



City Council

Mayor
Brian Dalton

Council President
Wes Scroggin

Councilor
Jim Fairchild

Councilor
Beth Jones

Councilor
Jackie Lawson

Councilor
Kevin Marshall

Councilor
Murray Stewart

Councilor
LaVonne Wilson

Councilor
Ken Woods, Jr.

Vacant Seat

Staff

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Jerry Wyatt

City Attorney
Lane Shetterly

Admin Svc Director
Robert Spivey

Community Development/
Operations Director
Jason Locke

Finance Director
Cecilia Ward

Fire Chief
Bill Hahn

Chief of Police
John Teague

Engineering Director
Fred Braun

City Recorder
Emily Gagner

Dallas City Council Agenda

Monday, March 19, 2012, 7:00 p.m.
Mayor Brian Dalton, Presiding
Dallas City Hall
187 SE Court Street
Dallas, Oregon 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.

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to address the Council on any matters other than public hearings.</i>	
4. 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>	
5. CONSENT AGENDA <i>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.</i>	
a. Approval of March 5, 2012, City Council Minutes p. 3	
b. Recommend approval of OLCC application for Change of Ownership for Sweeney's Pub p. 12	
c. Recommend approval of OLCC application for Change of Ownership for Tony's Place p. 23	
6. ITEMS REMOVED FROM CONSENT AGENDA	
7. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS	
8. REPORTS FROM CITY MANAGER AND STAFF	
a. Polk Community Connect	Presentation
b. Fire/EMS Regional Partnership update p. 33	Information
c. Recreation Program review	Information

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.

d. Procedure for filling Council vacancy p. 34	Motion
e. Upcoming meetings discussion p. 41	Motion
f. Other	
9. RESOLUTIONS	
a. <u>Resolution No. 3243</u> : A Resolution authorizing the transfer of budgetary funds. p. 42	Roll Call Vote
10. FIRST READING OF ORDINANCE	
11. SECOND READING OF ORDINANCE	
a. <u>Ordinance No. 1744</u> : An Ordinance regulating the display for sale of drug paraphernalia; and declaring an emergency. p. 44	Roll Call Vote
12. OTHER BUSINESS	
13. ADJOURNMENT	

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The Dallas City Council met in regular session on Monday, March 5, 2012, at 7:00 p.m. in the Civic Center with Mayor Brian Dalton presiding.

Mayor Dalton stated Councilor Mark McDonald had submitted his resignation from the Council earlier in the day, effective immediately.

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council members present: Council President Wes Scroggin, Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr.

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Community Development/Operations Director Jason Locke, Chief of Police John Teague, Engineering and Environmental Services Director Fred Braun, Fire Chief Bill Hahn, Administrative Services Director Robert Spivey, and Recording Secretary Emily Gagner.

Mayor Brian Dalton led the Pledge of Allegiance.

Mayor Dalton welcomed and introduced the Dallas High School wrestling team. He commended coach Tony Oliff who received "Coach of the Year" honors.

PUBLIC HEARING

Walmart Appeal Hearing (SPR 11-01)

Mayor Dalton announced this quasi-judicial proceeding would be structured as a more formal process. He opened the public hearing at 7:07 p.m.

He explained that only those who had participated before the Planning Commission by oral or written testimony could submit arguments during this public hearing. He clarified that the appeal was limited to the record and no new evidence would be permitted. He added the arguments were required to be directed to the three issues that were listed in the notice of appeal.

Mayor Dalton asked if the Councilors had any ex parte communications or site visits to declare. There were none.

Mayor Dalton reviewed the procedure for the public hearing. He explained after the staff report was given, the appellant and the applicant would each get 15 minutes to speak. Others with standing would be allowed to speak at that time for no more than five minutes each. He added the applicant would then be given another five minutes to provide rebuttal, at which time the hearing would be closed. He advised the audience they should remain orderly and courteous and refrain from applause.

Mr. Locke presented the staff report. He explained the Council had received the complete record on the matter earlier and noted there were two additional items that had been received prior to the hearing from citizens that had standing in the matter. He reviewed the background of the application, which proposed expanding and remodeling the existing Walmart store, comprised of an 80,583 square foot building with a 6,190 square foot garden center, to an approximately 98,900 square foot building which retained the 6,190 square foot garden center. He noted the parking configuration would change to make it more functional and include the addition of landscape islands to bring it closer into conformance with the current Development Code.

Mr. Locke indicated the Planning Commission approved the application on January 10, 2012, and the Final Order of Approval was signed on January 19, 2012. He stated all parties were given notice of the decision in accordance with the Development Code and a timely appeal that revolved around three issues was filed and was now before the Council.

Mr. Locke explained the first issue of appeal, which asserted that the existing stormwater system was not sufficient to serve the existing store and that the outdoor garden area contained fertilizers, compost, etc., that could leak into the ground and enter the stormwater system. Mr. Locke reviewed the staff analysis, noting the appellants cited no specific facts or supporting data in the record for their claims. He explained the storm drain system that was installed in 1995 was 30% larger than required at that time and the discharge rate into the City wouldn't be increased as a

1 result of the proposed development. He noted there were no documented instances of
2 malfunction and since the expansion would result in a reduction of total runoff, that issue didn't
3 have merit per the staff analysis. He indicated that regarding the outdoor garden area, there was
4 evidence in the record that the chemicals were stored inside the store and there was no record of
5 non-compliance related to storage of fertilizers or other chemicals.

6 Mr. Locke stated the second appeal issue asserted that the existing store was a non-conforming
7 use and the City's zoning ordinance didn't permit non-conforming uses to be expanded. It was
8 further asserted that Walmart didn't provide evidence to support their claim that it would bring
9 the store more into conformance with the zoning ordinance. The appellants also asserted that the
10 driveways were nonconforming and Walmart didn't allege the driveway would be brought closer
11 to or into conformance. Mr. Locke indicated that the store was not a nonconforming use, but was
12 expressly allowed in the current zone. He said if the issue was meant to address nonconforming
13 development as opposed to nonconforming use, then there was ample evidence in the record that
14 showed the nonconforming development elements were being brought into or closer to
15 compliance with the standards of the Dallas Development Code. Mr. Locke noted when a
16 property was developed, over time the standards and requirements changed, adding it didn't mean
17 that as the requirements changed, a property was required to come into compliance with those
18 rules. He indicated the rules had gone through three or four updates, which placed a lot of
19 development as non-conforming developments. He stated the Development Code said
20 nonconforming development couldn't be enlarged or altered in such a way that increased the non-
21 conformity, but may be enlarged or altered in such a way that satisfied the code or decreased the
22 non-conformity. He advised that the elements of nonconforming development in the application
23 included parking, landscaping, and façade issues, all of which would be brought closer to or into
24 conformance with the Development Code, noting that was demonstrated in the record. He
25 indicated the appeal didn't specify how or which driveway was non-conforming and there was no
26 proposal to alter those as part of the application.

27 Mr. Locke reviewed the third appeal issue, which asserted a traffic study was required on land use
28 applications which when the average daily trips increased by 300, noting the expansion would
29 result in more than 600 daily trips. It further asserted that the Oregon Department of
30 Transportation (ODOT) hadn't demonstrated why a traffic study was not required. Mr. Locke
31 indicated the staff response was that there was ample information from Scott Nelson, ODOT
32 Region 2 Development Review Coordinator that in fact the trip generation estimates didn't reach
33 ODOT thresholds for a traffic study. He stated one key was that ODOT was the road authority
34 for East Ellendale and Kings Valley Highway, where three of Walmart's four accesses were
35 located. He explained ODOT didn't require a traffic study, so the Planning Commission made the
36 finding that because ODOT didn't require a study, the issue had been satisfied. Mr. Locke
37 indicated another appeal issue related to collecting actual traffic counts and data from other stores.
38 He stated this was an assertion of an argument presented in the record, but with no basis in
39 approval criteria. He commented that the Development Code stated traffic impacts were to be
40 estimated based on the Institute of Transportation Engineers manual, which was what applicant
41 did use.

42 Mr. Locke stated that based on their analysis of the arguments, staff recommended the Council
43 deny the appeal and direct staff to draft a final order upholding the Planning Commission Final
44 Order in the matter.

45 Mayor Dalton asked for the appellants' testimony.

46 Sean Malone, attorney for the appellants, indicated he had provided 15 copies of their written
47 testimony prior to the meeting.

48 He advised that the letter of appeal raised the issues but was not meant to be a full-fledged
49 argument, which was submitted in written testimony and supplemented at the public hearing.

50 Mr. Malone stated the Dallas Development Code was very clear. Section 4.1.090 set forth the
51 rationale for why a Traffic Impact Analysis (TIA) was required, including protecting the
52 transportation facilities in Dallas and mitigating any potential adverse impacts. He quoted
53 sections of Dallas Development Code 4.1.090, noting subsection (A) set forth when a study was
54 required. He indicated this granted the City and road authority a permissive authority to require a
55 TIA at any time, but did not permit the road authority or local government to not require one
56 when it was. He then read the conditions under which a TIA was required, including when a land
57 use application involved an increase in site traffic volume generation by 300 average daily trips
58 (ADT) or more. He stated there was no disagreement on how many ADT would occur as a result

1 of the expansion; more than double the requirement. He explained subsection (B) set forth the
2 preparation requirements of the TIA, which assumed the TIA would be prepared. He noted
3 subsection (B) provided no authority for ODOT to absolve the local government of its own
4 requirements. He advised there was no evidence in the record that ODOT understood that the
5 local code required a TIA. He said the memorandum prepared on behalf of the applicant never
6 indicated that the increase in average daily trips triggered the requirement for a TIA. He advised
7 the email from Scott Nelson with ODOT to Mr. Locke never demonstrated that he understood a
8 TIA was already required by local code. Mr. Malone noted planning staff asserted that
9 subsections (A) and (B) needed to be read together, which he acknowledged was a general
10 statutory rule of interpretation. He reviewed Oregon case law for the procedures to interpret
11 unclear language. He commented that the Dallas Development Code Section 4.1.090 never got to
12 the rules of statutory construction because the text was clear.

13 Regarding the issue of the trip generation manual and the requirement for the use of local data,
14 Mr. Malone indicated the code was clear about using the most current trip generation manual and
15 that manual specifically required that local data be used. He stated the trip generation manual
16 provided data for stores ranging in size from approximately 125,000 to 225,000 square feet, so at
17 98,900 square feet, the proposed store was outside the range in the trip generation manual. He
18 advised Walmart should be required to go to other Walmarts and get actual data from other
19 supercenter stores. He commented that the appellants submitted that if local data was used, there
20 would be a dramatic increase from the 642 additional trips proposed by the applicant. He
21 declared the Land Use Board of Appeals (LUBA) had already addressed this issue before and
22 LUBA's decisions supported the applicants' position.

23 On the issues of stormwater, Mr. Malone reviewed a list of conditions suggested by the
24 appellants, including that all fertilizers, herbicides, insecticides, fungicides, compost, manure,
25 products containing heavy metals, and other environmentally hazardous products be stored in a
26 covered area or inside the store where they would not come into contact with rain water, and that
27 bio-bags or bark bags be placed adjacent to storm drains to prevent potentially hazardous runoff
28 from entering the storm drain from impervious surfaces.

29 Mr. Malone explained that in regard to the issue of non-conforming use and development, they
30 would rely on their previous arguments and by reference incorporated those statements in their
31 appeal. He reviewed other conditions that were offered by the appellants and adopted by the
32 Planning Commission.

33 Mr. Malone asked the Council to reverse the Planning Commission's decision and thanked them
34 for the opportunity to present the appellants' case. He stated that if the applicant requested a
35 period of time to respond to written testimony, the appellants would like an opportunity to reply
36 to that.

37 Mayor Dalton asked for the applicant's testimony.

38 Greg Hathaway, attorney for the applicant, stated he did receive the memo that Mr. Malone
39 submitted before the Council meeting, but did not have an opportunity to review it. He indicated
40 that because many of the issues before the Council were technical, complex issues, the easiest
41 approach would be to look at the issues the way the staff had. He reviewed the considerable work
42 done by Walmart, who as applicant had the burden of proof to demonstrate legal compliance. He
43 explained that once they submitted an application, the planning staff reviewed the application to
44 determine if it was complete and whether they could make a recommendation to the Planning
45 Commission for approval with conditions, which was what happened in this case. He stated the
46 Planning Commission heard both sides and determined in their final order that Walmart complied
47 with all the legal requirements. He noted some of the arguments raised in the appeal were the
48 same issues raised at the Planning Commission.

49 Mr. Hathaway stated that regarding the TIA, Mr. Malone argued that the Planning Commission
50 erred in its interpretation of the Code. Its interpretation was that when the road authority (ODOT)
51 as the jurisdictional authority over the roads to the store stated they didn't require a TIA, the code
52 agreed, which made sense. He stated the Code recognized the deference to that road authority.
53 He reviewed that Mr. Malone stated it was important for the City to take care of its roads, but
54 noted the roads in question weren't City roads; they were ODOT roads. He indicated ODOT
55 determined after reviewing the information from the Walmart traffic engineers that such minimal
56 impact didn't require a new access permit or TIA. He advised the Council that staff asked the
57 Walmart representatives to talk to ODOT, noting they provided a lot of traffic information to
58 ODOT as required. He referred to the memo of February 23, 2011, provided by the Walmart

1 traffic engineers to Scott Nelson at ODOT, as well as Mr. Nelson's response. Mr. Hathaway
2 stated Mr. Malone spent time talking about legal interpretations, which was complicated even for
3 lawyers. He reviewed a leading case from Medford on the issue of how a local government
4 interprets its own code like the Planning Commission did, noting that case went to the Supreme
5 Court of Oregon. He indicated in that case, Medford provided an interpretation of its own code
6 and the Supreme Court ruled in favor of Medford. He explained that if there was an ambiguity, a
7 city has the authority to interpret its own code to figure out what it meant, and as a matter of law,
8 if the case was appealed to LUBA or the Supreme Court, the appellate courts must give deference
9 to the city when it interprets its own code. Mr. Hathaway expressed his belief that the Planning
10 Commission had properly interpreted the Development Code, so if appealed, the appellate court
11 would give that deference. He asked the Council to affirm the Planning Commission's
12 interpretation of the traffic impact issue.

13 Mr. Hathaway indicated he was confused when he first saw the non-conforming use issue of the
14 appeal because as Mr. Locke stated, the store was located in a commercial zone so what was
15 being proposed was allowed by right in the zone. He summarized that what Mr. Malone was
16 saying was that when the City amended the zoning code a few years ago to put the commercial
17 designation on the property, it was done improperly. Mr. Hathaway explained that Mr. Malone
18 was looking at the old zone and arguing that the expansion was contrary to the old zone. He
19 advised the Council that the zone change was final and not before the Council tonight, adding the
20 zone was proper and the expansion was therefore in conformance with the zoning code.

21 Mr. Hathaway stated that the other part of the argument by the appellant was that under the code
22 there could be non-conforming development. He indicated that the use could conform but the
23 development standards that were complied with when the store was built in 1994 had changed and
24 were different in 2012. He explained the code said if an existing building was going to remodel
25 or expand, it couldn't be done unless the alteration was in conformance with the current code or if
26 the alteration made the store less non-conforming. Mr. Malone asserted in his appeal that there
27 was no evidence in the record that Walmart, with the alterations, had complied with the code or
28 made the store more in conformance. Mr. Hathaway disagreed with that, noting the Planning
29 Commission looked very carefully at the issue. He explained that in the Planning Commission
30 Final Order, every time there was an alteration proposed, there was a specific finding by the
31 Planning Commission that demonstrated it complied with the current standards or decreased the
32 non-conformity. Mr. Hathaway commented that the appeal was deficient because it didn't define
33 or identify what alternations were not in conformance. Mr. Hathaway declared Walmart had
34 complied with the code requirements and the record was clear on that.

35 Mr. Hathaway addressed the appeal issue regarding stormwater. He explained when the store was
36 originally built it was constructed with 30% more detention than was required, noting it was done
37 that way most likely because the original application was approved for a 133,000 square foot
38 store. He stated a lot of infrastructure was oversized in anticipation of an expansion. He
39 indicated the storm system was in compliance with the City requirements and would continue to
40 be in compliance with those requirements. He noted the store would be adding more landscaping
41 so there would be less impervious area and less stormwater runoff with a large detention system
42 to accommodate it.

43 Mr. Hathaway asked the Council to reject the appeal and affirm the Planning Commission
44 decision with conditions.

45 Councilor Jones stated the Dallas Development Code required a TIA if there would be an increase
46 in average daily trips of more than 300 and asked Mr. Hathaway if ODOT understood that
47 requirement of the Code. Mr. Hathaway responded that it didn't matter. He reviewed paragraph
48 (A) of section 4.1.090 regarding the trip generation requirement and acknowledged on the face, it
49 indicated a TIA was required. He added that if one were to read paragraph (B) with paragraph
50 (A) there was ambiguity because it stated the City must check with the road authority. He
51 indicated that created ambiguity and required interpretation. He stated ODOT may or may not
52 have known about the 300 average daily trip requirement, but it didn't matter. He explained the
53 Planning Commission said once the road authority, regardless of any other section of the code,
54 decided the TIA was not required because they did not believe there would be any adverse
55 impacts, the City must give that road authority deference.

56 Councilor Jones asked Mr. Hathaway if the City could still request a TIA. Mr. Hathaway stated
57 they could and Walmart had already provided a form of a TIA. He explained based on Mr.
58 Malone's presentation, it sounded like Walmart didn't provide any information, but for ODOT to

1 determine whether they would require a TIA, Walmart had to provide a scoping memorandum. In
2 order to generate that memo, they used the Institute of Traffic Engineers (ITE) trip generation
3 rates to assess the potential impacts to the road system. He added ODOT had a lot of information
4 from the Walmart traffic engineers to determine if more information was required, and based on
5 that information, ODOT determined nothing further was required. Mr. Hathaway noted that the
6 Planning Commission asked the same question, and he stated the City Attorney explained that
7 under the code, if ODOT said a TIA was not required, the City couldn't require Walmart to
8 provide one. Mr. Hathaway indicated that Walmart did submit a supplemental traffic report in the
9 record, noting it wasn't a full TIA because they only had a week to prepare it, but it did
10 demonstrate they met the level of service requirements.

11 Councilor Jones asked Mr. Hathaway what would happen if it turned out to be wrong and the City
12 determined there were adverse effects to traffic from the expansion. Mr. Hathaway stated that
13 once a decision was made, there would be no further examination unless Walmart wanted to
14 further expand the store. He indicated if there were issues regarding access, ODOT had control
15 over that. He reviewed that under the code, the City didn't have the authority to require a full
16 TIA. He commented that the information should be accurate as it was prepared by professionals.
17 He referred to the additional information in the record that demonstrated the impacts wouldn't be
18 adverse to the street system. Mr. Shetterly pointed out the trip generation memo and supporting
19 traffic data on pages 180 through 202 of the record.

20 Councilor Fairchild asked Mr. Shetterly if anything bothered him on the interpretations. Mr.
21 Shetterly stated Mr. Hathaway's arguments were consistent with the discussion before the
22 Planning Commission and were reasonable.

23 Mayor Dalton invited those with standing for their testimony.

24 Mr. Shetterly clarified that under Dallas land use code, the opportunity for a full, wide-open, all-
25 comers public hearing at which people were allowed to comment, bring testimony, and raise
26 evidence occurred before the Planning Commission, adding the Planning Commission had three
27 meetings on this application. He explained that once past the Planning Commission that
28 evidentiary opportunity for an all-comers hearing was over, and it was limited on appeal to those
29 who participated previously and only on the issues raised in the appeal. He advised that the
30 current public hearing was not a new hearing for new evidence but an appeal of what had already
31 taken place, so the participants for this hearing were limited to those who had already participated
32 by oral or written testimony.

33 Nancy Cruckshank stated the traffic was insane. She commented that her bank was next to
34 Walmart and while trying to get out the last time she was there, she was almost hit three times.
35 She advised that if there would be more cars, there would be more incidents of wrecks. She
36 added it took ten to fifteen minutes to get out depending on when you went.

37 Lydia Graber reported that it was brought to her attention that when the original traffic study was
38 done, it was done with three entrances to Walmart. She stated she didn't know if there were still
39 three entrances, noting one was a truck entrance, one was on Ellendale, and one was on Kings
40 Valley Highway. She added everyone went through the Ellendale entrance which led to more
41 congestion at that entrance. She said she thought the traffic study was sort of invalid since not all
42 entrances were used equally. Ms. Graber advised Walmart was initially asked to put up money in
43 case issues came up after the expansion and that was dismissed. She explained she didn't think
44 that was reasonable.

45 Kathy Mc Gavock stated she had written an email with some concerns. She indicated when
46 Walmart was first introduced, the issue at that time was not about runoff, but about a huge
47 parking lot to be built on wetlands. She commented that it was interesting that the issue in the
48 appeal was stormwater and no longer wetlands. She advised that at the Planning Commission,
49 Vice President Pedersen mentioned he had difficulties turning left when leaving Walmart. She
50 urged the Council to consider that traffic issue, noting the expansion would bring much increased
51 traffic from all the outlying areas.

52 Ryan Waddell commented that he went to Walmart at all different hours and had to wait on
53 Ellendale for a maximum of 30 seconds. He noted he was almost hit once, but that was not
54 Walmart's fault but rather an inconsiderate driver. He explained he had used all four exits,
55 including the truck entrance to Walmart, noting the other exits were always easily accessible and
56 convenient.

57 Mr. Hathaway presented his rebuttal. He responded to those who asked what if something

1 happened out there and something needed to be done with regard to the traffic study. He stated he
2 had talked to Walmart's transportation engineer who explained that ODOT had the access permits
3 to Ellendale and Kings Valley Highway so the only way Walmart had the right to use those
4 ODOT roads was with access permits granted by the State of Oregon. He noted ODOT had the
5 jurisdiction to monitor all the access permits. He indicated if safety concerns were raised by the
6 community or the City, they could go to ODOT and have them review the access permits. He
7 explained there was a vehicle to address safety concerns related to the expansion.

8 Mr. Hathaway reviewed the conditions of approval recommended by Mr. Malone. He stated that
9 Walmart indicated before the Planning Commission that they would be willing to agree to a
10 condition of approval to keep all the fertilizers and chemicals inside because that was the store
11 policy and was currently being done. He indicated Walmart was willing for that condition to be
12 imposed and suggested Walmart would like to work with staff for the exact wording. He added
13 as far as the concept of keeping those things inside so they did not come into contact with water
14 or wash into the storm system, Walmart was willing to do that.

15 Mr. Hathaway explained regarding the second stormwater condition in Mr. Malone's
16 recommendation, there was already a requirement for that when they were constructing the store.
17 He noted Walmart would be willing to work with staff to craft a condition if the Council desired
18 that condition be imposed. He stated they would do that anyway, but only during construction.
19 He added the bio-bags and bark bags would not be appropriate as a long-term solution once
20 construction was completed and explained the storm water system ensured everything was treated
21 and removed off the property appropriately.

22 Mr. Hathaway indicated that with regards to Mr. Malone's other suggested conditions of
23 approval, those were already requirements with which Walmart had to comply with the exception
24 of the issue of a waiver of remonstrance for a Local Improvement District. He indicated that
25 subject had come before the Planning Commission and the City Attorney had determined that
26 would not be a proper condition to be imposed by the City under this situation.

27 Mayor Dalton declared the Public Hearing closed at 8:18 p.m.

28 It was moved by Councilor Fairchild and seconded by Council President Scroggin to deny the
29 appeal and direct staff to draft an order upholding the Planning Commission Final Order. Mr.
30 Shetterly asked if Councilor Fairchild wanted to include in his motion the conditions on Page 5 of
31 Mr. Malone's memo that Walmart said they were receptive to. He indicated he could amend the
32 motion to add the conditions that fertilizers and other chemicals would be stored indoors and the
33 bark bags would be placed adjacent to storm drains during construction. In response to a concern
34 by Councilor Fairchild that some of the items on Mr. Malone's list of hazardous products were
35 not hazardous, Mr. Shetterly clarified that Mr. Fairchild could include those conditions
36 conceptually and allow staff to work out the specific language of those, adding the condition to
37 place bark bags near the storm drains would only be implemented during construction and would
38 not be permanent. Councilor Fairchild modified his original motion to include the two conditions
39 as outlined by Mr. Shetterly. Council President Scroggin agreed to the modification to the
40 motion.

41 Councilor Lawson asked if Mr. Shetterly concurred with Mr. Hathaway's conclusion that the City
42 could not require a traffic study after ODOT determined it was not needed. Mr. Shetterly stated
43 in part that wasn't the question, but rather the issue was that code section (A) contained a trigger
44 that said the applicant will do a TIA and section (B) said if a TIA was required, the applicant
45 needed to consult with the road authority. He explained if that was the case, the TIA must be
46 done in conformance with the requirements of the road authority. Mr. Shetterly stated Walmart
47 was directed to do that, they submitted their information to ODOT, and ODOT said there was no
48 further analysis required. He indicated it was the position of staff, which was a supportable
49 position, that ODOT's decision to not require a TIA functionally satisfied the code. He stated that
50 as a practical matter and what followed from the interpretation of the code, was that one of the
51 purposes of a TIA was to indicate improvements that needed to be made or changes to the facility
52 to accommodate a certain level of traffic. He advised that if Dallas on its own ordered a TIA be
53 done to its own standards and a Dallas TIA said they had to add a lane or a light, Dallas wouldn't
54 have the authority over ODOT to require those changes be implemented. He noted that was why
55 the code deferred to the road authority.

56 Councilor Fairchild in speaking to the motion, recognized that anytime changes were made,
57 things would happen and the Council didn't know all the changes that might occur. He stated as a
58 Council, if bad things happened, they would take care of it, noting if good things happened,

1 maybe they could take credit for it. He indicated in listening to the back and forth, he felt the
2 Council set up a list of rules and said people needed to follow it. He commented it didn't matter
3 if it was Walmart or Sally Lou, if the rules were followed, the Council needed to base their
4 decisions on that without discrimination. He stated he felt Walmart had followed the rules, so
5 that's where he was coming from.

6 Mr. Shetterly clarified for the record that the Council was interpreting the Development Code
7 consistent with the recommendations of the staff report. The Council affirmed that was the case.

8 The motion CARRIED UNANIMOUSLY.

9 Mayor Dalton declared that was the City's final decision. He noted the written Final Order would
10 be mailed to the applicant and all participants. He thanked everyone for their participation,
11 adding all the comments were greatly appreciated.

12 Mayor Dalton recessed the meeting.

13 Mayor Dalton reconvened the meeting at 8:37 p.m.

14 Council President Scroggin was excused from the meeting at 8:37 p.m.

15 **QUESTIONS OR COMMENTS FROM THE AUDIENCE**

16 Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce, stated the
17 Community Award Ceremony had been well-attended. She announced Home Comfort was
18 named Business of the Year, with Dick and Sherry Fobert receiving First Citizen honors.

19 Ms. Pope thanked the Mayor for presenting the State of the City at the previous Chamber
20 luncheon. She reviewed past and upcoming ribbon cutting events in Dallas.

21 Ms. Pope thanked Mayor Dalton for his participation in the recognition of the DHS wrestlers the
22 past week. She commended the community for really standing behind our students, athletes, and
23 each other.

24 Mary Christensen stated she had lived in Dallas her whole life and was disappointed that the
25 Walmart process happened so fast, noting she was out of town for three months. She commented
26 that she was disappointed that ODOT didn't require a traffic study. She asked if the Walmart
27 lawyer talked to ODOT or if it was someone on the Council. Mr. Shetterly noted the report was
28 developed by staff and the Council did not have contact with ODOT. Mr. Wyatt clarified that
29 staff met with ODOT, which was why the record was so thick. Ms. Christensen asked why the
30 Council didn't do something that would prove a traffic study wasn't needed. She asked why they
31 didn't demand that it be done. She stated she would never go there, adding she would go to her
32 local store where they cared about the community. She commented that it was ridiculous if the
33 Council didn't think it wasn't going to be a problem because it had impacted local businesses.

34 Steve Milligan introduced himself and indicated he was running for County Commissioner. He
35 reviewed his platform and qualifications for the position.

36
37 Diane Weaver advised the Council they would be seeing her a lot from now on. She expressed
38 her concern with the City's stormwater and sewer situation. She indicated it had affected her
39 personally to the tune of \$75,000 for the last two incidents. She stated that whether or not the
40 City's insurance said the sewer system was in good shape, some people with the City said it
41 leaked a lot of ground and surface water which did impact when the storm sewers overflowed and
42 went into the sanitary sewers.

43
44 Tim Grimes stated that as a capitalist, he understood Walmart's opportunity to expand where
45 there was low hanging fruit and they could scoop a lot of bucks without a large expenditure. He
46 commented that there was also some truth to previous statements that very large footprints did
47 impact smaller businesses. He indicated equal treatment under laws and regulations was one
48 thing, but allowing outside entities to build another conduit to funnel money from local pockets
49 out of state was not always the best decision. He stated just because someone wanted to come in
50 and do what they will with property, even if they owned it, didn't mean it was the right thing. He
51 commented that it was a slippery slope that the Council just took a swan dive on.

1 **CONSENT AGENDA**

2 Councilor Lawson requested that the report of the Public Works Committee meeting be removed
3 from the Consent Agenda.

4 It was moved by Councilor Wilson and seconded by Councilor Marshall to approve items a and b
5 of the Consent Agenda. The motion CARRIED UNANIMOUSLY.

6 Items approved by the Consent Agenda: a) the February 21, 2012, City Council minutes; b)
7 report of February 27, 2012, Public Safety Committee Meeting; and

8 **ITEMS REMOVED FROM CONSENT AGENDA**

9 **REPORT OF FEBRUARY 27, 2012, PUBLIC WORKS COMMITTEE MEETING**

10 Councilor Lawson asked about a rate or fee chart in regards to different sizes of restaurants for the
11 FOG program. Mr. Wyatt explained it would come to Council soon but was not in place now.

12 It was moved by Councilor Lawson and seconded by Councilor Wilson to approve the report of
13 the February 27, 2012, Public Works Committee meeting. The motion CARRIED
14 UNANIMOUSLY.

15 **REPORTS OR COMMENTS FROM COUNCIL**

16 Councilor Fairchild announced that on Friday, March 9, from noon to 2:00 p.m., the League of
17 Oregon Cities was holding a regional meeting at Independence City Hall.

18 **REPORTS FROM CITY MANAGER AND STAFF**

19 **CHAMBER/VISITOR CENTER REQUEST FOR SUMMER EVENTS**

20 Mr. Wyatt reviewed the requests from the Chamber and Visitor Center for assistance with Bounty
21 Market, Summerfest, and Art in the Park in 2012. Councilor Woods and Mr. Shetterly reminded
22 Ms. Pope that the insurance binder needed to contain the correct identity for Art in the Park at the
23 time of the event.

24 It was moved by Councilor Lawson and seconded by Councilor Marshall to approve the requests
25 and direct the City Manager to work with Ms. Pope to facilitate the events. The motion
26 CARRIED UNANIMOUSLY.

27 **OTHER**

28 Mr. Wyatt stated the City did take access to businesses very seriously and staff did invest a lot of
29 time in regard to the access to Walmart. He noted ODOT had a whole division for access
30 management. He pointed out any business at any time could trigger an access or traffic review if
31 it changed use, increased size, and many other triggers. He stated again access was very serious,
32 noting that was why the record was so thick. He wanted the Council to understand that staff did
33 look at it and did take it very seriously.

34 **RESOLUTIONS**

35 **Resolution No. 3242:** A resolution establishing a schedule of rates and fees to be paid by person
36 using the Dallas Aquatic Center, and repealing Resolution No. 3152.

37 A roll call vote was taken and Mayor Dalton declared Resolution No. 3242 to have PASSED BY
38 A UNANIMOUS VOTE with Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie
39 Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Councilor LaVonne Wilson, and
40 Councilor Ken Woods, Jr. voting YES.

41 **FIRST READING OF ORDINANCE**

42 **Ordinance No. 1744:** An Ordinance regulating the display for sale of drug paraphernalia; and
43 declaring an emergency.

44 Councilor Lawson asked for a legal explanation as to why the Council needed to pass this
45 ordinance when drug use was already illegal. Mr. Shetterly explained state law said it was illegal
46 to sell drug paraphernalia, but under the state statute, an element of the crime is that the seller

1 must have known the paraphernalia was specifically intended to be used with a controlled
2 substance. He commented that it obviously made it a limited criminal statute. He advised that
3 since the state regulated the sale of drug paraphernalia, it preempted cities from outright
4 prohibiting it. The County network brought this up, which proposed regulating the display of
5 paraphernalia and requiring it be removed from view. He explained the City wouldn't say they
6 couldn't sell it, but were saying they couldn't display it in the open. He noted it also applied to
7 things such as garage sales.

8 Councilor Stewart asked if there was a definition of displaying or showing a product. He asked if
9 it would apply to having a poster or picture of the paraphernalia in sight. Mr. Shetterly advised
10 the ordinance didn't get at displaying pictures, adding that type of restriction could get into first
11 amendment issues. He commented that if posters and such became an issue, the Council could
12 look into it more closely.

13 Councilor Marshall asked for a list of exact items that could be considered drug paraphernalia.
14 Mr. Shetterly directed him to Section 1 (2) (a)-(i) of the ordinance for a list, noting that was the
15 state definition of drug paraphernalia.

16 Mayor Dalton declared Ordinance No. 1744 to have passed its first reading.

17 **SECOND READING OF ORDINANCE**

18 **OTHER BUSINESS**

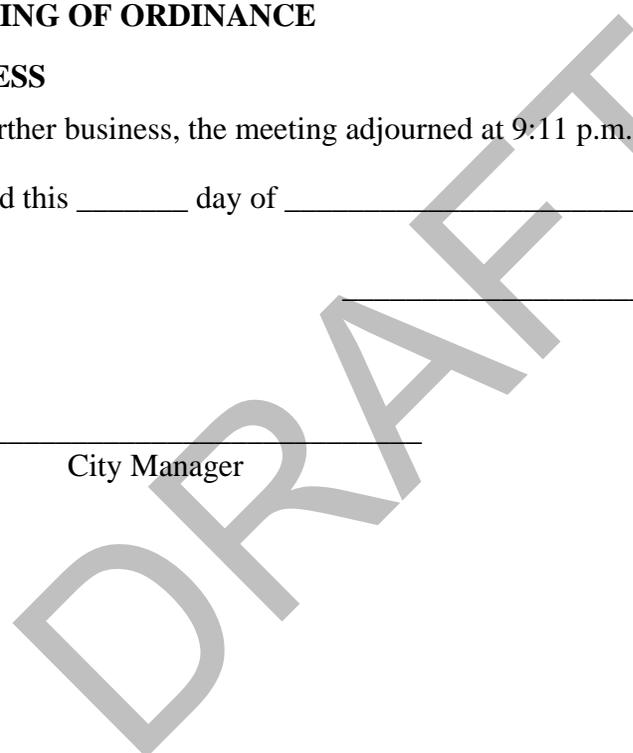
19 There being no further business, the meeting adjourned at 9:11 p.m.

20 Read and approved this _____ day of _____ 2012.

21
22 _____
23 Mayor

24 ATTEST:

25 _____
26 City Manager



DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 5 b	Topic: OLCC Liquor License Application for Change of Ownership
Prepared By: Emily Gagner	Meeting Date: March 19, 2012	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

With approval of the consent agenda the Council would recommend to the OLCC that the license be granted.

BACKGROUND:

The City received an OLCC application for a change of ownership at Sweeney's Pub and Lotto, 117 E. Ellendale Avenue.

The Chief of Police has performed a background check and found no items of concern.

FISCAL IMPACT:

None

ATTACHMENTS:

OLCC License Application for Sweeny's Pub and Lotto



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

03-12-12 P02:12 IN

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: LSB

Date: 3/12/12

90-day authority: Yes No

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

① RAY STRATTON, LLC ③ _____

② _____ ④ _____

2. Trade Name (dba): SMOKEYS PUB & LOTTO

3. Business Location: 117 E. KILLDALE AVE DALLAS, POLK, OR 97338
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: SAME AS #3
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503.423.7271
(phone) (fax)

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

7. If yes to whom: TOM KUTTMANN, LLC Type of License: FULL-ON PREMISES SALES

8. Former Business Name: SMOKEYS PUB & LOTTO

9. Will you have a manager? Yes No Name: RAY STRATTON
(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: RAY STRATTON 503.910.7196
(name) (phone number(s))

(address) DALLAS, OR 97338 (fax number) ray.the.pub@gmail.com (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 [Signature] Date 2/23/12 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

ORE GOV LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE



Please Print or Type

LLC Name: RAY STRATTON Year Filed: 2012
Trade Name (dba): SMOENYS PUB & LOTTO
Business Location Address: 117 E. HULLMAN AVE.
City: JAWAS ZIP Code: 97338

List Members of LLC:

Percentage of Membership Interest:

- | | |
|--|-------------|
| 1. <u>RAY H. STRATTON</u>
(managing member) | <u>100%</u> |
| 2. _____
(members) | _____ |
| 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: RAY STRATTON DOB: [REDACTED]
OLCC 2/29/2012

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

Signature: [Signature] Date: 2/23/12
(name) pres. (title)



OREGON LIQUOR CONTROL COMMISSION
INDIVIDUAL HISTORY

1. Trade Name SMOKEYS PUB & LOTTO 2. City DALLAS
 3. Name STRATTON RAY HAROLD
 (Last) (First) (Middle)
 4. Other names used (maiden, other) _____
 5. *SSN [REDACTED] 6. 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). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. 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: [Signature]

9. Driver License or State ID # [REDACTED] 10. State [REDACTED]
 11. Residence Address [REDACTED] DALLAS, OR 97338
 (number and street) (city) (state) (zip code)
 12. Mailing Address (if different) _____
 (number and street) (city) (state) (zip code)
 13. Contact Phone 503.910.7196 14. E-Mail address (optional) Ray.ThePub@gmail.com
 15. Do you have a spouse or domestic partner? No Yes
 If yes, list his/her full name: _____
 Will this person work at or be involved in the operation or management of the business? No Yes

16. List all states, other than Oregon, where you have lived during the past ten years:
N/A

17. 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?
 No Yes 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.

18. 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? No Yes 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.
09/11 - DISORDERLY CONDUCT ; 05/02 - ASSAULT

20. Trade Name Sweeny's pub & lottery 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.

diversion in 2003 for D.U.I

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.

1 North Dallas Bar & grill 21 main st pub monmouth

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: 07/12/12

STARTERS

MAIN MENU

French Fries.....	<u>3.00</u>	Hamburger & Fries.....	\$6.50
Onion Rings.....	\$2.75	Cheeseburger & Fries.....	\$7.00
Deep Fried Cheese Sticks.....	<u>2.25</u>	Hot Dog & Fries.....	\$4.25
Jalapeño Poppers.....	\$5.00	Chicken Tender & Fries.....	\$6.50
Shrimp & Fries.....	<u>4.50</u>	Club Sandwich & Fries.....	<u>7.95</u>
Chicken Tenders.....	<u>7.50</u>	Fish & Chips.....	\$6.50
Egg Rolls.....	<u>6.50</u>	Shrimp & Fries.....	<u>7.50</u>
Hot Wings.....	\$4.00	BLT & Fries.....	<u>7.50</u>
Mini Corndogs.....	\$3.50	Sandwiches.....	\$6.50
Deep Fried Mushrooms.....	\$5.00	Deli style w/ your choice of sides	\$6.50
Deep Fried Greenbeans.....	\$4.50		
Calimari.....	\$4.00		
Spicy Meatballs	\$4.50		
Tater Tots.....	<u>3.25</u>		
Sweeney Sampler (any four).....	\$2.75		
	<u>3.00</u>		
	\$8.50		

PLEASE CHECK BOARD FOR OUR DAILY SPECIALS

Sweeney's PUB & LOTTO

Sweeney's PUB & LOTTO

DAILY HAPPY HOUR SPECIALS

MONDAY - FRIDAY 5 -7PM

		50
		00
		.25
		.50
MON. PULLED PORK SLIDERS (3 FOR \$2.00)		.50
TUE. TACO TUESDAY (\$.50 EACH)		.50
WED. WHIMPY BURGERS (3 FOR \$2.00)		.50
THUR. HOT WINGS (3 FOR \$1.00)		.50
FRI. CHOWDER BOWL (\$2.50)		.50

BREADS

White, Wheat, Sourdough, Rye

MEATS

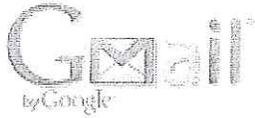
Ham, Turkey, Roast Beef, Pastrami

CHEESES

Cheddar, American, Swiss

****PLEASE CHECK BOARD FOR OUR DAILY SPECIALS****

Sweeney's PUB & LOTTO



Ray Stratton <ray.thepub@gmail.com>

Sweeny's Pub, Dallas, Oregon

1 message

Mccloud Propert mccloud <jmcprop@pacbell.net>
To: ray.thepub@gmail.com

Thu, Mar 8, 2012 at 3:07 PM

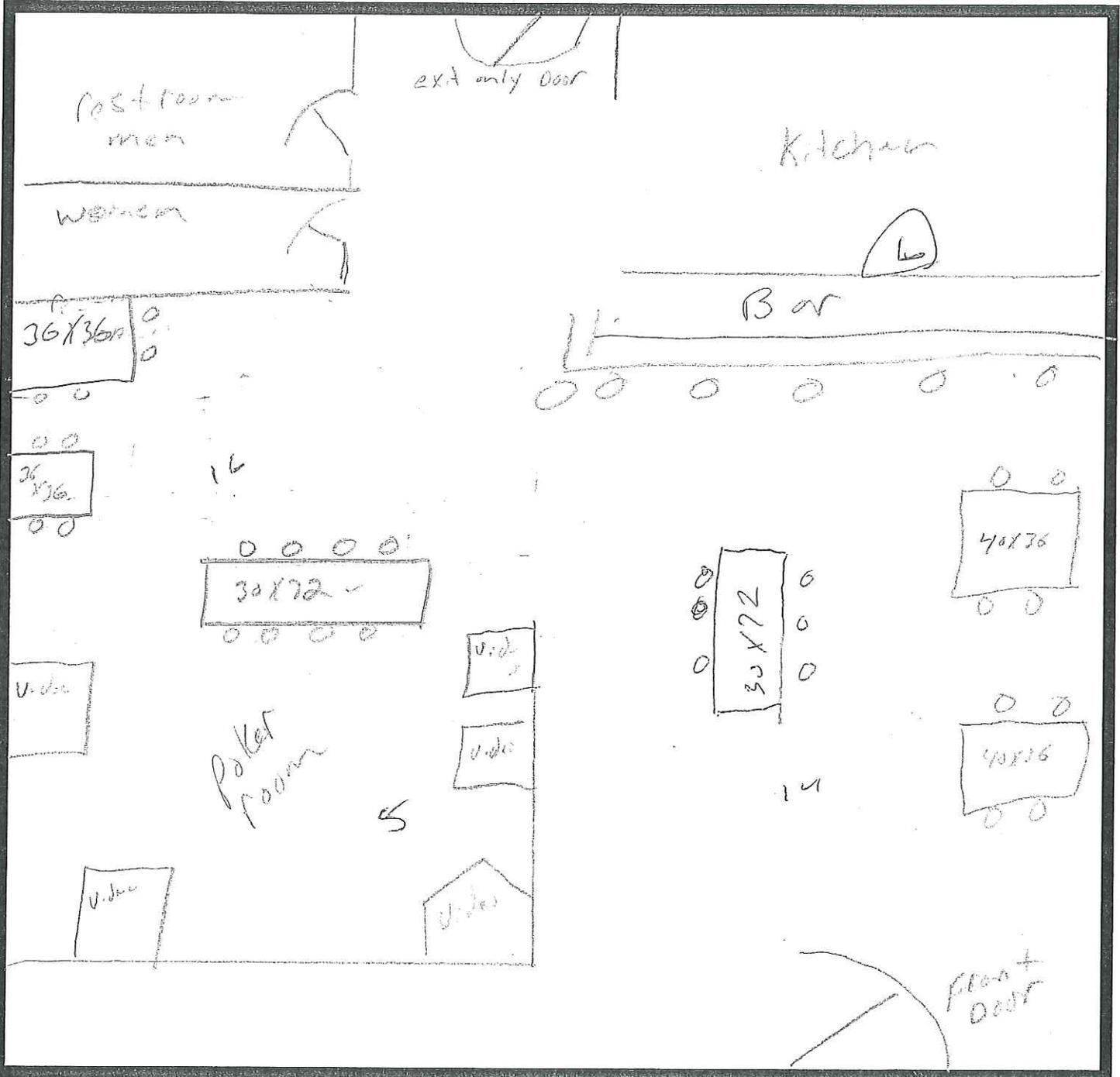
Per our conversation, we are amenable to assigning the existing lease to you, subject to our approval of your financial statement, which will not be unreasonably refused.

Joel McCloud
Sunridge Partners, LLC



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.
- Applicants must provide a sketch that shows the specific area of the premises (e.g. dining area, bar, lounge, kitchen and restrooms). Full On-Premises (commercial establishments) applicants must also show dining tables. See example on back.



RAY SABATON, LLC
Applicant Name

SWEETLYR PUB & LOTTO
Trade Name (dba):

DALLAS OR 97338
City and ZIP Code

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

Date: _____ Initials: _____



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: RAY STRATTON, LLC Phone: 503.910.7194

Trade Name (dba): SWEENEY'S PUB & LOTTO

Business Location Address: 117 E. ELLIOT AVE

City: JALLAS ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 1000 to 0000
Monday 1000 to 0100
Tuesday 1000 to 0100
Wednesday 1000 to 0100
Thursday 1000 to 0100
Friday 1000 to 0100
Saturday 1000 to 0100

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: _____ Outdoor: _____
Lounge: 30 Other (explain): 6 at Bar + 5 LOTTO
Banquet: _____ Total Seating: 36

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: 2/23/12



**OREGON LIQUOR CONTROL COMMISSION
WRITTEN PROPOSAL FOR A FULL ON-PREMISES SALES
LICENSE COMMERCIAL ESTABLISHMENT**

Please Print or Type

Trade Name (dba): SMANYS PUB & LOTTO

City: DALLAS

I will offer at least five different meals during my regular meal period. My regular meal period must last at least 3 hours if my business is open past 5 PM, and must last at least 2 hours if my business is not open after 5 PM.

My regular meal period will be from 1000 am to 0100 am
(start time) (end time)

My menu for this regular meal period is attached

At all other times I will make at least five different substantial food items available in all areas where alcohol service is available. Substantial food items are food items that are typically served as a main course or entrée. Some examples include but are not limited to fish, steak, chicken, pasta, pizza, sandwiches, dinner salads, hot dogs, soup and sausages.

My menu of substantial food items is attached; or

My entire menu is available during all hours that alcohol service is available.

During my required meal period, I will have at least 30 (number) indoor dining seats at tables or food counters. This seating will be in areas of the licensed premises regularly open to the general public. (Note: Seats at counters in entertainment areas, seats at bars, and seats in outdoor areas do not qualify as dining seating.)

I have attached a floor plan showing the seats at tables, counters and bars in indoor and outdoor areas where alcoholic beverages will be sold, served, or consumed at my business. I understand that I must make food available to patrons in all areas where alcohol service is available.

I understand that discouraging food service is a violation of OAR 845-006-0466. Examples of discouraging food service include not taking, preparing, or delivering a food order in a timely manner; over-pricing food for the clientele of my business; offering or serving unpalatable food; failing to provide required food service; and failing to provide a food service menu in a timely manner when requested by the patron.

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

Signature:  Date: 2/23/12

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 5 c	Topic: OLCC Liquor License Application for Change of Ownership
Prepared By: Emily Gagner	Meeting Date: March 19, 2012	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion that the Council would recommend to the OLCC that the license be granted.

BACKGROUND:

The City received an OLCC application for a change of ownership for Tony's Place at 127 SW Court Street.

The Chief of Police has completed a background check and found no items of concern.

FISCAL IMPACT:

None

ATTACHMENTS:

OLCC License Application for Tony's Place



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

03-12-12 P02:12 IN

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: 3/12/12

90-day authority: Yes No

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

- ① RAY STRATTON, LLC ③ _____
- ② _____ ④ _____

2. Trade Name (dba): TONY'S PLACE

3. Business Location: 127th COURT ST, DALLAS PARK, OR 97338
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 127 COURT ST, DALLAS OR 97338
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503.423.4248
(phone) (fax)

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

7. If yes to whom: TOM KUHLMANN, LLC Type of License: FULL ON-PREMISES SALES

8. Former Business Name: TONY'S PLACE

9. Will you have a manager? Yes No Name: RAY STRATTON
(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: RAY STRATTON 503.910.7196
(name) (phone number(s))

(address) DALLAS, OR 97338 ray.the.pub@gmail.com
(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 [Signature] Date: 2/23/12 ③ _____ Date: MAR 07 2012

② _____ Date: _____ ④ _____ Date: _____



OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE

Please Print or Type

LLC Name: RAY STRATTON Year Filed: 2012

Trade Name (dba): TOMYS PLACE

Business Location Address: 127 COURT ST

City: DALLAS ZIP Code: 97338

List Members of LLC:

Percentage of Membership Interest:

1. RAY H. STRATTON
(managing member)

100%

2. _____
(members)

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: RAY STRATTON DOB: [REDACTED]
DOB 2 24 12

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

Signature:  Date: 2/3/12
(name) (title)



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

1. Trade Name TOMYS PLACE 2. City DALLAS
 3. Name STRATTON RAY HAROLD
 (Last) (First) (Middle)
 4. Other names used (maiden, other) _____
 5. *SSN [REDACTED] 6. 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). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. 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: [Signature]

INITIALS: [Initials]

COPY/REVIEW
 Search Completed
 MAR 08 2012

9. Driver License or State ID # [REDACTED] 10. State OREGON
 11. Residence Address [REDACTED] DALLAS, OR 97338
 (number and street) (city) (state) (zip code)
 12. Mailing Address (if different) _____
 (number and street) (city) (state) (zip code)
 13. Contact Phone 503.910.7196 14. E-Mail address (optional) ray.the.pub@gmail.com
 15. Do you have a spouse or domestic partner? No Yes
 If yes, list his/her full name: _____
 Will this person work at or be involved in the operation or management of the business? No Yes

16. List all states, other than Oregon, where you have lived during the past ten years:
N/A

17. 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?
 No Yes 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.

18. 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? No Yes 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.

09/11 - DISORDERLY CONDUCT ; 05/02 - ASSAULT

20. Trade Name Tony's place. 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.

diversion for D.W.I. in two thousand + three

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.

1) North Dallas Bar + grill Dallas Oh. 2) main st pub monmouth NJ

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.

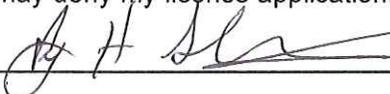
27. Does, or will, a maker, wholesaler, or distributor of alcohol have any ownership interest in your business?
 N/A Yes No Unsure If yes or unsure, explain:

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).

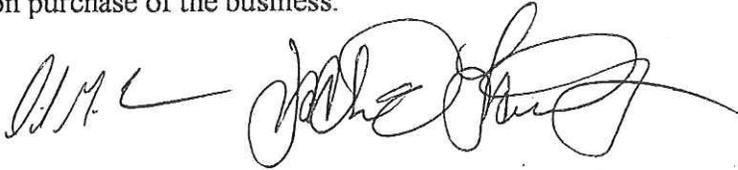
I affirm that my answers are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to, criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature:  Date: 03/12/12

Lawson's
569 SE Walnut Ave
Dallas, OR 97338
503-623-7249
2-24-2012

To Whom It May Concern:

We are allowing an amendment to the enclosed copy of agreement to the new owner Ray
~~Thompson~~ *Stratton* to take over the existing lease agreement for Tony's Bar.
New management and ownership will transfer from Tom Kuhlman to Ray ~~Thompson~~
upon purchase of the business. *Stratton*

Handwritten signatures of David and Jackie Lawson. The signature on the left is 'D.L.' and the signature on the right is 'Jackie Lawson'.

David and Jackie Lawson

Tonys place

Menne.

Draft

ap.izers:

FF.

Tutor tots.

Poppers.

mozz sticks.

O.R.ings

meals.

Hamburgers.

chx Burgers.

soaps.

chx nachos

shrimp Basket.

fish Basket.

chx Basket

Oeli sands.



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: RAY STRATTON, LLC Phone: 503.910.7196

Trade Name (dba): TONY'S PLACE

Business Location Address: 127 COURT ST

City: DALLAS ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 0700 to 0200
Monday 0700 to 0200
Tuesday 0700 to 0200
Wednesday 0700 to 0200
Thursday 0700 to 0200
Friday 0700 to 0200
Saturday 0700 to 0200

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: Outdoor:
Lounge: 32 Other (explain): 12 at Bar + 5 lotter.
Banquet: Total Seating: 49

OLCC USE ONLY
Investigator Verified Seating: (Y) (N)
Investigator Initials:
Date:

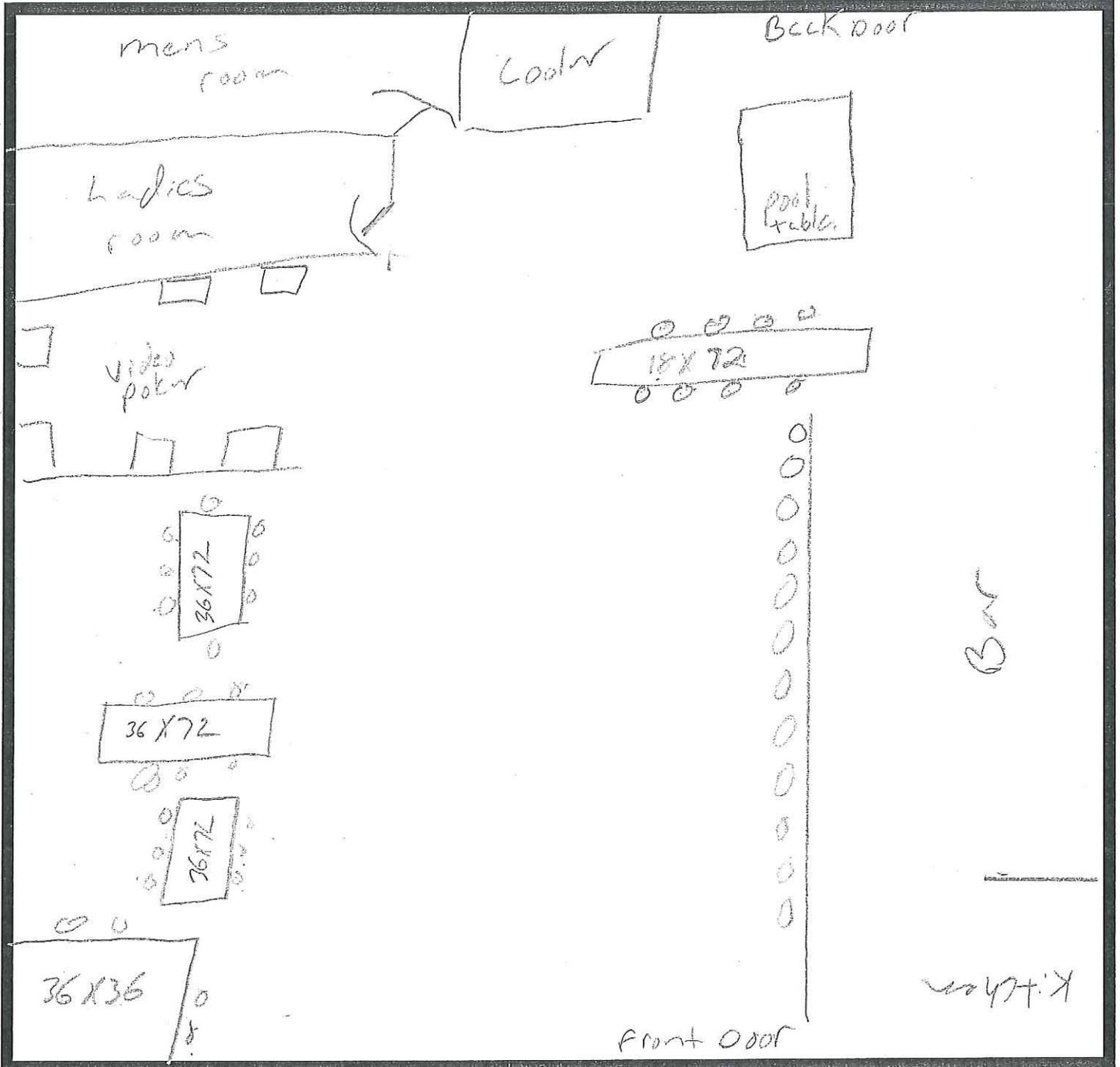
I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Date: 2/23/12



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.
- Applicants must provide a sketch that shows the specific area of the premises (e.g. dining area, bar, lounge, kitchen and restrooms). Full On-Premises (commercial establishments) applicants must also show dining tables. See example on back.



RAY STRATTON, LLC
 Applicant Name
TONY'S PLACE
 Trade Name (dba):
DALLAS 97338
 City and ZIP Code

.....OLCC USE ONLY.....
 MINOR POSTING ASSIGNMENT(S)
 Date: _____ Initials: _____



**OREGON LIQUOR CONTROL COMMISSION
WRITTEN PROPOSAL FOR A FULL ON-PREMISES SALES
LICENSE COMMERCIAL ESTABLISHMENT**

Please Print or Type

Trade Name (dba): TONY'S PLACE

City: DALLAS

I will offer at least five different meals during my regular meal period. My regular meal period must last at least 3 hours if my business is open past 5 PM, and must last at least 2 hours if my business is not open after 5 PM.

My regular meal period will be from 0700 am to 0200 am
(start time) (end time)

My menu for this regular meal period is attached

At all other times I will make at least five different substantial food items available in all areas where alcohol service is available. Substantial food items are food items that are typically served as a main course or entrée. Some examples include but are not limited to fish, steak, chicken, pasta, pizza, sandwiches, dinner salads, hot dogs, soup and sausages.

My menu of substantial food items is attached; or

My entire menu is available during all hours that alcohol service is available.

During my required meal period, I will have at least 40³² (number) indoor dining seats at tables or food counters. This seating will be in areas of the licensed premises regularly open to the general public. (Note: Seats at counters in entertainment areas, seats at bars, and seats in outdoor areas do not qualify as dining seating.)

I have attached a floor plan showing the seats at tables, counters and bars in indoor and outdoor areas where alcoholic beverages will be sold, served, or consumed at my business. I understand that I must make food available to patrons in all areas where alcohol service is available.

I understand that discouraging food service is a violation of OAR 845-006-0466. Examples of discouraging food service include not taking, preparing, or delivering a food order in a timely manner; over-pricing food for the clientele of my business; offering or serving unpalatable food; failing to provide required food service; and failing to provide a food service menu in a timely manner when requested by the patron.

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

Signature: [Handwritten Signature] Date: 2/20/12

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 b	Topic: Fire/EMS Regional Partnership Update
Prepared By: Bill Hahn	Meeting Date: March 19, 2012	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

None

BACKGROUND:

The City of Dallas has been partners with Southwestern Polk County Rural Fire Protection District for over 50 years. Both agencies have been impacted by the financial decisions of the State of Oregon voters over the years. It was suggested by the Public Safety Committee and the Budget Committee over the past couple of years that we explore the sustainability of the departments given our future fiscal limitations and personnel/equipment challenges.

With the assistance of the Special Districts Association of Oregon we have established a group to assess the feasibility of joining Dallas Fire & EMS, SW Polk RFPD, and Falls City into a joint district. We currently have a dozen individuals that represent the above agencies along with Polk Fire District #1. We have conducted two meetings to discuss the needs and direction the committee would follow to evaluate this process. We quickly discovered this process might realistically require at least a year to complete. The items that must be assessed are numerous and time consuming beyond the available time of the committee members. A third meeting will be scheduled in April to evaluate our next moves. One consideration that has surfaced is to find a consultant that has the expertise to come in and spend time evaluating the agencies to provide a plan of action, including, but not limited to:

- 1) What service level can we provide?
- 2) What is the cost of that service level?
- 3) Do the people want these services at this cost?
- 4) Equipment replacement costs
- 5) What is the level of community support?
- 6) What is the personnel impact?

FISCAL IMPACT:

\$10,000 from each agency to pay for the consultant

ATTACHMENTS:

None

DALLAS CITY COUNCIL

REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 d	Topic: Procedure for filling Council vacancy
Prepared By: Emily Gagner	Meeting Date: March 19, 2012	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion to adopt the procedure and forms as presented.

BACKGROUND:

Mark McDonald resigned his position on the Council on March 5, 2012. This created a vacancy which the Council will need to fill. The Charter is silent on the method the Council must use to fill a vacancy, stating simply that vacancies “shall be filled by a majority of the incumbent members of the Council.”

The Council adopted a procedure and application form last year to fill Dave Voves’ position and that procedure seemed to work well. Staff and the Mayor propose using the same procedure for this vacancy.

Attached are the procedure and application form we are proposing to use. Following is an outline of the procedure:

1. Advertise the vacancy on our website, Facebook page, and local papers
2. Collect applications from interested parties
3. Application deadline – March 30, 2012, at 5:00 p.m.
4. Screening of applications for completeness
5. Interview finalists before the full Council at the April 11 Council workshop at noon
6. Appointment by a majority of the Council at the April 16, 2012, Council meeting

This is a tight window for the appointment process, but with the Budget process starting on April 16, we feel it is important to get a new Councilor seated so he or she can participate in the entire process. Further, we’ve already gotten the word out about the vacancy through our website and Facebook page, as well as articles in the local papers and staff has already been contacted by several people interested in serving on the Council.

FISCAL IMPACT:

ATTACHMENTS:

Proposed application and procedure

APPLICATION PROCESS

TOPIC: Determine the candidates to be interviewed by the Council at the April 11, 2012 workshop.

1. The Council will adopt a procedure and an application form to be used by anyone interested in serving on the Council.
2. Once adopted, staff will publicize the vacancy and provide the application form to anyone who requests it.
3. Applications will be accepted until 5:00 p.m. on Friday, March 30, 2012.
4. After the closing date and time, applications will be screened to ensure candidates meet the minimum qualifications under Section 12 of the City Charter to serve on the Council.
5. If more than seven applicants meet the minimum qualifications, the Council President, Chair of the Administrative Committee, and Mayor are hereby appointed as a special committee of the council to review and screen the applications and, at their discretion, determine which of the candidates will move on to the interview phase (the number of which may be more than seven, at the discretion of the committee). The committee may establish its own procedures and criteria for screening.

WEDNESDAY, APRIL 11 NOON COUNCIL WORKSHOP

TOPIC: Interview All Candidates for Vacant Council Position

1. All Councilors will have been supplied with final candidates' packets/application forms and the process outlined in this document in advance of the Workshop.
2. The interview will be held in "Candidate Forum" fashion in the Council Chambers. All candidates will sit at a long table in front of the Council. The Mayor will act as Moderator.
3. Candidates will draw numbers randomly, 1-thru-7 [assumes 7 candidates] prior to the start of the meeting. This will determine the order in which the prepared questions are asked and also determine the seating arrangement at the table, #1 on the left as viewed from the Moderator's seat, to #7 on the right.
4. There will be prepared questions deemed to be relevant to service on the Council. Questions will be read from the list in numerical order by the Moderator. The first question will be answered first by the applicant who has drawn the number "1", the second question by the applicant who has drawn number "2", and so forth through all questions.
5. Each applicant will be limited to 2 minutes to address any question asked. This will be timed by the staff who will indicate an audible 30-second warning before the expiration of time. The Moderator will cut the applicant off at the end of 2 minutes.
6. After the applicant who draws the number "1" answers question number 1, the floor will be turned over to the remaining candidates by the Moderator to see if they also want to address the question. The candidates wishing to speak will be called upon by the Moderator until all candidates have had the opportunity to speak once on the question on the floor. No applicant will be allowed to speak more than once in answer to any particular question.
7. After all prepared questions have been answered, the floor will be thrown open for each Councilor to pose one question each to either the panel or any specific applicant. The Moderator will assure that each applicant is allowed the opportunity to answer each of these questions in turn.
8. After all questions have been answered, each applicant may make a closing statement starting with Applicant #1 and proceeding to Applicant #7 in that order. Each closing statement is limited to 2 minutes under the rules listed above.

MONDAY, APRIL 16, 2012 – CITY COUNCIL MEETING

TOPIC: Selection Procedure

Inasmuch as the Charter requires that the vacancy be filled by a majority of the incumbent Council members, that means that the appointment will require at least 5 votes. The first candidate to achieve 5 votes will be the candidate appointed to the Council. In the event of a tie vote (in this case, 4-4), the Mayor may choose, at his discretion, to cast the deciding vote.

The Selection Procedure recommended for adoption at this meeting is as follows:

1. That during the regular Council meeting on April 16, as an Agenda item, the selection process will take place.
2. Each Councilor will be distributed a ballot with the names of all the candidates on it. There will also be a blank space for each Councilor to write his or her own name on the ballot (by state law this process must not be by secret ballot).
3. After the ballots are distributed to the Councilors, the Mayor will open up the floor for any discussion regarding the procedures or comments regarding the candidates. It would be appropriate at this time for any Councilor to discuss the merits of any or all of the candidates and/or to declare what their vote will be and why.
4. Each Councilor will then fill out their ballot indicating their selection of one of the candidates to fill the vacant position. They will also write their own name on the ballot in the space provided.
5. The ballots will be gathered, the results read aloud by the clerk and the outcome summarized. Each Councilor's name will be read out loud in conjunction with their vote, for example, "Councilor Smith votes in favor of Mrs. Brown." At the end, the Secretary will announce the summarized results. For example, "Mrs. Brown has received 5 votes, Mr. Quick has received 2 votes and Mr. Elmer has received 1 vote." In that example, the Mayor would then declare that Mrs. Brown has won the appointment to the Council by the necessary margin.
6. In the event that none of the candidates receives the necessary 5 votes, then a second written ballot will be taken using the exact same procedures as in round one of the balloting, except that the names of any candidate who received zero votes in the first vote will be dropped from subsequent votes.
7. If after 3 rounds of ballot voting no applicant has yet received the required 5 votes, the Mayor will declare a 10-minute recess.

8. Following the recess, the Mayor will open up the floor to a motion from any of the Councilors to appoint a particular person from the list of candidates to fill the open position. For example, “I move that Mrs. Jones be appointed to fill the vacant Council seat.” (It would not be proper to say, “I move to nominate Mrs. Brown to fill the vacant Council seat.”). The motion will require a second. A roll-call vote will then be taken on the motion. If the motion receives 5 or more votes, then that applicant will be appointed to the open position. If not, then the floor will again be opened for another motion, and so forth until either an applicant receives the necessary votes or it is clear that there is a stalemate.

Filing of Candidacy for Vacant Council Seat

This information is a matter of public record and may be published or reproduced.

Candidate Information			
Candidate Name:			
Previous Name(s) if any:			
Residence Address:			
How long have you lived in Dallas?			
City:	State:	ZIP Code:	
Home Phone:	Work Phone:	Cell Phone:	
Fax:	Email Address:		
Mailing Address <i>(where all correspondence will be sent):</i>			
City:	State:	ZIP Code:	
Required Information <i>(if no relevant information, list "none")</i>			
Occupation <i>(present employment - paid or unpaid)</i>			
Occupational Background <i>(previous employment - paid or unpaid)</i>			
Volunteer Work <i>(past and present volunteer experience)</i>			
Educational Background <i>(schools attended, use attachment if needed)</i>			
Complete Name of School <i>no acronyms</i>	Last Grade Level Completed	Diploma/Degree/ Certificate	Course of Study <i>optional</i>
Other:			

Prior Governmental Experience *(elected or appointed)*

Why do you wish to be appointed? What do you have to offer the Dallas City Council?

By signing this document, candidate hereby states:

***He/she will accept the nomination for office indicated**

***He/she will qualify for said office if selected**

***That all information provided on the form, including occupation, educational and occupational background, and prior governmental experience, is true to this best of his/her knowledge.**

Candidate's Signature

Date Signed

This information is a matter of public record and may be published or reproduced.

NOTE: The candidates will be interviewed by the Council at noon on Wednesday, April 11, 2012, during the regularly scheduled Council workshop. If you are selected to proceed to the interview process, will you be able to attend this meeting? YES NO

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 e	Topic: Upcoming Meeting Discussion
Prepared By: Emily Gagner	Meeting Date: March 19, 2012	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion to cancel the March 26, 2012, Administrative and Building and Grounds Committee meetings and the April 2, 2012, Dallas City Council meeting

BACKGROUND:

Several staff members will be out of the office during the week of March 26 because of spring break. For this reason, we are requesting the Council cancel the March 26 Admin and Building and Grounds Committee meetings. There are no urgent topics to discuss at that meeting.

Also, as I'm sure you're aware, staff has been working very hard on the budget, with our first budget meeting scheduled for April 16, 2012. In order to have the budget document ready to go by then, we are requesting the Council cancel the April 2, 2012, City Council meeting. I do not anticipate any agenda items for the April 2, 2012, meeting. However, we will have several items for Council review in the coming months and anticipate a busy spring and summer.

FISCAL IMPACT:

None

ATTACHMENTS:

None

RESOLUTION NO. 3243

A Resolution authorizing the transfer of budgetary funds.

WHEREAS, it is necessary to transfer the appropriation authority of \$36,450 from the Grant Fund, CDBG Grant, to the Grant Fund, FEMA AFG EMS Grant, for an unanticipated grant for computer hardware and license fees to produce electronic patient care reports; and

WHEREAS, it is necessary to transfer the appropriation authority of \$500 from the Grant Fund, CDBG Grant, to the Grant Fund, Trail Project, for unanticipated match grant funds for construction of Phase 4 of Rickreall Creek Trail; and

WHEREAS, it is necessary to transfer the appropriation authority of \$30,650 from the Systems Development Fund, Park Projects, to the Systems Development Fund, Park SDC-Transfer to Trail Grant, for unanticipated trail expenditures due to additions related to safety features and increased length of trail; and

WHEREAS, it is necessary to transfer the appropriation authority of \$30,650 from the Grant Fund, CDBG Grant (Revenue), to the Grant Fund, Transfer In from Park SDC, for unanticipated trail expenditures due to additions related to safety features and increased length of trail; and

WHEREAS, it is necessary to transfer the appropriation authority of \$238,801 from the Sewer Fund, Operating Contingency, to the Sewer Fund, Transfer to Debt Service, for unanticipated OEDD sewer bond payment; and

WHEREAS, it is necessary to transfer the appropriation authority of \$210,641 from the Grant Fund, CDBG Grant (Revenue), to the Debt Service Fund, Transfer from Sewer, for unanticipated OEDD sewer bond payment; and

WHEREAS, it is necessary to transfer the appropriation authority of \$210,641 from the Grant Fund, CDBG Grant, to the Debt Service Fund, Sewer OEDD Principal, for unanticipated OEDD sewer bond payment; and

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

Section 1. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$36,450 from the Grant Fund, CDBG Grant, to the Grant Fund, FEMA AFG EMS Grant.

Section 2. That the City Manager be, and he hereby is, authorized and to transfer the appropriation authority of \$500 from the Grant Fund, CDBG Grant, to the Grant Fund, Trail Project.

Section 3. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$30,650 from the Systems Development Fund, Park Projects, to the Systems Development Fund, Park SDC-Transfer to Trail Grant.

Section 4. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$30,650 from the Grant Fund, CDBG Grant (Revenue), to the Grant Fund, Transfer In from Park SDC.

Section 5. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$238,801 from the Sewer Fund, Operating Contingency, to the Sewer Fund, Transfer to Debt Service.

Section 6. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$210,641 from the Grant Fund, CDBG Grant (Revenue), to the Debt Service Fund, Transfer from Sewer.

Section 7. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$210,641 from the Grant Fund, CDBG Grant, to the Debt Service Fund, Sewer OEDD Principal.

Section 9. This Resolution shall be effective upon its passage.

Adopted: March 19, 2012
Approved: March 19, 2012

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1744

An Ordinance regulating the display for sale of drug paraphernalia; and declaring an emergency.

WHEREAS, the City of Dallas presently does not have provisions in its code addressing the issue of businesses and retailers selling drug paraphernalia; and

WHEREAS, youth who perceive that drug use is acceptable and common in their communities are more likely to themselves use drugs; and

WHEREAS, according to the 2010 Oregon Student Wellness Survey, one quarter of 11th grade students in Polk County have tried marijuana in the last thirty days; and

WHEREAS, drug paraphernalia is displayed openly and made available for sale in youth-friendly shapes and colors and promoted near items that appeal to youth such as candy, toys, ice cream, and soda; and

WHEREAS, displaying and selling drug paraphernalia at locations where youth commonly have access sends the message that drug use is acceptable; and

WHEREAS, according to the 2010 Oregon Student Wellness Survey, 66% of 11th grade students in Polk County identified that it would be “easy” or “very easy” to get marijuana; and

WHEREAS, the prevalence of drugs in a neighborhood and community increases the likelihood of violence and crime; and

WHEREAS, availability of drug paraphernalia acts as a trigger, increasing the chance of relapse among those struggling to overcome drug addiction; and

WHEREAS, other municipalities have enacted ordinances to regulate the selling of drug paraphernalia with successful results deterring public commercial displays and sales; and

WHEREAS, it is the City Council’s desire to establish provisions regulating the display and sale of drug paraphernalia which enables and encourages the use of illegal drugs;

NOW, THEREFORE, THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following is hereby added to and made a part of Chapter 5 of the Dallas City Code, as Section 5.212 thereof:

(1) A person selling or offering for sale drug paraphernalia may not locate the drug paraphernalia in a location where the drug paraphernalia is visible to the public or accessible without assistance by the seller or the seller's agent or employee.

(2) For the purposes of this section, "drug paraphernalia" means all equipment, products and materials of any kind which are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of Oregon Revised Statutes 475.840 to 475.980. Drug paraphernalia includes, but is not limited to:

(a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits marketed for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices marketed for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment marketed for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;

(g) Separation gins and sifters marketed for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

(i) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens or hashish heads;

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand, such as a marijuana cigarette;

(F) Miniature cocaine spoons and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driven pipes;

(K) Chillums;

(L) Bonges;

(M) Ice pipes or chillers; and

(N) Lighting equipment specifically designed for the growing of controlled substances.

(3) Drug paraphernalia does not include hypodermic syringes or needles.

(4) In determining whether an object is drug paraphernalia, a trier of fact should consider, in addition to all other relevant factors, the following:

(a) Instructions, oral or written, provided with the object concerning its use;

(b) Descriptive materials accompanying the object which explain or depict its use;

(c) National and local advertising concerning its use;

(d) The manner in which the object is displayed for sale;

(e) The existence and scope of legitimate uses for the object in the community; and

(f) Any expert testimony which may be introduced concerning its use.

(5) Violation of this section is a civil infraction. Each day of violation constitutes a separate offense.

(6) In addition to the penalty provided by subsection (5) of this section, a violation of this section is declared to be a public nuisance and shall be subject to summary abatement as provided in section 5.640.

Section 2. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect on its passage.

Read for the first time: March 5, 2012

Read for the second time: March 19, 2012

Adopted by the City Council: March 19, 2012

Approved by the Mayor: March 19, 2012

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER