



CITY COUNCIL EXECUTIVE AND WORK SESSION AGENDA
Wednesday, February 26, 2020 at 5:30 PM
La Pine City Hall
16345 Sixth Street, La Pine, Oregon 97739

A. Executive Session – ORS 192.660(2)(e)

An executive session will be held under ORS 192.660(2)(e) – To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

B. Executive Session – ORS 192.660(2)(f)

An executive session will be held under ORS 192.660(2)(f) – To consider information or records that are exempt by law from public inspection.

C. Work Session

1. Call to Order

2. Establish Quorum

3. Pledge of Allegiance

4. Added Agenda Items

Any matters added to the Agenda at this time will be discussed during the “Other Matters” portion of this Agenda or such time selected by the City Council

5. Public Comments

3 minutes per person; when asked to the podium, please state your name and whether you live within La Pine city limits.

6. HB 4079

7. Gas Tax Ballot Initiative Discussion

8. Wastewater Project Easement and Open House Discussion

applADDc6e2a7f91893462cb635aa9081e8065e9. Other Matters

Only Items that were previously added above in the Added Agenda will be Discussed

10. Public Comments

Comments will be limited to 3 minutes and will be restricted to the items on the agenda

11. Staff Comments

12. Mayor and Council Comments

13. Adjourn Meeting

Pursuant to ORS 192.640, this notice includes a list of the principal subjects anticipated to be considered or discussed at the above-referenced meeting. This notice does not limit the ability of the City Council to consider or discuss additional subjects. This meeting is subject to cancellation without notice. The regular meeting is open to the public and interested citizens are invited to attend. Council may not take formal actions in Work Sessions. The public will not be permitted to attend the executive session; provided, however, representatives of the news media and designated staff will be allowed to attend the executive session. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the executive session as previously announced. No decision will be made in the executive session. The meeting location 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 City Hall at (541-536-1432). For deaf, hearing impaired, or speech disabled dial 541-536-1432 for TTY.

A-Engrossed House Bill 4079

Ordered by the House February 10
Including House Amendments dated February 10

Sponsored by Representatives MARSH, SMITH G, Senators ROBLAN, HANSELL; Representatives ALONSO LEON, HELM, HOLVEY, LIVELY, MEEK, MITCHELL, NERON, NOSSE, POWER, PRUSAK, REARDON, SANCHEZ, SCHOUTEN, SMITH WARNER, SOLLMAN, WILDE, WILLIAMS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies definitions applicable for purposes of universal service surcharge. Subjects sale of retail commercial mobile radio services and retail interconnected voice over internet protocol services to universal service surcharge. Reduces rate cap to six percent of sale of services subject to surcharge.

Directs Public Utility Commission to transfer up to \$5 million per year of moneys deposited in universal service fund to Broadband Fund. Establishes Broadband Fund. Continuously appropriates moneys in Broadband Fund to Oregon Business Development Department to provide grants and loans through, and to administer, program related to broadband. Directs department to adopt program for providing grants and loans by rule. Directs department to report annually to interim committee of Legislative Assembly related to telecommunications on status of Broadband Fund.

Sunsets Broadband Fund, transfer of moneys from universal service fund to Broadband Fund and grant program on January 2, 2030.

Becomes operative on January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the universal service fund; creating new provisions; amending ORS 285A.160, 759.400 and
3 759.425; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 759.400 is amended to read:

6 759.400. As used in ORS 759.400 to 759.455:

7 (1) "Basic telephone service" means local exchange telecommunications service defined as basic
8 by rule of the Public Utility Commission.

9 (2) "Commercial mobile radio service" has the meaning given that term in 47 C.F.R. 20.3.

10 (3) "Interconnected voice over internet protocol service" has the meaning given the term
11 "interconnected VoIP service" in 47 C.F.R. 9.3.

12 [(2)] (4) "Retail telecommunications service" means a telecommunications service provided for
13 a fee to customers. "Retail telecommunications service" does not include a service provided by one
14 telecommunications carrier to another telecommunications carrier, unless the carrier receiving the
15 service is the end user of the service.

16 [(3)] (5) "Telecommunications carrier" means any provider of retail telecommunications services,
17 except a call aggregator as defined in ORS 759.680.

18 **SECTION 2.** ORS 759.425 is amended to read:

19 759.425. [(1) For purposes of this section, "retail telecommunications service" does not include radio
20 communications service, radio paging service, commercial mobile radio service, personal communi-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 *cations service or cellular communications service.]*

2 [(2)(a)] (1)(a) The Public Utility Commission shall establish and implement a competitively neu-
3 tral and nondiscriminatory universal service fund. [Except as provided in paragraph (b) of this sub-
4 section,] The [Public Utility] commission shall:

5 (A) Use the universal service fund to ensure basic telephone service is available at a reasonable
6 and affordable rate; and

7 (B) Transfer from the universal service fund to the Oregon Business Development De-
8 partment for deposit in the Broadband Fund established under section 4 of this 2020 Act an
9 amount per year that is equal to the lesser of:

10 (i) \$5 million; or

11 (ii) The remainder of moneys deposited in the universal service fund that are unobligated
12 after making the designation required in paragraph (b) of this subsection.

13 (b) The commission shall designate the amount of moneys deposited annually in the uni-
14 versal service fund to be used to ensure basic telephone service. The amount designated
15 under this paragraph may not exceed \$28 million per year.

16 (c) The [Public Utility] commission may:

17 (A) Adopt rules to conform the universal service fund to section 254 of the federal Telecommu-
18 nications Act of 1996 [(Public Law 104-104)] (P.L. 104-104), and to related regulations adopted by
19 the Federal Communications Commission, to the extent that the Public Utility Commission deter-
20 mines conforming the rules is appropriate[.]; and

21 [(b)] (B) In addition to using the universal service fund to ensure basic telephone service, [the
22 Public Utility Commission may] use the universal service fund to encourage broadband service
23 availability and to provide support to telecommunications carriers that provide both basic telephone
24 service and broadband service.

25 [(3)(a)] (2)(a) The [Public Utility] commission shall establish the price a telecommunications
26 utility may charge its customers for basic telephone service. The commission shall periodically re-
27 view and evaluate the status of telecommunications services in the state and designate the services
28 included in basic telephone service. The commission shall periodically review and adjust as neces-
29 sary the price a telecommunications utility may charge for basic telephone service.

30 (b) The provisions of this subsection do not apply to the basic telephone service provided by a
31 telecommunications utility described in ORS 759.040.

32 [(4)(a)] (3)(a) The commission shall establish a benchmark for basic telephone service as neces-
33 sary for the administration and distribution of the universal service fund. The universal service fund
34 shall provide explicit support to an eligible telecommunications carrier that is equal to the differ-
35 ence between the cost of providing basic telephone service and the benchmark, less any explicit
36 compensation received by the telecommunications carrier from federal sources specifically used to
37 recover local loop costs and less any explicit support received by the telecommunications carrier
38 from a federal universal service program.

39 (b) The commission shall periodically review the benchmark established under paragraph (a) of
40 this subsection and adjust the benchmark as necessary to reflect:

41 (A) Changes in competition in the telecommunications industry;

42 (B) Changes in federal universal service support; and

43 (C) Other relevant factors as determined by the commission.

44 (c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek
45 to limit the difference between the price a telecommunications utility may charge for basic tele-

1 phone service and the benchmark.

2 [(5)] (4)(a) [There is imposed on the sale of all retail telecommunications services sold in this state
3 a universal service surcharge.] There is imposed a universal service surcharge on the sale in
4 this state of all:

5 (A) Retail telecommunications services;

6 (B) Retail commercial mobile radio services; and

7 (C) Retail interconnected voice over internet protocol services.

8 (b) A retail commercial mobile radio service provider shall identify the intrastate reven-
9 ues subject to the universal service surcharge based on the inverse of the percentage of
10 interstate revenues utilized for purposes of federal universal service contributions or based
11 on any other method approved by the Public Utility Commission. A retail commercial mobile
12 radio service provider may rely upon the sourcing rules set forth in the Mobile Telecommu-
13 nications Sourcing Act (P.L. 106-252) to identify revenues attributable to Oregon.

14 (c) A retail interconnected voice over internet protocol service provider may identify, in
15 accordance with federal guidelines, the intrastate revenues subject to the universal service
16 surcharge based on any one of the following:

17 (A) The inverse of the interstate safe harbor percentage established by the Federal
18 Communications Commission for interconnected voice over internet protocol service for
19 federal universal service contribution purposes, as the interstate safe harbor percentage may
20 be revised from time to time;

21 (B) A traffic study specific to the interconnected voice over internet protocol service
22 provider that allocates revenues between federal and state jurisdictions; or

23 (C) Another methodology for accurately apportioning interconnected voice over internet
24 protocol service revenues between federal and state jurisdictions.

25 (d) For any service provider subject to the universal service surcharge that provides, to
26 multiple locations, shared simultaneous voice channel capacity configured to provide local
27 dial in different states, the revenue subject to the surcharge shall be only the portion of the
28 shared capacity in this state as identified:

29 (A) By information itemizing, on the billing statements provided to customers, the
30 charges subject to the surcharge, as may be identified by individual end-user location, the
31 total number of end users and the number of end users at each end-user location; or

32 (B) If information described in subparagraph (A) of this paragraph does not exist, by the
33 service provider's billing system books and records.

34 (e) Unless otherwise provided by the Public Utility Commission by rule, the universal service
35 surcharge must be a uniform percentage of the sale of [retail telecommunications] services subject
36 to the surcharge in an amount sufficient to support the purposes of the universal service fund es-
37 tablished under subsection [(2)] (1) of this section, provided that the percentage does not exceed
38 [8.5] six percent of the sale of [retail telecommunications] services subject to the surcharge.

39 (f) The universal service surcharge may be listed by a telecommunications carrier as a sep-
40 arate line item in billing statements provided to customers [by all telecommunications carriers],
41 as prescribed by the commission by rule or order. The commission may not prescribe whether,
42 or the manner by which, a commercial mobile radio services provider or an interconnected
43 voice over internet protocol services provider may list the surcharge in billing statements
44 provided to customers.

45 (g) A [telecommunications carrier] service provider required to collect the universal service

1 surcharge shall:

2 (A) Transmit amounts collected pursuant to this section to the commission in accordance with
3 a schedule adopted by the commission; and

4 (B) Provide the commission with information requested by the commission as necessary
5 for the commission to implement this section.

6 (5) The commission shall deposit moneys transmitted to the commission pursuant to *[this sub-*
7 *section]* subsection (4) of this section in the universal service fund established under subsection
8 *[(2)]* (1) of this section.

9 (6) The universal service fund established under subsection *[(2)]* (1) of this section is separate
10 and distinct from the General Fund. The universal service fund shall consist of all universal service
11 surcharge moneys collected by *[telecommunications carriers]* service providers required to collect
12 the surcharge and transmitted to the commission for deposit in the universal service fund. The
13 universal service fund may be used only for the purposes described in this section and for payment
14 of expenses incurred by the commission or a third party appointed by the commission to administer
15 this section. All moneys in the universal service fund are continuously appropriated to the commis-
16 sion to carry out the provisions of this section. Interest on moneys deposited in the universal ser-
17 vice fund shall accrue to the universal service fund.

18 *[(7) A person that primarily provides radio communications service, radio paging service, com-*
19 *mmercial mobile radio service, personal communications service or cellular communications service may*
20 *request designation as an eligible telecommunications carrier by the commission for purposes of this*
21 *section if the person imposes the universal service surcharge described in subsection (5) of this section*
22 *and transmits the moneys collected to the commission for deposit in the universal service fund estab-*
23 *lished under subsection (2) of this section for at least one year immediately prior to requesting the*
24 *designation.]*

25 *[(8)]* (7) A pay telephone provider may apply to the commission, on a form developed by the
26 commission, for a refund of the universal service surcharge imposed on the pay telephone provider
27 under subsection *[(5)]* (4) of this section for the provision of pay telephone service.

28 (8) Nothing in this section is intended to grant the commission the authority to impose
29 any requirement or condition, or to exercise any regulatory authority, with respect to com-
30 mercial mobile radio services or interconnected voice over internet protocol services other
31 than as expressly provided for in this section.

32 **SECTION 3.** ORS 759.425, as amended by section 2 of this 2020 Act, is amended to read:

33 759.425. (1)(a) The Public Utility Commission shall establish and implement a competitively
34 neutral and nondiscriminatory universal service fund. The commission shall^[:]

35 ^[(A)] use the universal service fund to ensure basic telephone service is available at a reason-
36 able and affordable rate.^[:] and[]]

37 ^[(B)] Transfer from the universal service fund to the Oregon Business Development Department for
38 deposit in the Broadband Fund established under section 4 of this 2020 Act an amount per year that
39 is equal to the lesser of:[]]

40 ^[(i)] \$5 million; or[]]

41 ^[(ii)] The remainder of moneys deposited in the universal service fund that are unobligated after
42 making the designation required in paragraph (b) of this subsection.[]]

43 (b) The commission shall designate the amount of moneys deposited annually in the universal
44 service fund to be used to ensure basic telephone service. The amount designated under this para-
45 graph may not exceed \$28 million per year.

1 (c) The commission may:

2 (A) Adopt rules to conform the universal service fund to section 254 of the federal Telecommu-
3 nications Act of 1996 (P.L. 104-104), and to related regulations adopted by the Federal Communi-
4 cations Commission, to the extent that the Public Utility Commission determines conforming the
5 rules is appropriate; and

6 (B) In addition to using the universal service fund to ensure basic telephone service, use the
7 universal service fund to encourage broadband service availability and to provide support to tele-
8 communications carriers that provide both basic telephone service and broadband service.

9 (2)(a) The commission shall establish the price a telecommunications utility may charge its
10 customers for basic telephone service. The commission shall periodically review and evaluate the
11 status of telecommunications services in the state and designate the services included in basic
12 telephone service. The commission shall periodically review and adjust as necessary the price a
13 telecommunications utility may charge for basic telephone service.

14 (b) The provisions of this subsection do not apply to the basic telephone service provided by a
15 telecommunications utility described in ORS 759.040.

16 (3)(a) The commission shall establish a benchmark for basic telephone service as necessary for
17 the administration and distribution of the universal service fund. The universal service fund shall
18 provide explicit support to an eligible telecommunications carrier that is equal to the difference
19 between the cost of providing basic telephone service and the benchmark, less any explicit com-
20 pensation received by the telecommunications carrier from federal sources specifically used to re-
21 cover local loop costs and less any explicit support received by the telecommunications carrier from
22 a federal universal service program.

23 (b) The commission shall periodically review the benchmark established under paragraph (a) of
24 this subsection and adjust the benchmark as necessary to reflect:

25 (A) Changes in competition in the telecommunications industry;

26 (B) Changes in federal universal service support; and

27 (C) Other relevant factors as determined by the commission.

28 (c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek
29 to limit the difference between the price a telecommunications utility may charge for basic tele-
30 phone service and the benchmark.

31 (4)(a) There is imposed a universal service surcharge on the sale in this state of all:

32 (A) Retail telecommunications services;

33 (B) Retail commercial mobile radio services; and

34 (C) Retail interconnected voice over internet protocol services.

35 (b) A retail commercial mobile radio service provider shall identify the intrastate revenues
36 subject to the universal service surcharge based on the inverse of the percentage of interstate re-
37 venues utilized for purposes of federal universal service contributions or based on any other method
38 approved by the Public Utility Commission. A retail commercial mobile radio service provider may
39 rely upon the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (P.L. 106-252)
40 to identify revenues attributable to Oregon.

41 (c) A retail interconnected voice over internet protocol service provider may identify, in ac-
42 cordance with federal guidelines, the intrastate revenues subject to the universal service surcharge
43 based on any one of the following:

44 (A) The inverse of the interstate safe harbor percentage established by the Federal Communi-
45 cations Commission for interconnected voice over internet protocol service for federal universal

1 service contribution purposes, as the interstate safe harbor percentage may be revised from time to
2 time;

3 (B) A traffic study specific to the interconnected voice over internet protocol service provider
4 that allocates revenues between federal and state jurisdictions; or

5 (C) Another methodology for accurately apportioning interconnected voice over internet proto-
6 col service revenues between federal and state jurisdictions.

7 (d) For any service provider subject to the universal service surcharge that provides, to multiple
8 locations, shared simultaneous voice channel capacity configured to provide local dial in different
9 states, the revenue subject to the surcharge shall be only the portion of the shared capacity in this
10 state as identified:

11 (A) By information itemizing, on the billing statements provided to customers, the charges sub-
12 ject to the surcharge, as may be identified by individual end-user location, the total number of end
13 users and the number of end users at each end-user location; or

14 (B) If information described in subparagraph (A) of this paragraph does not exist, by the service
15 provider's billing system books and records.

16 (e) Unless otherwise provided by the Public Utility Commission by rule, the universal service
17 surcharge must be a uniform percentage of the sale of services subject to the surcharge in an
18 amount sufficient to support the purposes of the universal service fund established under subsection
19 (1) of this section, provided that the percentage does not exceed six percent of the sale of services
20 subject to the surcharge.

21 (f) The universal service surcharge may be listed by a telecommunications carrier as a separate
22 line item in billing statements provided to customers, as prescribed by the commission by rule or
23 order. The commission may not prescribe whether, or the manner by which, a commercial mobile
24 radio services provider or an interconnected voice over internet protocol services provider may list
25 the surcharge in billing statements provided to customers.

26 (g) A service provider required to collect the universal service surcharge shall:

27 (A) Transmit amounts collected pursuant to this section to the commission in accordance with
28 a schedule adopted by the commission; and

29 (B) Provide the commission with information requested by the commission as necessary for the
30 commission to implement this section.

31 (5) The commission shall deposit moneys transmitted to the commission pursuant to subsection
32 (4) of this section in the universal service fund established under subsection (1) of this section.

33 (6) The universal service fund established under subsection (1) of this section is separate and
34 distinct from the General Fund. The universal service fund shall consist of all universal service
35 surcharge moneys collected by service providers required to collect the surcharge and transmitted
36 to the commission for deposit in the universal service fund. The universal service fund may be used
37 only for the purposes described in this section and for payment of expenses incurred by the com-
38 mission or a third party appointed by the commission to administer this section. All moneys in the
39 universal service fund are continuously appropriated to the commission to carry out the provisions
40 of this section. Interest on moneys deposited in the universal service fund shall accrue to the uni-
41 versal service fund.

42 (7) A pay telephone provider may apply to the commission, on a form developed by the com-
43 mission, for a refund of the universal service surcharge imposed on the pay telephone provider under
44 subsection (4) of this section for the provision of pay telephone service.

45 (8) Nothing in this section is intended to grant the commission the authority to impose any re-

1 quirement or condition, or to exercise any regulatory authority, with respect to commercial mobile
2 radio services or interconnected voice over internet protocol services other than as expressly pro-
3 vided for in this section.

4 **SECTION 4.** The Broadband Fund is established, separate and distinct from the General
5 Fund. Interest earned by the Broadband Fund shall be credited to the fund. Moneys in the
6 Broadband Fund are continuously appropriated to the Oregon Business Development De-
7 partment to be used only for providing grants or loans through, or for administering, the
8 Oregon Broadband Office and the program established by rule under section 5 of this 2020
9 Act. The fund shall consist of moneys deposited in the fund pursuant to ORS 759.425.

10 **SECTION 5.** (1) As used in this section:

11 (a) "Underserved area" means, based on the most recent broadband deployment data
12 published by the Federal Communications Commission, other federal agencies or the State
13 of Oregon, a geographic area within one or more census blocks, within which there is no
14 service provider offering residential wireline or wireless broadband service at a speed of at
15 least 25 megabits per second for downloads and three megabits per second for uploads.

16 (b) "Unserved area" means, based on the most recent broadband deployment data pub-
17 lished by the Federal Communications Commission, other federal agencies or the State of
18 Oregon, a geographic area within one or more census blocks, within which there is no service
19 provider offering residential wireline or wireless broadband service at a speed of at least 10
20 megabits per second for downloads and one megabit per second for uploads.

21 (2)(a) The Oregon Business Development Department shall establish by rule a program
22 for providing grants or loans to assist eligible applicants with projects for:

- 23 (A) The planning and development of broadband service infrastructure;
- 24 (B) Digital literacy including cybersecurity;
- 25 (C) Digital inclusion; and
- 26 (D) Digital adoption.

27 (b) In establishing the program required by this section, the department shall take into
28 consideration all federal funding opportunities for the planning and development of
29 broadband service infrastructure and shall endeavor to administer the program in a manner
30 that serves to maximize the total available state and federal support for broadband develop-
31 ment and related planning.

32 (3) Rules adopted under this section shall include but need not be limited to rules estab-
33 lishing:

34 (a) Criteria for applications and for establishing the eligibility of applicants and proposed
35 projects for a grant or loan under the program;

36 (b) A process for:

37 (A) Identifying broadband service providers that provide service within or near the ge-
38 ographic area that would be benefited by a project proposed by an eligible applicant; and

39 (B) Notifying the identified broadband service providers of the pending application;

40 (c) Standards for the department to evaluate applications from eligible applicants;

41 (d) Criteria and procedures for broadband service providers to engage in a competitive
42 bidding process for contracts to complete projects pursuant to a grant or loan awarded under
43 the program;

44 (e) Reporting requirements by grant or loan award recipients on the broadband service
45 infrastructure developed or planned for using grant or loan moneys and the locations served

1 or that will be served by the broadband service infrastructure;

2 (f) A public process for interested persons to submit comments on pending applications;

3 (g) A process for appealing grant or loan decisions by the department; and

4 (h) Procedures to ensure that any records or data submitted to the department pursuant
5 to administration of the program that relate to broadband, voice connections or sub-
6 scriptions and that are confidential, privileged or otherwise protected from disclosure are
7 not disclosed, except as permitted by state and federal law.

8 (4) In making broadband service infrastructure grant or loan award decisions under the
9 program, the department shall apply the following preferences:

10 (a) Regarding the geographic area that a proposed project will serve, the department
11 shall:

12 (A) Give first preference to proposed projects that will serve unserved areas; and

13 (B) Give second preference to proposed projects that will serve underserved areas.

14 (b) Regarding the customers that a proposed project will serve, the department shall:

15 (A) Give first preference to proposed projects that are eligible to receive funds from the
16 Connecting Oregon Schools Fund established under ORS 276A.424;

17 (B) Give second preference to proposed projects that will provide broadband service ac-
18 cess to public libraries; and

19 (C) Give third preference to proposed projects that will provide broadband service access
20 to residential customers.

21 (5) The department shall, as part of the program, establish procedures for distributing
22 grant or loan funds awarded for the purpose of providing broadband access to schools. Pro-
23 cedures established under this subsection shall include procedures for transferring not more
24 than 20 percent of the moneys deposited in the Broadband Fund each biennium from the
25 Broadband Fund to the Connecting Oregon Schools Fund established under ORS 276A.424.

26 (6) The department may not award a grant or loan under the program for a proposed
27 project to:

28 (a) Develop broadband service infrastructure to serve residential locations that, at the
29 time the application for the proposed project is received by the department, have access to
30 terrestrial wireline or wireless broadband service at a speed of at least 25 megabits per sec-
31 ond for downloads and three megabits per second for uploads; or

32 (b) Develop broadband service infrastructure that will serve two or fewer residential lo-
33 cations.

34 (7)(a) If the department awards a grant or loan for a proposed project to develop
35 broadband service infrastructure that will serve nonresidential locations that, at the time
36 the application for the proposed project was received by the department, were served by
37 terrestrial wireline or wireless broadband service at a speed of at least 25 megabits per sec-
38 ond for downloads and three megabits per second for uploads, the broadband service provid-
39 ers identified pursuant to rules adopted under subsection (3)(b) of this section shall be
40 afforded a right of first refusal to contract for the development of broadband service
41 infrastructure as part of the project. If a broadband service provider exercises the right of
42 first refusal, the provider shall be awarded the contract to develop broadband service
43 infrastructure as part of the project, subject to the requirement that the provider must offer
44 access to the completed broadband service infrastructure:

45 (A) Beginning no later than one year after the date that the department awards the

1 grant or loan to develop the proposed project;

2 (B) At demonstrated download and upload speeds equal to or faster than the speeds in-
3 dicated in the application for the proposed project; and

4 (C) At a cost that is equal to or less than the cost indicated in the application for the
5 proposed project.

6 (b) This subsection does not apply to a grant or loan award for a proposed project de-
7 scribed in subsection (4)(b) of this section.

8 **SECTION 6.** (1) Not later than September 15 of each year, the Oregon Business Devel-
9 opment Department shall report, in the manner provided in ORS 192.245, to an interim
10 committee of the Legislative Assembly related to telecommunications on the status of the
11 Broadband Fund. The report required by this section shall include a description of:

12 (a) All loans and grants provided through the program adopted under section 5 of this
13 2020 Act; and

14 (b) The status of the projects funded by the loans and grants.

15 (2) In addition to the information required in the report under subsection (1) of this
16 section, the report submitted on or before September 15, 2024, by the department pursuant
17 to this section shall include an evaluation of the continuing need for the Broadband Fund,
18 including but not limited to recommendations regarding the repeal, by section 9 of this 2020
19 Act, of the Broadband Fund and the program adopted under section 5 of this 2020 Act.

20 **SECTION 7.** Notwithstanding the amount provided for in ORS 759.425 (1)(b) and the per-
21 centage provided for in ORS 759.425 (4)(e), until December 31, 2021, the amount of moneys
22 deposited annually in the universal service fund to be used to ensure basic telephone service
23 shall be as provided for in Appendix A to Public Utility Commission Order No. 16-093, as
24 corrected by Public Utility Commission Order No. 16-102.

25 **SECTION 8.** ORS 285A.160 is amended to read:

26 285A.160. The Oregon Broadband Advisory Council, in consultation with the Oregon
27 Broadband Office, shall submit a report by November 1 of each even-numbered year to the Joint
28 Legislative Committee on Information Management and Technology on the following subjects:

29 (1) The affordability and accessibility of broadband technology in all areas of this state;

30 (2) The extent of broadband technology use in this state in business, health care, energy man-
31 agement, education and government; and

32 (3) The role of broadband technology in local, state and regional economies and economic de-
33 velopment.

34 **SECTION 9.** (1) Sections 4, 5 and 6 of this 2020 Act are repealed on January 2, 2030.

35 (2) Any moneys in the Broadband Fund that are unexpended and unobligated on January
36 2, 2030, revert to the universal service fund established under ORS 759.425.

37 **SECTION 10.** The amendments to ORS 759.425 by section 3 of this 2020 Act become op-
38 erative on January 2, 2030.

39 **SECTION 11.** (1) Sections 4 to 7 of this 2020 Act and the amendments to ORS 285A.160,
40 759.400 and 759.425 by sections 1, 2 and 8 of this 2020 Act become operative on January 1,
41 2021.

42 (2) The Public Utility Commission and the Oregon Business Development Department
43 may take any action before the operative date specified in subsection (1) of this section that
44 is necessary to enable the commission and the department to exercise, on and after the op-
45 erative date specified in subsection (1) of this section, all of the duties, functions and powers

1 conferred on the commission and the department by sections 4 to 7 of this 2020 Act and the
2 amendments to ORS 285A.160, 759.400 and 759.425 by sections 1, 2 and 8 of this 2020 Act.

3 SECTION 12. This 2020 Act takes effect on the 91st day after the date on which the 2020
4 regular session of the Eightieth Legislative Assembly adjourns sine die.

5



CITY OF LA PINE

STAFF REPORT

Meeting Date: February 26, 2020
TO: La Pine City Council
FROM: Melissa Bethel, Staff
SUBJECT: Gas Tax Discussion

TYPE OF ACTION REQUESTED (Check one):

- | | | | |
|--------------------------|-------------------------|-------------------------------------|------------------|
| <input type="checkbox"/> | Resolution | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | No Action – Report Only | <input type="checkbox"/> | Public Hearing |
| <input type="checkbox"/> | Formal Motion | <input checked="" type="checkbox"/> | Other/Direction: |

Councilors:

Over the last year the Council made the decision to place a 3-cent gas tax on the November 2020 ballot. Included in this staff report is the original attorney memorandum (as seen previously) which outlines the referral procedures for the ballot measure, the draft resolution and ordinance, and the Ballot Title Notice.

For discussion; The Council needs to consider whether to appoint a Committee to help spearhead the campaign or if Council feels it can handle the effort. Once the ballot measure is certified, staff will not be able to lobby for the measure. It is imperative that all materials and facts are completed before certification.

Council can also discuss whether to hire a marketing firm to handle the advertising – according to the attorney, this could be a direct contract.

Staff has attached *very preliminary* draft examples of mailers/flyers (taken from Brookings and Tigard) and a sample fact sheet (from Stayton) to be handed out, placed on the website and Facebook for the Council’s review and discussion.

ORDINANCE NO. 2020-__

AN ORDINANCE OF CITY OF LA PINE IMPOSING A BUSINESS LICENSE TAX ON MOTOR VEHICLE FUEL DEALERS; AND REFERRING ORDINANCE.

WHEREAS, City of La Pine (“City”) has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow an Oregon municipal corporation; and

WHEREAS, ORS 319.950 authorizes City to enact an ordinance taxing fuel for motor vehicles after submitting the proposed tax to the electors of the local government for their approval; and

WHEREAS, City’s _____ recommended that the La Pine City Council (the “council”) refer a business license tax on motor vehicle fuel dealers as a funding mechanism to support City’s roads; and

WHEREAS, the council is dedicated to managing and maintaining City’s roads; and

WHEREAS, in furtherance of the foregoing objective, the council desires to impose a business license tax on motor vehicle fuel dealers in the area subject to City’s jurisdiction.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title; Purpose. This Ordinance No. 2020-__ may be referred to as the “Motor Vehicle Fuel Tax Ordinance” and will be cited and referred to herein as this “ordinance.” The purpose of this ordinance is to impose a business license tax on motor vehicle fuel dealers located in City as a funding mechanism to support the construction, reconstruction, improvement, repair, maintenance, operation and use of the public road system in City.
3. Definitions. For purposes of this ordinance, the following terms and phrases have the meanings assigned to them below, whether or not such terms are capitalized:

“City” means City of La Pine, an Oregon municipal corporation.

“Council” means the City of La Pine City Council.

“Dealer” means any person who (a) imports or causes to be imported motor vehicle fuel for sale, use or distribution in the City, but “dealer” does not include any person who imports into City motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer hereunder and who assumes liability for the payment of the applicable license tax to the City; (b) produces, refines, manufactures or compounds motor vehicle fuels in City for use distribution or sale in City; or (c) acquires in City for sale, use or distribution in City motor vehicle fuel with respect to which there has been no license tax previously incurred.

“Distribution” means, in addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities

connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

“Highway” means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

“Motor Vehicle” means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

“Motor Vehicle Fuel” means and includes diesel and gasoline and any other flammable or combustible gas or liquid, by whatever name such as diesel and gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas and liquid, the chief use of which, as determined by City, is for purposes other than the propulsion of motor vehicles upon highways.

“Person(s)” means any natural person, joint venture, partnership, association, club, company, limited liability company, limited liability partnership, corporation, business, trust, organization, any other entity, and/or any group or combination acting as a unit.

“Service Station” means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

“Tax administrator” means City’s then appointed city manager or his or her designee.

4. Tax Imposed. A business license tax is hereby imposed on every dealer. The tax imposed shall be paid monthly to the tax administrator. The tax administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the business license tax, including powers specified in ORS 319.010 to 319.430.

5. Amount and Payment. In addition to any fees or taxes otherwise provided for by law, every dealer engaging in City in the sale, use or distribution of motor vehicle fuel, shall, not later than the 25th day of each calendar month:

5.1 Render a statement to the tax administrator, on forms prescribed, prepared and furnished by the tax administrator, of the number of gallons of motor vehicle fuel sold, used or distributed by him or her in City as well as all such fuel sold, used or distributed in City by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

5.2 Pay a business license tax computed on the basis of three cents (\$.03) per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this ordinance.

6. License Required. No dealer shall sell, use or distribute any motor vehicle fuel until he or she has secured a dealer’s license as required herein.

7. License Application and Issuance.

7.1 Application. Every person, before becoming a dealer in motor vehicle fuel in City, shall make an application to City on forms prescribed, prepared and furnished by City for a license authorizing the person to engage in business as a dealer.

7.2 Application Contents. Applications for a license shall be accompanied by a duly acknowledged certificate containing the following:

7.2.1 The business name under which the dealer is transacting business in City;

7.2.2 The place of business and location of distributing stations in City and in areas adjoined to City limits in the State of Oregon; and

7.2.3 The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

7.3 License Issuance. If the license application is complete and accepted for filing, City shall issue to the dealer a license in such form as the City may prescribe to transact business in City. The license so issued is not assignable and is valid only for the dealer in whose name it is issued.

7.4 Record Retention. The City Recorder's Office shall keep on file a copy of all applications received and business licenses issued.

7.5 Application Fee. City may charge a fee for the application, the amount of which shall be set by resolution of the council.

8. Failure to Secure License.

8.1 If a dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and obtaining the license required by Section 6 of this ordinance, the business license tax on all motor vehicle fuel sold, distributed or used by that dealer shall be immediately due and payable.

8.2 The tax administrator shall proceed forthwith to determine, from as many available sources as the tax administrator determines reasonable, the amount of tax due, shall assess the dealer for the tax in the amount found due, together with a penalty of one-hundred percent (100%) of the tax, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty or both, the certificate shall be prima facie evidence that the dealer therein named is indebted to City in the amount of the tax and penalty stated.

8.3 Any tax or penalty assessed pursuant to this section may be collected in the manner prescribed in Section 12 of this ordinance with reference to delinquency in payment of the fee or by an action at law.

8.4 In the event any suit or action is instituted to enforce this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

9. Revocation of License. City shall revoke the license of any dealer refusing or neglecting to comply with any provision of this ordinance. City shall mail by certified mail addressed to such dealer at his or her last known address appearing on the files of City, a notice of intention to cancel. The notice shall give the reason for cancellation. The cancellation shall become effective without further notice if within ten (10) days from the mailing of the notice the dealer has not made good its default or delinquency.

10. Cancellation of License.

10.1 Upon Dealer's Request. City may, upon written request of a dealer, cancel any license issued to such dealer, the cancellation to become effective thirty (30) days from the date of receipt of the written request.

10.2 City Cancellation. If City ascertains and finds that the person to whom a license has been issued is no longer engaged in the business of a dealer, City may cancel the license of such dealer after thirty (30) days' notice has been mailed to the last known address of the dealer.

11. Remedies Cumulative. Except as otherwise provided, the remedies provided in Sections 8, 9 and 10 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this ordinance.

12. Payment of Tax and Delinquency.

12.1 Payment. The business license tax imposed by this ordinance shall be paid on or before the 25th day of each month.

12.2 Interest. In addition to the penalties imposed under this ordinance, any dealer who fails to timely remit any tax imposed under this ordinance will pay interest at the rate of one percent (1.0%) per month (without proration for portions of a month) on the amount of tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid in full. Penalties and interest imposed under this Section 12 will become part of the tax required to be paid pursuant to this ordinance.

12.3 Penalties – Late Payment. Any dealer who fails to remit any portion of the tax imposed under this ordinance on or before the 1st day of the next month following that month in which payment is due will pay a penalty of ten percent (10%) of the tax, exclusive of interest.

12.3 Penalties – Fraud or Evade. If the tax administrator determines that the nonpayment of any remittance of tax due under this ordinance is due to fraud or intent to evade the provisions hereof, a penalty of twenty-five percent (25%) of the amount of the tax proceeds due will be added thereto in addition to the penalties provided under Section 12.2.

12.4 Waiver of Penalties. Any dealer who fails to remit the tax levied under this ordinance within the time stated in this ordinance will pay the penalties and interest stated in this ordinance; provided, however, the dealer may petition for wavier or refund of any penalty or portion thereof. If the total penalty due does not exceed \$_____, any petition for waiver or refund of penalties will be directed to and determined by the tax administrator. If the total penalty due exceeds \$_____.

any petition for waiver or refund of penalties will be directed to and determined by the council. Upon receipt of a petition for wavier or refund of penalties as set forth herein, the tax administrator or council may, if a good and sufficient reason is shown, waive or direct a refund of the penalty or any portion thereof.

13. Monthly Statement of Dealer.

13.1 Monthly Statement Required. Every dealer shall provide to the tax administrator on or before the 25th day of each month, on forms prescribed, prepared and furnished by the tax administrator, a statement of the number of gallons of motor vehicle fuel sold, distributed or used by the dealer during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

13.2 Failure to File Monthly Statements. If any dealer fails to the statement required by Section 13.1 of this ordinance, the tax administrator will proceed in such manner as deemed best to obtain facts and information on which to determine the amount of motor vehicle fuel used, sold or distributed by such dealer for the period unreported. As soon as the tax administrator procures such facts and information as he or she is able to obtain to assist in estimating the tax due and payable by the dealer, the tax administrator will proceed to determine and assess against such dealer the tax, interest, and penalties provided under this ordinance. If such determination is made, the tax administrator will give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the dealer so assessed at the last known place of address. Such dealer may make an appeal of such determination as provided in Section 14. If no appeal is timely filed, the tax administrator's determination is final and the amount thereby is immediately due and payable.

14. Appeal. Any dealer aggrieved by any decision of the tax administrator with respect to the amount of tax, interest, and/or penalties due under Sections 12 or 13 may appeal to the council by filing a written notice of appeal with the tax administrator within thirty (30) days after the serving or mailing of the tax administrator's determination of the tax due. The tax administrator will transmit the notice of appeal together with the file of the appealed matter to the council after which the council will fix a time and place for hearing the appeal. Council will give the appellant no less than ten (10) days' prior written notice of the time and place of hearing of the appealed matter.

15. Billing Purchasers. Dealers shall render bills to all purchasers of motor vehicle fuel. The bills shall separately state and describe the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the tax administrator are maintained.

16. Failure to Provide Invoice or Delivery Tag. No person shall receive and accept motor vehicle fuel from any dealer, or pay for the same, or sell or offer the motor vehicle fuel for sale, unless the motor vehicle fuel is accompanied by an invoice or delivery tag showing the date upon which motor vehicle fuel was delivered, purchased or sold, and the name of the dealer.

17. Transporting Motor Vehicle Fuel in Bulk. Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of City with such conveyance, have and possess during the entire time of the hauling or transporting of such motor vehicle fuel, an invoice, bill of sale or other written statement showing the

number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

18. Exemption for Export Fuel.

18.1 Exemption. The business license tax imposed by Section 4 shall not be imposed on motor vehicle fuel:

18.1.1 Exported from City by a dealer; or

18.1.2 Sold by a dealer for export by the purchaser to an area or areas outside City in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to City in such detail as may be required.

18.2 Any motor vehicle fuel carried from City in the fuel tank of a motor vehicle shall not be considered as exported from City.

18.3 In support of any exemption from taxes on account of sales of motor vehicle fuel for export by the purchaser, the dealer shall retain in his/her files for at least three (3) years, an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

18.4 No person shall, through false statement, trick, or device, or otherwise, obtain motor vehicle fuel for export as to which the city motor vehicle fuel tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert, or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed, or sold in City, and fail to notify City and the dealer from whom the motor vehicle fuel was originally purchased of his or her act.

18.5 No dealer or other person shall conspire with any person to withhold from export, or divert from export, or to return motor vehicle fuel to City for sale or use, so as to avoid any of the fees imposed herein.

18.6 In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of five hundred gallons or less for export by the purchaser, the dealer shall retain in his or her files for at least three (3) years an export certificate executed by the purchaser in such form and containing such information as is prescribed by City. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

19. Sales to Armed Forces Exempted. The license tax imposed by this ordinance shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States, but every dealer shall be required to report such sales to City. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

20. Fuel in Vehicles Entering City. Any person coming into City in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for the person's own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in this chapter.

21. Fuel Sold or Delivered to Dealers. A dealer selling or delivering motor vehicle fuel to dealers is not required to pay a business license tax thereon unless the selling dealer has assumed liability for the payment of the applicable license tax to City. The dealer, in rendering monthly statement to City as required by Section 13.1 of this ordinance, shall show separately the number of gallons of motor vehicle fuel sold.

22. Maintenance and Examination of Records.

22.1 Carriers of Motor Vehicle Fuel. The tax administrator or his or her duly authorized agents may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within City for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes in enforcing the provisions of this ordinance.

22.2 Records to be Kept by Dealers. Every dealer shall keep a record in such form as may be prescribed by City of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bill of all such sales and shall at all times during the business hours of the day be subject to inspection by the tax administrator or his or her authorized officers or agents.

22.3 Records to be Kept Three Years. Every dealer shall maintain and keep, for a period of three (3) years, all records of motor vehicle fuel used, sold and distributed within City by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by City. In the event such records are not kept within the state of Oregon, the dealer shall reimburse City for all travel, lodging, and related expenses incurred by City in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

23. Refunds. Refunds will be made pursuant to applicable state and federal laws. Except as otherwise provided in this ordinance, any credit for erroneous overpayment of the business license tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid by a dealer must be so taken or filed within three (3) years after the date on which the overpayment was made to City. Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this chapter shall be served on dealers within three (3) years from the date upon which such additional taxes become due.

24. Use of Tax Revenues.

24.1 Net Revenues. For the purpose of this section, net revenue shall mean the revenue from the tax and penalties imposed under this chapter remaining after providing for any refunds and credits authorized herein.

24.2 Use of Net Revenues. The net revenues shall be used exclusively for services and materials associated with the construction, reconstruction, improvement, repair, maintenance,

operation and use of roads and streets for which City owns, operates and maintains, desires to own, operate or maintain, is contractually or legally obligated to operate and maintain, or for which City has accepted responsibility under intergovernmental agreement.

25. Forms; Regulations. The tax administrator is hereby authorized to prescribe forms and promulgate rules and regulations to (a) aid in the making of returns, and (b) ascertain, assess, and/or collect the tax.

26. Referral; Sunset Clause. This ordinance will be referred by council resolution to City's electors at the statewide election held on November 3, 2020. If the measure passes, (a) the tax will be levied and imposed commencing on April 1, 2021, and (b) the tax levied and imposed under this ordinance will expire, and this ordinance will be of no further force and effect, as of March 31, 2031.

27. Intergovernmental Agreement. Notwithstanding anything contained in this ordinance to the contrary, the tax administrator may enter into an agreement with the Oregon Department of Transportation ("ODOT") pursuant to which ODOT will collect, enforce, administer, and distribute the tax imposed under this ordinance. If a conflict between the provisions of this ordinance and such agreement occurs, the provisions of the agreement will govern; provided, however, City may exercise any remedies under this ordinance to enforce such agreement and/or to collect any unpaid taxes, penalties, and/or interest.

28. Interpretation; Severability; Corrections. All pronouns contained in this ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this ordinance. This ordinance may be corrected at any time by order of council to cure editorial and/or clerical errors.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of ___ for and ___ against and APPROVED by the mayor on this ___ day of _____, 2020.

Daniel Richer, Mayor

ATTEST:

Melissa Bethel, City Manager

DRAFT

RESOLUTION NO. 2020-__

A RESOLUTION OF THE CITY OF LA PINE APPROVING REFERRAL TO THE CITY'S ELECTORS THE QUESTION OF IMPOSING A BUSINESS LICENSE TAX ON MOTOR VEHICLE FUEL DEALERS.

WHEREAS, City of La Pine ("City") has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow an Oregon municipal corporation; and

WHEREAS, on _____, 2020 the La Pine City Council approved and adopted Ordinance No. 2020-__ (the "Ordinance"), which Ordinance imposes a business license tax on motor vehicle fuel dealers in City; and

WHEREAS, ORS 319.950 provides, in pertinent part, that a city may enact or amend any charter provision, ordinance, resolution, or other provision taxing fuel for motor vehicles after submitting the proposed tax to the electors of the city for approval; and

WHEREAS, by adoption of this Resolution No. 2020-__ (this "Resolution"), the council refers the Ordinance to City's electors at the statewide election held on November 3, 2020 pursuant to ORS 319.950 and Section 26 of the Ordinance.

NOW, THEREFORE, the City of La Pine resolves as follows:

1. Measure. A measure election is hereby called for the purpose of submitting to City's electors a measure imposing business license tax on motor vehicle fuel dealers (as defined in the ordinance) in City. The measure (question and summary) attached hereto as Exhibit A and incorporated herein by this reference is hereby approved.

2. Election Conducted by Mail. The measure election will be held in City on November 3, 2020. As required by ORS 254.465, the measure election will be conducted by mail by the Deschutes County Clerk according to the procedures adopted by the Oregon Secretary of State.

3. Delegation. The city manager (or his or her designee) is authorized to act on behalf of City and take such further action necessary to carry out the intent and purposes set forth herein in compliance with applicable laws.

4. Ballot Title. The city attorney has prepared the ballot title (caption) for the measure attached hereto as Exhibit B and incorporated herein by this reference. The ballot title attached hereto as Exhibit B is hereby approved.

5. Notice of Ballot Title; Right to Appeal. Upon receiving the ballot title for this measure, the city recorder will publish in the next available edition of a newspaper of general circulation in City a notice of receipt of ballot title, including notice that an elector may file a petition for review of the ballot title.

6. Explanatory Statement. The explanatory statement for the measure attached hereto as Exhibit C and incorporated herein by this reference is hereby approved.

7. Filing with County Elections Office. The city recorder will deliver the Notice of Measure Election to the Deschutes County Clerk for inclusion on the ballot for the November 3, 2020 election.

8. Severability; Effective Date. The provisions of this Resolution are severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution will be in full force and effect from and after the effective date of the Ordinance.

APPROVED AND ADOPTED by the Council and signed by the mayor this ____ day of _____, 2020.

Daniel Richer, Mayor

ATTEST:

Melissa Bethel, City Manager

Exhibit A
Measure

QUESTION

Shall La Pine impose a 3-cent per gallon tax on motor vehicle fuel dealers for road repairs and reconstruction?

SUMMARY

Approval of this measure will impose a business license tax on motor vehicle fuel dealers within City of La Pine. The tax will be computed on the basis of three cents (\$.03) per gallon of motor vehicle fuel sold, used or distributed by dealers in City, as well as all such fuel sold, used or distributed in City by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax. The business license tax will be remitted to City by the dealer.

The tax does not apply to motor vehicle fuel exported from City by a dealer and motor vehicle fuel sold to the Armed Forces of the United States

Revenue generated by the tax will be used to fund the construction, reconstruction, improvement, repair, maintenance, operation and use of City's roads. If passed, the tax will be imposed commencing on April 1, 2021 and will expire on March 31, 2031.

Exhibit B
Ballot Title

Imposes tax on fuel dealers for road repairs and reconstruction.

Exhibit C
Explanatory Statement

Approval of this measure will impose a business license tax on motor vehicle fuel dealers within City of La Pine ("City"). The tax will be calculated on the basis of three cents (\$.03) per gallon of motor vehicle fuel sold, used or distributed by dealers in City, as well as all such fuel sold, used or distributed in City by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax. All dealers of motor vehicle fuel in City will be required to obtain a license from City authorizing the person to engage in business as a dealer. The tax does not apply to, among other things, motor vehicle fuel exported from City by a dealer and motor vehicle fuel sold to the Armed Forces of the United States. The tax will be imposed on the dealer and remitted to City.

City is facing a _____ deficit in funds necessary to restore its existing roads to good repair and condition. Road maintenance is currently mostly funded by City's share of state fuel tax funds. This funding source has failed to provide sufficient funds to maintain City roads. The La Pine City Council [basis for recommendation, study, committee, etc.]

If the measure passes, City will use revenue generated from the tax to fund road repair and reconstruction projects. Road repair and reconstruction projects include, without limitation, _____.

The tax is intended to balance the tax burden between residents and visitors to City and is anticipated to generate approximately \$_____ annually in revenue. If passed, the tax will be imposed commencing on April 1, 2021 and will expire on March 31, 2031.

PUBLIC NOTICE OF BALLOT TITLE

The following "Ballot Title", prepared by the City Attorney of the City of La Pine was filed with the City Elections Official on _____, 2020.

Caption: [_____]

Question: [_____]

Summary: [_____]

The City Elections Official has determined that the measure meets the requirements of section 1 (2)(d) and (5), Article IV of the Oregon Constitution. The measure election will be held in the City of La Pine on November 3, 2020. Any elector of the City of La Pine who is dissatisfied with the ballot title may petition the Deschutes County Circuit Court to review the ballot title issued by the City Attorney. The deadline to file a petition to review the ballot title is no later than the 7th business day after the ballot title is filed with the City Elections Official; therefore, the deadline is 5:00 p.m. on _____, 2020. The City Recorder must be notified within one day of any petition being filed in the Circuit Court challenging the ballot title.

Publish Date: _____, 2020 (Bend Bulletin)

Posted: La Pine City Hall
U.S. Post Office
Deschutes County Clerk's Office
City of La Pine Website (www.lapineoregon.gov)

Fuel Tax Use Limited to Streets

This three cent motor vehicle fuel tax will be used only for repair and maintenance of existing City streets and sidewalk construction and repair.

The tax continues to relieve a portion of the burden for funding street and sidewalk maintenance and reconstruction from only City residents to all users of City streets, including unincorporated area residents and tourists.

How much each month will this fuel tax cost a motorist whose car gets 20 miles to the gallon?



Drive 5,000
miles a year?

.63¢
a month



Drive 10,000
miles a year?

\$1.25
a month



Drive 15,000
miles a year?

\$1.88
a month

If you would like more information on the fuel tax measure or streets, please call 541-536-1432 to talk directly to La Pine City Manager Melissa Bethel

City of La Pine
PO Box 2460
La Pine, OR 97739

Presorted
First Class Mail
U.S. Postage Paid
La Pine, OR 97739
Permit No. 11



BASIC FACTS about the La Pine 3¢ Fuel Tax for Streets and Sidewalks



The La Pine City Council has referred a fuel tax measure to the voters for the November 2020 election. This measure, if passed, would allow for a three cent local motor vehicle fuel tax in La Pine. Wording for this measure appears

on the back of this flyer. Because state law limits ballot measure summaries to 85 words, the City of La Pine is providing this information about the measure.

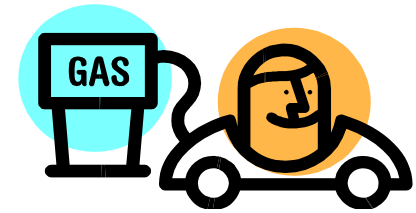
For more information on street conditions and how these tax dollars are being spent, please view the La Pine Street videos at: <http://www.brookings.or.us/index.aspx?nid=236>.



Important Facts about the 3¢ City Fuel Tax Measure on the November 2020 Ballot



1. Places tax burden on users of City streets rather than in property taxes and utility bills.
2. Proceeds must be used exclusively for the repair and reconstruction of city streets and sidewalks.
3. Prohibits the City from readopting the \$2.98 monthly system replacement fee for streets which was collected from City water and sewer customers which was repealed in 2015.
4. There are currently three retail fuel stations and one wholesale distributor in the City that serve hundreds of drivers per day that would contribute to help maintain City streets.
5. The fuel tax will expire in five years, at which time voters can decide if the funds have been well used and whether the tax should be continued.
6. Some fuel purchases are exempt from the City fuel tax, including fuel used for commercial fishing boats, aircraft, farm equipment, and off road vehicles.
7. The owners of large commercial vehicles with a gross vehicle weight of over 26,000 pounds can obtain a partial refund of the tax they pay. These vehicle owners already pay a “weight fee” in addition to other state/federal fuel taxes.
8. An independent analysis of City street conditions concluded that about \$300,000 a year is needed over a 10 year period to improve and sustain City streets in good condition.
9. Many streets need attention now, otherwise expensive reconstruction costing four or five times the cost of preservation will be necessary.



Measure 8-90

REAUTHORIZATION OF LOCAL TAX ON MOTOR VEHICLE FUEL SALES

QUESTION: Shall the City continue the motor vehicle fuel tax to fund street repairs for an additional five years?

SUMMARY: This measure is submitted to the voters by the Brookings City Council proposing the reauthorization of the motor vehicle fuel dealer license tax, or “local gas tax.” The local gas tax of \$0.04 per gallon was approved by voters in 2015 and implemented through an ordinance imposing a business license tax on motor vehicle fuel dealers within the City. The ordinance also repealed the City’s street system replacement fee.

The City has an annual revenue target of \$300,000 to repair and rehabilitate City streets. Annual revenues from the local gas tax have come in just under the target. If approved by the voters, the ordinance amending the original local gas tax ordinance will extend the sunset date of the tax to June 30, 2023 and remove the requirement that the City Council reduce the amount of the gas tax if revenues come in above \$300,000.

The tax revenue collected may only be used for the construction, reconstruction, improvement, repair, maintenance and operation of streets within the City of Brookings.



This three cent motor vehicle fuel tax will be used only for repair and maintenance of existing City streets, and includes construction and repair of sidewalks built to American Disability Act (ADA) specifications

If you would like more information on the fuel tax measure or streets, please call 541-536-1432 to talk directly to La Pine City Manager Melissa Bethel

City of La Pine
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La Pine, OR 97739



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BASIC FACTS about the La Pine 3¢ Fuel Tax for Streets and Sidewalks

The La Pine City Council has referred a fuel tax measure to the voters for the November 2020 election. This measure, if passed, would continue a three cent local motor vehicle fuel tax in La Pine. Wording for this measure appears on the back of this flyer. Because state law limits ballot measure summaries to 85 words, the City of La Pine is providing this information about the measure.

City Fuel Tax is for City Streets

La Pine voters can vote on whether to authorize a 3¢ per gallon fuel tax on the November 2020 General Election ballot. The tax is intended to fund maintenance and construction of streets and sidewalks in the City.

The pictures here are examples of the types of street work that would be funded by the 3¢ fuel tax over the next several years.



An engineering report on the condition of City streets found that the City needs about \$300,000 each year to improve City streets and maintain good driving conditions.

The La Pine Fuel Tax Measure would relieve City residents of a portion of the burden for funding street and sidewalk maintenance and construction, shifting the burden to all users of City streets, including unincorporated area residents and tourists.

For more information on street conditions and how these tax dollars are being spent, please view the La Pine Street videos at: <http://www.brookings.or.us/index.aspx?nid=236>.



Measure 8-90

AUTHORIZATION OF LOCAL TAX ON MOTOR VEHICLE FUEL SALES

QUESTION: Shall the City continue the motor vehicle fuel tax to fund street repairs ?

SUMMARY: This measure is submitted to the voters by the La Pine City Council proposing the authorization of the motor vehicle fuel dealer license tax, or “local gas tax.” The local gas tax of \$0.03 per gallon.

The City has an annual revenue target of \$300,000 to repair and rehabilitate City streets. Annual revenues from the local gas tax have come in just under the target. If approved by the voters, the ordinance amending the original local gas tax ordinance will extend the sunset date of the tax to June 30, 2023 and remove the requirement that the City Council reduce the amount of the gas tax if revenues come in above \$300,000.

The tax revenue collected may only be used for the construction, reconstruction, improvement, repair, maintenance and operation of streets within the City of La Pine.

WHERE DO YOUR PROPERTY TAX DOLLARS GO?



44¢ TSD

18¢ Washington Co.

17¢ City of Tigard

13¢ TVF&R

4¢ PCC

2¢ Metro

1¢ NW ESD

0.5¢ TTAD

0.5¢ Port of Portland

DID YOU KNOW?

- Tigard's property tax rate is the second lowest of cities in Washington County with a population over 5,000.
- The average household in Tigard pays about \$4,000 per year in property taxes, but only 17 percent of that (approximately \$680) goes to the city and, as you might imagine, that doesn't cover all the costs of services like police, parks and recreation, library and infrastructure.
- In community surveys people tell us they are very satisfied with city services and believe they receive good value for their taxes. We want to continue providing the high levels of service the community expects and values, but our costs are going up faster than our revenues.
- We invite you to learn more about Tigard's budget challenges and share your thoughts about what's important to you and sustainable solutions for a financially healthy future.

Please visit www.tigard-or.gov and click on *Funding the Future* for information, videos and outreach activities.



City of Tigard

13125 SW Hall Blvd. | Tigard, Oregon 97223
503.639.4171 | www.tigard-or.gov

CITY OF LA PINE

STAFF REPORT

DATE SUBMITTED: 2/26/2020
TO: La Pine City Councilors
FROM: Jake Obrist, La Pine Public Works Manager
SUBJECT: Water/Wastewater Project Update and Open House
MEETING DATE: February 26, 2020

TYPE OF ACTION REQUESTED (Check one):

- | | | | |
|-------------------------------------|-------------------------|--------------------------|------------------|
| <input type="checkbox"/> | Resolution | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | No Action – Report Only | <input type="checkbox"/> | Public Hearing |
| <input type="checkbox"/> | Formal Motion | <input type="checkbox"/> | Other/Direction: |

The City has entered in to loan agreements with DEQ for interim financing to begin construction on our Wastewater portion of the projects. These projects will include (3) phases of construction and we anticipate starting construction this Summer on phase (1). These phases are described below for reference:

Phase (1) will include improvements to the wastewater treatment facility with the additions of a new storage lagoon, 210 acres of irrigation for disposal, and a new septage receiving station. Phase (2) will include improvements to the water distribution system with the additions of a new storage reservoir, new pump motors to the existing wells, and the construction of a new 16" distribution water main to the north end of La Pine. Phase (3) will include expansion of the water and wastewater systems to service Cagle/Glenwood acres. The infrastructure will include new distribution and collection piping, service connections for water and sewer, and (3) new wastewater lift stations.

Per direction of the City Council for re-design of septic tanks onto private property, staff has diligently been coordinating efforts to accomplish this with our contract engineers Anderson Perry and our Legal department. Our main focus has been creating a new letter to customers in those areas of the project to address the need for a temporary and permanent easement. We anticipate having these letters drafted in the near future and are hopeful to start sending them out.

In order to be very transparent during this time with our projects, having an Open House is greatly needed. We would like to see this Open House occur in mid to late April.

We have coordinated efforts with ODOT to have a joint Open House during their refinement plan effort on April 22nd at Rosland Elementary. We will provide door hangers, mail flyers, and post this date on social media to get the word out.