



MYRTLE CREEK CITY COUNCIL
REGULAR COUNCIL MEETING AGENDA
MYRTLE CREEK COUNCIL CHAMBER

AGENDA PACKET 3/7/2023

All city public meetings are being digitally recorded for sound and video camera surveillance.

The City Council of the City of Myrtle Creek will meet on **Tuesday, March 7, 2023, at 5:30 PM** in the Myrtle Creek Council Chamber, 207 NW Pleasant Street, Myrtle Creek, Oregon.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for other accommodations for persons with disabilities, or for remote access should be made at least 48 hours in advance of the meeting to the City Recorder at 541-863-3171.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and or/meeting.

REGULAR COUNCIL MEETING – 5:30 PM

Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the “Citizens Heard on Non-Agenda Items” section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

- 1. Call to Order/Roll Call**
- 2. Pledge of Allegiance**
- 3. Public Presentations** – *Items that do not require immediate council action, such as presentations, discussions of potential future action items.*
- 4. Consent Agenda** – *Requires a motion*
The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately upon request.
 - 4.1 Approval of minutes of the Regular City Council Meeting for February 21, 2023
- 5. Regular Agenda**
Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

- 5.1 Adjusting Monthly Water and Sewer Rates
- 5.2 Review of Agreement between City of Myrtle Creek and Myrtle Creek Rural Fire District
- 5.3 Dedication Plaques and Benches at City Parks

6. Ordinances and Resolutions

- 6.1 Ordinance 847 – FIRST READ – An Ordinance Establishing a Public Safety Fee to Equitably Spread the Cost of Public Safety Services

7. Citizens Heard on Non-Agenda Items

8. City Administrator Report

9. Mayor and Councilor – Committee Reports and Councilor Comments

10. Executive Session

The Myrtle Creek City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660 but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

11. Adjournment



CITY OF MYRTLE CREEK

REGULAR MEETING OF THE CITY COUNCIL

DATE: February 21, 2023

PLACE: Council Chambers, 207 NW Pleasant St., Myrtle Creek, Oregon

PRESIDING OFFICER: Mayor Matthew Hald

COUNCILORS PRESENT: Councilors: Robert Chaney, Sr., Luke Dillon, Diana Larson, Susan Harris, Bill Burnett

COUNCILORS ABSENT:

A quorum was present throughout the meeting.

STAFF IN ATTENDANCE: City Administrator Lonnie Rainville, City Recorder Joanna Bilbrey, Finance Officer Lesley Hiscocks, Police Chief Jonathan Brewster, Fire Chief Manie Pires

CALL TO ORDER: Mayor Matthew Hald called the February 21, 2023 meeting to order at 5:30 PM

PUBLIC PRESENTATION

CONSENT AGENDA

Parts I & II

Motion was made by Councilor Burnett and seconded by Councilor Harris to approve Consent Agenda Parts I & II as presented in the February 21, 2023 council packet. *Discussion: None*

Vote: Motion passed unanimously.

DEPARTMENT REPORTS

Planning Department

City Administrator Lonnie Rainville submitted the Planning/Community Development Report into record as written. The City Administrator noted that there are more planning clearance applications so far this year than there were last year at the end of June.

Finance Report

Finance Officer Lesley Hiscocks submitted the Finance Report into record as written.

Myrtle Creek City Council Minutes

February 21, 2023

Page 1 of 3

Police Department

Police Chief Jonathan Brewster submitted the Police Report into record as written.

Fire Department

Fire Chief Manie Pires submitted the Fire Report into record as written.

Public Works

City Administrator Lonnie Rainville submitted the Public Works Report into record as written.

REGULAR AGENDA

Downtown Parking Upgrade

One of the Council goals for 2022 was to increase the parking for downtown. City Administrator Lonnie Rainville shared with Council a drawing of a suggested parking lot upgrade at Creekside Memorial Park. The drawing that was shared would add up to 46 parking spots. The engineers estimate is \$285,686. Councilor Harris asked about signage that would address parking limits. The mayor mentioned the need to notice that there would be no overnight parking. Councilor Chaney asked about looking for public input prior to awarding a contract.

Motion was made by Councilor Harris to approve the city to put out an RFP to expand the Creekside Park parking lot. Motion was seconded by Councilor Chaney. Discussion: Councilor Larson asked about relocating trees that might have to be removed.

Vote: Motion passed unanimously.

Review of Council Goals List

City Administrator Lonnie Rainville presented a draft of the 2023 City Goals gathered from the work session held on February 9, 2023.

Motion was made by Councilor Chaney to approve the 2023 City Council Goals as presented. Motion was seconded by Councilor Burnett. Discussion: none

Vote: Motion passed unanimously.

Consideration of IBEW Collective Bargaining Agreement

Regular City Council Meeting recessed at 6:05 P.M.

Executive Session opened at 6:05 P.M.

Executive Session held pursuant to ORS192.660(2)(d)

To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

Mayor Matthew Hald adjourned the Executive Session at 6:11 P.M.

Regular meeting called back to order at 6:12 P.M.

Motion was made by Councilor Chaney to approve the IBEW Bargaining Agreement as presented for 2023-2026. Motion was seconded by Councilor Burnett. Discussion: No discussion followed.

Vote: Motion passed unanimously.

CITIZENS HEARD ON NON-AGENDA ITEMS

No citizen comments

CITY ADMINISTRATOR REPORT

The City Administrator shared that the departments are working on their budgets and preparing for the budget presentation. The Neal Lane subdivision is making good progress behind the scene. They are currently working with Pacific Power to place the street lights. The City Administrator is working with Senator Merkley's office on an appropriations grant to fund the water plant expansion and to replace and upgrade water lines within the city. The asbestos and lead removal at the old hospital is completed and RFPs for demolition and clean-up are out.

MAYOR AND COUNCILOR – COMMITTEE REPORTS and COUNCILOR COMMENTS

Councilor Chaney shared that the crab feed was a big success. Councilor Harris shared that the new street lights are working now out by McDonald's. The Citizen of the Year Awards Banguet will be held on April 15th at the Grange this year with MidTown Grill catering. Councilor Larson shared that she would like the City to look into making the Community Center available as a warming center.

ADJOURNMENT

Mayor Matthew Hald adjourned the regular meeting of the City Council for February 21, 2023 at 6:40 P.M.

Matthew Hald, Mayor

Attest:

Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item:

Meeting Date:	March 7, 2023	Primary Staff Contact:	Lonnie Rainville
Department:	Public Works	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Approval of price adjustments for customer water and sewer utility rates.

Staff Recommendation:

Staff recommends reducing the base customer sewer rate by a minimum of \$8.00 per month and increasing the base water rate by the same amount sewer rates are reduced.

Background:

In 2022 the City paid off the loan it had for sewer improvements. The annual payment was \$375,000 per year. This allows for flexibility in the funding available in the sewer utility. In the water utility, costs continue to increase and put a strain on the water budget.

By reducing the sewer rate by \$8.00 per month and increasing water by \$8.00 per month it will increase funding for water operation by approximately \$130,000 per year and reduce sewer funding by \$130,000 per year. Future sewer budgets will still have funding being reserved for future improvement needs.

Making these rate adjustments will allow the water plant to have the operational funding increase it needs while not increasing rates to citizens in the City.

Attached are two worksheets that show potential budget impact for the Water and Sewer Utility if an \$8.00 or \$10.00 adjustment is made.

There will be a greater impacted to water customers that live outside the city. These customers pay a double rate therefore their rate will be increased by double the rate increase amount council approves per month but they do not have sewer services to offset the rate increase.

Related City Policies:

Utility

Fiscal Impact:

See Rate adjustment matrix.

Council Options:

Council can approve the customer rate adjustment for water and sewer utility services adding \$100,000 in revenue to water utility budget and decreasing sewer budget by \$100,000.

Council can take no action and rates will remain as they are.

Potential Motion:

I make the motion to approve the City to increase base water utility rates by \$X.XX per month and lower base sewer utility rates by \$X.XX per month effective June 1, 2023.

Water / Sewer Rebalance Worksheet - \$8.00 Adjustment

Water Fund Budget						
Account	Current			Adjusted		
	Revenue	Expense	Net	Revenue	Expense	Net
Water Fund Revenue	\$ 1,161,168			\$ 1,297,776.00		
Water Maintenance		\$ 454,023			\$ 454,023	
Water Treatment		\$ 441,733			\$ 441,733	
Springbrook		\$ 4,875			\$ 4,875	
Loan repay		\$ 307,775			\$ 307,775	
Total	\$ 1,161,168	\$ 1,208,406	\$ (47,238)	\$ 1,297,776.00	\$ 1,208,406	\$ 89,370.00

	Current	Proposed	Difference
Accounts	1,423	1,423	-
Monthly Base	\$ 58	\$ 66	\$ 8.00
Monthly Income	\$ 82,534	\$ 93,918	\$ 11,384.00
Annual Income	\$ 990,408	\$ 1,127,016	\$ 136,608.00
Note: Monthly/Annual Income does not include additional usage charges			

Sewer Fund Budget						
Account	Current			Adjusted		
	Revenue	Expense	Net	Revenue	Expense	Net
Sewer Fund Revenue	\$ 1,299,649			\$ 1,168,801.00		
Tri-City Reimbursement	\$ 437,000			\$ 437,000		
Sewer Maintenance		\$ 443,250			\$ 443,250	
Sewer Treatment		\$ 874,422			\$ 874,422	
Loan Payment		\$ 375,000			Paid off	
	\$ 1,736,649	\$ 1,692,672	\$ 43,977	\$ 1,605,801.00	\$ 1,317,672	\$ 288,129.00

	Current	Proposed	Difference
Accounts	1,363	1,363	-
Monthly Base	\$ 68	\$ 60	\$ (8.00)
Monthly Income	\$ 92,684	\$ 81,780	\$ (10,904.00)
Annual Income	\$ 1,112,208	\$ 981,360	\$ (130,848.00)

Note: Monthly/Annual Income does not include .57 per 100 Cu ft used for commercial

Water / Sewer Rebalance Worksheet - \$10.00 Adjustment

Water Fund Budget						
Account	Current			Adjusted		
	Revenue	Expense	Net	Revenue	Expense	Net
Water Fund Revenue	\$ 1,161,168			\$ 1,331,928.00		
Water Maintenance		\$ 454,023			\$ 454,023	
Water Treatment		\$ 441,733			\$ 441,733	
Springbrook		\$ 4,875			\$ 4,875	
Loan repay		\$ 307,775			\$ 307,775	
Total	\$ 1,161,168	\$ 1,208,406	\$ (47,238)	\$ 1,331,928.00	\$ 1,208,406	\$ 123,522.00

	Current	Proposed	Difference	
Accounts	1,423	1,423	-	
Monthly Base	\$ 58	\$ 68	\$ 10.00	
Monthly Income	\$ 82,534	\$ 96,764	\$ 14,230.00	
Annual Income	\$ 990,408	\$ 1,161,168	\$ 170,760.00	
Note: Monthly/Annual Income does not include additional usage charges				

Sewer Fund Budget						
Account	Current			Adjusted		
	Revenue	Expense	Net	Revenue	Expense	Net
Sewer Fund Revenue	\$ 1,299,649			\$ 1,136,089.00		
Tri-City Reimbursement	\$ 437,000			\$ 437,000		
Sewer Maintenance		\$ 443,250			\$ 443,250	
Sewer Treatment		\$ 874,422			\$ 874,422	
Loan Payment		\$ 375,000			Paid off	
	\$ 1,736,649	\$ 1,692,672	\$ 43,977	\$ 1,573,089.00	\$ 1,317,672	\$ 255,417.00

	Current	Proposed	Difference	
Accounts	1,363	1,363	-	
Monthly Base	\$ 68	\$ 58	\$ (10.00)	
Monthly Income	\$ 92,684	\$ 79,054	\$ (13,630.00)	
Annual Income	\$ 1,112,208	\$ 948,648	\$ (163,560.00)	
Note: Monthly/Annual Income does not include .57 per 100 Cu ft used for commercial				

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MYRTLE
CREEK AND MYRTLE CREEK RURAL FIRE PROTECTION DISTRICT

This AGREEMENT ("Agreement") is between the CITY OF MYRTLE CREEK, an Oregon Municipal Corporation (hereinafter "the City"), and the MYRTLE CREEK RURAL FIRE PROTECTION DISTRICT, an Oregon Rural Fire Protection District formed under ORS Chapter 478 (hereinafter "the District").

RECITALS:

1. The City has been providing fire protection to the District for many years through a series of annual agreements.
2. The City and the District desire to add language into the Agreement wherein each entity would be responsible for reserving funds for the replacement of fire vehicles and equipment.
3. The City and the District acknowledge that they have authority to execute this agreement pursuant to the City's Municipal Charter, the District's authority under ORS Chapter 478, and pursuant to ORS Chapter 190.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. PURPOSE: The purpose of this Agreement is to provide the basis for fire protection services to be supplied by the City to the District; payment for those services and the allocation of the obligations to budget and reserve funds for the replacement of the fire vehicles and equipment.
2. FIRE PROTECTION SERVICE: The City shall provide the District fire protection services including fire suppression and emergency medical services through the Myrtle Creek Volunteer Fire Department, the City's fire equipment and facilities and the City's Mutual AID Agreements with other cities and fire districts.
3. STANDARD OF SERVICE: Based upon the information received and all circumstances, the dispatcher and/or the Fire Chief or his designee shall in their judgment dispatch equipment and personnel so as to provide the more effective fire protection and emergency medical services to the City and the District.
4. A) PAYMENT BY DISTRICT FOR OPERATIONS AND MAINTENANCE: The District agrees to pay the City during the term of this Agreement the following sum for fire protection during fiscal year 2020-2021. The District agrees to make payments to the City according to the following schedule for the following costs: vehicle maintenance, fuel, radio, maintenance, and dispatch services.

Payment	Due Date	Amount
1	July 31, 2021	\$11,750
2	January 31, 2022	\$11,750

B) PAYMENT BY DISTRICT FOR VOLUNTEERS: The City and the District will each pay the Myrtle Creek Volunteer Fire Department \$5,000.00 by June 30th each fiscal year during the duration of this Agreement.

C) A MATERIAL CHANGE OF CIRCUMSTANCES WILL WARRANT AN ADJUSTMENT IN COMPENSATION FOR THE FOLLOWING FISCAL YEAR:

a. If a party believes there has been a material change of circumstances during any calendar year warranting an adjustment in compensation for subsequent years, that party may give a written request to the other party to meet to address the issues. For purposes of this Agreement, a material change of circumstances includes the following:

- i. An increase or decrease in the size of the Service Area; or
- ii. An increase or decrease in calls during a calendar year of more than twenty percent (20%) over the previous calendar year.

5. BUDGETED RESERVES FOR VEHICLE MAINTENANCE AND EQUIPMENT

REPLACEMENT: Except for funds budgeted for operation and maintenance, the District shall make every reasonable effort to invest its resources in the District's Equipment Expense Fund. These funds shall be made available to the Fire Chief for the purchase of fire vehicles and equipment, subject to the discretion and approval of the board. All purchases with these funds will be under the purchasing policies of the District and liabilities resulting from the purchasing policy shall be the liability of the District. All Rural Fire District purchased vehicles and equipment will be registered and remain under the current agreement of City ownership.

6. INSURANCE COVERAGE: City shall add District and its officers as additional insureds with respect to liability policies providing coverage for liabilities arising out of operations by or on behalf of the City provided in connection with this Agreement. The District shall add the City as additional insureds with respect to liability policies providing coverage for liabilities arising from actions of the District or its officers in connection with this Agreement. The District will provide liability coverage to its board members.

7. TERMS OF AGREEMENT: This Agreement shall begin January ___, 2021 and terminate on June 30, 2023.

8. TERMINATION: This Agreement may only be terminated for cause or material breach. The party seeking termination must provide advance written notice and a 7-day period for an opportunity to cure prior to terminating the Agreement.

9. NOTICES: All notices required by this Agreement shall be in writing and shall be deemed to have been given at the time of delivery if personally delivered or three calendar days after the time of mailing if mailed by first class mail, postage prepaid. All notices and other material to be delivered under this Agreement shall be in writing and shall be delivered or mailed to the following:

Myrtle Creek Rural Fire Protection
District PO Box 2206
Myrtle Creek, OR 97457

City of Myrtle Creek
PO Box 940
Myrtle Creek, OR 97457
Attn: Sean Negherbon, City
Administrator

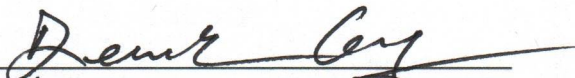
10. INDEMNIFICATION AND HOLD HARMLESS: The City shall protect, defend, indemnify and hold harmless the District, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officer, employees and agents in performing this Agreement. The District shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the District, its officers, employees and agents in performing this Agreement.

11. ENTIRE AGREEMENT - MODIFICATION: This agreement represents the entire agreement between parties. No change or waiver of any of the provisions of this Agreement shall be binding on either of the parties unless executed in writing by authorized representatives of each of the parties. This Agreement shall not be modified, supplemented, or otherwise affected by the course of dealing between the parties.

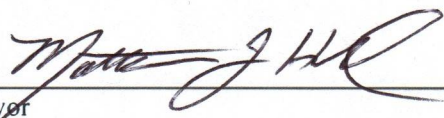
IN WITNESS WHEREOF, the parties have signed this agreement in duplicate.

MYRTLE CREEK RURAL
FIRE PROTECTION
DISTRICT, DOUGLAS
COUNTY, OREGON

CITY OF MYRTLE
CREEK, OREGON



President



Mayor



Secretary/Treasurer



City Administrator

March 18, 2021

Date

March 16, 2021

Date

Myrtle Creek - City Council Agenda Report

Agenda item:

Meeting Date:	March 7, 2023	Primary Staff Contact:	Lonnie Rainville
Department:	Police	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Approval of a \$4.00 per month public safety fee that will be added to citizens monthly utility bill.

Staff Recommendation:

Staff recommends creating a \$4.00 per month public safety fee that will be applied to citizens monthly utility bill.

Background:

The city has experienced increases in expenses over the last few years attributed to cost of goods and services increasing as well as staff salaries, all attributed to the high rate of inflation over the past two years. These increases have put a strain on the General Fund Budget of which the Police Department is the largest expense. Examples of price increases include a 23% increase in insurance premiums, as well as substantial increases in fuel costs, service contracts, supplies, and utilities.

The City General Fund Budget is primarily funded by property tax revenue which by state law can only increase 3% per year. This discrepancy between the revenue increase and the high rate of inflationary cost increases are putting a strain on the department within the General Fund, again with the Police Department being the largest portion.

As we develop the 2024 budget it is shaping up that total incoming revenue estimates will be around \$2.6 million. The Police and associated Court budget is estimated at \$1.3 Million. This only leaves 1.3 million to fund Fire, Library, Parks, Community Buildings, Pool, a share of Public Works, and Support Services. To properly fund city departments supported by the general fund we need to look at relocating a portion of the general fund provided to the Police department to other departments.

The \$4.00 per utility account per month fee for Police will allow general funding to be utilized by other general fund departments. with an estimated 1,426 water accounts, the \$4.00 fee would bring in an estimated \$68,592 annually that would supplant the property tax funding directed to other departments.

Related City Policies:

Budget

Fiscal Impact:

Add \$4.00 per month to citizens utility bills, generating \$68,592 in revenue for the police budget. this funding would be used for police vehicle replacement, equipment, and to support county service contracts supporting the Myrtle Creek Police Department.

Council Options:

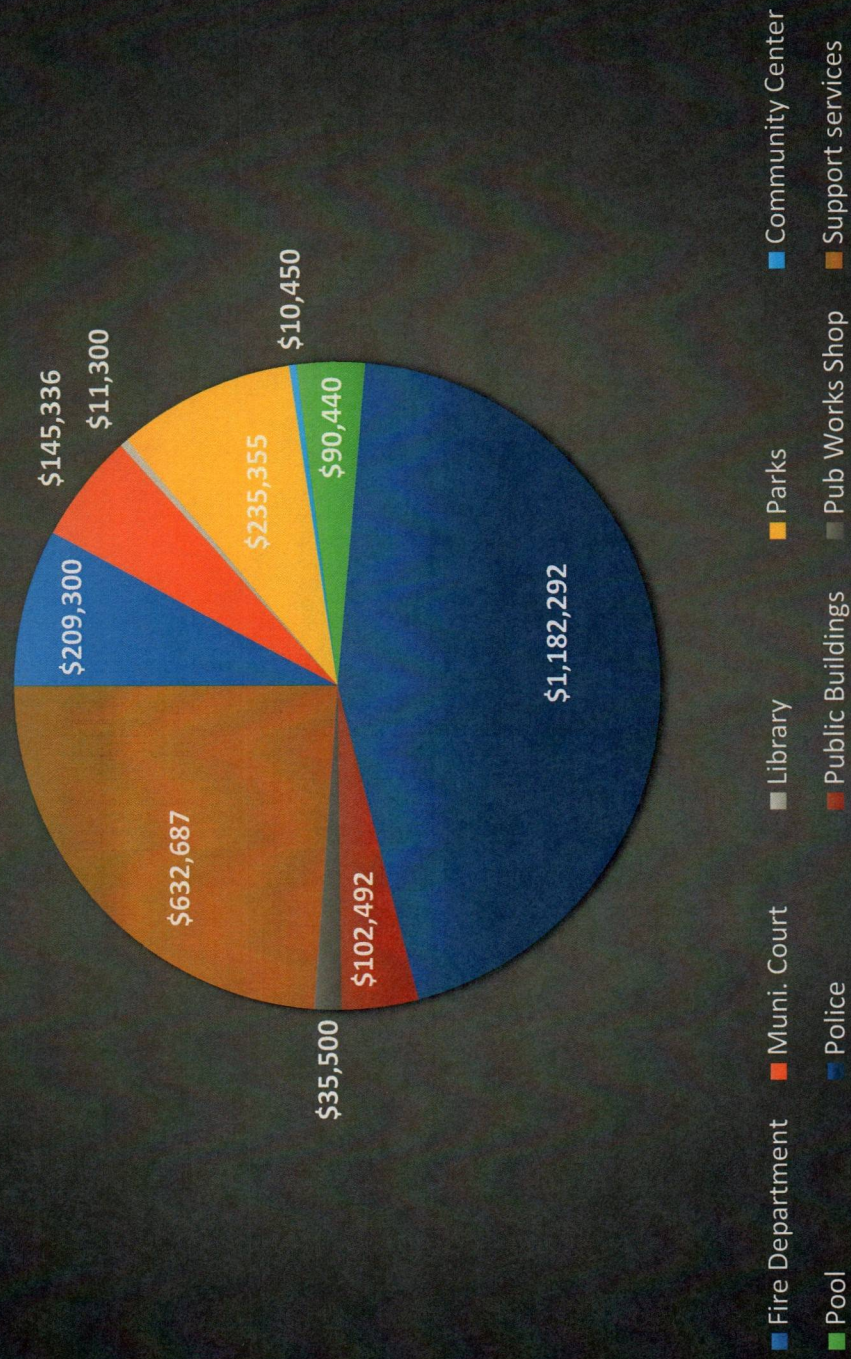
Council can approve the application of a \$4.00 per month fee that would be applied to citizen utility bills generating \$68,592 in revenue for the police budget. This funding would be used for vehicle replacement, equipment, and to support county service contracts.

Council can take no action.

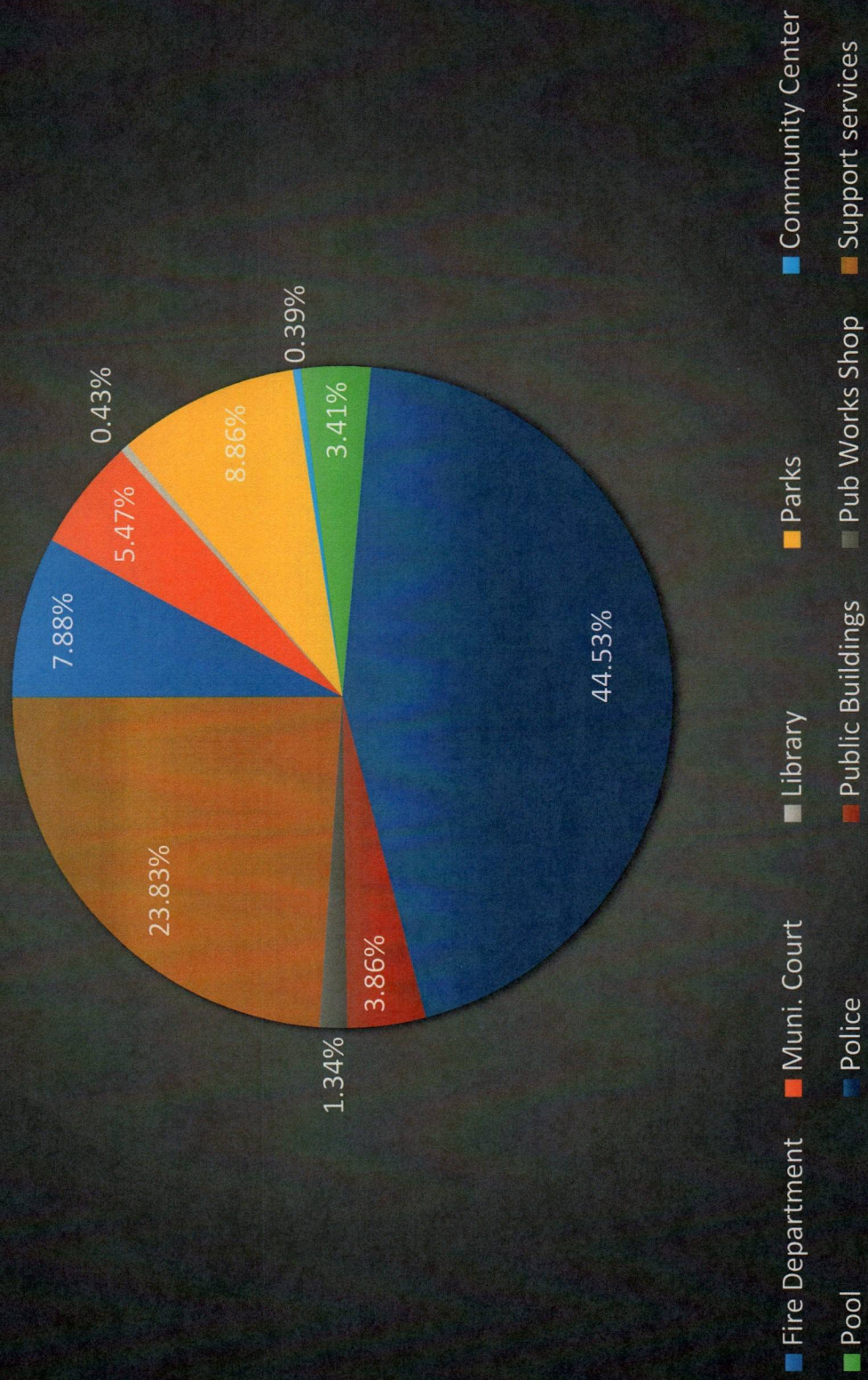
Potential Motion:

I make the motion to approve Ordinance XXX allowing the City implement a \$4.00 per month public safety fee to be added to citizens monthly utility bill.

General Fund Budget Allocation



General Fund Budget Allocation



**CITY OF MYRTLE CREEK
OREGON
ORDINANCE NO. 847**

**AN ORDINANCE ESTABLISHING A PUBLIC SAFETY FEE TO EQUITABLY
SPREAD THE COST OF PUBLIC SAFETY SERVICES**

The City of Myrtle Creek ordains as follows:

SECTION 1. FINDINGS: The adoption of this ordinance and the levying of charges and fees hereunder are adopted pursuant to the authority contained in the Oregon Constitution, Article XI Section 2.

SECTION 2. DEFINITIONS: For the purposes of this chapter, the following terms are defined as follows:

Developed Property or Developed Use. A parcel or lot of real property upon which any improvement exists, and upon which activities occur that generate or receive motor vehicle traffic. Improvement on developed property includes, but is not limited to, buildings, parking lots, landscaping and outside storage.

Dwelling or Dwelling Unit. One or more habitable rooms that are occupied or that are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, sanitary facilities, cooking and eating.

Multi-family Residential. Property with a building consisting of two or more dwelling units, including, but not limited to, apartments, townhouses, condominiums and duplexes.

Non-Residential. A use of property that is primarily not for single-family or multi-family dwellings.

Occupied Unit. Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example, an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use with City utilities turned off is not considered an occupied unit.

Person Responsible. The utility customer or the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the City utility bill for an improved premise.

Single Family Residential. Property with a building consisting of a single, detached dwelling unit.

SECTION 3. PUBLIC SAFETY FEE ESTABLISHED

A public safety fee is hereby established, in an amount to be determined, and adjusted from time to time, by resolution of the City Council. Fees charged to the person responsible shall be based on a per occupied unit. Such fee shall be established in such amounts which will provide sufficient funds to properly supplant the property tax funding directed to other departments.

SECTION 4. EXCEPTIONS TO PUBLIC SAFETY FEE.

The following shall not be subject to the public safety fee:

1. City-owned parking lots, which are not associated with public services other than parking.
2. Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.

SECTION 5. USE OF FUNDS

All funds collected pursuant to this Chapter shall be paid into the General Fund. Such revenues shall be used to pay costs of operations of the Police Department associated with equipment, vehicles, training, and contractual services. It shall not be necessary that the use and expenditures from the General Fund specifically relate to any particular property from which the fees for said purposes were collected.

SECTION 6. PUBLIC SAFETY FEE STRUCTURE

1. The public safety fee shall be based on a per unit fee on developed property. Each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. Property that is undeveloped or, if developed, is not in current use with City utilities turned off is not considered an occupied unit. The following is an example representing a \$4 per unit fee:
 - a. Single Family Residential Unit: 1 unit x \$4 = \$4 per month
 - b. Multi-family Residential Unit with 4 units: 4 x \$4 = \$16 per month
 - c. Commercial/Industrial Unit with 3 retail shops: 3 x \$4 = \$12 per monthAn industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit.
2. The City Administrator shall determine the unit classification for developed property.

SECTION 7. BILLING AND COLLECTION OF FEES.

1. The Public Safety Fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing City water and/or sewer, and billed and collected separately for those lots or parcels not utilizing

City water and/or sewer. In cases where a developed property is subject to water and sewer utility charges, the Public Safety Fee bill shall be directed to the same person as the bill for water and sewer charges. In the case of those lots or parcels which are not occupied by the owner, the fee shall be billed with the monthly water and sewer bill, if any, which is billed to the resident of the property, unless the owner of the property requests that the combined utility bill be sent to another address. If a tenant in possession of any premises pays such fee, such payment shall relieve the owner from such obligation and lien, but the City shall not be required to look to any person other than the owner for the payment of such fees. All such bills shall be rendered monthly and shall become due and payable upon receipt.

2. All charges for public safety during any month shall be paid no later than thirty (30) days after the billing date. Bills which remain unpaid for more than thirty (30) days after the billing date shall be considered delinquent. If a customer's account remains delinquent for more than ten (10) days, the water service may be turned off at the premises against which the delinquent street charges owed. When so turned off, the water shall not be turned on again until a reconnect fee established in the City of Myrtle Creek Handbook of Fees and Charges, plus the delinquent portion of the customer's street account balance has been paid. If the customer's account remains delinquent for more than thirty (30) days, the amount owed shall be deducted from the customer's water service account deposit, the customer's account deposit, the customer's street, sewer and water accounts may be closed and any remaining deposit balance shall be returned to the customer at the customer's last known mailing address. The customer shall be responsible for keeping the City informed as to the customer's current mailing address. The customer shall be defined as the person or persons in whose name the utility service account is registered.
3. If the Public Safety Fee is not paid when due, the City Administrator may proceed to collect such charges in any manner provided by law.
4. Public safety fees shall continue to be levied against the customer's account until a vacancy occurs, or in the case of a delinquent account, until the City turns off the water service.

SECTION 8. WAIVER OF FEE IN CASE OF VACANCY

1. When any property within the City becomes vacant, and water service is discontinued, a waiver of the Public Safety Fee may be granted by the City Administrator upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, and street utility charges;
2. For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

3. Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within 5 days of the premises being occupied, partially occupied or used, regardless of whether water service is restored.

SECTION 9. APPEAL

1. Any property owner who disputes any interpretation given by the City as to the assigned billing category may appeal such interpretation. A property owner or their agent desiring an interpretation or other examination of the property owner's Public Safety Fee shall submit a written application to the City Administrator. The application shall be submitted in sufficient detail to enable the City Administrator to render an interpretation.
2. Within 30 days of the submission of an application for interpretation together with the required information, the City Administrator shall cause a final decision to be made on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. A copy of the decision shall be mailed to the person submitting the request. The City Administrator shall maintain a collection of such decisions.
3. If the decision of the City Administrator affects the unit fee of the property owner requesting the interpretation, the City Administrator shall assign a new unit fee. If a change in unit fee is assigned, the appropriate change may be made in the applicable fee to charge in the future. Back charges or refunds shall be allowed up to 60 days, two billing cycles.
4. Decisions of the City Administrator may be further appealed to the City Council, and shall be heard at a public meeting. An owner, who disputes an interpretation made by the City Administrator as to the assigned unit fee under this ordinance, shall submit a written appeal to the City Council within 10 days from the date of the City Administrator's decision, together with a filing fee established by resolution in the Handbook of Fees and Charges. The application for appeal shall specify the reasons therefore. Appeals shall be limited to the issue of whether the appropriate unit number has been assigned to the particular property.
5. The City Administrator shall schedule the matter for City Council review and notify the appellant not less than 10 days prior to the date of such Council review. The Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the City Administrator. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the unit or units shall be limited to whether the appellant has been assigned to the appropriate unit number. If the Council should determine that a different unit number should be assigned, it shall so order. Only where the

Council decision results in change in unit number will the filing fee on the appeal be refunded. The Council decision shall be final.

6. Appeals filed within 120 days of the effective date of this ordinance shall not be subject to paying a filing fee. The appeal fee is fully refundable should the appellant adequately justify and secure the requested reassignment in billing category.

SECTION 10. SEVERABILITY

1. In the event any section, subsection, paragraph, sentence or phrase of this ordinance or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the ordinance shall continue to be effective. If a court of competent jurisdiction determines that this ordinance imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the Public Safety Fee shall be created and the remainder of the ordinance and the fees imposed there under shall continue to apply to the remaining properties without interruption.

Passed by the City Council on its First Reading this 7th day of March 2023

Approved by City Council on its Second Reading this 21st day of March 2023

Approved by the Mayor this 21st day of March 2023

Matthew Hald, Mayor

ATTEST:

Joanna Bilbrey, City Recorder