power; vegetation control, street sweeping and leaf harvest; emergency weather response; and part of the operations contract; and administration. The gas tax per gallon has not been increased since 1992 and an increase is not certain within the foreseeable future. Fuel efficiency in motor vehicles has led to less fuel consumption for the same miles driven (fewer gallons sold). Even if fuel costs increase, gas tax receipts will not because we are taxed per gallon of gas (not per dollar). Furthermore, the downturn in the economy has resulted in less demand for gasoline (fewer gallons sold). The amount available from gas tax revenues for pavement overlay and reconstruction is forecast to decrease while the wear and tear on our roads will not. It is important to note that over the last nine years, since 2000, our road miles have increased from about 42 miles to 55 miles (about 30%), and our population has increased from 12,000 to 15,500 (about 29%). The shrinking dollars and a larger city have resulted in a growing backlog of paving needs. Money received from the gas tax will continue to be used for the services mentioned above.

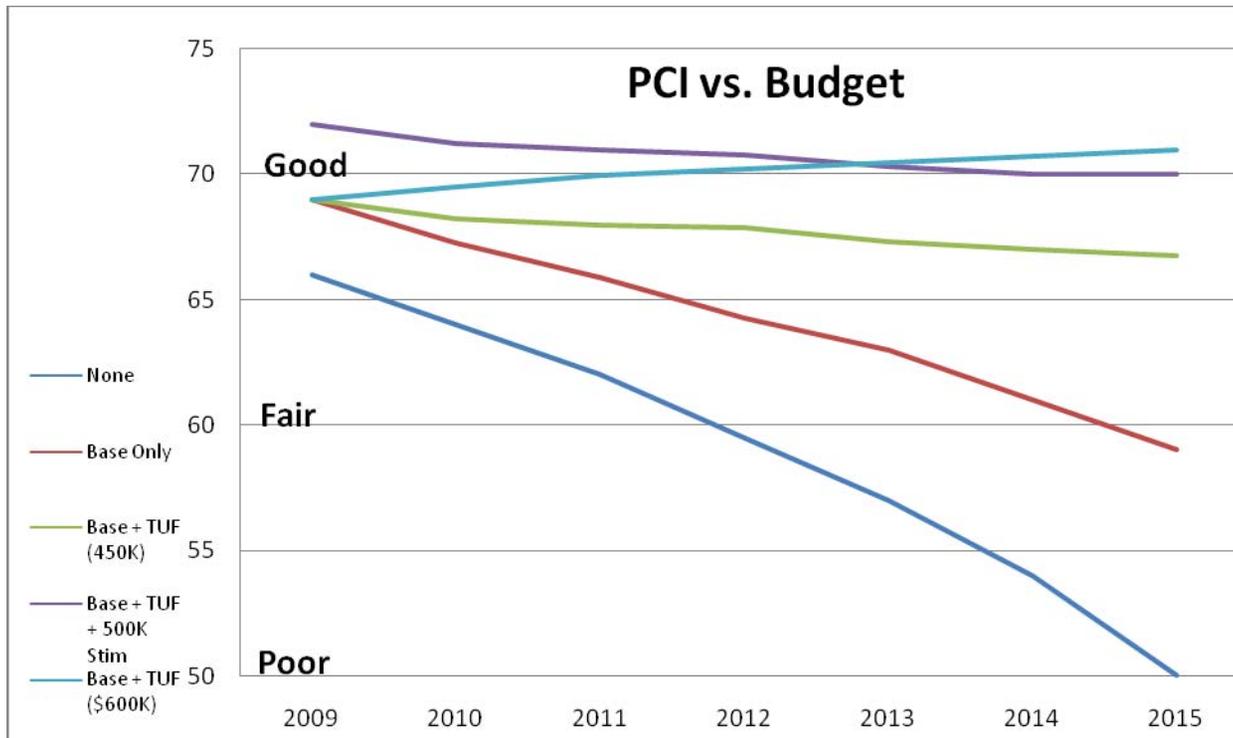
The City performed a comprehensive pavement evaluation in 2002. The overall pavement condition index (PCI) was rated at 73 in 2003. The City Council adopted a goal of keeping the City's pavement condition at or above a PCI of 70 as part of GASB 34. The latest pavement evaluation was completed in Fall 2008. The overall citywide PCI has dropped to about 69.

## Pavement Condition Assessment

The PCI indicates the extent and severity of pavement distress such as cracking, rutting, raveling, etc. Public Works conducted its most recent pavement condition assessment in 2008. The PCI for Dallas City streets were rated from 0 to 100 with the value 100 representing the condition of a brand new street. According to the results, 24% of the street system is in very poor or poor condition, 31% is in fair to good condition, and 46% is rated good to excellent. The overall PCI is about 69, which means that the "average" street is in fair condition and requires a seal coat treatment. If the overall PCI is allowed to drop to 60, the "average" street in the community would require an overlay.

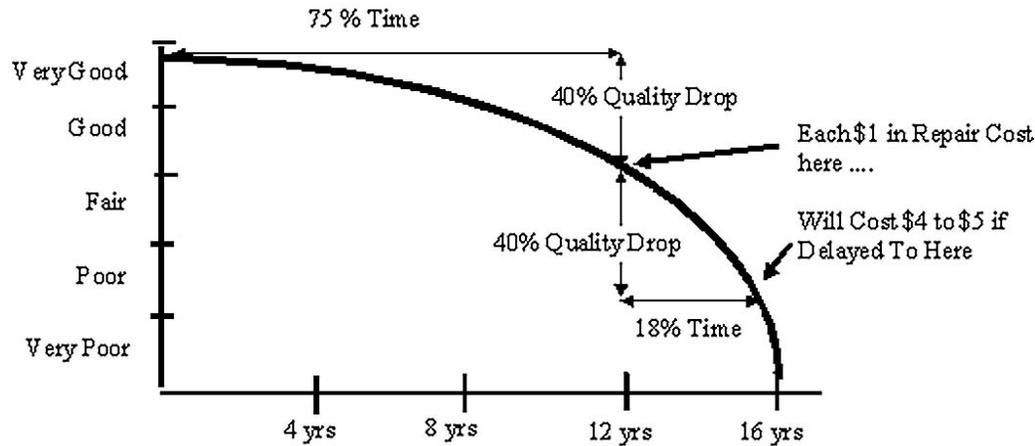
## Pavement Management Program

The pavement conditions were input into the City’s pavement management program which calculates maintenance costs and projects schedules for maintenance and rehabilitation. The pavement management program shows that it will cost an average of \$600,000 annually to increase the average PCI for the City’s street system from 69 to 71. It will cost \$450,000 annually to just keep the average PCI at about 69.



### The Value of Preventive Maintenance

Streets are designed to last about 20 years, but the pavement begins to deteriorate much earlier. Studies have shown that pavement health worsens at an increasing rate as the pavement gets older. Without periodic, preventive maintenance, a street’s condition deteriorates 40% in the first 15 years of its life. Then over the next 5 years, the street will greatly deteriorate, requiring major reconstruction. Preventive maintenance using slurry seals or 1.5 to 3-inch overlays during the first 10 to 15 years is the strategy that gets “the biggest bang for the buck” for street maintenance.



**How much will the fee be?**

Single-family residential properties will be charged \$2.50 per month the first year. The fee will increase annually by \$1.00 per month for each of the next two years, reaching a maximum of \$4.50 per month. Multi-family residential units and mobile homes will be charged about 70% of the single-family fee per unit.

Non-residential bills depend upon the type and size of the development. Business groups will be established based on similar trip rates per square feet of gross floor area (GFA). In the first year, business charges will range from \$0.05 to \$.50 per square feet of GFA, depending on the type of use and trip generation. This range will gradually increase to \$0.09 to \$0.95 per square foot of GFA over the following two years.

**How is the fee determined?**

The proposed fee is based on actual cost projections from the Pavement Management Program. Like those in many other Oregon communities, the fee is also based on nationally recognized information developed by the Institute of Traffic Engineers that estimates the average number of vehicle trips generated by a property based on how that property is used.

Customers will be assigned one of two main categories, residential and non-residential. Residential customers are charged for maintaining local streets. Non-residential customers are charged for maintaining arterials. Maintenance of collector streets is equally shared. In addition, the fee is based on how many trips are considered the average for the property using data developed by the Institute of Traffic Engineers.

**Do any other Oregon cities have a Transportation Improvement Fee?**

Many other cities are experiencing exactly what Dallas faces: inadequate funding for transportation system maintenance. The old funding tools, state shared revenues from the Highway Fund (primarily the State gas tax) have not increased. Needs in most communities in Oregon have grown while funding has fallen behind. Ashland was the first city in Oregon to implement the fee beginning in 1989. The following other cities have followed suit: Canby, Bay City, Corvallis, Eagle Point, Grants Pass, Hubbard, La Grande, Lake Oswego, Oregon City, Medford, Milwaukie, North Plains, Philomath, Phoenix, Talent, Tigard, Tualatin, West Linn, and Wilsonville all have a Transportation Utility Maintenance Fees.

Other cities actively pursuing a fee include Beaverton, Hillsboro, Eugene, Portland and Silverton.

TIF's range from \$2 to over \$10 per month. The proposed fee for Dallas (**\$3.50**) puts us in the low-mid range for fees.

**Will customers have a voice in which areas are going to be a priority?**

Not exactly. Although the City is working to spread the work throughout Dallas City, we have a Pavement Management Program in place that uses both fieldwork and a software program to calculate maintenance costs and project schedules for maintenance and rehabilitation to provide the residents of Oregon City with the biggest bang for their buck.

**How does the transportation improvement fee work?**

The fee is a charge for usage, like your monthly sewer charge. It provides a stable source of revenue to pay for street maintenance allowing for safe and efficient movement of people, goods, and services. The street system is a public investment that deserves protection and cost-effective regular maintenance. The fee will be added to the monthly water/sewer bill that the customer receives.

**If a customer does not pay their bill, what happens?**

Payment of the fee is delinquent if not paid within 30 days of the date of the combined water/sewer/street bill. Once your utility account is within the City's delinquent status, all services can be disconnected.

**What kind of street system do we have?**

Of Dallas 55 miles of streets, 1% are arterials (such as Fir Villa Road); about 32% are collector streets (such as LaCreole Drive and Wyatt Street); and 67% are local or neighborhood streets. The reconstruction value of all city streets is currently \$39 million.

**Where and how will the Transportation Improvement Fee dollars be spent?**

Because City residents and business owners will be paying the fee, revenue will only be invested in streets under the City's jurisdiction. The dollars will be used for rehabilitation and maintenance of City streets. This includes slurry seals, pavement overlays, reconstruction, and roadside maintenance work .

Revenues will not be used to construct new infrastructure to expand the transportation system or enhancements not directly related to improving or maintaining the condition of existing City streets.



# Transportation Improvement Fee

## Q & A

### What are some of the projects to be funded by this fee?

Some of the streets identified to get treatment ranging from a slurry seal to a complete reconstruction include:

#### 2009

- *West Ellendale Ave from Applegate Trail Dr to Wyatt St*
- *Cherry St to Main St*
- *LaCreole Dr from E Ellendale Ave to Miller Ave*

#### 2010

- *Washington St from Jefferson St to Uglow Ave*
- *Godsey Rd from Miller Ave to Monmouth Cutoff Rd*
- *Bridlewood Drive*
- *Fir Villa Rd from Miller Ave to Magnolia Ave*
- *Uglow Ave from Mill St to Clay St*
- *Maple St from E Ellendale Ave to Oakdale School*

#### 2011-14

- *Dallas Dr from Denton Ave north to dead end*
- *Hillcrest Dr from W Ellendale Ave to Byers Ln*
- *Levens St from W Ellendale Ave to Walnut Ave*
- *Oakwood Dr from Bridlewood Dr to Maplewood Dr*
- *Orchard Dr from Kings Valley Hwy north to City limits*
- *Clay Street*

#### Portions of:

- *Birch, Maple, Ash, Clay, Hayter, Ellis, Stump, Brown Street*
- *Hill, Court, Oak, River, Bryson, Academy*

The above streets are generally over 10 years old and need maintenance to protect them and extend their service beyond a 20-year design life. Slurry sealing and related maintenance replaces the wearing surface, minimizes raveling and retards water from seeping through the surface which damages the pavement and road base. A slurry seal is effective for 5-7 years and it costs less to apply preservation maintenances than to repair or replace the streets.

## Summary

Dallas has 55 miles of surface streets with a reconstruction value of approximately \$39 million. Transportation funding is one of the most challenging issues facing public agencies. In the past, Dallas has spent limited funding sources to maintain its streets. These funding sources include State gas taxes and road transfer revenues which are not sufficient to protect the City's investment in the street system. Recognizing this challenge, a Transportation Funding Study was begun to identify and establish a sustainable funding source for street maintenance.

### **Pavement**

#### **Management Assessment**

The PMI indicates the extent and severity of pavement distress such as cracking, rutting, raveling, etc. Public Works conducted its most recent pavement condition assessment in 2008. The PMIs for Dallas City streets were rated from 0 to 100 with the value 100 representing the condition of a brand new street.

According to the results, 23% of the street system is in very poor or poor condition, 24% is in fair to good condition, and 53% is rated good to excellent.

**What kind of street treatments would be funded?**

**Crack sealing** - Injection of hot tar or asphalt into cracks and paving seams. Generally performed in-house by City staff.



**Slurry Seal** - Very thin layer of a liquid mixture of asphalt and aggregate spread over the surface of the street. It is a hard wearing surfacing that protects, preserves, and extends the pavement life. After curing it provides a pavement that is better to drive on and look at and will reduce the cost in the long run. (Cost is typically less than \$2 per square yard.)



**Chip Seal** - A thin layer of hot asphalt is applied to the street surface then small gravel is applied, leveled, and compacted into place. (Can be done for as little as \$2.50 per square yard.)



**Overlay** - A new layer of asphalt or concrete, which adds structural strength and seals the surface. Often grinding or inlays are needed to match pavement grades or remove severely distressed pavement. (Cost ranges from \$6 to \$16 per square yard, depending on the overlay thickness and preparation).



**Pavement Management Program**

The pavement conditions were input into the City's pavement management program which calculates maintenance costs and projects schedules for maintenance and rehabilitation. The pavement management program shows that it will cost an average of \$3 million annually to increase the average PCI for the City's street system from 68 to 85. **It will cost \$1.5 million annually to slightly improve the average PCI from 68 to about 69.**

**The Value of Preventive Maintenance**

Streets are designed to last about 20 years, but the pavement begins to deteriorate much earlier. Studies have shown that pavement health worsens at an increasing rate as the pavement gets older. Without periodic, preventive maintenance, a street's condition deteriorates 40% in the first 15 years of its life. Then over the next 5 years, the street will greatly deteriorate, requiring major reconstruction.

Preventive maintenance using cost-effective (\$2 to \$16/sq. yd.) slurry seals or 2 to 3-inch overlays during the first 10 to 15 years can extend a pavement life to 30 years and more. Without these surface treatments, costly reconstruction is required (\$35 to \$55/sq. yd.).

**Reconstruction** - The most expensive street treatment, reconstruction, entails extensive street repair work that involves excavating the existing street and rebuilding the gravel road base and surface layers. (Cost ranges from \$35 to \$55 per square yard depending on the pavement section and preparation).



**What is a Transportation Improvement Fee?**

A Transportation Improvement Fee (sometimes known as a Street Maintenance Fee, Road User Fee, or Street Improvement Fee) is a monthly fee based on use of the transportation system that is collected from residences and businesses within the city limits of Dallas. The fee is based on the number of trips a particular land use generates and is collected through the City's regular utility bill. It is designated for use in the maintenance and repair of the City's transportation system. Users of the road system share the costs of the corrective and preventive maintenance needed to keep the street system operating at an adequate level.

**Where did the money come from before the TUF was implemented to do these improvements? What is that money going to be used for now?**

In the past, the primary funding source for maintaining the City's street system was the State Gas Tax. The shared revenues received from the State Highway Fund are budgeted by the City through the Street Fund.

The Street Fund is used for operations and maintenance within the public right-of-way, including pavement maintenance; traffic signal operations and maintenance; traffic control for special events and emergency response; street signage; striping; non-PGE street light maintenance; roadside guardrails and vegetation; emergency weather response; municipal elevator maintenance and part of the operations contract; and administration. The gas tax per gallon has not been increased since 1992 and an increase does not appear likely in the foreseeable future. Fuel efficiency in motor vehicles has led to less fuel consumption for the same miles driven (which is a good thing). Even though fuel costs have increased, gas tax receipts have not because we are taxed per gallon of gas (not per dollar). The amount available from gas tax revenues for pavement overlay and reconstruction continues to decrease while the wear and tear on our roads does not. It is important to note that over the last nine years, since 1999, our road miles have increased from about 42 miles to 55

In 2005, the City identified a funding source for pavement treatments and reconstruction work that are necessary to keep the street system functioning satisfactorily.

Staff concluded that a transportation maintenance fee was the most equitable and stable source for street funding. It was reported that an annual revenue goal of \$.5 million was expected over a 20 year period.

Staff recommended to the City Council that this target be gradually phased in over a 5- year period to allow customers time to incrementally budget for the fee. With this scenario, in the first year, fees would provide \$300,000 to jump-start a street maintenance program with the primary goal of most cost effectively managing pavement maintenance.

The proposed fee is based on actual cost projections from the Pavement Management Program. Like those in many other Oregon communities, the fee is also based on nationally recognized information developed by the Institute of Traffic Engineers that estimates the average number of vehicle trips generated by a property based on how that property is used.

The fee will be charged monthly and appear on the City utility bill along with water and sewer.

The fee will be used to first

miles (about 30%), and our population has increased from 12,870 to 15,560 (about 29%). The shrinking dollars and a larger city have resulted in a growing backlog of paving needs. Money received from the gas tax will continue to be used for the services mentioned above.

**Why wasn't the public allowed to vote on the TUF?**

The Council has the authority to establish user fees by ordinance. Examples of existing user fees include water, wastewater (sewer), and systems development charges. The Council discussed the TUF at work sessions in 2005 and again in 2009 and will hold public hearings.

**Don't we already pay for this on our property taxes? If not, why not add it to our property tax bill so we can write it off on our taxes?**

The City of Dallas receives approximately 36% of your property taxes. Of that, a large portion of the property tax pays for police, fire, ambulance and parks and recreation services. It also provides funding for the library and administrative costs. The only street-related item your property tax pays for is a portion of operation and maintenance. The City is limited in how much property tax it can charge its residents. The City decided to treat this fee as a user fee just as your water, surface water, and wastewater utilities are charged so that it can be a dedicated funding source that can only be used for expenses related to the maintenance of the street system.

**How is the fee determined?**

Customers are assigned one of two main categories, residential and non-residential. Residential customers are charged for maintaining local streets. Non-residential customers are charged for maintaining arterials. Maintenance of collector streets is equally shared. In addition, the fee is based on how many trips are considered the average for the property using data developed by the Institute of Traffic Engineers.

**How much will I pay?**

Single-family residential properties will be charged \$2.50 per month the first year. The fee will increase a dollar a year to \$4.50 per month in 2012 and continue at that rate.

Multi-family residential units and mobile homes will be charged 70% of the single-family fee per unit.

Non-residential bills depend upon the type and size of the development. Business groups will be established based on similar trip rates per square feet of gross floor area of usage (GFA). In the first year, business charges will range from \$0.05 to \$.30 per square feet of GFA, depending on the type of use and trip generation. This range will gradually increase to \$0.09 to \$0.60 per square foot of GFA over the following two years.

recover the costs of pavement maintenance that has been delayed and then second, for roadway operations. A list of projects has been developed for the first five years.

**More Questions?**

More information about our City's Transportation Improvement Fee is available at the City's web site at:

<http://www.ci.dallas.or.us/>

If you have further questions, you may contact, Fred Braun, City Engineer/Public Works Director at (503) 831-3555.

Examples:

|                          | 2009 Costs | 2011 Costs |
|--------------------------|------------|------------|
| <b>1000 SF Office</b>    | \$1.85     | \$3.52     |
| <b>1000 SF Retail</b>    | \$6.83     | \$12.98    |
| <b>1000 SF Bank</b>      | \$26.20    | \$49.79    |
| <b>1000 SF Fast Food</b> | \$41.67    | \$79.17    |

**What if I don't agree with how the City calculates my fee?**

The fee, like that of other cities with similar road fees, allows businesses to request a re-examination of their fee. Residential fees must be accepted as the ITE average because while they may be lower on some days, they may be higher on other days.

**Why are so many cities charging a street maintenance fee?**

**What other Oregon cities have a Transportation Improvement Fee?**

Many other cities are experiencing exactly what Dallas faces: inadequate funding for transportation system maintenance. The old funding tools, state shared revenues from the Highway Fund (primarily the State gas tax), have not increased. Needs in most communities in Oregon have grown while funding has fallen behind. Ashland was the first city in Oregon to implement the fee beginning in 1989. The following other cities have followed suit: Canby, Bay City, Corvallis, Eagle Point, Grants Pass, Hubbard, La Grande, Lake Oswego, Medford, Milwaukie, North Plains, Philomath, Phoenix, Talent, Tigard, Tualatin, West Linn, and Wilsonville. Other cities actively pursuing a fee include Beaverton, Hillsboro, Eugene, Portland and Silverton.

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

|                                              |                                        |                                                                                         |
|----------------------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------|
| <i>City of Dallas</i>                        | <b>Agenda Item No.</b><br><b>7 c</b>   | <b>Topic:</b> Public Facility Strategy                                                  |
| <b>Prepared By:</b> Jason Locke / Fred Braun | <b>Meeting Date:</b><br>August 3, 2009 | <b>Attachments:</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| <b>Approved By:</b> Jerry Wyatt              |                                        |                                                                                         |

**RECOMMENDED ACTION:**

None

**BACKGROUND:**

The City adopted Ordinance No. 1534 in December 1996 setting out a Public Facilities Strategy for allocation of sanitary sewer hook-ups by regulating the issuance of building permits. Hook-ups were limited based on remaining sewer capacity described in terms of Equivalent Single-Family Dwelling Units (EDUs). In August 1999 the City Council adopted Ordinance 1576, extending the Public Facility Strategy to August of 2003. The City Council revised the Public Facility Strategy by continuing the allocation of building permits related to meeting the water system maximum daily demand (MDD) and capacity of the local water system from 2003 to 2007. The Council once again in 2007 continued the program by allocating building permits over a two (2) year period (2007 through 2009).

The continuation of the Public Facilities Strategy is not supported by the State nor is needed at this time based upon the existing capacity of water storage at Mercer Reservoir with the flash boards, the addition of the Aquifer Storage Recovery, and the building permit issuance over the last 2 years.

The units available at the end of the Ordinance time frame are as follows:

|                           |           |
|---------------------------|-----------|
| Industrial and Commercial | 346 EDU's |
| Multi-Family              | 50 Units  |
| Single –Family            | 235 Units |

The staff is working on updating the Water Master Plan and aggressively continues to address the water capacity and storage for Dallas, looking at both short and long term solutions/opportunities.

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

None



07-29-09A11:22 RCVD

THEODORE R. KULONGOSKI  
Governor

July 23, 2009

Dear Community Member:

I am pleased to introduce you to Oregon's Healthy Kids program, which will provide affordable health coverage to Oregon's uninsured children.

The Oregon Legislature worked with me to establish this program and provided funding to enroll 80,000 additional children in the Oregon Health Plan and in private health insurance plans that will partner with the state in this effort.

During this time of economic uncertainty, this program will be more important than ever to ensure that our children are healthy, able to learn and achieve their potential.

We have set an aggressive outreach goal over the next several months to get the word out to all Oregon families and provide the assistance necessary to get eligible children in low and moderate-income families enrolled in the program.

I would like to invite you to help us meet this important goal. We need the support of people in every community to help with outreach, education and application assistance to families.

Please review the attached information about how your organization can get involved.

Thank you for all you do to help Oregon's children.

Sincerely,

A handwritten signature in black ink that reads "Theodore R. Kulongoski".

THEODORE R. KULONGOSKI  
Governor

TRKeb:mg

# How will 80,000 kids get health care?



## With your help.

Come to a community meeting near you to learn more about how qualified organizations can be a part of the outreach, education and enrollment campaign for the Healthy Kids Plan.

All of us who work with Oregon's most vulnerable children know there are children out there who qualify for health care today under the Oregon Health Plan.

The best way to bring these children into health care is through local organizations like yours. You know these children, families. And thanks to the passage of Healthy Kids, there will soon be outreach grants and other opportunities available for qualified organizations to assist in doing this work.

**Want to know more?** We are holding community meetings across the state over the next few months so that you can learn more about how you can help enroll the 80,000 kids who either are or will soon be eligible for free or reduced-cost health care. **Here are the meetings over the next two weeks:**

• **Portland** - Wednesday, July 29, 9-11 a.m. and 1-3 p.m. • **Multi-city video conference:** Thursday, July 30, 1-4 p.m. **Conference sites in the following cities:** Astoria, Baker City, Corvallis, Florence, Hermiston, John Day, LaGrande, Madras, Ontario, Salem • **Salem** - Friday, July 31, 9-11 a.m. and 1-3 p.m. • **Pendleton** - Monday August 3, 1-3 p.m. • **Seaside** - August 5, 1-3 p.m. • **Live via internet NetLink** - August 6, 1-4 p.m. *(must register by Aug 3)* • **North Bend** - August 7, 1-3 p.m. • **Medford** - August 12, 1-3 p.m. • **Live via internet NetLink** - August 17, 1-4 p.m. *(must register by Aug 12)*

You can go to the website: [www.oregonhealthykids.gov](http://www.oregonhealthykids.gov) to see the full schedule of meetings around the state and get more information about the Healthy Kids Plan. OR you can call **503-945-6549**.

Please register to attend a meeting near you by sending an email to [hkp.partners@state.or.us](mailto:hkp.partners@state.or.us). Be sure to include the following information:

- Your name, address, phone and e-mail address;
- The organization you're affiliated with; and
- The session (include date and time) you wish to attend.

# Two Ways Partner Groups Can Help

**Help get kids enrolled by becoming a Certified Application Assistance Organization (CAAO).**

**Role:** Initiate outreach activities within local communities and help families with children 18 and under apply for health care coverage under the Governor's Healthy Kids program. To assist with outreach activities, CAAOs will be paid \$50 for each family with children they help become enrolled.

*Activities include:*

- Reach out to families with children;
- Help families complete the Healthy Kids application;
- Assist in obtaining necessary documentation;
- Answer general questions;
- Ensure submission of the application to DHS;
- Meet reporting requirements, including a monthly report listing people who've received application assistance.

*Who can participate:*

• Any organization that does not provide medical services and is registered with the Secretary of State.

Examples include:

- PTA organizations
- Faith-based groups
- Groups that run after school programs

*How to participate:*

- Attend an Application Assistance training session;
- Complete and submit the Certified Application Assistance Organization enrollment form. The form will be available at [www.oregonhealthykids.gov](http://www.oregonhealthykids.gov) in the Partnership Information section.

**Outreach and enrollment grants for minority and hard-to-reach families.**

**Role:** The Healthy Kids legislation provides outreach and enrollment grants to assist in bringing health care to minority and hard-to-reach children. Recipients will educate local communities on health care opportunities and aid families in enrolling children in Healthy Kids.

*Activities include:*

- Reach out to families who do not respond to most traditional and conventional outreach methods and educate them about the Healthy Kids program;
- Encourage and help families complete the Healthy Kids application and submit the required paperwork;
- Organize and conduct community events designed to enroll families in the Healthy Kids program;
- Meet outreach goals and reporting requirements.

*Who can participate:*

• Any organization that does not provide medical services, is registered with the Secretary of State, and has the ability to apply for, implement and administer a grant.

*How to participate:*

- Register and log on to Oregon Procurement Information Network (ORPIN) at <http://orpin.oregon.gov>
- Check the ORPIN Web site to know when the Outreach and Enrollment grant is posted
- Complete and submit the Request for Grant Proposal by the deadline.

**Have questions?**

E-mail: [HKP.partners@state.or.us](mailto:HKP.partners@state.or.us)  
 Phone: **503-945-6549**  
 Fax: **503-947-5221**

**For more information, go to:**

**[www.oregonhealthykids.gov](http://www.oregonhealthykids.gov)**

# Healthy Kids Coverage Information



Thousands of Oregon children do not have health insurance. In 2009, Governor Kulongoski and the Legislature created the Healthy Kids plan to provide outreach to families who qualify today. Healthy Kids also provides options for families at all income levels, removes barriers to accessing health care coverage and builds on existing programs already available to Oregon families.

## Healthy Kids offers the following key components:

### *Today:*

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- Children in families with income up to 185 percent of the Federal Poverty Level (FPL) receive a comprehensive benefit package. Coverage includes dental, vision, mental health, prescription drugs and physical health care. There is no cost to families.
- The Family Health Insurance Assistance Program (FHIAP) can help pay premiums for children in families with income up to 185 percent of FPL who have access to employer-sponsored insurance. Families are responsible for cost sharing, including copayments and deductibles.

### *Beginning October 1, 2009*

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- Eligibility will expand to provide coverage to children in families with incomes up to 200 percent of FPL. There is no cost to families.
- Premium assistance will be expanded for children in families with income up to 200 percent of FPL with access to employer-sponsored insurance. Families will be responsible for cost sharing, including copayments and deductibles.

### *Beginning January 1, 2010*

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- Premium assistance will be expanded for children in families with income up to 300 percent of FPL with access to employer-sponsored insurance. The amount of premium assistance will be determined using a sliding scale, based on income. Families will be responsible for cost sharing, including copayments and deductibles.
- Children in families with incomes at or above 200 percent of FPL without employer-sponsored insurance will have access to a new state-sponsored insurance option. The new insurance option will provide:
  - Premium assistance for children in families earning up to 300 percent of FPL, using a sliding scale based on income. Families will also be responsible for cost sharing, including copayments and deductibles.
  - Children in families at or above 300 percent of FPL will have access to the new state-sponsored insurance option. No premium assistance will be provided. Families will also be responsible for cost sharing, including copayments and deductibles.

RESOLUTION NO. 3189

A Resolution relating to Fair Housing.

WHEREAS, discrimination in the sale, rental and leasing, and in advertising for the sale, rental and leasing, and in the financing of housing and land to be used for construction of housing, and in the provision of brokerage and rental services, because of race, color, religion, sex, physical and mental disability, familial status (children) or national origin is prohibited by Title VIII of the Federal Fair Housing Amendments Act of 1988; and

WHEREAS, it is the policy of the City of Dallas to support the Fair Housing Amendments Act of 1988, and to implement a Fair Housing Program to ensure equal opportunity in housing for all persons, regardless of race, color, religion, sex, physical and mental disability, familial status (children) or national origin; NOW, THEREFORE,

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

Section 1. Within the resources available to the City of Dallas through city, state, federal and community volunteer sources, the City of Dallas will assist all persons who feel they have been discriminated against because of race, color, religion, sex, physical and mental disability, familial status (children) or national origin in the process of filing a complaint with the Oregon Civil Rights Division or the U. S. Department of Housing and Urban Development, Seattle Regional Officer Compliance Division, that they may seek equity under federal and state laws.

Section 2. The City of Dallas shall publicize this Resolution, and through this publicity, shall cause real estate brokers and sellers, private home sellers, rental owners, rental property managers, real estate and rental advertisers, lenders, builders, developers, home buyers and home or apartment renters to become aware of their respective responsibilities and rights under the Fair Housing Amendments of 1988 and any applicable state or local laws or ordinances.

Section 3. The City's Fair Housing Program, for the purpose of informing those affected of their respective responsibilities and rights concerning Fair Housing law and complaint procedures, will at a minimum include, but not be limited to, the printing, publicizing and distribution of this Resolution; the distribution of posters, flyers, pamphlets and other applicable Fair Housing

information provided by local, state and federal sources, through local media or community contacts; and the publicizing of a location where assistance will be provided to those seeing to file a discrimination complaint.

Section 4. This resolution shall be effective upon its passage.

Adopted: August 3, 2009

Approved: August 3, 2009

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1704

An Ordinance amending provisions of the Dallas City Code Sections 5.380, 5.386 and 5.388, relating to dogs, and repealing conflicting ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

**Section 1.** Dallas City Code Section 5.380 is hereby amended to read as follows:

**5.380 Dogs at Large**

(1) No owner or custodian of a dog shall permit the dog to run loose or be at large.

(2) The owner or custodian of an unspayed female dog shall keep the dog confined within an enclosure inaccessible to other dogs during the female dog's oestral period.

(3) The owner or custodian of a dog shall keep the dog on a leash and under direct control when the dog is not on the private property of the owner or custodian.

(4) A police officer or dog control officer may impound a dog found to be loose or running at large.

(5) Sections (1) and (3) shall not apply in any enclosed area of a city park officially designated as an off-leash dog park.

(6) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period, or if the dog has engaged in menacing behavior, as defined in section 5.387(1), while at large, the minimum bail amount shall be \$242.

(b) If the dog has attacked, bit or otherwise injured any person or other domestic animal while at large, the minimum bail amount shall be \$427.

**Section 2.** Dallas City Code Section 5.387 is hereby amended to read as follows:

**5.387 Dangerous Dogs.**

(1) Definitions: For purposes of this section, the following mean:

Business day. A day the Dallas City Hall is open for business.

Chief. The Chief of the Dallas Police Department, or the Chief's designee.

City. City of Dallas, Oregon.

Keeper. The person in actual or constructive charge of a dog at the time an alleged dangerous act occurs.

Menaces or menacing. Lunging, growling, snarling or other behavior by a dog that would cause a reasonable person to fear for the person's safety.

Notice. A dangerous dog notice.

Officer. A police officer, the City of Dallas Animal Control Officer, and the Polk County Animal Control Officer.

Order. A dangerous dog order.

Owner. The person(s) named on the dog's license as the owner, and if a dog is not licensed, the person(s) who claim ownership of the dog.

Provoking. Acting in a manner which a reasonable person would believe would cause the dog to act as a dangerous dog.

(2) A dog is a dangerous dog if it:

(a) Attacks, bites or otherwise injures any person or other domestic animal; or

(b) Menaces any person.

(3) Exception to dog as a dangerous dog. A dog is not a dangerous dog if it commits an act described in subsection (2) herein against a person:

(a) Wrongfully assaulting the dog, the dog's owner, or another person;

(b) Provoking the dog;

(c) Trespassing upon premises occupied by the dog's owner, or upon other premises where the dog is present with the consent of the person(s) in charge of that premises; and

- (i) Provoking the dog;
- (ii) Intending to commit an additional crime; or
- (iii) After climbing over a fence or other enclosure with knowledge that the dog is enclosed.

(4) Reasonable restrictions. Upon a finding that a dog is a dangerous dog, the owner of the dog can be ordered to impose reasonable restrictions on the dog, including, but not limited to the following:

(a) Posting signs with "Beware!! Dangerous Dog!!" in letters not less than three inches high, which clearly contrast with the background color of the sign, on each portion of a fence or other enclosure that faces a sidewalk, street, or alley and encloses the dog, and one sign in any unenclosed area accessible to the dog when not under the direct control of the owner;

(b) Confining the dog in an outdoor kennel constructed of not less than nine gauge chain link with each side panel and roof panel reinforced on all four sides with a tension bar. The kennel shall be kept locked at all times the dog is in the kennel;

(c) Requiring the dog to be restrained by an adequate leash and muzzle and be under the direct control of the owner at all times when off the owner's property;

(d) Requiring any area to which the dog has access when not under the direct control of the owner to be enclosed by fencing not less than six feet high or such other height as is allowed by the Dallas Development Code, and constructed of materials and in a manner adequate to prevent escape;

(e) Impounding the dog, at the owner's expense, until other imposed reasonable restrictions are in place;

(f) Prohibiting the dog from remaining in and/ or returning to the city;

(g) Implantation of an identifying microchip in accordance with the rules of the State Department of Agriculture. Implantation shall be made prior to any adoption or relocation of the dog. The microchip information and the record of the dog shall be forwarded to the Department of Agriculture. City and the Department of Agriculture may

charge reasonable fees to the dog owner to cover the cost of conducting and administering the microchip implantation program;

(h) Requiring the dog to be euthanized in a humane manner. In determining whether a dangerous dog should be euthanized, the Chief shall consider the following factors:

- (i) The circumstances of the bite, including whether the dog was provoked by the person bitten or any other person;
- (ii) Whether the owner has a history of owning or keeping dangerous dogs, or a history of allowing dog(s) to run at large, within the city or at any other location;
- (iii) The impact of owner's actions on the behavior of the dog;
- (iv) The severity of the bite;
- (v) The ability and inclination of the owner to prevent the dog from behaving as a dangerous dog;
- (vi) Whether the dog can be relocated to a secure facility;
- (vii) The effect that a transfer of ownership would have on ensuring public safety;
- (viii) Whether the dog acted as a dangerous dog prior to or after the notice and/or order; and
- (ix) Any other factors the decision maker may deem relevant.

(i) Any other restrictions which, under the circumstances presented, are reasonably necessary to prevent the dog from committing further dangerous acts as defined herein.

(5) Bite of persons. In addition to the provisions of this chapter, a dog which bites a person shall be dealt with under rules of the Oregon Health Division Acute and Communicable Diseases Program.

(6) Dangerous dog notice. Any officer with reasonable grounds to believe a dog is a dangerous dog may issue the dog's owner written notice which includes the following:

- (a) That the dog is considered dangerous;
- (b) A description of the alleged dangerous act, including the date, time, and approximate location where the dangerous act occurred;
- (c) Temporary restrictions which are immediately effective;
- (d) The penalties for failures to institute and/or maintain temporary and/or permanent restrictions;
- (e) The name, address, and telephone number of the owner;
- (f) That the owner may request a hearing on the notice by submitting a request to the Chief within ten business days of the date the notice was issued and if a hearing is not requested, that the notice shall, without further action, constitute a dangerous dog order.

(g) Owner to be served. If not initially served, the person named as the dog's owner on the dog's license shall be served the notice. If the dog is not licensed, or the owner cannot be determined or found, the dog may be impounded and notice of the impoundment shall be served personally or by mail upon the owner at the owner's last know address. The dog shall remain impounded until the owner redeems the dog, complies with all regulations for the redemption of impounded dogs, and the owner is served the notice, if not previously served. If the owner fails to redeem the dog within 15 business days from the date of impoundment or within 15 business days of the date the final dangerous dog order was issued, the dog may be euthanized in a humane manner or adopted if the Chief is of the opinion that public safety will not be jeopardized by the adoption. Failure to serve the owner shall not preclude a dangerous dog proceeding.

(7) Emergency temporary restrictions. If an officer issuing a notice has reasonable grounds to believe the dog alleged to be dangerous will, before an order can be entered, commit another act described in subsection (2) herein, the officer, at any time prior to the entry of an order, may, in the original notice or in an amended notice, impose temporary reasonable restrictions, except euthanasia, to keep the dog from committing another such act. The temporary restrictions shall be effective upon service of such notice.

(8) Conduct of hearing. The hearing before the Chief shall be held within ten business days of the date the notice was issued, and shall be informal, with such rules of evidence and procedure as the Chief believes are necessary for the

reliability and expediency of the hearing, subject to the following:

- (a) Proof of payment required. Before a hearing is scheduled, the owner must present written proof that all kennel, licensing, and veterinary costs of the dog have been paid in full. Additionally, if the dog will be impounded until the hearing takes place, kennel costs must be pre-paid for a period of time which ends 14 calendar days after the date of the hearing;
  - (b) The officer who issued the notice may appear by report only. The person requesting the hearing, and any witnesses, may appear personally, by telephone, or by written statement;
  - (c) The Chief shall cause notice of the date of the hearing to be mailed to the owner on the same day the Chief sets the hearing. The owner shall be entitled to one rescheduling by submitting a written request to the Chief which includes acknowledgment that any temporary restrictions will continue until the Chief's decision is issued;
  - (d) The Chief shall issue a written decision which affirms, modifies, or dismisses the notice and, unless dismissed, which sets forth any modifications to the reasonable restrictions set forth in the notice, within five business days of the hearing. The notice and the Chief's decision shall constitute an order;
  - (e) The Chief may only recommend euthanasia as a reasonable restriction. There shall be automatic review by the Municipal Court pursuant to subsection (10) herein, without a filing fee, of each case where the Chief recommends euthanasia.
  - (f) The order shall be mailed to the owner within five business days after the hearing. The decision shall include a statement that the recipient of the Chief's decision is entitled to appeal the Chief's decision to the Municipal Court by filing a notice of appeal and a \$150 non-refundable filing fee with the Municipal Court within ten business days after the date the decision and dangerous dog order is mailed; and
  - (g) Failure to serve the owner shall not preclude the availability of a hearing nor the effectiveness of the order.
- (9) Proof of compliance. The owner shall provide acceptable proof of compliance with the emergency temporary restrictions, and/or the terms of an order to the Chief on or before the tenth business day after service of the notice or order.

(a) If proof of compliance is not provided within said ten days, there is a rebuttable presumption of a failure to comply. If the Chief finds the proof which was submitted is unacceptable, the Chief shall send notice of that finding to the owner within five business days after the proof was submitted and the owner shall have ten business days from the date the finding was mailed to provide acceptable proof of compliance and upon a failure to do so, there is a rebuttable presumption of a failure to comply and the owner may then be cited into the Dallas Municipal Court under subsection (11)(a) herein.

(b) A dog which is subject to emergency temporary restrictions and/ or an order may be seized and impounded by an officer until proof of compliance under subparagraph (a) above is received.

(10) Appeal. The owner may appeal the Chief's decision to the Municipal Court by filing a written request, with the owner's name, address, telephone number, and the address where the dog is kept, if different, and except when euthanasia is recommended, a \$150 fee with the court within ten business days after the Chief's order was mailed. The appeal to the Municipal Court shall be de novo. The filing of an appeal does not stay the order.

(a) The Municipal Court shall schedule the hearing on the appeal for a date which is not more than ten business days after the Municipal Court receives the record, if the dog is impounded, or otherwise within 30 calendar days, and shall immediately provide written notice to the appellant, the Chief, and to the officer who issued the notice, of the hearing date.

(b) The Municipal Court's decision shall be issued and mailed to owner and the Chief within five business days of the date of the hearing, if the dog is impounded, or otherwise within 30 calendar days, and shall be effective when personally served upon the owner, or three business days after it is mailed to the owner at the address in the appeal request, whichever first occurs.

(11) Violations.

(a) An owner who is served a notice and/or order, or who otherwise is aware of the restrictions in the notice and/or order, and fails to immediately institute and maintain such restrictions shall be guilty of a violation punishable by a fine of not to exceed \$1,000 and an additional

fine of not to exceed \$250 for each day the failure to institute continues.

(b) The owner of a dog subject to reasonable restrictions who has knowledge of the restrictions and transfers possession and/or ownership of that dog to a keeper and/or new owner without notifying the new owner/keeper of the restrictions shall be guilty of a violation, punishable by a fine of not to exceed \$1,000.

(c) Any owner and/or keeper knowingly hiding or harboring a dog with the intent to hinder an investigation into whether the dog is a dangerous dog or into whether reasonable restrictions have been implemented and/or maintained shall be guilty of a violation, punishable by a fine of not to exceed \$1,000 and an additional fine of not to exceed \$250 per day for each day the dog is hid or harbored.

(d) An order of the Polk County Dog Board regarding a dangerous dog shall be considered an order subject to the provisions of this subsection (11) if the dog is within the city regardless of whether the restrictions in that order are set forth in subsection (4) herein. Such violations are enforceable and punishable in the Dallas Municipal Court in the same manner as if the order had been issued by the city, including the enhanced penalty under subsection (11)(e) herein.

(e) If a dog subject to a notice and/or order bites a person while the owner is in violation of the provisions of subsection (11)(a), (b), or (c) herein, the owner shall be guilty of a Class C misdemeanor.

(f) If a dog subject to a notice and/or order bites a person while a keeper of the dog is aware of non-compliance with the restrictions and exposes the dog to the person who was bitten, that keeper shall be guilty of a Class C misdemeanor.

(12) Nothing herein shall prevent or prohibit an officer from referring an alleged dangerous dog to Polk County.

(13) Concurrent jurisdiction to enforce the terms of this section is granted to Polk County.

**Section 3.** Dallas City Code Section 5.388 is hereby amended to read as follows:

**5.388 Penalty.**

(1) Violation of sections 5.380 to 5.386 is a civil infraction.

(2) Violation of section 5.386 is a civil infraction, unless a carnivorous wild animal is unlawfully in the city and that animal injures a person, in which case the violation shall be a Class B misdemeanor.

**Section 4.** All prior and conflicting ordinance provisions are hereby repealed.

Read for the first time: July 20, 2009

Read for the second time: August 3, 2009

Passed by the City Council: August 3, 2009

Approved by the Mayor: August 3, 2009

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1705

An Ordinance amending provisions of the Dallas City Code Section 5.020, relating to unnecessary noise, and repealing conflicting ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

**Section 1.** Dallas City Code Section 5.020 is hereby amended to read as follows:

**5.020 Unnecessary Noise.**

(1) No person shall create, assist in creating, or permit the continuance of, unreasonable noise that annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others. The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this section, but the enumeration of them shall not be construed to be exclusive:

(a) Keeping a bird or animal that, by causing frequent or continued noise, disturbs the comfort and repose of a person in the vicinity.

(b) Attaching a bell to an animal or allowing a bell to remain on an animal that is disturbing to a person in the vicinity.

(c) Using a vehicle or engine, either stationary or moving, that is operated to create loud or unnecessary grating, grinding, rattling, or other noise.

(d) Excessive sounding of a horn or signaling device on a vehicle on a street or public or private place.

(e) Blowing a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of city officials.

(f) Erecting, including excavating, demolishing, altering, or repairing a building in residential districts, other than between the hours of 6:00 a.m. and 9:00 p.m., except in case of urgent necessity in the interest of public welfare and safety, and then only with a permit granted by city officials.

(g) Using a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.

(h) Discharging in the open air the exhaust of a steam engine, internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises and the emission of annoying smoke.

(i) Using or operating an automatic or electric piano, phonograph, radio, television, loudspeaker or an instrument for sound producing or a sound amplifying device so loudly as to disturb persons in the vicinity or in a manner that renders the use a nuisance. However, upon application to the City Manager, permits may be granted for the broadcast or amplification of entertainment programs of music, speeches, news, or general entertainment programs of a national, state, or city event, provided that the broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument or speaker. The decision of the City Manager on a permit application may be appealed to the City Council by filing a written notice of appeal with the City Manager within ten days of the City Manager's decision.

(j) Conducting, operating, or maintaining a commercial garage within 100 feet of a private residence, apartment, rooming house, or hotel in a manner that causes loud or offensive noises to be emitted between the hours of 11:00 p.m. and 7:00 a.m.

(k) The use of unmuffled engine brakes, commonly known as "Jake Brakes."

(2) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period the minimum bail amount shall be \$242.

(b) For a second or successive violation of this section within a three-month period the minimum bail amount shall be \$427.

**Section 2.** All prior and conflicting ordinance provisions are hereby repealed.

Read for the first time: July 20, 2009  
Read for the second time: August 3, 2009  
Passed by the City Council: August 3, 2009  
Approved by the Mayor: August 3, 2009

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER