

July 15, 1982

COMMISSION REPORT

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TO THE HONORABLE MAYOR AND COMMISSIONERS

Subject: Oregon City Civic Improvement Trust

Report No. 82-95

Attached is a copy of a "Declaration of Trust" which would establish an "Oregon City Civic Improvement Trust" for the purpose of accepting property, either real or personal, by way of gift.

Oregon City, like all other cities, will be losing considerable funds in the form of Federal assistance to perform elective functions. By creating the "Oregon City Civic Improvement Trust", it is hoped the City can gain personal, as well as corporate, donations for continuation of human service projects and further economic development. The "Oregon City Civic Improvement Trust" would accept donations and channel the money into the following areas:

1. Acquisition of and improvement to parks and open space.
2. Senior Center facilities and activities.
3. Library improvements.
4. Recreational facilities, including swimming pools and athletic facilities.
5. Increasing the significance of the historical heritage of the City.
6. Environmental improvements such as beautification and cleanup campaigns and the planting of trees and shrubs.
7. Cultural activities such as lectures, concerts, art shows and educational series.

The purpose for creating a separate trust is to assure contributors that the monies will be used as designated without the intervention of the budget process. Likewise, the trust provides a way for public/private partnership in maintaining City services.

This information is being submitted to the City Commission for possible implementation. If the City Commission wishes to implement the "Oregon City Civic Improvement Trust", it is recommended that "seed" money in the amount of \$100 be deposited in the trust fund so that the trust can formally be established and trustee appointments made.

Gerald Pecinovsky
GERALD PECINOVSKY
General Manager

GP:jkm
Attach.

cc: Bob Smith, Street Superintendent
Lynn Todd, Senior Center Director
Roger McClurg, City Librarian
Les Pakulak, Recreation Director
Cathy Galbraith, Planning Director
William J. Ruddy, Finance Director

ISSUED BY THE GENERAL MANAGER

Approved
7-15-82

DECLARATION OF TRUST
Establishing The
OREGON CITY CIVIC IMPROVEMENT TRUST

THIS DECLARATION OF TRUST is made this 15 day of
July 1982, by OREGON CITY, a municipal corporation of the
State of Oregon, by its Board of Commissioners, who by executing
this Declaration of Trust have agreed to serve as Trustees and to
accept this Trust.

NOW THEREFORE IT IS HEREBY DECLARED:

All funds and property designated to be subject to the Trust
shall be known as the Trust Fund and shall be administered as herein
provided by the Trustees, who declare and agree that they have
received this day the sum of One Hundred -----
Dollars (\$ 100.00), and that they will hold, manage and dispose
of the Trust Fund and any additions to it, IN TRUST, for the uses
and subject to the terms and conditions as follows:

ARTICLE 1

NAME OF THE TRUST

This Trust shall be called the OREGON CITY CIVIC
IMPROVEMENT TRUST.

ARTICLE 2

RECEIPT OF TRUST PROPERTY

The Trustees shall receive and accept property, real or

personal, by way of gift, bequest or devise, from any person, firm, trust or corporation, and shall hold, administer and dispose of such property in accordance with the purposes of and pursuant to the provisions of this Declaration of Trust. However, no gift, bequest or devise of any such property shall be received and accepted if it is conditioned or limited in such manner as to require the disposition of its income or principal to any person or organization other than the beneficiaries specified in Article 3 of this Declaration of Trust, or for other than the purposes stated in Article 3 of this Declaration of Trust.

ARTICLE 3

TRUST PURPOSES

Section 3.1 General Purposes; Named Beneficiaries.

This Trust is intended to qualify as a tax-exempt entity of the City. To this end and subject to Section 3.3, this Trust is established and at all times shall be operated exclusively for the benefit, to perform the functions, or to carry out the purposes of the City of Oregon City.

Section 3.2 Limitations.

(a) The purposes of the Trust as set forth in Section 3.1 shall be limited to and shall include only expenditures for projects not normally included in the routine budgeted operations of the City in the nature of the following, though not specifically confined thereto:

- (1) Acquisition of and improvements to parks and open space.
- (2) Senior Center facilities and activities.
- (3) Library improvements.
- (4) Recreational facilities, including swimming pools and athletic facilities.
- (5) Increasing the significance of the historical heritage of the City.
- (6) Environmental improvements such as beautification and cleanup campaigns and the planting of trees and shrubs.
- (7) Cultural activities such as lectures, concerts, art shows and educational series.

The Trustees shall have absolute discretion to determine whether a particular expenditure meets the aforesated purposes. All expenditures shall be limited, however, to municipal purposes of the City of Oregon City.

(b) No part of the net earnings of this Trust shall inure or be payable to or for the benefit of any private shareholder or individual.

(c) No part of the activities of this Trust shall be the carrying on of propaganda or otherwise attempting to influence legislation.

(d) No part of the activities of this Trust shall be the participation or intervention (including the publishing or

distributing of statements) in any political campaign on behalf of any candidate for public office.

ARTICLE 4

DISTRIBUTION UPON TERMINATION

This Trust shall continue unless and until the Trustees terminate it and distribute all of the principal and income of the Trust Fund, which action may be taken by the Trustees in their sole discretion at any time.

ARTICLE 5

TRUSTEES' POWERS

Section 5.1 General Powers. In the administration of this Trust, the Trustees in addition to all powers conferred by law, shall have the power and authority necessary to carry out the purpose of this Trust and, without limiting the generality of the foregoing, shall have the following powers and authority:

(a) Investments. To invest and reinvest the principal and so much of the income of the Trust as is not needed for expenditures under Article 3, in such property, real or personal, and in such manner as they shall deem proper, and from time to time to change investments as they shall deem advisable; to invest in or retain any stocks, shares, bonds, notes, obligations, or real or personal property. No principal or income, however, shall be used for loans, directly or indirectly, to any Trustee or anyone else,

corporate or otherwise, who has at any time made a contribution to this Trust, nor to anyone else except on the basis of an adequate interest charge and with adequate security.

(b) Sale. To sell, lease or exchange any real or personal property at public auction or by private contract, for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relating to the Trust property, as they consider advisable, whether or not such leases or contracts may extend beyond the duration of the Trust.

(c) Borrow Money. To borrow money for such periods, at such rates of interest and upon such terms as the Trustees consider advisable, and as security for such loans to mortgage or pledge any real or personal property of the Trust with or without power of sale, and to acquire or hold any real or personal property, subject to any mortgage or pledge on or of property acquired or held by this Trust.

(d) Execution of Instruments. To execute and deliver deeds, assignments, transfers, mortgages, pledges, leases, covenants, contracts, promissory notes, releases, and other instruments incident to any transaction in which they engage under this Trust.

(e) Owner of Securities. To vote, to give proxies, to participate in the reorganization, merger or consolidation of any concern, or in the sale, lease, disposition, or distribution of that concern's assets; to join with other security holders in acting through

a committee, a depository, voting trustees, or otherwise, and in this connection to delegate authority to such committee, depository or trustees and to deposit securities with them or transfer securities to them; to pay assessments levied on securities or to exercise subscription rights in respect of securities.

(f) Hold Trust Property. To hold Trust property with or without indication of fiduciary capacity, but only in the name of a registered nominee, provided the Trust property is at all times identified as such on the books of the Trust; to keep any or all of the Trust property or funds in any place or places as they deem advisable in the United States of America.

(g) Employ Agents. To employ a bank or trust company as custodian of any funds or securities and to delegate to it such powers as they deem appropriate; to employ clerks, accountants, investment counsel, investment agents, and to engage any other special services, and to pay the reasonable compensation and expenses of all such services.

Section 5.2 Fiduciary Capacity. The Trustees' powers are exercisable solely in a fiduciary capacity consistent with and in furtherance of the purposes of this Trust as specified in Article 3, and subject to the condition that no power or authority shall be exercised by the Trustees in any manner or for any purpose which may not be exercised by an organization which is tax exempt or by an organization donations to which are deductible from taxable income to the extent allowed by the provisions of the Internal

Revenue Code of 1954 or any future United States Internal Revenue law.

ARTICLE 6

ACCOUNTINGS OF TRUSTEES

The Trustees shall render an annual accounting of their transactions which shall be available to any citizen as a public record.

ARTICLE 7

TRUSTEE LIABILITY

No Trustee shall be responsible or liable for the acts or omissions of any other of the Trustees or any predecessor, or of a custodian, agent, depositary or counsel selected with reasonable care.

ARTICLE 8

TRUSTEE BOND AND COMPENSATION

Section 8.1 Compensation. No Trustee shall receive any compensation for acting as Trustee.

Section 8.2 Waiver of Bond. No Trustee shall be required to furnish any bond or surety for the faithful performance of his or her duties as Trustee.

ARTICLE 9

ADDITIONAL AND SUCCESSOR TRUSTEES

Section 9.1 Powers, Rights and Duties. The Board of Commissioners of Oregon City shall serve as the Trustees of this Trust. Four additional Trustees shall be appointed by the five Commissioner-Trustees to serve terms of varying lengths not to exceed four years subject to reappointment. Any succeeding or additional Trustee shall have the same powers, rights and duties and the same title to the Trust Fund jointly with the original or successor Trustees as if he or she had originally executed this Declaration of Trust.

Section 9.2 Definition of Trustees. In this Declaration of Trust and in any amendment to it, references to "Trustees" means the original, additional or successor Trustees for the time they are in office.

ARTICLE 10

ACTION BY TRUSTEES

Section 10.1 Designation of Chairman. The duly elected Mayor of Oregon City shall serve as the Chairman of the Board of Trustees of this Trust for a term co-extensive with his or her term of office.

Section 10.2 Meetings. A meeting of the Trustees may be called at any time by the Chairman or any three of the Trustees by giving at least ten days written notice to the other Trustees.

Section 10.3 Voting Requirements, Action Without A Meeting.

Concurrence of a majority of the Trustees present shall be required for action taken at a meeting but said majority must include at least three of the five Commissioner-Trustees. No action shall be taken at a meeting unless there are at least five Trustees physically present at the meeting. Any action which may be taken at a meeting of the Trustees may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all the Trustees.

Section 10.4 Execution of Instruments. The name of the Trust may be used to designate the Trustees collectively and all instruments may be executed by them in such name upon the signature of the Chairman or other person that the Trustees may designate for that purpose.

ARTICLE 11

RELIANCE BY THIRD PARTIES

No person dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do. No one dealing with the Trustees need see to the application of anything paid or transferred to or upon the order of the Trustees. Every instrument executed by the Trustees, whether signed by all of them or in the manner set forth in Section 10.4, may be relied upon as to any facts set forth therein and shall be conclusive that:

(a) At the time of delivery of such instrument the Trust was in full force and effect and, except where there has been notice of an amendment, was in the form set forth in this Declaration of

Trust as of its effective date;

(b) Such instrument was executed in accordance with the terms and provisions of this Declaration of Trust; and

(c) The execution and delivery of the instrument was duly authorized.

ARTICLE 12

AMENDMENTS TO TRUST

Section 12.1 General Power. This Declaration of Trust may be amended by the Trustees at any time and to the extent that such amendment is deemed necessary or advisable by the Trustees, but may not alter the general purposes set forth in Article 3.

Section 12.2 Evidence of Amendment. All instruments amending this Declaration of Trust shall be noted upon or kept attached to the executed original of this Declaration of Trust held by the Trustees.

ARTICLE 13

GOVERNING LAW

This Declaration of Trust, the Trust and the Trust Fund shall be construed, regulated and administered under the laws of the State of Oregon.

IN WITNESS WHEREOF, the undersigned hereby execute this
Declaration of Trust this 15 day of July, 1982.

Joan M Cartales

Ronald D. Sh

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J. L. Sh

Thomas J. Jones

Comprising the City Commission of
Oregon City, Oregon

Oregon City, Oregon, Code of Ordinances >> Title 3 - REVENUE AND FINANCE >> Chapter 3.04 - TRANSIENT ROOM TAX >>

Chapter 3.04 - TRANSIENT ROOM TAX

Sections:

3.04.010 - Definitions.

3.04.020 - Tax—Imposed.

3.04.030 - Tax—Collection.

3.04.040 - Tax—Payment.

3.04.050 - Tax—Disposition.

3.04.060 - Records.

3.04.070 - Violation—Penalties.

| 3.04.010 - Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

"Hotel" means any structure or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty days or less for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home, condominium, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private club, space in mobile home or trailer parks or similar structure or portions thereof so occupied.

"Occupancy" means the use or possession or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

"Operator" means the person who is proprietor of a hotel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as unit.

"Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

"Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

(Prior code § 5-23-1)

| 3.04.020 - Tax—Imposed.

For the privilege of occupancy in any hotel, each transient shall pay a tax in the amount of four percent of the

rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator. The transient shall pay the tax to the operator of the hotel at the time the rent is collected. The operator shall enter the tax when rent is collected if the operator keeps records on the cash accounting basis and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. Rents payable by governmental agencies shall be exempt from tax.

(Ord. 97-1025, 1997; Ord. 93-006 § 1, 1993; Ord. 92-1037 § 1, 1992; prior code § 5-23-2)

| 3.04.030 - Tax—Collection.

Every operator renting rooms shall collect the tax from the occupant and the tax collected or accrued shall constitute a debt owing to the city. If the operator has complied with the terms of this chapter and particularly the provisions of this section relating to prompt payment of taxes due and payable, he shall be permitted to deduct as a personal collection expense five percent of the amount of the taxes collected.

(Prior code §5-23-3)

| 3.04.040 - Tax—Payment.

All net taxes collected are due and payable to the city on a monthly basis of the fifteenth day of the month for the preceding month. Any delinquency in payment shall be subject to a penalty of ten percent of the amount due together with interest on the amount due at one percent per month with proration for fractions of a month.

(Prior code §5-23-4)

| 3.04.050 - Tax—Disposition.

All transient room taxes collected by the city shall be allocated to the city civic improvement trust fund and devoted to the promotion of tourism as designated therein.

(Prior code §5-23-7)

| 3.04.060 - Records.

The operator shall keep records separately, itemizing the tax accrued or collected, which records shall be available for inspection by the city at all reasonable times.

(Prior code §5-23-6)

| 3.04.070 - Violation—Penalties.

Failure to remit taxes when due shall be grounds for revocation of the operator's city business license and shall subject the operator to the general penalties for violation of city ordinances. That penalty shall be subject to the code enforcement procedures of Chapters 1.16, 1.20 or 1.24.

(Ord. 99-1004 §5, 1999; prior code §5-23-5)