



# City of Tigard Tigard Business Meeting - Agenda

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## TIGARD CITY COUNCIL

**MEETING DATE AND TIME:** October 26, 2010 - 6:30 p.m.

**MEETING LOCATION:** City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

### PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

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**CABLE VIEWERS:** The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
Friday	10:00 p.m.	Monday	6:00 a.m.

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City of Tigard  
**Tigard Business Meeting - Agenda**

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TIGARD CITY COUNCIL

**MEETING DATE AND TIME:** October 26, 2010 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

**MEETING LOCATION:** City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

6:30 PM

- STUDY SESSION

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss pending litigation with legal counsel under ORS 192.660(2)(h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
  - A. Call to Order
  - B. Roll Call
  - C. Pledge of Allegiance
  - D. Council Communications & Liaison Reports
  - E. Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
  - A. Follow-up to Previous Citizen Communication
  - B. Citizen Communication – Sign Up Sheet

3. CONSENT AGENDA: **7:40 p.m. (time is estimated)** (Tigard City Council) These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
  - A. Approve Council Minutes:
    1. July 20, 2010
    2. July 27, 2010
    3. August 17, 2010
    4. October 5, 2010 - Town Hall Meeting Notes
  - B. Appoint Richard Shavey, Current Planning Commission Alternate, to the Planning Commission - Resolution
  - C. Approve Intergovernmental Agreement Between the City, Metro, and the Oregon Department of Transportation to Develop a Transportation Growth Management Grant Funded High Capacity Transit Corridor Land Use Plan
  - D. Approve Standard Telecommunications Franchise Agreement with XO Communications Services, Inc. - Resolution
- Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/City Center Development Agency has voted on those items which do not need discussion.
4. UPDATE ON COUNCIL GROUNDRULES  
**7:45 p.m. (time is estimated)**
5. ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE AND A RESOLUTION PERTAINING TO A CODE OF CONDUCT FOR APPOINTED BOARD, COMMITTEE, AND COMMISSION MEMBERS  
**7:55 p.m. (time is estimated)**
6. MONTHLY UPDATE ON CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR PACIFIC HIGHWAY, MAIN STREET, GREENBURG ROAD, AND BURNHAM STREET  
**8:05 p.m. (time is estimated)**
7. DISCUSSION TO PREPARE FOR THE NOVEMBER 16, 2010 COUNCIL MEETING WITH JASON TELL, OREGON DEPARTMENT OF TRANSPORTATION REGION 1 MANAGER  
**8:25 p.m. (time is estimated)**
8. COUNCIL LIAISON REPORTS
9. NON AGENDA ITEMS

10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
  
11. ADJOURNMENT  
**8:35 p.m. (time is estimated)**

AIS-239

Item #: 3. A.

**Business Meeting**

**Date: 10/26/2010**

**Length (in minutes):**

**Agenda Title:** Approve City Council Minutes

**Prepared By:** Cathy Wheatley, Administration

**Item Type:**

**Meeting Type:** Select One

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**Information**

**ISSUE**

Approve City Council meeting minutes.

**STAFF RECOMMENDATION / ACTION REQUEST**

Approve City Council meeting minutes.

**KEY FACTS AND INFORMATION SUMMARY**

N/A

**OTHER ALTERNATIVES**

N/A

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Attachments**

[July 20, 2010 Minutes](#)

[Placeholder - July 27, 2010 Minutes](#)

[August 17, 2010 Minutes](#)

[October 5, 2010 Town Hall Meeting Notes](#)

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# City of Tigard Tigard Workshop Meeting - Agenda

## TIGARD CITY COUNCIL

**MEETING DATE/TIME:** July 20, 2010 – 6:30 p.m. – Workshop Meeting  
**MEETING LOCATION:** City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

### 1. WORKSHOP MEETING

1.1 6:33:22 PM Mayor Dirksen called the Tigard City Council Workshop Meeting to order.

1.2 Deputy Recorder Krager called the roll:

	Present	Absent
Council President Wilson	x	
Councilor Buehner	x	
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	

1.3 Pledge of Allegiance

1.4 Council Communications & Liaison Reports – Mayor Dirksen said Council would discuss at the end of the meeting who is planning to attend the League of Oregon Cities Conference in September.

1.5 Call to Council and Staff for Non-Agenda Items

### 2. BUDGET COMMITTEE MEETING

6:35 PM Mayor Dirksen announced that there was one item of business requiring Budget Committee action tonight so it would be convened and roll taken. Member Dan Goodrich called the Budget Committee to order. Deputy City Recorder Krager called the roll.

	Present	Absent
Budget Committee Member James	x	
Budget Committee Member Parker		x
Budget Committee Member Bailey	x	
Budget Committee Chair Struck		x
Budget Committee Member Goodrich	x	
Budget Committee Member Moghimian	x	
Budget Committee Member Wilson	x	
Budget Committee Member Buehner	x	
Budget Committee Member Dirksen	x	
Budget Committee Member Henderson	x	
Budget Committee Member Webb	x	

Budget Committee Member Goodrich asked if there was a motion for approval of the minutes from the May 10, 2010 Budget Committee meeting. Budget Committee Member Buehner made a motion to approve the minutes. Budget Committee member Webb seconded and the motion was approved unanimously.

Finance and Information Services Director LaFrance said he wished to discuss three items:

- Update on the documentation of the Adopted FY 2011 Budget
- Update on the close of Fiscal Year 2010
- Present staff's work plan for the Fiscal Year 2012 budget and CIP process for review and comment

Finance and Information Services Director LaFrance covered the 2011 budget adopted in May saying that Finance staff are nearly done with preparation of the annual budget document. He said extra time was spent on history as Councilor Henderson noticed historical data that didn't match the prior budget documents. He said time was spent working on data reconciliation including going back through audited financial reports. Budget documents should be available in early August, with pdf copies available on the website.

Assistant Finance Director Smith-Wagar described the software conversion which did not go as planned so the City has returned to using Springbrook financial software. She said the City is closing the books in Springbrook for the 2010 soft close. She noted that the financial statements will be prepared before the auditors arrive in October.

Budget Committee Member Bailey asked if the City was going back to using the IFAS software. Finance and Information Services Director LaFrance said the City has reached an agreement with the software vendor and has been able to recoup some of the costs.

6:44:23 PM Finance and Information Services Director LaFrance described the general process and work plan for the 2012 budget, illustrated in a document he handed to Council called the City Operating Budget Flowchart. This Flowchart ties together on a timeline, the processes, decisions due and documents required for the Capital Improvement Program (CIP), Financial Forecast and Budgets for the City and the CCDA.

Finance and Information Services Director LaFrance said Senior Management Analyst Collins' major focus is to help the City put together a Capital Improvement Plan and help the departments prepare their budgets.

6:55:25 PM Budget Committee Member Bailey asked Finance and Information Services Director LaFrance if his outlook on the economy had changed. He said the outlook is that economic recovery will continue slowly. He said the economy was buoyed by government stimulus spending but that has ended. City Manager Prosser added that two years ago the City had to make cutbacks in the Building Department but has experienced an increase in permits lately and is considering adding back some hours in that department.

6:58:16 PM Budget Committee Member Bailey asked to see a step in the process where the Budget Committee would be involved. When asked where he thought was appropriate, Budget Committee Member Bailey responded that the month following each quarter seemed logical to him.

Mayor Dirksen said there could be a Budget Committee and CCDA review in this format. He said he liked the format of the City Operating Budget Flowchart. City Manager Prosser said the CIP column is the result of the engineering review the City completed last year. Finance and Information Services Director LaFrance complimented Senior Management Analyst Collins on her work on the Flowchart.

## **TIGARD CITY COUNCIL MINUTES – JULY 20, 2010**

7:01:36 PM Councilor Henderson asked if Budget Committee meetings should be identified on this flowchart, perhaps with a star icon. Finance and Information Services Director LaFrance agreed and said staff would add them.

There being no further business, Budget Committee Member Dirksen adjourned the Budget Committee at 7:03:18 PM

### 3. JOINT MEETING WITH THE PLANNING COMMISSION – TREE GROVE INVENTORY

7:03:25 PM Senior Planner Wyss said this Joint Meeting with the Planning Commission was to discuss and receive feedback on the tree grove inventory project prior to beginning the project. He said Tigard has budgeted funds to develop a Tree Grove Inventory and Protection Program and hired a consulting firm to assist staff. He introduced Greg Winterowd of Winterbrook Planning.

Senior Planner Wyss said inventory protection is a component of the larger process to update the City's forestry regulations. He noted that updating the Tree Code is one of Council's 2010 goals and this tree grove inventory is guided by the adopted Urban Forestry Master Plan, which includes protecting Tigard's remaining native tree groves. He said the City's approach is proposed to be flexible and incentive-based. Goal 5 requirements must be met. He said they wanted to cover three items with Council and the Planning Commission:

1. Give an update on the scope and schedule for this project
2. Discuss the definition of a tree grove
3. Discuss potential options for protection

Senior Planner Wyss said Winterbrook Planning is scheduled to complete this work by April, 2011. He read the scope of work and work plan. He said GIS tree data has been collected. Fieldwork, which will identify the groves for protection can begin once Council and the Planning Commission define a "tree grove." Next will be an analysis of allowed and conflicting uses, which will follow the Goal 5 process. The last step is the development of a protection program. He said public involvement will continue throughout this project and staff will keep Council and the Planning Commission informed of progress throughout the project.

Consultant Winterowd complimented the Council and Planning Commission on what they have accomplished and said he thought the Urban Forestry Master Plan was excellent. Senior Planner Wyss said they used Metro's definition of a tree grove once they got the numbers and took into account the project budget. He said they looked at various size options, including half-acre, one-acre and two-acres. After analyzing different options, staff settled on the description of two-acre groves, or 930 acres (12.3% of the City). He said 60% of these fall within the significant habitat areas which have already been surveyed. He said as a basis for the project, the definition of a tree grove is "a two-acre or larger, contiguous, healthy canopy of predominately native trees that provide scenic, aesthetic, environmental or other functional values to the community."

Mayor Dirksen asked for a brief explanation of how staff arrived at two-acres being the cut-off point. Senior Planner Wyss said the two-acres or greater size yielded 930 acres Citywide. When dropped down to one-acre it meant 1,107 acres, gaining less than 200 acres but increasing by 131 the actual groves that would need to be inventoried. This would take up the entire budget just to do the inventory. Mayor Dirksen asked if there was a scientific measurement of a tree grove.

Consultant Winterowd asked, “What is a tree grove? It is a subjective sense we have. You want something big enough to enter. It is more round than linear. From a practical standpoint the more tree groves you have the more lives of people you affect. You want to be careful and selective about what you call a tree grove.” He said Tigard needs to be confident that these can be identified and appreciated by average citizens as a grove and can be defended in terms of their functional and aesthetic qualities.

Assistant Community Development Director Hartnett asked Senior Planner Wyss about the effect on the Buildable Lands Inventory with the different definitions. Senior Planner Wyss said staff analyzed the tree groves that would fall on a piece of land considered buildable and when increased from one-half to one-acre in size, the difference was not much, and usually the grove would extend onto other parcels.

7:16:41 PM Consultant Winterowd said as a general rule, the most difficult Goal 5 resource to protect is trees. It raises fairness issues. You need to make sure you have something that will rally neighbors to protect and preserve them.

Mayor Dirksen asked Council what their reaction was. Councilor Webb said she liked the idea of two-acre groves instead of a smaller size.

Council President Wilson said he envisioned that this will be inventive-based, by designation of tree groves as historic or by provision of a tax abatement or some other kind of perk. He said while some citizens might not want more regulations, he thought some property owners might actually want this designation. He said he favors the two-acre size and the grove should rise to the level of city-wide significance. He asked if parcels planted with native trees that are crops (cottonwood or Christmas trees) would be listed. Senior Planner Wyss said those would be inventoried and catalogued through the inventory process but the consultant would put them through a significance test.

Consultant Winterowd said developers like meaningful density transfers that combine with setbacks, or height restrictions or parking. He said the City should not come up with a set of regulations that take design creativity away from the developers. He said any incentives should be vetted with the development community and property owners.

7:26:18 PM Regarding types of incentives, Council President Wilson said he wouldn’t think of a grove in a cemetery as a diverse wildlife habitat and wouldn’t want to strictly limit it to natural resource value. Consultant Winterowd said pioneer cemeteries have historic value and all are peaceful contemplative places.

Councilor Buehner commented that if one looks at old maps of Tigard, Bull Mountain was clear-cut from about the time of World War II to the mid-1950’s. She suggested that the consultants investigate how the replacement growth has occurred. She said in many places there are too many non-native trees, planted too closely, taking the place of native trees.

In response to a question from Councilor Henderson about how many people are affected per parcel, Consultant Winterowd said they will count the number of houses, not people in each house. Councilor Henderson asked how large these groves are and Senior Planner Wyss said one is nearly 30 acres, a few are 20 acres and most large groves are city-owned.

Council agreed that the two-acre definition seemed reasonable.

7:33:32 PM Consultant Winterowd said most of the time when we think of resource protection we think of zoning to keep people away, but he suggests the following:

- Buy the grove (although most cities don't have the money)
- Regulatory incentives (Density transfers)
- Tax incentives
- Recognition incentives
- Conservation easements

Consultant Winterowd suggested approaching developers to work with you as a good neighbor. Give the developer or owner recognition by naming the grove after them, for example. He said if the City pays for the easement without any regulations, staff should negotiate the value of trees with the property owners.

Consultant Winterowd said tax incentives have less value for developers currently, but in busier times there is value to having a tax write-off for donating property. He said all approaches depend on good will and a sense that the city is negotiating in good faith. He said developers will be looking for a way to negotiate with staff and a combination often works best, such as a tax incentive and recognition.

In response to a question from Council President Wilson, Consultant Winterowd said he didn't recommend off-site density transfers, but did suggest looking at how developers could pool their resources, which had recently been done in Sherwood.

Mayor Dirksen suggested the City could offer developers a voluntary program whereby a builder agrees to reconfigure his lots to save the maximum number of trees. When this is verified and staff, Planning Commission and the developer all agree, the builder would be able to build without having to provide costly mitigation. He said this could be a voluntary program as opposed to our regulatory program which requires mitigation.

Mayor Dirksen commented that the City hears from property developers that mitigation costs are too high so an alternative to mitigation is appealing because it would cost less.

Consultant Winterowd said it makes sense to preserve groves of trees rather than a few trees in a straight line. The worst thing is to say to a developer, "Just save twelve trees, we don't care where they are."

Senior Planner Wyss summarized the discussion:

- Two-acres is the size definition for the inventory process.
- Some sites initially identified will be eliminated if they don't pass the significant test.
- Staff will return in a few months to present an update and statistics on the groves.
- Notices will be sent to property owners.

Mayor Dirksen called a five-minute break 7:59:39 PM

8:04:06 PM Mayor Dirksen reconvened the meeting.

4. WATER RATE CONSULTANT PRESENTATION ON WATER RATE STUDY AND SYSTEM DEVELOPMENT CHARGES (SDC) FINDINGS

Utility Division Manager Goodrich introduced this item. He said Consultants Paul Matthews and Joe Healy from RedOak Consulting were present to present preliminary findings and discuss the financing of the Lake Oswego/Tigard Water Project. He described different elements of the financing project and said there will be project cost revisions coming out in September or later this fall.

**Water Rate Study Findings -**

Consultant Healy gave an overview of financial planning for utilities. He said a financial plan is a planning tool and a communication tool. A plan can be used for stakeholder communication, highlighting upcoming issues and gives an opportunity to focus on key performance indicators. He showed graphs in a PowerPoint slide show of the annual capital expenditures through 2020 and summarized operations and maintenance costs, of which the major item is purchasing water from Portland. He said costs will drop starting in 2017 by \$2 million a year because of the Lake Oswego/Tigard partnership.

Consultant Matthews gave an update on the project status and financial planning in general. He discussed debt service and the importance of coming up now with the additional bond test amount to demonstrate that Tigard has enough money to cover the debt. He said their assumptions include funding this reserve and this is driving the rate increases. He noted that the consultant team met with the City's Finance staff and discussed the assumptions.

Council President Wilson asked if the revenue increases required are on top of each other. "In other words, you have a 35% increase one year and another 35% increase on top of that and then when it flattens off, you stay at that high level?" Consultant Matthews said yes, the consecutive annual increases are required to acquire the money needed.

Public Works Director Koellermeier said, "If we had been doing this five years ago, those numbers would be substantially different and part of the issue is the inability of cities to get insurance on their bonds anymore... This steepens our curve at the front end of this project because we have to have this reserve sitting in the bank when we are ready to sell the bond issues." Consultant Matthews said the good news on the reserve is that it becomes the last year's debt service payment.

In response to a question from Mayor Dirksen on whether the City could reduce the upfront increases if the larger increases were extended out further into the future, Public Works Director Koellermeier said that would require the building of the Lake Oswego partnership at a slower rate and it would not be operational in 2016.

8:22:51 PM **System Development Charge (SDC) Findings -**

Consultant Matthews discussed goals and objectives of SDC's, which include developing a practical SDC that is easily implemented, understandable to customers, ensures equity, maintains the financial health of the utility and complies with Oregon law. He said the idea is to level the playing field and without sufficient SDC's the ratepayers have to shoulder more of the burden. He said the cost is based on meter size, which is what Tigard currently does.

Councilor Henderson asked what the current SDC is. Utility Manager Goodrich said it is \$2,366 for a 3/4-inch line. He noted that the rates had not been raised since the year 2000.

Referring to the slide showing future rates, Council President Wilson asked, “For a two-inch meter – we’re going to charge \$88,000? If you do that you aren’t going to sell any two inch meters.” He said he works in the industry and installs meters all the time and didn’t think the market would support that.

Public Works Director Koellermeier said the policy decision Council will have to make is how much of this calculation is charged, the full amount or a portion. He said that process will play out as we conduct public hearings, discuss it with the Homebuilders’ Association and find out what other jurisdictions are charging.

City Manager Prosser cautioned that it is a closed system. If Council determines that these SDC recommendations are higher than the market will bear, the options are to cut back on the service, which is difficult with water, or bring in additional money, most likely through the ratepayers. Money could be raised by grants but there are not a lot of other sources out there.

Council President Wilson asked what percent is borne by the existing ratepayers and what by the SDC’s. He asked, “If development completely paid for itself, these are the numbers?” Consultant Matthews said they were.

Council President Wilson argued that the City is buying a water system for the first time and to make development pay for it all doesn’t seem fair. Consultant Matthews said that is not what is happening and a good portion of the \$118 million is not included in the SDC because it is not growth related.

Consultant Matthews said implicit in the assumptions are the revenues expected from SDC’s to provide some of the project cost, but low growth rates are assumed. Councilor Buehner said if the assumption is that there will be little or no SDC income within the next three or four years, the rate payers pick up 100 % of the freight. In response, Consultant Matthews said 0% growth rate is assumed for 2011 and 3/10 of a percent in 2012, on up to two percent, so we are gradually assuming that growth will resume but we didn’t want to count it until it has occurred.

Council President Wilson asked if the consultants figured on what’s going to happen with conservation if water prices double within three years. Consultant Matthews said that would be part of the next phase of the study which is the rate design, where a conservation impact mode will be developed.

He said this is a significant issue so an entire study phase is dedicated to it. Councilor Buehner said Tigard is very conservation minded and this should dilute some of the conservation impacts. Public Works Director Koellermeier said that was a fair assumption.

8:36:47 PM Public Works Director Koellermeier said guidance was needed from Council. The City is in the third year of a planned water rate increase. Built in to the current budget is a 7% increase effective October 1. He asked Council if they wanted to postpone that until January 1 which will roll out the first year of the water rate study. He said another option is to impact the 7% with a higher number now and do the second half of the higher number in April, splitting the first year between April and October.

He said the issue to Council is that they’d be adopting a potential 18% rate increase and replacing the 7% increase before the study has been adopted. He said another issue for Council is to take a serious look at monthly billing. He noted that other communities have made that adjustment and this seems to help the customers.

Councilor Buehner said she strongly advocated for imposing half the rate increase in the fall and half in the spring. Councilor Webb said she liked the idea of going to monthly billing.

## TIGARD CITY COUNCIL MINUTES – JULY 20, 2010

Mayor Dirksen said, "I knew this was coming but hadn't really seen the figures and it's a stunning amount."

Council President Wilson said he expected rates to double but thought it would be over ten years, not three.

Councilor Webb commented that a lot of communities are going through this now, including Tualatin, Sherwood and Portland.

Public Works Director Koellermeier said the real message is the cost of ownership. Mayor Dirksen agreed, saying there is nothing to be saved by Tigard in remaining renters of water. He said rates would still go up, but we'd have nothing to show for it.

Council discussed previous options that were projected to cost even more.

8:43:20 PM Councilor Webb said that when she was on the Tigard Water Board in 1991, they saw this coming and were trying to find some kind of ownership.

Councilor Buehner asked Public Works Director Koellermeier to obtain the information for the public about when we estimate that our rates will cross what Tigard citizens would be paying if the City stayed with Portland water. Public Works Director Koellermeier said he would get that information. He said the year 2016 is not only the end of Tigard's contract with Portland, but gets us ahead of when Portland can legitimately start putting some of their capital costs into their rate model.

Mayor Dirksen said, "In listening to public testimony that is going on in surrounding cities that are also having these discussions, I've heard questions from citizens saying there are other cities in the country, even the desert southwest, that pay less for water than we do. They ask why that is. I've researched this and have found that their water systems are not sustainable. They are essentially using their grandchildren's water today." Public Works Director Koellermeier said at the end of all this the water will still be a penny a gallon.

8:47:01 PM Council President Wilson asked if it helps or hurts Tigard to expand out to the west. Public Works Director Koellermeier responded that they are still working on that issue. He said capacity to serve Areas 63 and 64 is built into the SDC Model. He suggested there may be an additional SDC when Areas 63 and 64 get ready to develop to help pay for the additional capital within the limits of those boundaries. He noted that this is a common model to fairly assess SDC's on a growth area.

8:48:32 PM Councilor Buehner said, "From a policy point of view it is really important to remember our current rate payers and fairly charge SDC's to pay for the growth." Mayor Dirksen replied that he doesn't want to unfairly burden either group.

Public Works Director Koellermeier said the entire rate design package will come before Council. He asked if Council's inclination was to chunk down the revenues at 18%. Council agreed.

Councilor Webb asked if anything will be built into this for people that use enormous amounts of water. Public Works Director Koellermeier said that generally, in an incline rate there is a fixed fee, a historic use and anything over that would cost more. Council concurred with this.

Councilor Buehner strongly urged that the consultant's PowerPoint presentation be posted on the website. Councilor Webb disagreed, saying, "It could be misunderstood without the detailed discussion, like we just had." Mayor Dirksen agreed that a presentation should be available to citizens but it may be too preliminary right now. He suggested a presentation be created in the near future that gives significant information without

being too specific until we have those answers. Public Works Director Koellermeier said a communication plan had already been prepared and a press release would come out tomorrow.

Councilor Webb complimented Lake Oswego on their Water Savvy format and weekly updates which make the information easier to digest.

Councilor Buehner said, "I'm particularly concerned that citizens, the rate payers are aware that this didn't just come out of the blue...we got a consultant in to do a rate study to help us figure out that we need this much revenue. Don't just hit them with a final number. They need to understand that this was a very long and thoughtful process. We were stunned, too, when we saw the numbers."

City Manager Prosser said this information naturally flows from what we are already putting out there to discuss the partnership's solution to water supply problems both communities are experiencing. He said that is what's leading to these rate increases. He said Lake Oswego may be looking at some large rate increases also. He said a communication plan is being built off of the base that the partnership is operating now.

5. REVIEW CURRENT CITY COUNCIL GROUNDRULES ESTABLISHED BY RESOLUTION  
NO. 08-45

8:57 PM City Manager Prosser said Council procedures call for an annual review of groundrules. They were last adopted in 2008 and last year Council felt they were still workable. Staff was given direction to work on a code of conduct for Council and Boards and Commissions. He said that as they worked on this some questions were raised:

- Does Council want separate groundrules and code of conduct or should they be merged?
- If you do want separate groundrules and a separate code of conduct, are there things currently in the groundrules that would be better addressed in a code of conduct?
- How do we deal with accountability issues in terms of making sure that groundrules and code of conduct are followed?

Councilor Webb commented that until a recent problem with a Commissioner, there hadn't been any trouble. She noted that the City has nothing in writing that prevents any behavior or gives any consequences.

City Manager Prosser said that Council is elected and cannot be removed from office by anyone but the citizens of Tigard. He said through working with the City Attorney however, Council could make a motion of censure.

Mayor Dirksen said if the Boards and Commissions have a code of conduct, the Council should have one. He suggested that the code of conduct doesn't need to repeat provisions already listed in the Charter. He said there needs to be separate documents for Council and for Boards and Commissions because issues and consequences are different. He suggested for Council there needs to be something up to and including formal censure. He said he couldn't imagine a time when anyone would need to invoke this, but thought it best to have a formal process in place. For violations of the code of conduct, he said he thought the primary consequence would be damaging relationships with the other Councilors and subsequent loss of ability to influence the direction of the Council and the City. He said that in itself would be a major deterrent for a violation of the code. He said that violations of the Board and Committee code of conduct could result in removal and that should continue, but

other steps to be taken prior to removal should be considered. Mayor Dirksen suggested putting something in about Council relationships with board members and commissioners.

9:04:06 PM Council President Wilson said, "There is a lot to learn. I'm not so sure we shouldn't repeat certain sections. It is a good idea to separate procedural from ethical parts although it may be difficult to identify what is procedural rather than ethical."

Councilor Webb said she liked the example from Glendale. Mayor Dirksen agreed, saying he liked the tone of the language, which sounded more like advice rather than law.

9:08:17 PM Councilor Henderson asked why there hadn't been a May meeting for potential candidates to hear about what is involved in being on the Council. He reflected on questions he had upon election to Council about the relationship between CCDA or LCRB and the Council. Mayor Dirksen apologized for there being no meeting this year and explained that the person who would have coordinated it had been laid off. He said, "It fell through the cracks."

Councilor Buehner commented that Tigard is unusual in that there are only five councilors. She said it becomes more important to have cooperative skills given how small the Council is.

City Manager Prosser summarized that Council wants one document with two sections Groundrules (internal relationships) and Conduct (external relationships). The Glendale model is desirable. A section will be included on Board and Commission liaison responsibilities. Councilor Buehner asked that it specify that Council's job is to be there to listen, answer questions and act as a liaison, but not get involved in or unduly influence their work.

Councilor Henderson requested that the draft be sent out for review prior to the meeting.

6. 9:04:01 PM COUNCIL LIAISON REPORTS - Assistant City Manager Newton said registration was open for the September 23-25 League of Oregon Cities Conference in Eugene. She asked if any Council members were planning on attending. Councilor Henderson said he was and would not need accommodations. Councilor Webb said she would not be attending. Councilor Buehner said she would probably attend only the Friday meetings. Mayor Dirksen said he would only be attending the Mayor meetings on Thursday, and said if the City of Tigard wins an award, Councilor Henderson could accept it on behalf of the City.
7. NON-AGENDA ITEMS – There were none.
8. EXECUTIVE SESSION –There were none.

9. ADJOURNMENT

At 9:19:24 PM Councilor Buehner moved to adjourn the meeting and Councilor Webb seconded the motion. All voted in favor.

	Yes	No
Council President Wilson	x	
Councilor Buehner	x	
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	

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Carol A. Krager, Deputy City Recorder

**Attest:**

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Mayor, City of Tigard

Date: \_\_\_\_\_

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# City of Tigard Tigard Business Meeting - Minutes

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## TIGARD CITY COUNCIL LOCAL CONTRACT REVIEW BOARD (LCRB)

**MEETING DATE/TIME:** July 27, 2010 – 6:30 p.m. Study Session; 7:30 p.m. Business Meeting  
**MEETING LOCATION:** City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

### STUDY SESSION

Mayor Dirksen called the meeting to order at 6:30 p.m.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Councilor President Wilson	✓	
Councilor Buehner	✓	
Councilor Henderson	✓	
Councilor Webb		✓

Staff Present: City Manager Prosser, Assistant City Manager Newton, Community Development Director Bunch, Assistant Community Development Director Harnett, Public Works Director Koellermeier, Associate Planner Caines, City Attorney Hall, City Recorder Wheatley

#### 1. DISCUSS PARK BOND RESOLUTION

Jason Rogers of the Park and Recreation Advisory Board (PRAB) was present.

Public Works Director Koellermeier facilitated the discussion on this agenda item. He reviewed the process including the fact that City Council members have had an opportunity to review and submit suggestions for the resolution and bond measure wording. Adjustments suggested by the City Attorney’s office have been incorporated into the proposed resolution.

Council President Wilson said he had no additional comments other than his previously expressed concern about the amount of the bond measure. He indicated that he would not oppose the proposed resolution at the time of City Council consideration.

Trust for Public Lands (TPL) has also reviewed the language and their comments were incorporated. TPL’s comments were because of their polling information.

Public Works Director Koellermeier advised that the proposed resolution is set up for a public hearing and consideration by the City Council during tonight’s business meeting.

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### TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010

Mayor Dirksen asked PRAB Member Rogers if there would be an opportunity in the near future to provide specificity about property purchases. Mr. Rogers advised that at the September and October PRAB meetings, the Board would begin to identify specific pieces of property in the City including some of the ideas suggested by TPL.

## 2. ADMINISTRATIVE ITEMS

- COUNCIL CALENDAR:
  - August 10, 2010 - Business Meeting; 6:30 Study Session; 7:30 Business Meeting
  - August 17, 2010 - Workshop Meeting; 6:30 p.m.
  - August 24, 2010 - Meeting Cancelled
- Assistant City Manager Newton advised that National Night Out is July 20, 2010. She distributed information regarding the activities planned by neighborhoods.

City Manager Prosser reviewed the citation for calling an Executive Session.

EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:37 p.m. for consultation with legal counsel concerning current and pending litigation under ORS 192.660(2)(h).

Executive Session concluded at 7:16 p.m.

## 3. BUSINESS MEETING

3.1 Mayor Dirksen called the meeting to order at 7:32 p.m.

### 3.2 Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Councilor President Wilson	✓	
Councilor Buehner	✓	
Councilor Henderson	✓	
Councilor Webb		✓

3.3 Pledge of Allegiance

3.4 Council Communications & Liaison Reports None

3.5 Call to Council and Staff for Non-Agenda Items None

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## TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010

#### 4. CITIZEN COMMUNICATION

##### 4.1 Follow-up to Previous Citizen Communication

[7:34:19 PM](#)

City Manager Prosser advised that at the last business meeting a person raised a question about the rental of City meeting rooms, which the City is no longer doing because of budget cutbacks. Staff has contacted Mr. Blodgett and he is now aware of rooms available through TVF&R and the Tigard Chamber of Commerce. Staff will continue to talk to Mr. Blodgett about the City's room rental policy; we do not have a solution yet.

##### 4.2 Tigard Area Chamber of Commerce, Executive Director Debi Mollahan presented a report about current Chamber activities. A copy of a summary of her report is on file with the Council meeting packet materials.

##### 4.3 Citizen Communication – Sign Up Sheet

John Frewing, 7110 SW Lola Lane, Tigard, Oregon advised of his concern regarding the publicity for an upcoming Planning Commission hearing. On August 16, the Planning Commission will hear a proposal to amend the Comprehensive Plan to eliminate Goal 5 protection for the corridor around Fanno Creek near Wall Street. It is expected that at a later date there will be an application for Wall Street to cross Fanno Creek. This has been discussed and turned down for many years. The current draft of the TSP does not show Wall Street going over Fanno Creek, which he said he thinks is great. He is concerned that the public does not know that on Monday, August 16, 7 p.m., there will be a hearing on this matter.

[7:36:42 PM](#)

Mayor Dirksen reviewed the following Consent Agenda:

#### 5. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board.

##### 5.1 Approve City Council Meeting Minutes for:

- a. April 13, 2010 (Councilor Henderson to abstain from voting on the April 13, 2010 Council minutes)
- b. April 20, 2010
- c. April 27, 2010
- d. May 11, 2010

##### 5.2 Local Contract Review Board:

- a. Award Contract for Pavement Management Program Slurry Seal to Asphalt Maintenance Associates, Inc.

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### **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

5.3 Amend the 2010-11 Master Fee Schedule to Create a Special Rate for Temporary Uses in the MU-CBD Zone and Tiers for Development Code Provision Review Fee - Resolution No. 10-38

- RESOLUTION NO. 10-38 - A RESOLUTION TO AMEND THE MASTER FEES AND CHARGES SCHEDULE AS ADOPTED BY RESOLUTION 10-30 TO INSTITUTE A REVISED FEE FOR TEMPORARY USE PERMIT FEES IN THE MU-CBD ZONE AND TO CREATE TIERS FOR THE DEVELOPMENT CODE PROVISION REVIEW FEE APPLIED TO TENANT IMPROVEMENT PROJECTS IN COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL DEVELOPMENT

5.5 Approve Amendment to the Intergovernmental Agreement with Washington County and the Oregon Department of Transportation to Record Revised Funding of the Pacific Hwy/Hall Blvd Project

5.6 Authorize the City Manager to Sign the Dedication and Easement Documents Needed for the Burnham Street Reconstruction Project

5.7 Appoint and Set Terms for Transportation Advisory Committee Members - Resolution No. 10-39

- A RESOLUTION APPOINTING STEVEN W BASS II, DON FOX, MAUREEN JEFVERT WOLF, AND MIKE STEVENSON AS VOTING MEMBERS OF THE TRANSPORTATION ADVISORY COMMITTEE; APPOINTING KAREN HUGHART AS AN ALTERNATE AND ESTABLISHING TERM EXPIRATIONS FOR ALL TRANSPORTATION ADVISORY COMMITTEE MEMBERS

➤ Item 5.4 was removed from the Consent Agenda for separate discussion.

Motion by Councilor Buehner, seconded by Councilor President Wilson, to approve the Consent Agenda with Item 5.4 removed for separate discussion.

Councilor Henderson advised he would be abstaining from casting a vote on Consent Agenda Item No. 5.1 a; he was not present at the April 13, 2010, City Council meeting.

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes (Except abstained from voting on Item No. 5.1a)
Councilor Webb	Absent

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## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

[7:39:34 PM](#)

Council discussed Consent Agenda No. 5.4:

5.4 Approve Intergovernmental Agreement with the Oregon Department of Transportation for Study of Potential Improvements to the Pacific Hwy 99W / Gaarde St / McDonald St Intersection

Councilor President Wilson advised he asked for this item to be removed for separate discussion because it is a significant project and should have attention called to it. Councilor President Wilson said he also wanted to raise couple of minor concerns. Highway 99 is an Oregon Department of Transportation highway. Tigard has been working for years to get improvements to Highway 99. Hall Boulevard intersection improvements were funded primarily with MSTIP funds, which is Washington County money funded through property taxes. The Greenburg Road/Main Street intersection was funded through the City's recently adopted gas tax. This project (Pacific Hwy 99W / Gaarde St / McDonald St Intersection) is the first \$1 million towards improvement to this intersection and the first significant funding from the Oregon Department of Transportation for capacity improvements for possibly as long as 30 years. Councilor President Wilson said he hopes there is much more to follow from the Oregon Department of Transportation.

The concern Councilor President Wilson raised was that at this point there is \$1 million; however, the estimate is that this intersection will cost between \$5-6 million. The first \$150,000 is being spent to define the scope of the project. He said he would like more information as to where that \$150,000 figure came from when, after reading the work scope, it became apparent that the document was a "boiler plate scope" that is applied to all kinds of projects. [7:42:15 PM](#) While Councilor President Wilson said he did not want to hold up the approval of the agreement, he asked that the \$150,000 be monitored closely given that funds are so tight. After a brief discussion with Mayor Dirksen, Councilor President Wilson said at the very least staff should make inquiries to the Oregon Department of Transportation regarding what was to be paid for with the \$150,000 estimate and whether all of the requirements, including studying a no-build alternative (which is out of the question) are needed.

Councilor Buehner commented that in her experience, the preliminary planning costs amount to 10-15 percent of the engineering dollars for a project. Therefore, the \$150,000 appears to be "in the ballpark". Councilor President Wilson responded that his experience has led him to believe that funds can sometimes be better spent.

Motion by Councilor Henderson, seconded by Councilor President Wilson, to approve Consent Agenda Item 5.4.

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**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

[7:45:32 PM](#)

6. PUBLIC HEARING -- CITY COUNCIL CONSIDERATION OF A BALLOT MEASURE REGARDING A PARK BOND MEASURE FOR THE NOVEMBER 2, 2010, GENERAL ELECTION

The purpose of the hearing is to consider a resolution to authorize an election on November 2, 2010, seeking City of Tigard voter approval to issue general obligation bonds up to the value of \$17 million to fund acquisition, development and preservation of land.

- Mayor Dirksen opened the Public Hearing [7:46:08 PM](#)
- Review Hearing Procedures: City Attorney Hall reviewed the hearing procedures
- Declarations or Challenges: Does any Council member wish to declare or discuss a conflict of interest or reason for abstention? No declarations or challenges were made.
- Staff Report

Public Works Director Koellermeier presented the staff summary of this item. A copy of the agenda item summary is filed with the Council meeting packet materials.

[7:50:37 PM](#)

- Public Testimony
  - Proponents: No one testified.
  - Opponents

**Cleo McCleod**, 11710 SW 134<sup>th</sup> Terrace, Tigard, Oregon 97223 testified that she is unhappy with the added taxpayer cost the City Council is contemplating for Tigard citizens and taxpayers and referred to the previous park bond levy issue. She said it seemed to her that this matter had already been decided by the voters and rejected. While the amount was reduced to \$17 million, combined with the costs of the “doubling of the water rates and the increased street maintenance fees, I feel you are going overboard.” She cited the increase to the street maintenance fee accompanied by shifting a greater share of the burden to residential customers. The timing for asking for a park bond is wrong and unreasonable given the national and local

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**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

economic situation. She said that the Mayor frequently acknowledges the City and County are experiencing tough times; however, she said she does not believe “your actions speak to that.” She asked that the City Council set aside the \$17 million park bond issue for another day.

**John Frewing**, 7110 SW Lola Lane, Tigard, Oregon [7:53:59 PM](#) said he opposed the bond measure a year ago, as he was concerned about the specificity regarding how the money would be spent. Additional comments by Mr. Frewing included the following:

- The proposed resolution before the City Council this evening does not address specificity issues.
- The resolution mentions “preserving and protecting” open space but gives no indication how much funding will be dedicated for this purpose.

Mr. Frewing said he would like to support the bond measure if specificity can be added so we know whether we are going to spend the money on open space, clean water, trails, natural areas, or developed parks.

**Alexander Craghead**, 12205 SW Hall Boulevard, Tigard, Oregon advised he was before the City Council as the Chairman of the City Center Advisory Commission. He said the CCAC was in favor the parks bond proposal under consideration by the City Council. Comments by Mr. Craghead included the following:

- Discussions have been held regarding increasing the density in the downtown area, making it a residential center. Additional parkland is needed to make this a success for those living in apartments and condominiums.
- CCAC has been following the activities of the Park and Recreation Advisory Board (PRAB) as they developed the proposal for the bond measure. Within the current proposal, 10 percent of the bond proceeds would be used for purchases of park/open space in the downtown. While the CCAC would like more money, they were in support and would like to see the measure pass. CCAC members understand that the money from the bond for downtown would be used to purchase open space. CCAC acknowledges that there are many needs for park and open space land acquisitions throughout the entire city.
- On June 9, 2010, the CCAC voted (7-2) to endorse the plan as PRAB has put it forward to the City Council with a 10 percent cap for downtown.

[8:00:48 PM](#)

**Jason Rogers**, 11035 SW Summerlake Drive, Tigard, OR 97223 and **Holly Polivka**, 14435 SW Beef Bend Road, Tigard, OR 97224 testified as members of the City of Tigard Parks and Recreation Advisory Board. The proposed bond measure

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## TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010

resolution before the City Council came from numerous hours of hard work and many meetings. Mr. Rogers's comments included the following:

- PRAB members were sensitive to the desire for specificity identifying the purpose of the bond measure. Some identifying language was removed from the ballot measure proposals in recognition of a more balanced approach. Land prices are low now. The preservation of land within the City is very important. PRAB's thought was to keep the bond measure language flexible and open to allow the opportunity to seek out and buy land as it became available.
- He urged the City Council to support the proposed bond measure.

Ms. Polivka referred to the concerns about proposing another bond measure after the failure of the parks bond measure last year. She said they would like to present the proposal to the voters one more time in a reduced amount to determine if the voters are willing.

8:03:05 PM

- Staff Recommendation: Public Works Director Koellermeier advised that staff recommends that the City Council consider the resolution.
- Council Discussion:
  - Councilor Buehner noted that about 80 percent of the bond proceeds would be dedicated to buying land. Mr. Koellermeier confirmed the split would be:
    - 80% for acquisition
    - A maximum of 20% for development
    - A subset of the 20% would be dedicated to the downtown area

Mr. Koellermeier referred to the specificity issue on Exhibit A and reminded the City Council that we are severely limited on the amount of words on ballot titles and captions. Discussion followed on changing the Summary to add more specific language, identifying the percentages as presented above.

City Manager Prosser suggested an alternative to including additional language into the summary would be to add the specificity to the resolution. Mayor Dirksen agreed this could be considered; however, his preference would be to include the language in the measure.

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**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

Mayor Dirksen suggested the following changes to the bond measure:

1. In the first sentence in the summary, change the order of land acquisition and restoration and capital construction and improvement. He clarified he wanted land acquisition and restoration listed first.
2. After the first sentence, he said he would like wording to indicate that 80% of the money would be reserved for acquiring and preserving open space, etc. – protect creeks and streams and then state that 20% would be to create and improve community parks, recreate....

Council President Wilson reiterated said he feels \$17 million is a little high. He referred to Mrs. McCleod's testimony. The voters have said "no" once and the City does not have the luxury of countering with reduced increments several times. Since this is our final offer to the City, if we do not come down a significant amount, he fears the public might tell us "no" again. Council President Wilson said he thinks the Council has interpreted the 53-47% split of yes/no votes on the last bond measure was reflective of a low voter turn-out. He said he respects the voters. We are a democracy and we are run by those who participate. He said he would be more comfortable with \$15 million being the amount of the bond measure and we "could even do a lot with \$10 million." He said his goal all along has been to acquire at least two significant park sites. Along with Cook Park, if Tigard had three regional parks, this would be a legacy that "would be with us forever and we are in danger of losing this if we push too hard."

Councilor Henderson said this is not just raising taxes; this is giving the public an opportunity to take another look at it. The City has a big challenge explaining to the voters what this funding would be used for and then carrying it out. This would plug a large hole and he would like the public to vote on this. He said the close vote previously was "our fault for not being able to explain more clearly what this was going to be used for and I hope we can do a better job this time."

Mayor Dirksen addressed some of the comments made during public testimony:

- He understands Mrs. McCleod's feelings and it is a difficult decision for the Council to ask voters at this time. There's never a really good time. One of the things about a down economy, is it is difficult for everyone, but it also opens opportunities. Essentially all of the land is "on sale." It will be considerably more expensive if we wait until the economy has improved.
- He said he is concerned that if we wait until the economy improves significantly, it will also improve for the housing market and for the development community. A lot of the property that we would hope to preserve as open space in the public sector would be in danger of development before we could "get our hands on it."

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## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

- Tigard citizens are now under-served by parks. We only have a little over eight acres per thousand population when it should be eleven to twelve acres by the national standard.
- We should not be satisfied with the park system we have. We need to have a park system for now and for the future. The proposed bond measure would let us take advantage of the opportunities in spite of the difficulties. Now makes more sense than waiting and risking what the future might bring.
- Council President Wilson's concerns about the amount of the bond measure are compelling and the Mayor said he has mixed feelings about the amount of the bond measure. He said \$17 million is not adequate for our needs; however, we cannot afford more. Everyone on Council has felt the effects of the recession but are still compelled to move forward now and "make our best case to the people and let the people decide."

After discussion, several members of staff and the City Attorney left the meeting to revise language of the bond title to add specificity. The City Council considered Agenda Item No. 7 and delayed consideration of the resolution until later in the meeting.

9:27:19 PM

Public Works Director Koellermeier called the City Council's attention to the proposed Summary of the Bond Measure Resolution. Changes to language were limited to wording in the exhibit to the resolution. There was discussion on the proposed resolution.

Mr. Frewing referred to the first bullet in the Summary of Exhibit A and suggested it read as follows:

- 80% or more to acquire *land to* preserve open space, parklands...

Motion by Councilor Buehner, seconded by Council President Wilson, to replace Exhibit A originally presented with the proposed resolution with the revised Exhibit A distributed by staff, with one change in the first bullet point under the Summary by adding the words *land to* after the word *acquire* and delete the word *and*.

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

9:35:40 PM

Motion by Councilor Buehner, seconded by Councilor Henderson, to approve Resolution No. 10-40.

**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

RESOLUTION NO. 10-40 – A RESOLUTION OF THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON CALLING A MEASURE ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF CONTRACTING GENERAL OBLIGATION BONDED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17 MILLION TO ACQUIRE OPEN SPACES, PROTECT CLEAN WATER AND IMPROVE PARKLAND; DECLARING INTENT TO REIMBURSE EXPENDITURES; AND RELATED MATTERS.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

[9:37:03 PM](#) Mayor Dirksen directed the City Council to Agenda Item No. 10 at this time.

[8:16:51 PM](#)

7. CITY COUNCIL CONSIDERATION OF AN ORDINANCE UPDATING TIGARD MUNICIPAL CODE 9.04 - PARK FACILITY RESERVATIONS, GENERAL PROVISIONS

- Staff Report: Parks Manager Martin presented the staff report. This section of the TMC was last updated in 2003 and an update is needed to reflect current practices; this ordinance was characterized as a “housekeeping” action.
- ORDINANCE NO. 10-09 -- AN ORDINANCE UPDATING TIGARD MUNICIPAL CODE CHAPTER 9.04 PARKS, GENERAL PROVISIONS

Motion by Councilor Buehner, seconded by Councilor President Wilson, to adopt Ordinance No. 10-09.

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

[8:19:45 PM](#)

8. QUASI-JUDICIAL PUBLIC HEARING - JAPANESE INTERNATIONAL BAPTIST CHURCH ANNEXATION (ZCA2010-00001)

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**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

**REQUEST:** A request to annex approximately .44 acres of property, plus right-of-way on SW Spruce Street (approximately .34-acres) to the City of Tigard.

**LOCATION:** 8512 SW Spruce Street, east of SW Hall Boulevard; Washington County Tax Assessor's Map 1S135AD, Tax Lot 02700, plus Adjoining Right-of-Way.

**COUNTY ZONE:** R15: Residential, 12 units/acre minimum density, 15 units/acre maximum density. The intent and purpose of the R15 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than fifteen (15) units per acre and no less than twelve (12) units per acre, except as otherwise specified by Section 3002 or Section 3005 of the Washington County Community Development Code.

**EQUIVALENT CITY ZONE:** R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multifamily housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

**APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1.1, Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 14; ORS Chapter 222; Metro Code Chapter 3.09; and Statewide Planning Goals 1, 2, 11 and 14.

- Mayor Dirksen opened the public hearing.
- City Manager Prosser reviewed the hearing procedures.
- Declarations or Challenges
  - Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits? No
  - Have all members familiarized themselves with the application? Yes
  - Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council? None

- Staff Report:

Associate Planner Caines reviewed the staff report, which is on file in the Council meeting packet materials.

- Public Testimony [8:34:01 PM](#) None
- Staff Recommendation: Associate Planner Caines advised that staff recommends approval of the annexation as presented in the proposed ordinance.
- Mayor Dirksen closed the public hearing. [8:34:37 PM](#)

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## TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010

- Council discussion:

[8:34:45 PM](#)

Councilor Buehner noted that part of the right of way in front of the neighboring house is already annexed to the City. With this annexation, there would only be a small piece of property left outside the City. Mayor Dirksen noted the purpose of bringing in the right of way is so the City could provide services and he said it would make sense to have the right of way annexed up to the major intersection with Hall Boulevard.

Councilor President Wilson said he was comfortable with staff's recommendation for annexing the street and was uncomfortable with the R-25 designation given that this is so much higher than the surrounding property. He said he would prefer that this property be designated as R-12.

Associate Planner Caines said this issue was addressed with the applicant. Staff also reviewed the Urban Planning Area Agreement with Washington County. The applicant was not opposed to the designation of R-12 but this represented a timing issue because either a Comprehensive Plan amendment or a zone change would be required. The Agreement the City has with Washington County states that annexed land would be brought in with the designation that is the closest to the County's and it would remain that designation for at least a year. This is something that could be considered in the future.

Discussion followed on the zoning designation and the City Council consensus was not to address this issue and hold up this annexation request. This matter of incompatible zoning to adjacent properties is to be reviewed for this property at a later date. Mayor Dirksen said he would like to "push a little bit harder than waiting for a whole year" and that the City initiate a discussion with the County to get approval to allow a zone change to R-12. He referred to a zoning chart, which seems to be inflexible and he suggested that staff review and propose a change that when there is a transfer from the County to the City that the City be able to choose between either the zoning immediately above or below, assuming there isn't a zoning that matches "straight across." Mayor Dirksen spoke of possible criteria; i.e., neighborhood compatibility and consideration of future plans. [8:44:26 PM](#) Councilor President Wilson said the downside to the Mayor's suggestion is that it removes the certainty that developers like; however, he agreed the City Council should discuss this matter.

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## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

- Council Discussion and Consideration: Ordinance No. 10-10

ORDINANCE NO. 10-10 -- AN ORDINANCE ANNEXING .78 ACRES OF LAND, INCLUDING ONE (1) PARCEL AND RIGHT OF WAY, APPROVING THE JAPANESE INTERNATIONAL BAPTIST CHURCH ANNEXATION (ZCA2010-00001) AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT

Motion by Councilor President Wilson, seconded by Councilor Buehner, to adopt Ordinance No. 10-10.

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

[8:45:56 PM](#)

## 9. REVISIONS TO THE CODE COMPLIANCE PROGRAM UPDATE AND DISCUSSION

Assistant Community Development Director Hartnett presented the staff report. Information included:

- A review of changes within the Community Development Department as a result of recent budget cuts.
- Additional changes being made for improvements in Code Compliance services.
- Introduced Tim Lehrbach, Temporary Planning Assistant Intern, who demonstrated the new online services for the City Council.
- The Code Enforcement Officer position was eliminated for cost savings. The program was evaluated as a whole to determine if the right kinds of services were being provided in the right way in a cost-effective manner.
- Reviewed the changes to in-take of requests for code compliance actions. These actions related to the Building Code, Housing Code, Nuisance Code and the Development Code.
- Historically requests were received in a variety of ways and were not well managed or organized.
- Cases are entered into the Accela Permit Tracking System, which provide the opportunity to link the public directly to the Accela System to input information about code compliance cases.

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## TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010

- In response to a question from Councilor Buehner, Assistant Community Development Director Hartnett reviewed the security of the system. The Accela System is hosted by the company that sells the software. The interface between the *Accela Citizen Access* and the public is through Accela's servers. This interface is used by many cities and the State of Oregon will be using it for their system.
- Assistant Community Development Director Hartnett demonstrated the computerized process to submit action requests for code compliance services along with the procedure that follows once a case has been submitted.
- Anything submitted through the system becomes public record.
- In response to a question from Councilor Buehner about whether someone could bring in photographs should they not know how to download them to the computer, Assistant Community Development Director Hartnett said staff could add to the instructions that photos can be mailed or delivered to the Community Development Department.
- For signs that should not be in the right of way, Assistant Community Development Director Hartnett described the proposal for abatement as a solution for many of the nuisance violations the Community Development Department deals with.
- For signs on private property, Assistant Community Development Director Hartnett said at this point, this is a Development Code violation (not a Nuisance Code violation). This violation would be addressed by a Planning staff member. She advised one City Planner responsible for in-taking the Development Code cases and several Planners are assigned new cases as they come in for follow up. Councilor Buehner said there are a number of signs on publicly owned property (near a water reservoir). Assistant Community Development Director Hartnett said property owners have the right to remove signs if they did not agree to have those signs there.
- Lengthy discussion occurred on process.
- [9:06:15 PM](#) Councilor President Wilson said the ordinance should be easily accessible so citizens can determine whether something is in violation. Assistant Community Development Director Hartnett explained that issues are still being worked through as this new process is implemented.
- In response to a comment by Councilor President Wilson, Assistant Community Development Director Hartnett said wording could be added at the beginning of the online procedures instructions that there are five steps that must be completed to submit a compliance action request.

Abatement was reviewed by Assistant Community Development Director Hartnett: [9:08:29 PM](#)

- The Code Compliance system has been designed to let people know quickly that there is a problem and give them an opportunity(ies) to respond and correct.
- If compliance is not obtained after several notices of violation, the person is cited into the Municipal Court. The Judge has the ability to levy fines and order that the property be brought into compliance. There are circumstances where compliance is achieved even after the Judge has issued orders.

## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

- There are a number of cities in Oregon that use an abatement approach. After the property owner is given a notice and a certain amount of time to respond to take care of the violation, the City's contractor or staff address the situation. Some jurisdictions use abatement for nuisance and others use abatement for housing violations also. The property owner is charged for the work and an administrative fee might be added. Some jurisdictions charge a fee for being out of compliance for a certain amount of time or for repeat violations.
- In response to a question from Councilor Buehner, Assistant Community Development Director Hartnett advises the City's Code currently allows for a collection agency to collect the fee or a lien can be placed on the property. She described approaches that could be implemented. Councilor Buehner noted concerns about the value of the approach when dealing with a small amount of money. Assistant Community Development Director Hartnett advised that in presenting a full set of options, we would be talking about either some thresholds or some means by which someone could request having those fees rescinded.
- Assistant Community Development Director Hartnett said she was looking for feedback from the City Council whether staff is moving in the right direction by trying to shift away from the citation into court, court order, and abate to fix the problem. After direction is given, there are a number of areas that need work and direction. There is money in this year's budget and staff plans to use part of these funds to further the investigation to prepare a set of Code amendments to allow the City to move forward to a more efficient abatement approach. Councilor Buehner suggested for some instances, it might be good to use the Small Claims Court process.

Council comments regarding the proposed approach described by Assistant Community Development Director Hartnett:

- Councilor Buehner said she would talk to Assistant Community Development Director Hartnett "offline" about some ideas she has.
- Council President Wilson said he likes the efficiency aspect of the proposal. He said he has mixed feelings about the approach because we tend to deal more with people who have circumstances they are dealing with; i.e., health problems, elderly, or simple neighborhood issues (small scale). He said he would want to proceed in a way that allows us to have patience with people and if this is possible, he would support that approach.
- Mayor Dirksen said he likes the online approach for the compliance matters. He has been concerned about how we were going to deal with the loss of the Code Compliance Officer. Code Compliance is an important aspect of keeping a city looking nice. He said this appears to be a good approach. The goal is not to get people in trouble and involved in the judicial system. The goal is to resolve the issue by taking care of it and then sort out how it is paid for after the fact. He agreed with Council President Wilson's observations about the need for sensitivity for people's circumstances.
- Councilor Henderson expressed concerns for people who are unable to work on a computer. If the plan is to have someone talk to a staff person, would they need to

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## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

come down to City Hall? Assistant Community Development Director Hartnett said staff is working on a hard copy input form, which has been mailed out to a few people already. These forms are being updated and improved. For people who do not have computer access, they can use a computer in City Hall, the Library, or use the hard copy form. Staff will enter the information from the hard copy into the Accela System. Councilor Henderson said he would like to have the system in place for a short while and then review it.

- Assistant Community Development Director Hartnett explained if the consensus of the City Council is to move forward with an abatement approach, they will return to the City Council with additional detail before finalizing Code language and fully implement. Because of the number of houses in foreclosure or where people have abandoned their houses, there might be a period of time before we can do very much other than acknowledge people's frustrations and keep them informed about the progress of the system being developed and put into place.
- Assistant Community Development Director Hartnett said a number of jurisdictions address special hardship circumstances by attempting to connect people to the correct social service agencies to assist. She said she would like to see the City of Tigard do more of this.
- Assistant Community Development Director Hartnett asked City Council members if they were interested in staff pursuing the idea of imposing fees for people who are not in compliance for too long or have multiple violations. City Council agreed to have staff prepare a proposal for fees.

[9:27:15 PM](#) (City Council returned to Agenda Item 6 to consider a proposed resolution for a Bond Measure.)

[9:37:04 PM](#)

#### 10. SECOND QUARTER COUNCIL GOAL UPDATE

Assistant City Manager Newton summarized the progress on goals as summarized in the Council packet materials.

#### 11. COUNCIL LIAISON REPORTS

#### 12. NON AGENDA ITEMS

[9:40:08 PM](#)

The Executive Session discussion was set over to the August 10, 2010, City Council meeting:

13. EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to review and evaluate the City Manager under ORS 192.660(2) (i). Not held.

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## **TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**

[9:42:35 PM](#)

14. ADJOURNMENT

Motion by Councilor President Wilson, seconded by Mayor Dirksen, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Absent

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Catherine Wheatley, City Recorder

Attest:

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Mayor, City of Tigard

Date: \_\_\_\_\_

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**TIGARD CITY COUNCIL/LCRB MINUTES – July 27, 2010**



# City of Tigard

## Tigard Business/Workshop Meeting - Minutes

Agenda Item No. 3.A.3  
Meeting of Oct. 24, 2010

### TIGARD CITY COUNCIL LOCAL CONTRACT REVIEW BOARD (LCRB)

**MEETING DATE/TIME:** August 17, 2010 – 6:30 p.m. Business/Workshop Meeting  
**MEETING LOCATION:** City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

### BUSINESS MEETING

6:30:59 PM Mayor Dirksen called the meeting to order and announced that the first part of the meeting is a Business Meeting and the second part is a Workshop.

Deputy City Recorder Krager called the roll:

	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	
Council President Wilson	x	
Councilor Buehner	x	

Pledge of Allegiance

Council Communications & Liaison Reports – Councilor Buehner reported that she attended the St. Anthony’s Festival on Sunday and took along prescription discount cards for distribution to residents in attendance

Mayor Dirksen said he attended a “Rails to Trails” project meeting at the old rail bed which runs along Tigard Street north of downtown and links Main Street with the Fanno Creek Trail. In attendance were representatives from ODOT, ODOT Rail, Portland and Western Railroad, Tri-Met, Representative Doherty, Senator Burdick, and Washington County Chair Brian. He said they discussed the opportunity to convert the abandoned rail bed into a trail. He complimented the City’s graphic illustrations showing the vision for the corridor. He said the question was posed: is this of value and what do we need to do to make this happen? Portland and Western Railroad General Manager Russ spoke and said they have determined that this land is excess and they are willing to abandon it. ODOT owns the land and will need to declare it as surplus. Mayor Dirksen said that within the year Tigard should be able to begin the design process turning it into a bike/pedestrian trail.

6:35:21 PM Call to Council and Staff for Non-Agenda Items - None

#### 1. CONSIDER APPROVAL OF PARKS BOND BALLOT MEASURE EXPLANATORY STATEMENT

6:35:35 PM Mayor Dirksen noted that this information was in the Council packets and asked Council if they had a chance to review it. They indicated that they had. Assistant Public Works Director Rager said the material for the ballot title has been submitted and the appeal period ended on August 5, 2010.

The next step is approval and adoption of the Explanatory Statement which needs to be adopted by Council Resolution. There were no questions from Council. Mayor Dirksen said it was concise and clearly states our objectives. Council President Wilson moved to approve Resolution 10-43 and Councilor Henderson seconded the motion.

	<u>Yes</u>	<u>No</u>
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	
Council President Wilson	x	
Councilor Buehner	x	

Resolution No 10-43 - A Resolution of the City of Tigard, Washington County, Oregon Approving the Explanatory Statement for City of Tigard Bond Measure #34-181 passed unanimously.

Councilor Buehner commented that the Parks and Recreation Board supported this bond measure and she felt citizens were supportive as well. Mayor Dirksen said he agreed and said this was the best opportunity to pick up these properties while they are still available.

2. LOCAL CONTRACT REVIEW BOARD: AWARD PERMIT CENTER ROOF CONTRACT

Councilor Henderson recused himself from voting on this item.

6:39:01 PM Senior Management Analyst Barrett introduced this item. He said the contract is for the re-roof of the Permit Center and staff recommends awarding it to McDonald and Wetle, Inc. in the amount of \$282,500. He said the existing roof has failed and as the Permit Center has been determined to be a long-standing building in the City's Facilities Master Plan, staff has determined that a new roof is critical. He said a grant was secured from the Department of Energy to replace the roof in the amount of \$230,500. Senior Management Analyst Barrett said the bids came in over the estimate and will be handled by a change order reduction in scope, removing a non-essential parapet wall. Mayor Dirksen asked if this contract will do more than just replace the existing roof. Management Analyst Barrett said the roof will be Energy Star compliant and will result in a 13 percent reduction in energy use.

Councilor Buehner moved that the Local Contract Review Board approve the award of this contract to McDonald and Wetle, Inc. in the amount of \$282,500. Councilor Webb seconded. A vote was taken. Motion passed with four in favor and one abstention.

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Dirksen	x		
Councilor Henderson			x
Councilor Webb	x		
Council President Wilson	x		
Councilor Buehner	x		

3. CONSIDER BUDGET APPROPRIATION TRANSFER FOR THE PERMIT CENTER ROOF – RESOLUTION NO. 10-44

6:41:54 PM Assistant Finance Director Smith-Wagar said this project was budgeted last fiscal year but could not be done due to unusually wet weather. Because it was budgeted last fiscal year, it did not get into the current year's adopted budget. She said the General Fund will be reimbursed when the grant funds come in. She said the dollar number is slightly different than the bid and is the same amount that was in the budget last year.

6:43:19 PM Councilor Henderson asked about the \$13,000 taken out of the contract for the parapet wall. He asked if the City would be hiring someone to do that work. Senior Management Analyst Barrett said there is in-house expertise to do this work.

In response to a question from Councilor Henderson, City Manager Prosser said when staff is used their time is already built into the budget. Councilor Henderson asked if Council would be approving the \$52,000 difference between the project cost of \$282,500 and the \$230,500 contract. Councilor Webb said, and City Manager Prosser confirmed, that the \$52,000 was saved from last fiscal year.

It was moved by Council President Wilson to approve Resolution No. 10-44. Councilor Webb seconded the motion.

	<u>Yes</u>	<u>No</u>
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	
Council President Wilson	x	
Councilor Buehner	x	

Resolution No. 10-44 – A Resolution Approving Budget Amendment #1 to the FY 2010-11 Budget to Increase Appropriations in the Facilities Fund to Allow for Replacement of the Permit Center Roof – passed unanimously.

#### 6:50:06 PM WORKSHOP MEETING

#### 4. DISCUSS PHOTO ENFORCEMENT AND RED LIGHT CAMERA OPTIONS FOR TRAFFIC SAFETY

Police Chief Orr said he and Assistant Chief Bell were present to give a neutral report on these options for traffic enforcement in Tigard. He said Assistant Chief Bell is Tigard's traffic commander and resident expert. He wrote the RFP for City of Portland, testified before various legislative sub-committees and in several courts regarding the legality of photo radar.

Photo radar requires an officer in the van. Portland and Beaverton have photo radar in use. These vans are set up in places where there is a common speeding problem and can be moved around. There are specific guidelines for posting photo radar signage informing drivers that this is in use in the municipality.

Pros and Cons: Surveys show that the public generally accepts the photo radar. In Portland school zones the acceptance rate is 89%. Volume can be an issue. An officer can only write three to four violations an hour. Photo radar can write 12-15 an hour. There are ways to structure the vendor contract to make it neutral as far as City funding goes. Speeding is a frequent complaint of neighbors and is the No. 1 factor for car crashes in Tigard. Fatalities in Tigard have all been associated with speed.

Photo Red-Light Radar is not a revenue generator, but can influence traffic habits just by being there. Assistant Chief Bell said the cost of issuing tickets is not recovered. He said the City of Hillsboro is abandoning photo red-light due to feedback and because motorists are no longer running through red lights. Cons include: Officers can offer warnings; photo red light can't. The personal contact is lost. Chief Orr reiterated that personal traffic stops are better because an officer can observe other things such as lack of insurance, suspended license or that the driver is wanted in another state, etc.

A large number of violators are not cited and 21% of photo red light radar tickets given in Beaverton are dismissed.

Councilor Webb asked where red-light radar would be installed in Tigard. Chief Orr said intersections would need to be studied to determine the best location. Traffic accident figures are one factor but there are others as well, such as bus stops that block the view of cars when busses drive by. He said photo radar could be moved around. Assistant Chief Bell

said vendors would do a 24-hours/7-days a week survey of Tigard's intersections to help develop a recommendation on how many red-light cameras would be needed and where they should be installed.

Councilor Henderson asked about coordination with ODOT and Chief Orr said the City would keep them in the loop as any work on Pacific Highway or Hall Boulevard would require their permission.

Council President Wilson commented that rear-end accidents happen more frequently than red-light running. He asked if the Police could come up with a system that measures how close two cars are to each other. Chief Orr responded that Tigard's Police Department will be getting this technology in the near future.

Council President Wilson said he is lukewarm-to-slightly-opposed to the photo radar. He felt the aggressive drivers following too closely are much more dangerous. He said there can be a perception problem with speed in neighborhoods and would rather focus on the dangerous people and leave the others alone.

Chief Orr said he agreed with the comment about perception of speed in neighborhoods. He said the Police Department recently purchased a trailer that takes speed readings but is less obtrusive than the big trailers that show drivers their speed on an LED board. It has shown a speed perception problem in neighborhoods and they also found that the people breaking the speed law often live in that neighborhood.

Councilor Henderson asked how long it takes for a photo radar ticket to be sent to the violator. Chief Orr said they must be mailed within four days and received in ten days. Councilor Webb said the homeless shelter shelter van received a ticket and she saw the photo evidence. She said it was very clear and there was no question it was the shelter's van.

7:35:03 PM Mayor Dirksen read this from the agenda materials, "Studies show this is effective in modifying driver behavior." He said that is the only reason to do this.

Council President Wilson said he agreed with the Mayor but would add, "If it modifies behavior in a way that makes people safer." Assistant Captain Bell said even knowing there is photo-radar encourages people to drive more safely.

7:36:36 PM Councilor Buehner said, "We are in a serious budget crunch. She said she is not convinced that this will make enough difference.

City Manager Prosser said if this increased the number of citations it would increase the workload in Court and this would affect their costs. He said they need to be included in the discussion. Councilor Webb said she is concerned about rising court costs.

Mayor Dirksen asked how much time would be involved to find out what this would cost. Assistant Captain Bell said it would not be difficult to talk to a few vendors and have them do a free survey. Mayor Dirksen said he'd like to see two things:

- 1) Find out the actual costs.
- 2) Add this to the next citizen survey to gauge how citizens feel about this.

5. UPDATE ON REGIONAL TRANSPORTATION PLANNING, INCLUDING A PROGRESS REPORT ON ACTIVITIES RELATED TO HIGH CAPACITY TRANSIT

7:49:50 PM Senior Transportation Planner Gray gave a brief update on regional transportation planning activities. She said the biggest regional activity affecting Tigard is planning for a High Capacity Transit (HCT) corridor between Portland and Sherwood. There is money from ODOT for the study. The closest activity is planning the land use, zoning and station locations for HCT. She said there are several regional projects going on and these require a lot of coordination.

7:52:09 PM She showed a diagram identifying the five individual planning projects underway by the cities of Tigard Tualatin and Portland, Metro, ODOT and TriMet. She noted that the general timeline shows how these projects are happening concurrently and will all be completed into the next three years or so. City staff has been meeting with Tigard's many partners to discuss aspects of scope and timing. She noted that City Manager Prosser has also been meeting with representatives regarding long-range funding needs.

City Manager Prosser said he has been meeting with a HCT policy committee regarding structure of the study and what kind of direction will be given. He reiterated that Metro and TriMet are approaching this HCT study differently than in the past, where they first identified the route and then indicated station locations. He said now we put land use plans in place first and then identify the best places for stations. The group wants a transportation system that supports local land use goals and will bring HCT planning to the next level. He said Metro has identified the Southwest Corridor as the next HCT corridor, after the Milwaukie line is built.

Mayor Dirksen said there is a commitment across the region to support this corridor. He said MPAC and JPACT recommended MTIP funds in the amount of \$850,000, previously identified for other projects such as the I-5/99W connection, be transferred to this project.

8:02:45 PM Councilor Buehner expressed concern that King City is "not at the table" especially regarding station sites. She requested a joint meeting with their Council. Mayor Dirksen agreed and suggested a meeting with all the cities along the route. City Manager Prosser said he would pass this along to Metro.

Council President Wilson requested copies of plans for other HCT projects so he can figure out what product this planning money will produce. Senior Transportation Planner Gray said part of the complexity is the level of detail going into the land use planning. He said he wanted to learn more about the process and is concerned there might be federal processes that are driving things in a certain direction.

Mayor Dirksen referred to Metro's Chief Operating Officer Jordan's comment, "We are as a region, talking about making our region the greatest place. Right now we are the greatest planning place. We need to go beyond the planning and do the things that make this the greatest place." He said he takes that as a commitment from Metro that they want to move forward on this and make it a reality.

## 6. BRIEFING ON PROPOSED USE CLASSIFICATION DEVELOPMENT CODE AMENDMENT (DCA2010-00004)

8:10:30 PM Associate Planner Floyd briefed Council on the classifications and formatting staff is proposing in Development Code Amendment 2010-00004. This large document, which is 122 pages at present, will be coming back to Council for approval at a later date. He noted that the new format was found to be useful by the Planning Commission and they recommend its use. He said this Code Amendment addresses three underlying problems with the existing use classifications:

- Current Chapter language is unclear, with insufficient detail to let some uses be identified and assigned to a category.
- There is an inconsistent level of detail for each category; some have detailed descriptions with many descriptions of their intent while some use categories are a one-sentence description.
- New types of businesses have recently emerged, such as for doggy daycare centers. Other uses were created by new legislation such as beverage container redemption centers.

Associate Planner Floyd said staff looked at the Portland Development Code for guidance in the language and made an effort to keep as much existing language as possible. He said the changes are listed in the Agenda Item Summary.

He said the distinction between personal services and repair services was not clear so staff defined personal services as those that require one visit per transaction. Under repair-oriented retail staff is defined as land uses that required two visits per transaction. Dry cleaners and a few other minor land uses have been moved from personal services to

repair-oriented retail. About 150 property owners in three zoning districts were affected by this, mostly in Metzger and along Scholls Ferry Road. Required Measure 56 notices were mailed out and this generated a few phone calls but no formal comments or complaints. He noted that staff has organized the land uses and simplified some of the chapter hierarchies for ease of navigation.

Councilor Webb said most of the homeless shelters in the region are listed as six weeks or less but Tigard lists Transitional Housing as “less than one month.” She said the reason that other jurisdictions’ codes changed to six weeks rather than one month a few years ago is because it takes people at least 45 days to get any kind of aid from the state or county. Associate Planner Floyd said he will look into this.

Councilor Buehner said she likes the new format and said it will be easier for non-planners to understand.

8:23:25 PM Council President Wilson said he likes it a lot better. He expressed surprise about the dry cleaners and said he couldn’t imagine a neighborhood like Portland’s Pearl District without a dry cleaner. Assistant Community Development Director Hartnett said they are not trying to change how regulations are applied on the land right now. She said the underlying question is why are we excluding “repair-oriented” uses from that zone. What were we thinking the impacts were? She said staff is not trying to answer this question with this project and can look at this later. She said staff is just trying to get some basis to place this business in the right operating category. Council President Wilson asked if there wasn’t a national database of land use categories and asked, “Do we have to make this up by ourselves?” Assistant Community Development Director Hartnett said she was not aware of this list but will search for the information.

8:27:22 PM Mayor Dirksen said there was an issue with the Fanno Creek House property because it was a house on City park property. There was no classification to cover something like this. Associate Planner Floyd said some categories seemed arbitrary and staff may create more new categories in the future.

Mayor Dirksen stressed the need to make sure this code is flexible and inclusive so every use is covered. He said he agreed with the new structure and thought it was more understandable.

## 7. DISCUSS DRAFT CODE OF CONDUCT FOR BOARD/COMMISSION/COMMITTEE MEMBERS

Assistant to the City Manager Mills and Senior Management Analyst Wyatt presented this item. Assistant to the City Manager Mills said Council had asked staff to look at a code of conduct for board and committee members as well as one for Council. She said the discussion tonight would just address board and committee members. Last month’s discussion directed staff to show groundrules such as Glendale, California’s, which were friendlier in tone.

8:34:08 PM Senior Management Analyst Wyatt discussed the draft Code of Conduct. He said the second part of the Code is modeled on “A Place to Call Home” and reflects the City’s Values.

Assistant to the City Manager Mills asked Council for their comments on the sanctions and violations section.

8:36:37 PM In response to a question from Council President Wilson on “the insecurity of notes,” Assistant to the City Manager Mills clarified that it meant Council should be aware of the public nature of written documents. City Manager Prosser commented that we might want to be more clear to members of boards and committees that anything written can be requested by a member of the public.

Councilor Buehner suggested that boards and committees be told to keep two separate calendars, one for their personal or business use and one for board and committee activities. Assistant to the City Manager Mills said that was up to the discretion of the member.

Assistant to the City Manager Mills said it is important to state that a violation won’t be considered a basis for considering the validity of the action. She said the intent is not to tie the hands of the City Council and Mayor by making removal too much of a process. She said this wording was deliberately vague at the City Attorney’s recommendation.

Councilor Buehner noted a typo in the paragraph about progressive discipline on page 3 of the draft.

Council President Wilson asked if the “conviction of failure to follow laws” is too limiting. He said it make take some time between an accusation and a trial convicting someone and, in the meantime, someone involved in the scandal could negatively impact the City. He asked if it would be appropriate to use the word “accused” because the City shouldn’t have to wait until the conviction process is complete. Assistant to the City Manager Mills said she will talk to the City Attorney about this.

Councilor Buehner asked if each individual committee or commission sets its own standards for what “not showing up” means. Assistant to the City Manager Mills confirmed this and said all boards will be trained and will develop their own by-laws.

Assistant to the City Manager Mills will be back in September to discuss Council groundrules. Mayor Dirksen said he liked the clear but conversational tone of the document.

## 8. UPDATE ON ENGINEERING PERFORMANCE REVIEW

8:51:09 PM City Manager Prosser said that a review of the City’s engineering function was completed last year and showed major issues that needed to be resolved. Following the receipt of the study, a Project Team developed changes within the City’s organizational structure relating to the engineering function. As a result of the study the engineering function was removed from the Community Development Department and placed in the Public Works Department. City Engineer Kyle was hired and his job was to implement the study as it pertained to the engineering function.

Assistant to the City Manager Mills reviewed this engineering services study completed by an outside third-party, FCS Group. They interviewed internal and external stakeholders (citizens, consultants and developers) and found there were some obvious recommendations to make. A team was formed with representatives from Public Works, Community Development, Human Resources and the City Manager’s office. The goal of the review was to provide guidance so that the services would be more efficient and responsive and in alignment with our strategic clarity initiative. She said the review guiding principles were: 1) encourage innovative, flexible and rapid critical thinking; 2) take a long-term perspective and build an organization for the future; and 3) be driven by the values and the mission rather than the structure and function. She said staff has expressed joy and energy in having a new focus.

City Manager Prosser noted that the recommendations are on an Attachment in Council’s packet. He said 13 of the 20 have been implemented and seven are works in progress. He said staff leads are identified and held accountable.

8:58:29 PM City Engineer Kyle said all projects start with a written charter and the project is graded at the end, taking a multidisciplinary approach to measure success:

- 1) Does it work?
- 2) Did we meet the citizen’s expectations?
- 3) Did we communicate with our stakeholders? Post-project comment cards will be sent out.
- 4) Budget - How did we do?
- 5) Schedule – did we meet it?
- 6) Overall score – how did we come out?

He said, “Each project manager has these as part of their performance criteria as well as mine.”

Finance and Information Services Director LaFrance said this had been a good experience. He discussed the Capital Improvement Plan (CIP) flow chart, included in Council’s agenda packet and noted that some concepts from the Engineering Review will be interjected into the CIP process. Senior Management Analyst Collins gave Council a copy of the Capital Improvement Plan. Finance and Information Services Director LaFrance thanked Senior Management Analyst Collins and Graphic Designer Carlsrud for their work on this publication. He stated that unfunded projects are not in the CIP. He said that previously there was never one place where all City projects and their funding sources were

listed and from now on this will be a part of the CIP. He noted that staff is also including internal as well as external expenses for each project, which had not been done before.

City Manager Prosser shared the lessons learned from the engineering review process. Referring to a checklist of milestones for project managers, Councilor Henderson said he'd like to see a copy and City Engineer Kyle said he'd be happy to review it with him.

Mayor Dirksen acknowledged that this is more of an administrative issue but said Council appreciated being kept in the loop. He said. "We've learned a lot from this and City operations will run much better in the future because of it."

- 9. COUNCIL LIAISON REPORTS - None
- 10. NON AGENDA ITEMS - None
- 11. EXECUTIVE SESSION - Not held.
- 12. ADJOURNMENT

9:17:24 PM Councilor Webb moved for adjournment and the motion was seconded by Councilor Buehner. All voted in favor.

	<u>Yes</u>	<u>No</u>
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Webb	x	
Council President Wilson	x	
Councilor Buehner	x	

\_\_\_\_\_  
Carol A. Krager, Deputy City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

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**Town Hall Hosted by the City of Tigard Council**  
**Tuesday, October 5, 2010 – 7-9 p.m.**  
**Tigard Town Hall**

City Council Present:

- Mayor Dirksen
- Councilor Buehner
- Council President Wilson
- Councilor Webb

Mayor Dirksen opened meeting at 7:03 p.m. He listed four topics from the audience:

- WATER
- WETLANDS
- PARK BOND – Specific Properties
- EDUCATION

**EDUCATION:**

Melvin Holst talked about getting the School Board to talk to the Corbett School District.  
Suggestion: Talk to School Board Member Barry Albertson

**WATER:**

Mayor Dirksen gave a short overview on Tigard's history looking for a water source. Council President Wilson gave a history on the City of Portland's water. Brian Wegener asked about a Clean Water Services study of Durham moving water for irrigation.

Tigard Utility Manager Goodrich talked about how the City fulfills water needs above 6 MGD - ASR wells and storage.

Brian Conroy had questions about the likelihood of future water costs if Tigard would stay with Portland as the water service. An unidentified gentleman said he felt citizens should have been given the opportunity to vote on the Lake Oswego Water Partnership. Another unidentified gentleman complained that customers were never given comparative financial data on the various options Tigard considered before choosing the Lake Oswego option. Council and staff directed him to the City's website.

**WETLANDS:**

Brian Wegener made an announcement about the Tree Protection meeting tomorrow night.

**PARK BOND:**

There were questions about specific properties being listed in the Park Bond. Mayor Dirksen discussed the Fowler property. He showed the Parks Master Plan and talked about the Fanno Creek Trail and Rail to Trail.

Several citizens talked about Wall Street but no Council member commented on it.

9:00 p.m. – Meeting was adjourned

\_\_\_\_\_  
Sydney Webb, City Councilor

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

**AIS-213**

**Item #: 3. B.**

**Business Meeting**

**Date: 10/26/2010**

**Length (in minutes):** Consent Item

**Agenda Title:** Appoint Richard Shavey, Current Planning Commission Alternate, to the Planning Commission

**Prepared By:** Susan Hartnett, Community Development

**Item Type:** Resolution

**Meeting Type:** Consent Agenda

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**Information**

**ISSUE**

Should Council appoint Richard Shavey, a current Planning Commission Alternate, to serve the remaining portion of the term previously held by Tim Gaschke?

**STAFF RECOMMENDATION / ACTION REQUEST**

Appoint Richard Shavey, current Planning Commission Alternate, to the remaining portion of the term previously held by Tim Gaschke.

**KEY FACTS AND INFORMATION SUMMARY**

Effective October 1, 2010 Planning Commissioner Tim Gaschke resigned from the Planning Commission due to a work assignment that will require him to relocate to Australia. His resignation created a vacant voting member position on the Commission.

Following interviews late in 2009, the Mayor's Appointment Advisory Committee recommended that the Council appoint Richard Shavey to fill an alternate position on the Planning Commission. Council approved this appointment through Resolution 09-74. Mr. Shavey has been a regular attendee at Planning Commission meetings since his appointment as an alternate. Because little time has passed since Mr. Shavey's appointment, staff felt, and the Mayor's Appointment Advisory Committee concurred, that additional recruitment and interviews were not needed to fill the current vacancy.

The Mayor's Appointment Advisory Committee recommends that Richard Shavey be appointed to to the Planning Commission and fill the remaining portion of the voting member term previously held by Tim Gaschke.

**OTHER ALTERNATIVES**

Additional recruitment and interviews were considered and rejected.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

NA

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

None

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**Fiscal Impact**

**Fiscal Information:**

None

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**Attachments**

Draft Resolution

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**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 10-**

A RESOLUTION APPOINTING RICHARD SHAVEY TO THE PLANNING COMMISSION

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WHEREAS, there currently exists one vacancy for a voting member on the Planning Commission for a term that expires on December 31, 2013; and

WHEREAS, Richard Shavey was appointed as an alternate Planning Commissioner in January 2010 to fill a term that expires December 31, 2011; and

WHEREAS, the Mayor's Appointment Advisory Committee recommends that Council appoint Richard Shavey to the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Richard Shavey is appointed to the Planning Commission to fill a term that expires December 31, 2013.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

**Business Meeting****Date:** 10/26/2010**Length (in minutes):** Consent Item**Agenda Title:** Approval of an IGA Between the City, Metro, and ODOT to Develop a TGM Grant Funded High Capacity Transit Corridor Land Use Plan**Prepared By:** Sean Farrelly, Community Development**Item Type:** Resolution**Meeting Type:** Consent Agenda**Information****ISSUE**

Shall Council approve a resolution authorizing the City Manager to sign an Intergovernmental Agreement (IGA) between the City, Metro, and Oregon Department of Transportation (ODOT) to develop a Pacific Highway 99W High Capacity Transit Corridor Land Use Plan funded by a Transportation Growth Management (TGM) grant?

**STAFF RECOMMENDATION / ACTION REQUEST**

It is recommended that Council approve the resolution.

**KEY FACTS AND INFORMATION SUMMARY**

In 2009, the City and Metro jointly applied for a TGM grant to develop a land use plan for the Pacific Highway 99W High Capacity Transit Corridor. The parties were awarded approximately \$224,000 by ODOT's TGM program. ODOT has approved the project's scope of work and provided notice to proceed pending approval of an intergovernmental agreement.

The HCT Corridor Land Use Plan will identify appropriate Tigard station area "typologies" (land use mix, scale of development, etc.), determine potential locations and transit-supportive land uses for station areas, and develop potential HCT routes (not alignments) in the HCT corridor within Tigard's city limits.

The Plan will include an inventory of existing and planned transportation, land uses, natural resources, and public facilities, and a market study. The Plan will identify future transportation facility and service improvements and land uses, including the potential for parks, open spaces, and civic uses. The Plan will also propose amendments to the Tigard Comprehensive Plan and Development Code, including recommendations regarding parking management in the station communities.

The City will lead the public involvement plan, strategic communication, and interagency coordination program that will engage stakeholders and provide multiple opportunities for formal and informal comments from the public and affected agencies to seek consensus on future land use and transportation initiatives in the corridor.

The TGM grant funding is contingent upon execution of an intergovernmental agreement between the City, Metro, and ODOT. The City Attorney has reviewed the proposed IGA.

The IGA and the scope of work are included as an attachment.

**OTHER ALTERNATIVES**

None

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

### **1. Implement Comprehensive Plan**

1.a. Complete the Transportation System Plan (TSP) and begin area plans (Tigard Triangle, 99W Corridor, etc.)

1.c. Continue to promote and plan for 99W Light Rail

### **DATES OF PREVIOUS COUNCIL CONSIDERATION**

March 24, 2009, Resolution 09-18, Council supported the application for this TGM grant.

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#### **Fiscal Impact**

**Cost:** \$61,362

**Budgeted (yes or no):** Yes

**Where Budgeted (department/program):** Long Range Planning

#### **Additional Fiscal Notes:**

The TGM grant amount is \$223,947. The work will be performed over FY 2010-11 and FY 2011-12. \$169,000 has been allocated for a consultant team (led by Parametrix), \$32,500 to Metro, and \$32,447 to the City.

The City's portion of the project costs is \$61,362 over the current and next fiscal years. The costs are currently budgeted payroll and supplies. Tigard will be reimbursed up to \$32,447. The remaining \$28,915 of Tigard expenses represents the grant match for the project.

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#### **Attachments**

Proposed Resolution

Intergovernmental Agreement and Scope

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**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 10-**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION AND METRO FOR THE TIGARD HIGH CAPACITY TRANSIT CORRIDOR LAND USE PLAN, FUNDED THROUGH A TRANSPORTATION GROWTH MANAGEMENT GRANT

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WHEREAS, the Tigard City Council has as part of its 2010 goals, to begin area plans for the 99W corridor and to continue to promote and plan for 99W light rail; and

WHEREAS, the State's TGM grant program provides funding for local government planning projects that integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development; and

WHEREAS, the Council adopted Resolution 09-18 which endorsed a joint application with Metro for a Transportation Growth Management grant for state assistance in completing a land use plan for the Tigard High Capacity Transit Corridor; and

WHEREAS, the TGM program approved the City and Metro's application for \$223,947 to be used toward consultant services and to reimburse Metro and the City of Tigard, based on an approved scope of work; and

WHEREAS, the City is prepared to provide an 11% match, in the form of staff time and materials; and

WHEREAS, the grant requires all paperwork to be signed prior to the project's commencement.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Council authorizes the City Manager to sign and enter into an intergovernmental agreement with the Oregon Department of Transportation and Metro for the Tigard High Capacity Transit Corridor Land Use Plan.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

## **INTERGOVERNMENTAL AGREEMENT**

### **Metro and City of Tigard, Tigard High Capacity Transit Corridor Land Use Plan**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation (“ODOT” or “Agency”), Metro (“Metro”) and City of Tigard (“City”). City together with Metro shall be referred to collectively as “Grantees” or individually without distinction “Grantee”.

### **RECITALS**

1. The Transportation and Growth Management (“TGM”) Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.

2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.

3. This TGM Grant (as defined below) is financed with federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) funds. Local funds are used as match for SAFETEA-LU funds.

4. By authority granted in ORS 190.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.

5. Grantees have been awarded a TGM Grant which is conditional upon the execution of this Agreement.

6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **SECTION 1. DEFINITIONS**

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

A. “City's Amount” means the portion of the Grant Amount payable by ODOT to City for performing the tasks indicated in Exhibit A as being the responsibility of City.

B. “City's Matching Amount” means the amount of matching funds which City is required to expend to fund the Project.

C. “Consultant” means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

D. “Consultant’s Amount” means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

E. “Direct Project Costs” means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

F. “Federally Eligible Costs” means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by Grantees and Consultant during the term of this Agreement.

G. “Grant Amount” or “Grant” means the total amount of financial assistance disbursed under this Agreement, which consists of Metro's Amount, City’s Amount and the Consultant’s Amount.

H. “Metro's Amount” means the portion of the Grant Amount payable by ODOT to Metro for performing the tasks indicated in Exhibit A as being the responsibility of Metro.

I. “Metro's Matching Amount” means the amount of matching funds which Metro is required to expend to fund the Project.

J. “Metro's Project Manager” means the individual designated by Metro as project manager for the Grantees for the Project.

K. “ODOT’s Contract Administrator” means the individual designated by ODOT to be its contract administrator for this Agreement.

L. “PSK” means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

M. “Project” means the project described in Exhibit A.

N. “Termination Date” has the meaning set forth in Section 2.A below.

O. “Total Project Costs” means the total amount of money required to complete the Project.

P. “Work Product” has the meaning set forth in Section 5.J below.

## **SECTION 2. TERMS OF AGREEMENT**

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. This Agreement terminates on January 31, 2012 (“Termination Date”). The Agency’s payments of amounts under this Agreement attributed to work performed after June 30, 2011, are limited to a maximum of \$69,700.

B. Grant Amount. The Grant Amount shall not exceed \$233,947.

C. Metro's Amount. Metro's Amount shall not exceed \$32,500.

D. City's Amount. City's Amount shall not exceed \$32,447

E. Consultant’s Amount. Consultant’s Amount shall not exceed \$169,000.

F. Metro's Matching Amount. Metro's Matching Amount is \$0 or 0% of the Total Project Costs.

G. City's Matching Amount. City's Matching Amount is \$28,915 or 11% of the Total Project Costs.

## **SECTION 3. DISBURSEMENTS**

A. Subject to submission by Grantee of such documentation of its costs and progress on the Project (including deliverables) as are satisfactory to ODOT, ODOT shall reimburse to a Grantee only for Direct Project Costs that are Federally Eligible Costs that the Grantee incurs after the execution of this Agreement up to that Grantee’s portion of the Grant Amount. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.

B. Each Grantee shall present reimbursement requests or cost reports, as indicated below, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. Metro shall submit reimbursement requests for 100% of Metro's Federally Eligible Costs, and shall be reimbursed at 100% up to Metro's Amount. City shall submit reimbursement requests for 100% of City's Federally Eligible Costs, and shall be reimbursed at 52.92% up to City's Amount.

C. ODOT shall make interim payments to Grantee for deliverables identified as being that Grantee's responsibility in the approved statement of work set out in Exhibit A within 45 days of satisfactory completion (as determined by ODOT's Contract Administrator) of such deliverables.

D. ODOT reserves the right to withhold from a Grantee payment equal to ten percent (10%) of each disbursement owed to that Grantee until 45 days after ODOT's Contract Administrator's approval of the completion report described Section 5.L(2), at which time the balances due to that Grantee under this Agreement shall be payable.

E. Within 45 days after the latter of the Termination Date of this Agreement or compliance with Section 5.L. below, ODOT shall pay any balances due to a Grantee under this Agreement.

F. ODOT shall limit reimbursement of travel expenses in accordance with current State of Oregon Accounting Manual, General Travel Rules, effective on the date the expenses are incurred.

#### **SECTION 4. GRANTEES' REPRESENTATIONS, WARRANTIES, AND CERTIFICATION**

A. Each Grantee represents and warrants to ODOT as follows:

(1) (As to Metro) It is a metropolitan service district duly organized and existing under the laws of the State of Oregon. (As to City) It is a municipality duly organized and existing under the laws of the State of Oregon.

(2) It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

(3) All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and its organizational documents.

(4) This Agreement has been executed and delivered by its authorized officer(s) and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.

(5) The authorization, execution and delivery of this Agreement by it, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which it or its property is bound.

(6) The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by its necessary official(s).

B. As federal funds are involved in this Grant, it, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

## **SECTION 5. GENERAL COVENANTS OF GRANTEES**

Each Grantee covenants and agrees as follows:

A. Metro shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. Metro shall complete the Project; provided, however, that Metro shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant or City.

B. It shall, in a good and workmanlike manner, perform the work on the Project, and provide the deliverables for which it is identified in Exhibit A as being responsible.

C. It shall perform such work identified in Exhibit A as its responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. Grantee shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including Grantee, that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). It shall require and ensure that each of its subcontractors complies with these requirements.

E. It shall be responsible, to the extent permitted by the Oregon Tort Claims Act, ORS 30.260-30.300, only for the acts, omissions or negligence of its own officers, employees or agents.

F. It shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

G. It agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, it agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

H. It shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, it expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

I. It shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, it shall maintain any other records pertinent to this Agreement in such a manner as to clearly document its performance. It acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such of its fiscal records and other books, documents, papers, plans, and writings that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

It shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this

Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

J. (1) All of Grantee's work products related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and Grantee intends that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", Grantee hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Grantee shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. Grantee forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT hereby grants to Grantee a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) Grantee shall ensure that any work products produced pursuant to this Agreement include the following statement:

"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon."

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its "home page".

K. Unless otherwise specified in Exhibit A, it shall submit the final products it produced in accordance with this Agreement to ODOT's Contract Administrator in the following form:

- (1) two hard copies; and
- (2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

L. Within 30 days after the Termination Date,

(1) (As to Metro) Metro shall pay to ODOT Metro's Matching Amount less Federally Eligible Costs previously reported as Metro's Matching Amount. (As to City) City shall pay to ODOT City's Matching Amount less Federally Eligible Costs previously reported as City's Matching Amount. ODOT may use any funds paid to it under this Section 5.L (1) to substitute for an equal amount of federal SAFETEA-LU funds used for the Project or use such funds as matching funds;

(2) Metro shall provide to ODOT's Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:

(a) The permanent location of Project records (which may be subject to audit); and

(b) A list of final deliverables; and

(3) Each Grantee shall provide to ODOT the following:

(a) A summary of its portion of the Total Project Costs, including a breakdown of those Project costs that are reimbursable hereunder and those costs which are being treated by Grantee as Metro's Matching Amount or City's Matching Amount, as the case may be; and

(b) Its final disbursement request.

## **SECTION 6. CONSULTANT**

A. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than Metro and City is the party to the PSK with the Consultant, ODOT, Metro and City agree that as between themselves:

- (1) Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of Metro's Project Manager;
- (2) ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from Metro's Project Manager;
- (3) Metro's Project Manager shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (1) and (2) above; and

B. Metro will appoint a Project Manager to:

- (1) be the Grantees' principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
- (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and personnel of Grantees, as necessary;
- (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
- (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

City hereby expressly authorizes Metro's Project Manager to act on its behalf in regard to this Agreement and ratifies the actions of Metro's Project Manager in regard thereto.

#### **SECTION 7. ODOT'S REPRESENTATIONS AND COVENANTS**

A. ODOT certifies that, at the time this Agreement is executed, sufficient funds are authorized and available for expenditure to finance ODOT's portion of this Agreement within the appropriation or limitation of its current biennial budget.

B. ODOT represents that the statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.

C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.

D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

## **SECTION 8. TERMINATION**

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to each Grantee, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. Metro or City fails to complete work specified in Exhibit A as its responsibility in accordance to the terms of this Agreement within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. Consultant fails to complete work specified in Exhibit A as its responsibility in accordance to the terms of the PSK within the time specified in the PSK, including any extensions thereof, and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

C. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.

D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A, B, C or D above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

## SECTION 9. GENERAL PROVISIONS

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or a Grantee at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as a party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and Grantees are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons (including but not limited to any Consultant) unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(I), 5(J), and 9 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. The parties agree as follows:

(a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

(b) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(c) Notwithstanding Section 9.E (b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 9.E(c) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately

abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 9.E(c) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No modification or change of terms of this Agreement shall bind a party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments to the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK (if applicable). No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

G. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

On December 29, 2008, the Oregon Transportation Commission ("Commission") approved Delegation Order No. 2, which authorizes the Director of ODOT to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program ("STIP") or a line item in the biennial budget approved by the Commission.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways; Deputy Director, Central Services and the Chief of Staff, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission such as the Oregon Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director. The Director also delegates to Administrators listed therein the authority to execute intergovernmental agreements over \$75,000 for specific programs such as transportation safety, growth management and public transit.

**Metro**

*Metro*

By: \_\_\_\_\_  
(Official's Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

Date: \_\_\_\_\_

**City**

*City of Tigard*

By: \_\_\_\_\_  
(Official's Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

Date: \_\_\_\_\_

**ODOT**

STATE OF OREGON, by and through  
its Department of Transportation

By: \_\_\_\_\_  
Barbara Fraser, Interim Division  
Administrator  
Transportation Development Division

Date: \_\_\_\_\_

**ATTORNEY GENERAL'S OFFICE**

Approved as to legal sufficiency by the  
Attorney General's office.

By: **Approved by Lynn Nagasako**  
(Official's Signature)

Date: **via e-mail dated October 8, 2010**

**Contact Names:**

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**EXHIBIT A**

**TGM 1L-09**

**Tigard HCT Corridor Land Use Plan**

Name: Address:  Phone: Fax: Email:	<b>Agency's Work Order Contract</b> <b>Project Manager (WOCPM)</b> Lidwien Rahman ODOT Region 1 123 NW Flanders Portland, OR 97209 503-731-8229 503-731-3266 <a href="mailto:lidwien.rahman@odot.state.or.us">lidwien.rahman@odot.state.or.us</a>	Name: Address:  Phone: Fax: Email:	<b>Consultant's Project Manager</b> Jason Franklin Parametrix 700 NE Multnomah, Suite 1000 Portland, OR 97232 503-416-6167 503-233-4825 <a href="mailto:jfranklin@parametrix.com">jfranklin@parametrix.com</a>
Name: Address:  Phone: Fax: Email:	<b>City's Project Managers</b> Sean Farrelly City of Tigard Community Development Department 13125 SW Hall Blvd Tigard, OR 97223 (503) 718-2420 (503) 684-7297 <a href="mailto:Sean@tigard-or.gov">Sean@tigard-or.gov</a>	Name: Address:  Phone: Fax: Email:	<b>Metro's Project Manager</b> Crista Gardner Metro 600 NE Grand Avenue Portland OR 97232 (503) 797-1864 (503) 797-1930 <a href="mailto:Crista.Gardner@oregonmetro.gov">Crista.Gardner@oregonmetro.gov</a>
Name: Address:  Phone: Fax: Email:	<b>City's Project Managers</b> Judith Gray City of Tigard Community Development Department 13125 SW Hall Blvd Tigard, OR 97223 (503) 718-2557 (503) 684-7297 <a href="mailto:Judith@tigard-or.gov">Judith@tigard-or.gov</a>		

## Definitions

Agency/ODOT	Oregon Department of Transportation
AA	Federal Transit Administration Alternatives Analysis
Alignment	specific location for HCT, as defined through project development /AA
CAC	Citizen Advisory Committee
City	City of Tigard
CRP	Corridor Refinement Plan
FAR	Floor Area Ratio
GIS	Geographic Information Systems
HCT	High Capacity Transit
NTP	Notice to Proceed
OHP	Oregon Highway Plan
PMT	Project Management Team
Project	Tigard HCT Corridor Land Use Plan
PTA	Plan Text and map Amendment
Route	General location for HCT, as defined by the TPR, not showing a specific alignment
RTP	Metro's Regional Transportation Plan
SEP	HCT System Expansion Policy, an element of the 2009 Metro HCT Plan
TAC	Technical Advisory Committee
TGM	Transportation and Growth Management
TSP	Transportation System Plan
TPR	Transportation Planning Rule
Typology	A station community typology describes a transit-oriented station community type, recognizing there will be different station communities within the City, and identifying appropriate performance and descriptive benchmarks for these different types of station communities. Typology benchmarks will include jobs to housing ratio, median household size, people per acre, dwelling units per acre, total businesses per acre, FAR and building height, parking ratios, and land use mix.
V/C	Volume/Capacity ratio, a measure of traffic congestion
WOCPM	Work Order Contract Project Manager

This statement of work describes the responsibilities of all entities involved in this cooperative project.

The work order contract (for the purposes of the quoted language below the "WOC") with the work order consultant ("Consultant") shall contain the following provisions in substantially the form set forth below:

### **"PROJECT COOPERATION**

This statement of work describes the responsibilities of the entities involved in this cooperative Project. In this Work Order Contract (WOC), the Consultant shall only be responsible for those deliverables assigned to the Consultant. All work assigned to other entities are not Consultant's obligations under this WOC, but shall be obtained by Agency

through separate intergovernmental agreements which contain a statement of work that is the same as or similar to this statement of work. The obligations of entities in this statement of work other than the Consultant are merely stated for informational purposes and are in no way binding, nor are the named entities parties to this WOC. Any tasks or deliverables assigned to a subcontractor shall be construed as being the responsibility of the Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity as described in this statement of work shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to Oregon Department of Transportation (Agency) Work Order Contract Project Manager (WOCPM) of any deliverables that may be delayed due to lack of cooperation by other entities referenced in this statement of work.
2. WOCPM shall contact the non-cooperative entity or entities to discuss the matter and attempt to correct the problem and expedite items determined to be delaying the Consultant.

If Consultant has followed the notification process described in item 1, and Agency finds that delinquency of any deliverable is a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in this statement of work, the Consultant will not be found in breach of contract. WOCPM will negotiate with Consultant in the best interest of the State, and may amend the delivery schedule to allow for delinquencies beyond the control of the Consultant.

**Key Personnel.** Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key people. In particular, Agency through this Contract is engaging the expertise, experience, judgment, and personal attention of Jason Franklin ("Key Person"). Contractor's Key Person shall not delegate performance of the management powers and responsibilities he/she is required to provide under this Contract to another (other) Contractor employee(s) without first obtaining the written consent (email acceptable) of Agency. Further, Contractor shall not re-assign or transfer a Key Person to other duties or positions such that a Key Person is no longer available to provide Agency with his/her expertise, experience, judgment, and personal attention, without first obtaining Agency's prior written consent to such re-assignment or transfer. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person. Any approved substitute or replacement for a Key Person shall be deemed a Key Person under this Contract."

## **Project Background**

### *Project Problem Statement*

Planning work is needed to determine the best possible land use alternative and transit-oriented development opportunities in the priority High Capacity Transit (HCT) corridors to support high capacity transit investments.

This land use plan will help the City of Tigard (City) determine how best to balance land use and transportation considerations, specifically how to balance Transportation Planning Rule (TPR) and Oregon Highway Plan (OHP) requirements with the desire for higher intensity land uses and high capacity transit.

### *Project Description*

The Tigard 99W HCT Corridor Land Use Plan (Project) will identify appropriate Tigard station area typologies, determine potential locations and transit-supportive land uses for station areas, and develop potential HCT routes (not alignments) based on a best fit of typologies in HCT corridor #10 within the City's city limits. HCT corridor #10, is defined as "Portland City Center to Sherwood, in the general vicinity of Highway 99W" (Metro Council Resolution 09-4052, 2009). There are likely multiple potential routes and alignments for HCT corridor #10 within the city limits. The Project will investigate station area land uses that best fit given the opportunities and constraints discovered during the project work. Station area concepts based on the opportunities and constraints and Metro station area typologies will inform the final HCT route and alignment decisions, which will be determined in a later transportation project development process.

The Project will include an inventory of existing and planned transportation, land uses, natural resources, and public facilities, and a market study. The Project will identify future transportation facility and service improvements and land uses, including the potential for parks, open spaces, and civic uses. Finally, the Project will propose amendments to the Tigard Comprehensive Plan and Development Code, including recommendations regarding parking management in the station communities. The City will develop, and, with Consultant support, will implement, a public involvement plan, strategic communication, and interagency coordination program that will engage stakeholders and provide multiple opportunities for formal and informal comments from the public and affected agencies to seek consensus on future land use and transportation in the corridor.

### *Statement of Transportation Relationship and Benefits*

The Project will recommend potential HCT station community locations; transit-supportive land uses and development regulations; and pedestrian, bicycle, and transit improvements to the stations areas, in support of the proposed Near Term Priority HCT Corridor in the vicinity of Highway 99W. The Project will address ridership, access, site design, and Transportation Demand Management to support the public investment in

HCT, while maintaining as much as feasible and avoiding further degradation of the traffic performance of I-5 and Highway 99W.

### *Study Area*

The Project study area (Study Area) includes the segment of the Portland Central City to Wilsonville Mobility Corridor #2 (Metro 2035 Regional Transportation Plan (RTP) Mobility Corridor #2) that falls within the city limits. The Mobility Corridor generally includes I-5, Highway 99W, and a number of local parallel arterials and trails. The Study Area also includes the portion of RTP Mobility Corridor #20, which is centered on Highway 99W, within the city limits, as well as a general area north of Highway 99W that would allow an alignment of HCT that connects Portland Central City to Washington Square Regional Center. The Metro *Atlas of Mobility Corridors*, Draft 1, April 2009, provides information about each of the RTP Mobility Corridors. The *2035 Regional Transportation Plan*, Figure 2.17, shows the proposed HCT Corridor. The attached Map shows the Study Area.

### *Project Context*

#### *Regional Planning Context*

Metro developed the Regional HCT System Plan in 2009. The HCT System Plan identifies near- and long-term regional HCT priorities. Corridor #10, Portland to Sherwood in the vicinity of Highway 99W, is a near-term regional priority HCT corridor. The Regional HCT System Plan also establishes a System Expansion Policy (SEP), which delineates a process for advancing potential HCT corridors into the federal project development phase and towards implementation by providing the framework for local and regional planning work in each of the HCT priority tiers.

The SEP helps determine which near-term regional priority corridor(s) should move into the federal project development process or AA. It also provides a transparent process agreed to by Metro and local jurisdictions to advance lower tier HCT projects through the tiers. The framework is based on a set of targets designed to measure corridor readiness to support a high capacity transit project. Specifically, local jurisdictions are asked to:

- Define corridor extent
- Assess the corridor against system expansion targets
- Create a ridership development plan, land use plan, and a transit-oriented development plan for centers and stations
- Assess mode and function of HCT
- Create multimodal station access and parking plans
- Assess financial feasibility

Through this Project, the City is implementing the SEP by taking an initial key step to create a ridership development plan, based on a land use and transit-oriented development plan for potential stations.

This land use Project will inform and advise the potential AA. The AA for the next priority HCT corridor is scheduled to begin during 2010-2011. The HCT Corridor in the vicinity of Barbur Boulevard is one of three corridors identified as a near term regional priority. Near-term regional priority corridors are defined as Corridors most viable for implementation in the next four years. This Project will determine opportunity areas for transit-supportive land use densities and mix as well as potential station locations and station area types within the City, based on criteria to be developed as part of this process. That information may then be used to help inform the alignment choice made during the AA and subsequent draft and final Environmental Impact Statements. Any station area locations identified through this Project are subject to change based on the AA.

This Project relates to and is affected by several other Metro planning projects that are part of the *Making the Greatest Places* work, including the *RTP* and the associated *Regional Mobility Corridors*; the *Active Transportation Corridors* initiative and specifically the Barbur Boulevard Active Transportation Corridor and Fanno Creek Trail proposals, and the *Local Aspirations* work.

The RTP has determined that a Corridor Refinement Plan (CRP) is needed for the Portland Central City to Wilsonville Corridor, which includes Mobility Corridors 2, 3, and 20, and which generally includes I-5, Highway 99W, and a number of local parallel arterials and trails. A CRP defines, at a system planning level, the needs, planned function(s), mode(s), general location of improvements, and performance measures of all facilities within the broad Mobility Corridor. It is essential that the system level decisions regarding the planned functions, modes, performance measures, and general location of improvements on both I-5 and Highway 99W be made prior to or concurrent with decisions regarding the potential alignment of the HCT line within the general Portland to Tigard/Sherwood Corridor. At this time, this Refinement Plan Corridor has been tentatively given the highest priority ranking of the 5 Refinement Plan Corridors. The relationship between the Washington Square Regional Center and the designated Refinement Plan corridor also needs to be examined.

Since neither the CRP nor the HCT AA have been initiated let alone completed at this time, this Project will have to be closely coordinated with those efforts as they occur. Meanwhile, the land use and station location work conducted for this Project cannot presume any particular HCT alignment or station locations. Therefore, the Study Area should cover a broad swath of potential alignments. As indicated above, this Project may identify opportunity areas for transit-supportive land use densities and mix, as well as locations for potential HCT stations, which may help inform, but are subject to change as a result of decisions to be made in the CRP and AA.

#### *Local Planning Context*

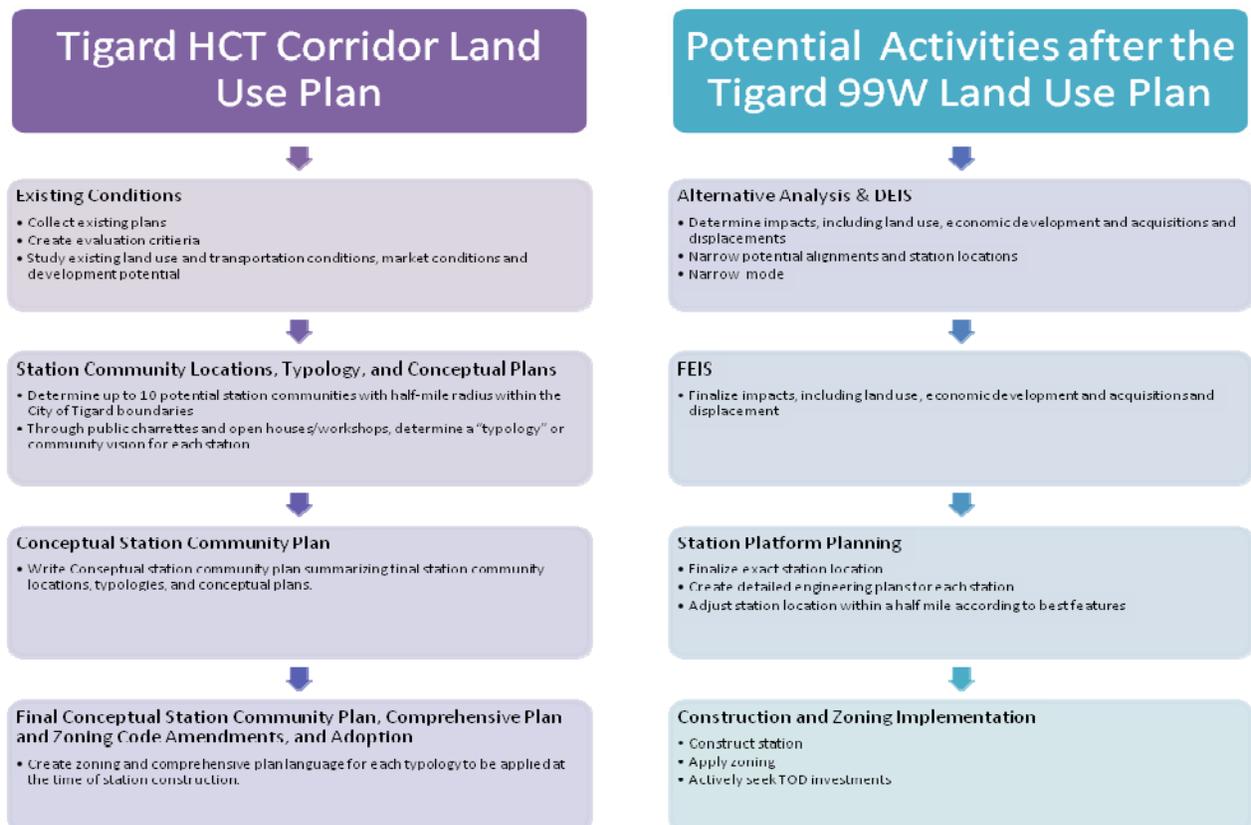
The City aspires to transform the 4.5 mile stretch of Highway 99W corridor that runs through it. While recognizing the regional transportation importance of Highway 99W, the City also wishes to alleviate the negative impacts of traffic congestion on the

community by creating a comfortable place for people to live, work, and play in the corridor. HCT and zoning to support it would be an important tool in this desired transformation.

Over the last five years, the City, often with financial and technical assistance from ODOT and the TGM Program, has developed plans and created visions for transportation and land use within the Highway 99W corridor and the downtown area. Recently completed plans include the *Tigard Highway 99W Land Use and Urban Design Vision* (City of Tigard, January 2010), *Highway 99W Corridor Improvement and Management Plan* (City of Tigard, July 2007), *Tigard Downtown Improvement Plan (2005)*, *City Center Urban Renewal Plan (2005)*, *Tigard Downtown Streetscape Design Plan (2006)*, *Downtown Future Vision (2009)*, *Tigard Multi-Modal Pathways Plan*, and *Tigard Transportation System Plan (2009)*.

The City of Portland has adopted a Barbur Boulevard Streetscape Plan (1999). The City of Portland is currently evaluating land uses through its Portland Plan. The cities of Portland, King City, Tualatin, Sherwood, and Beaverton, as well as other key stakeholders, will be informed and consulted as part of this Project.

*Project Context Diagram*



## **Project Objectives**

- Enhance ability of transit to support City’s vision and local aspirations for growth;
- Enhance City’s ability to warrant HCT investment;
- Promote transit-oriented development consistent with the Metro 2040 Concept Plan Corridor and Station Community designations and with the HCT Plan SEP targets;
- Develop strategic messaging to communicate with citizens and decision makers;
- Meet state, local, and regional goals, plans, and standards, including but not limited to the 2040 Concept Plan, RTP, HCT, SEP, TPR and OHP;
- Identify potential station area locations throughout the Study Area, considering opportunities and constraints; and
- Develop a preferred land use alternative, opportunities for transit-oriented developments, and recommendations leading to proposed Tigard Comprehensive Plan and Development Code map and text amendments (contingent on further planning, project development, and funding of the HCT alignment).

The planning process will:

- Develop consensus on objectives and evaluation criteria for typologies and transit-oriented development and station location opportunities;
- Define and evaluate a range of 1-3 typologies and specific opportunities for transit-oriented developments at 6-10 station areas ;
- Establish and implement a public participation program;
- Coordinate with other affected jurisdictions and agencies in policy and technical analysis and public outreach; and

Produce a conceptual land use plan consisting of proposed Comprehensive Plan and Development Code map and text amendments identifying station area typologies, permitted land uses, density and mix, Floor Area Ratio (FAR), parking management and parking lot design, provision for pedestrian and bicycle access to the stations, and other on- and off-site development requirements consistent with the Regional Transportation Functional Plan, and Metro HCT System Expansion Policy Framework and Title 6 of the Urban Growth Management Functional Plan .

Consultant shall ensure that any work products produced pursuant to this WOC include the following statement:

“This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and the State of Oregon funds.”

## **Deliverables Overview**

The core Consultant services for this Project include:

1. Assist with implementation of the strategic public involvement program;
2. Inventory existing conditions, market, and policies;
3. Establish performance-based goals, objectives and evaluation criteria;
4. Develop concept plan alternatives in coordination with Project stakeholders;
5. Refine draft concept plan alternatives;
6. Conduct evaluation, including traffic analysis, of concept plan alternatives; and
7. Help the City select a preferred alternative based on the evaluation and public comments.

### *Metro and the City's Role*

The City and Metro Project Managers together with ODOT's Work Order Contract Project Manager and the Consultant Project Manager, form the Project Management Team (PMT). The job of the PMT is to direct the Consultant and City and Metro staff work, make contract-related decisions, provide guidance, coordinate, and act as a liaison to the Project Technical Advisory Committee (TAC). The PMT shall perform, coordinate, and delegate tasks identified in the Statement of Work to other City, Metro, Agency departments. The Metro Project Manager shall be responsible for grant, IGA, and contract management issues and managing the performance of all Metro technical work. PMT shall meet or teleconference at the beginning of each major task to coordinate and clarify the work. PMT shall assess progress of the Project, provide oversight, and ensure compliance with TGM requirements. The City shall facilitate PMT meetings, prepare meeting notes, and arrange meeting venues. (PMT meetings are listed in the Tasks in which they occur.)

Metro Project Manager and WOCPM shall review and approve all Consultant deliverables and invoices. The City Project Manager shall be responsible for public, stakeholder, and interagency involvement, coordination with City Planning Commission, Council, and City staff, and all meeting logistics.

The City and Metro Project Managers shall make all existing information pertinent to the Project available to the Consultant team. Information must be provided in electronic form whenever possible. The City shall provide all meeting logistics, i.e. agendas, meeting rooms, notification, and meeting notes.

### *Expectations about Written And Graphic Deliverables:*

Traffic analysis must be conducted by an Oregon-registered professional civil or traffic engineer.

All written (text) deliverables are required both in hard copy and electronic version, with the electronic version to be completed in Microsoft Word or Adobe Acrobat PDF format. All graphic deliverables must be provided in both hard copy and electronic format with

the electronic version in either an Adobe Acrobat or other format agreed upon by the City, Metro, ODOT and the Consultant.

For the purposes of this Project:

- Draft materials for PMT Meetings are due to the PMT one week prior to the scheduled meeting date, unless other arrangements are made.
- Draft materials for TAC meetings are due to the PMT for electronic distribution one week before the scheduled meeting date, unless other arrangements are made.
- Draft materials for Project Open Houses must be delivered to the PMT for review one week prior to the scheduled Open House Date, unless other arrangements are made.
- Draft materials for City and Metro Council or joint work session(s) must be delivered to the PMT three weeks prior to the scheduled meeting dates, unless other arrangements are made.
- The Consultant shall provide the PMT with final versions of all Project deliverables a minimum of three days prior to distribution to the TAC, Citizen Advisory Committee (CAC), Planning Commission, or City Council.

## **STATEMENT OF WORK**

### **Task 1: Project Setup**

#### **Objectives**

- Conduct a public involvement program to garner community input to develop and inform the Project and keep the public informed on the Project.
- Coordinate with concurrent public planning projects and events, including the HCT Alternative Analysis, 99W Visioning Project, Main Street Project, and other projects.
- Establish list of stakeholder and interested parties and TAC, CAC and Tigard HCT Team.
- Agree on a public involvement plan, including decisions about potential open houses, workshops, stakeholder interviews, CAC and the Tigard HCT Team.

#### **Subtasks**

- 1.1 **Public Involvement Plan.** City shall prepare draft and final Public Involvement Plan, a strategy and plan to engage the public in the Project. The Public Involvement Plan must include specific steps to provide opportunities for participation by federal Title VI communities. The Public Involvement Plan must define the Tigard HCT Team activities and must identify the role of the Consultant in conducting the Tigard HCT Team activities. City and Consultant shall utilize the ODOT Title VI (1964 Civil Rights Act) Plan guidance to identify Title VI populations, formulate public involvement strategies, and report outreach efforts to and participation by Title VI communities. The Public Involvement Plan must be sufficient to meet the requirements under applicable state and local regulations for legislative land use decisions. At the first PMT meeting, the PMT (City PM, Metro PM, WOCPM, and Consultant PM) shall review and comment on the draft Public Involvement Plan.

- 1.2 **Stakeholder Roster and Mailing List.** City shall develop a Stakeholder Roster, an interested parties list comprised of: (a) property owners, tenants, and business representatives in the Study Area; (b) service providers; (c) affected agencies and jurisdictions [including but not limited to City, ODOT, TriMet, Metro, Department of Land Conservation and Development, City of Portland, City of King City]; (d) citizen groups and (e) other interested persons or groups. The City shall establish and regularly update a project Mailing List developed from the Stakeholder Roster.
- 1.3 **Stakeholder Interview Summary Report.** City shall prepare Stakeholder Interview Summary Report, a compilation of the results of group or individual interviews with up to 50 individual stakeholders as defined in the Stakeholder Roster. The purpose of these interviews is to develop strategic messaging to communicate with citizens and decision makers, and to solicit opinions regarding HCT and the potential for transit-supportive development and land uses in station areas. Additionally, the City shall use the interviews to recruit participation in the Tigard HCT Team. The City shall prepare and share in advance with PMT a list of interview questions. Metro and Consultant shall review and comment on draft stakeholder interview questions.
- 1.4 **PMT Meeting #1 and Project Schedule.** City shall provide logistics for and facilitate PMT Meeting #1, a kick-off meeting to be held at the City offices within four weeks of Notice to Proceed. The purpose of PMT Meeting #1 is to ensure that the PMT clearly understands Project objectives, statement of work, roles, assignments and deliverables. The PMT (City PMs, Metro PM, WOCPM, and Consultant PM) shall attend PMT Meeting #1, and shall discuss the draft Public Involvement Plan and Project Schedule and provide direction regarding work for Task 2, “Existing Conditions.” City shall develop a draft process for review and feedback among the City, Metro, Consultant, Project committees and public to be implemented throughout the Project.
- 1.5 **Project Schedule.** The City shall prepare a draft Project Schedule, including TAC, CAC and Tigard HCT meeting dates, open house and design workshop dates. Consultant and Metro shall review and comment on the draft Project Schedule. City shall finalize the Project Schedule after review and comments provided by the PMT.
- 1.6 **TAC Roster.** The City shall solicit and confirm participation of a TAC of stakeholder agencies, including but not limited to ODOT, Department of Land Conservation and Development, TriMet, Metro, the City of Tigard, the City of Portland, the City of King City, Washington County, and Water Environment Services. The PMT shall endorse City’s proposed list of participants.  
The TAC shall provide technical review, ensure coordination among agencies and other planning efforts in the Study Area, and ensure compliance with state and regional plans, policies, and standards. City shall provide meeting logistics, materials, minutes and venues for all TAC meetings. City shall develop a process for review and feedback between the PMT and TAC throughout the Project.
- 1.7 **TAC Meeting #1.** City shall organize and Consultant shall facilitate TAC Meeting #1, a kick off meeting to be held within four weeks after the TAC is selected. The purpose of the TAC Meeting #1 is to ensure that the TAC participants clearly understand the Project objectives, their role, assignments and deliverables. Metro and Consultant shall attend TAC Meeting #1. City shall prepare meeting summary of TAC Meeting #1.

- 1.8 **Tigard HCT Team Roster.** City shall solicit Tigard HCT Team members and prepare a Roster. The Public Involvement Plan will determine the make-up of the Tigard HCT Team. The Tigard HCT Team may consist of an existing citizen board like the Tigard Planning Commission, Tigard Transportation Advisory Committee, or a new committee of stakeholder citizens, including but not limited to Business Owners, Renters, Neighborhood Representatives, Non-profit Representatives, and Under-represented groups. City shall provide meeting logistics, materials, minutes and venues for all Tigard HCT Team activities.
- 1.9 **CAC Meeting #1.** City shall organize and Consultant shall facilitate CAC Meeting #1, a kick off meeting to be held within six weeks after the CAC is selected. The purpose of CAC Meeting #1 is to ensure that the CAC participants clearly understand the Project objectives, their role, assignments and deliverables. Metro and Consultant shall attend CAC Meeting #1. City shall prepare meeting summary of CAC Meeting #1

### **Task 1 Deliverables**

#### **City:**

- 1A Public Involvement Plan (Task 1.1)
- 1B Stakeholder Roster and Mailing List (Task 1.2)
- 1C Stakeholder Interview Summary Report (Task 1.3)
- 1D PMT Meeting #1 (Task 1.4)
- 1E Project Schedule (Task 1.5)
- 1F TAC Roster (Subtask 1.6)
- 1G TAC Meeting #1 Logistics and Meeting Summary (Subtask 1.7)
- 1H Tigard HCT Team Roster (Subtask 1.8)
- 1I CAC Meeting #1 Logistics, Facilitation and Meeting Summary (Subtask 1.9)

#### **Metro:**

- 1A Review and comment on Draft Public Involvement Plan (Task 1.1)
- 1B Review of Stakeholder Interview Questions (Task 1.3)
- 1C PMT Meeting #1 (Task 1.4)
- 1D Review and input on Draft Project Schedule (Task 1.5)
- 1E TAC Meeting #1 Attendance (Task 1.7)
- 1F CAC Meeting #1 Attendance (Task 1.9)

#### **Consultant:**

- 1A Review and comment on Draft Public Involvement Plan (Task 1.1)
- 1B Review and comment on Stakeholder Interview Questions (Task 1.3)
- 1C PMT Meeting #1 (Task 1.4)
- 1D Review and comment on Draft Project Schedule (Task 1.5)
- 1E TAC Meeting #1 Facilitation (Task 1.7)
- 1F CAC Meeting #1 Attendance (Task 1.9)

### **Schedule:**

Throughout the duration of the Project except where noted in subtasks.

## **Task 2: Existing Conditions Report and Typology Definition**

### **Objectives**

- Create Project base maps.
- Identify local, regional and state plans, goals, policies, standards, and regulations applicable to development of the Study Area.
- Refine Project Goals and Objectives to meet the needs of City, other agencies, and stakeholders.
- Develop criteria, based on Project Goals and Objectives, for evaluating alternatives.
- Collect and review land use, transportation, infrastructure, and natural resources data from relevant inventories, plans, pertinent to development of the Study Area from City, Metro, ODOT, Washington County, and other service providers.
- Determine any data gaps, conflicts and deficiencies in the above-listed documents.
- Determine the existing conditions of the Study Area.
- Conduct a market study for the Study Area to determine feasibility of residential, commercial, mixed-use, civic, and light industrial development.
- Identify station area typologies that appear viable and most appropriate within the City considering, opportunities, constraints and community desires.

### **Subtasks**

- 2.1 **Base Maps.** City shall provide data and Metro shall use Geographic Information System (GIS) shape files and other relevant data in electronic format to prepare multiple base maps that focus on different aspects of the Study Area, including natural features, Regionally Significant Fish and Wildlife Habitat Inventory Maps, existing and planned land uses including vacant and redevelopable land, ownership patterns, public facilities, and topography. Base map layers must include aerial photos and topographical projections. Metro shall gather and document supporting information on property ownerships, parcel data, urban services, and assessed values for structures and land. Metro shall provide the base maps in electronic form, compatible with the City's GIS (ArcGIS v.8.0 .mxds and shape files), as well as hard copy.
- 2.2 **Policy Analysis Report.** City shall provide information and Metro shall assemble, review, and summarize in a policy analysis report, pertinent regulatory information, including: Federal requirements affecting the light rail station areas; State requirements and laws including the TPR and the OHP; Metro regional requirements of the 2040 Functional Plan, HCT Plan including the SEP and associated land use and development targets, and the RTP; and adopted City plans including the 99W Vision and Comprehensive Plan and zoning designations and policies and transportation planning policies.
- 2.3 **Project Objectives and Evaluation Criteria.** Metro shall prepare draft and final "Project Objectives and Evaluation Criteria" by which the concept alternatives must be evaluated. The criteria must be simple quantitative (e.g., "best meets performance standards") and qualitative (e.g., "is consistent with Tigard Community Plan") measures. The criteria must include, but are not limited to: HCT SEP targets, environmental impacts, infrastructure costs, transportation performance (Level of Service and volume-to-capacity (v/c) ratios, modal split, and other performance standards in the City's Transportation System Plan (TSP), the RTP, and the OHP), and market feasibility. City

and Agency shall review and comment on draft Project Objectives and Evaluation Criteria.

- 2.4 **Site Visit.** PMT shall conduct a site visit to observe and inventory existing land use conditions, natural resources, and traffic patterns. City shall obtain permission from property owners for necessary access onto private property.
- 2.5 **Existing and Future Base Case Transportation Conditions Chapter.** Consultant shall prepare draft and final “Existing and Future Base Case Transportation Conditions Chapter,” an assessment of existing and new information about the transportation system. As part of developing this chapter of the Existing Conditions Report, City shall provide, and Consultant shall review existing transportation analyses, including analysis conducted for the *Tigard 99W Improvement and Management Plan* (City of Tigard, July 2007) and City’s TSP and any recent development review traffic impact analyses for all intersections with Highway 99W within the Study Area, as well as any signalized intersections with State Highways within the Study Area in the vicinity of Washington Square. Using this data, the Consultant shall assemble information about existing intersection operations (v/c and Level of Service), traffic and transit performance, and safety for the Study Area intersections. Using data from the City’s TSP and RTP, supplemented with field observation, Consultant shall also inventory existing and planned roadway (including functional classifications for all modes, right-of-way location, width and cross-sections), rail, bicycle, pedestrian, and transit facilities and services and planned improvements in the Study Area. No new traffic counts will be collected or evaluated as part of this study. Consultant shall document existing mobility, street design, and access management standards including intersection and driveway spacing requirements for the City, Metro, Washington County and ODOT.

Consultant shall obtain existing available analyses from the previously mentioned plans and studies for 2035 for the Study Area intersections, as well as transit performance based on 2035 development under current Comprehensive Plan designations and zoning and assuming the 2035 Financially Constrained RTP transportation network. Metro shall provide existing base and future year travel demand model output for the Study Area including link level traffic projections, v/c ratios, and select link information to assist in determining the composition of traffic volumes along Study Area state highways (i.e., to distinguish through volumes from local traffic).

Consultant shall analyze the information and prepare a report documenting existing and future transportation conditions in the Study Area focusing on opportunities and constraints in the system as they could affect the location and analysis of potential HCT stations. The Consultant shall provide ODOT a minimum of two weeks to review and comment on any materials produced under this subtask.

- 2.6 **Existing and Planned Land Uses Chapter.** City shall provide information, and Consultant shall prepare draft and final “Existing and Planned Land Uses Chapter,” a brief (4-5 pages) report and 2-4 maps (using base maps) that reviews existing zoning and Comprehensive Plan designations, and existing land uses. Consultant shall review any vision documents or neighborhood plans, including the 99W Improvement and Management Plan, Downtown Plan and *Tigard Highway 99W Land Use and Urban*

- Design Vision.* The PMT shall develop a methodology and criteria for evaluating buildable lands and redevelopment opportunities, and Consultant shall apply this methodology. Report must document existing and planned development under current Comprehensive Plan and zoning and opportunities (strengths) and constraints (weaknesses) to (re)development at transit-supportive densities and land use mix consistent with HCT SEP targets within the Study Area.
- 2.7 **Natural Resources Inventory Chapter.** Consultant shall prepare a brief (2-4 pages) draft and final “Natural Resources Inventory Chapter” documenting findings on existing natural resources, and potential applicable Metro Urban Growth Management Functional Plan Title 13 habitat friendly development practices. In preparing report, Consultant shall review existing resource documentation such as National Wetland Inventory, Local Wetland Inventory, Regionally Significant Fish and Wildlife Habitat Inventory Maps, Washington County Significant Natural Resources maps, National Resource Conservation Service Soil Survey, and United States Geological Service maps. Consultant shall review Title 13 habitat friendly development practices. Consultant shall prepare a brief (2-4 pages) Natural Resources Inventory Report documenting findings on existing natural resources, and potential applicable Title 13 habitat friendly development practices.
- 2.8 **Public Infrastructure Existing Conditions Chapter.** City shall prepare draft and final “Public Infrastructure Existing Conditions Chapter,” a 2-3 page memo detailing the existing conditions of public infrastructure within the City. Public Infrastructure Existing Conditions Chapter must include maps using City GIS data and layers, showing existing public infrastructure within the Study Area, including sanitary sewer, water, stormwater facilities, parks and open space, but not including transportation infrastructure.
- 2.9 **Market Study and Strategy Chapter.** Consultant shall prepare a draft and final “Market Study and Strategy Chapter” to define probable short- and long-term market demand. The Consultant shall review the market study conducted as part of the *Tigard 99W Improvement and Management Plan* (City of Tigard, July 2007). The chapter on market study and strategy must include, at a minimum, information about:
- (a) the supply and demand for various commercial, mixed-use, retail, multi-family residential, institutional, and light industrial uses). The Consultant shall define market demand for each of these uses in terms of character, scale, density, and quality;
  - (b) the opportunities/strengths and constraints/weaknesses of the Study Area and its ability to attract (re)development at transit-supportive densities and land use mix consistent with HCT SEP targets;
  - (c) anticipated timing of development by type; and
  - (d) necessary economic development efforts and strategies to encourage development of transit-supportive land uses.
- 2.10 **Existing Conditions and Future Base Case Report.** Metro shall collect findings from each of the above sub-tasks and prepare an Existing Conditions and Future Baseline Report (“Existing Conditions Report”) documenting the policy, transportation, land use, natural resources, and public infrastructure data collection effort and market study, summarizing opportunities and constraints for (re)development of transit-supportive land uses and development patterns. The Existing Conditions Report must include a map of

- potential re-development areas within the Study Area. City and Agency shall review and comment on draft Existing Conditions Report.
- 2.11 **Modified Tigard Station Area Typologies Memo.** Based on the Existing Conditions Report and public involvement activities, Consultant shall prepare “Modified Tigard Station Area Typologies Memo,” a 5-10 page memo with graphics defining the refined typologies modifying the typologies as defined in the Metro State of the Centers Activity Spectrum (2009) and the Metro Transit-Oriented Development Strategic Plan (2010) to fit the character of the City and the 2040 Growth Concept Station Community design type, to determine 1-3 typology alternatives. Examples of station typologies from the City of Denver include downtown, major urban center, urban center, urban neighborhood, commuter town center, main street, and campus/special events. Typologies descriptions shall include jobs to housing ratio, median household size, people per acre, dwelling units per acre, total businesses per acre, FAR and building height, parking ratios, and land use mix. (see <http://www.metro-region.org/index.cfm/go/by.web/id=140> for more on Metro typologies). City and Agency shall review and comment on draft Modified Tigard Station Area Typologies Memo.
- 2.12 **PMT Meeting #2.** City shall provide logistics for and facilitate PMT Meeting #2, to review and discuss the draft Task 2 deliverables and upcoming tasks. City PM, Metro PM, WOCPM, and Consultant PM shall attend PMT Meeting #2. City shall prepare meeting summary of PMT Meeting #2.
- 2.13 **TAC Meeting #2.** City shall provide logistics and Consultant shall facilitate TAC Meeting #2 to share and review the Task 2 existing conditions findings to date, including the Market Study and Strategy Chapter and the Project Objectives and Evaluation Criteria. Consultant shall present the findings from the Existing Conditions Report and Metro shall present the draft Project Objectives and Evaluation Criteria. Metro and Consultant shall attend TAC Meeting #2. City shall prepare meeting summary of TAC Meeting #2.
- 2.14 **CAC Meeting #2.** City shall provide logistics and facilitate CAC Meeting #2 to review Task 2 deliverables, including the Market Study and Strategy Chapter, Existing Conditions and Project Objectives and Evaluation Criteria.. Consultant shall present the findings from the Existing Conditions Report and Metro shall present the draft Project Objectives and Evaluation Criteria. Metro and Consultant shall attend CAC Meeting #2. City shall prepare meeting summary of CAC Meeting #2.

## **Deliverables**

### City:

- 2A Provide GIS shape files/data for Base Maps to Metro (Task 2.1)
- 2B Provide documents for Policy Analysis Report (Task 2.2)
- 2C Site Visit (Task 2.4)
- 2D Provide information for Existing and Base Case Transportation Conditions Chapter (Task 2.5)
- 2E Provide information for Existing and Planned Land Uses Chapter (Task 2.6)
- 2F Public Infrastructure Existing Conditions Chapter (Task 2.8)

- 2G Review and provide comments on Draft Project Objectives and Evaluation Criteria; (Task 2.3), Existing Conditions and Future Base Case Report; (Task 2.10), and Modified Tigard Station Area Typologies Memo (Task 2.11)
- 2H PMT Meeting #2 Logistics and Meeting Summary (Task 2.12)
- 2I TAC Meeting #2 Logistics and Meeting Summary (Task 2.13)
- 2J CAC Meeting #2 Logistics, Facilitation and Meeting Summary (Task 2.14)

**Metro:**

- 2A Base Maps (Task 2.1)
- 2B Policy Analysis Report (Task 2.2)
- 2C Project Objectives and Evaluation Criteria (Task 2.3).
- 2D Site Visit (Task 2.4)
- 2E Draft methodology and criteria for evaluating buildable lands and redevelopment opportunities (Task 2.6)
- 2F Existing Conditions and Future Base Case Report (Task 2.10)
- 2G PMT Meeting #2, Attendance (Task 2.12)
- 2H TAC Meeting #2, Attendance and Presentation (Task 2.13)
- 2I CAC Meeting #2, Attendance (Task 2.14)

**Consultant:**

- 2A Site Visit (Task 2.4)
- 2B Existing and Future Base Case Transportation Conditions Chapter (Task 2.5)
- 2C Existing and Planned Land Uses Chapter (Task 2.6)
- 2D Natural Resources Inventory Chapter (Task 2.7)
- 2E Market Study and Strategy Chapter (Task 2.9)
- 2F Modified Tigard Station Area Typologies Memo (2.11)
- 2G PMT Meeting #2 (Task 2.12)
- 2H TAC Meeting #2 (Task 2.13)
- 2I CAC Meeting #2, Attend and Present (Task 2.14)

**Schedule:**

Task 2 must commence at most six weeks from Notice To Proceed (NTP) and be completed within five calendar months from NTP.

**Task 3: Typology and Conceptual Station Community Plan Alternatives Development and Evaluation**

**Objectives**

- Define 6 to 10 potential station community locations within the Study Area.
- Modify the Centers and Station Community typologies in the Metro State of the Centers Activity Spectrum (2009) and the Metro Transit-Oriented Strategic Plan (2010) to be applicable to the City.
- Develop 1 to 3 station typology alternatives for each station area.
- Evaluate Station Area Conceptual Plan Alternatives.
- Conduct interactive Workshop and incorporate stakeholder feedback.

**Sub-Tasks:**

- 3.1 **Station Community Locations Memo.** Based on the Tigard Typologies developed in Task 2, Metro shall prepare draft and final “Station Community Locations Memo,” a 4-5 page memo and supporting map(s) defining where station communities might best fit within the Study Area, based on generalized current transportation (transit and vehicular) and engineering practices, market feasibility and engineering and environmental feasibility. Metro shall meet with agency stakeholders, including but not limited to TriMet engineers and planners; City engineers and land use planners; ODOT engineers and planners; Metro transportation modelers, Metro Transportation Planning, Corridor Planning and Growth Management planners, Metro Transit-Oriented-Development staff, Metro land use planners to determine potential HCT alignments, and associated station community locations for purposes of this Project. These station community locations are for Project purposes only and may change depending on future HCT AA and Project Development phases. Metro shall present the Potential Station Community Locations Memo to the PMT and TAC, and revise based on PMT and TAC comments (Subtasks 3.8 and 3.9). City and Agency shall review and comment on the draft Station Community Locations Memo.
- 3.2 **Project Design Workshop.** City shall organize and provide logistics and Metro shall facilitate the Project Design Workshop, a half-day design session and evening public event to determine the typologies to use within the corridor and a general HCT route based on the station area locations. The workshop must provide directions for the development and evaluation of 2-3 conceptual corridor alternatives with identified station areas based on the modified typologies and the Existing Conditions Report and stakeholder, TAC, and Tigard HCT Team comments to date. Alternatives must include recommended land use types for 6 to 10 station area locations. PMT and key members of the Consultant team shall participate; TAC, Tigard HCT Team and invited stakeholders must be invited. The evening session must include a public workshop and will highlight the work of the Tigard HCT Team.
- 3.3 **Conceptual Station Community Plan Alternatives Memo and Map.** Consultant shall prepare a draft and final map and a 5-10 page Conceptual Station Community Plan Alternatives Memo which describes the Conceptual Station Community Plan Alternatives based on their best fit in the corridor, along with supporting maps, graphics, and tables. Alternatives must include 6 to 10 station area locations, with 1 to 3 recommended typologies for each station, and a generalized HCT route. Based on the results of the design workshop, the Consultant shall develop and refine Conceptual Station Community Plan Alternatives Memo that includes: proposed land use pattern, multi-modal transportation network, natural resources, parks and open space. Basic land use metrics for each station area alternative (jobs to housing ratio, median household size, people per acre, dwelling units per acre, total businesses per acre, FAR and building height, parking ratios, and land use mix) must be included. Metro shall compare population and employment numbers based on typology land uses to existing and planned land uses on a traffic analysis zone (“TAZ”) level and provide the necessary input for the transportation post processing work in Task 3.4. The transportation element must include a street network and bicycle, pedestrian, and transit facilities and services. The street network

must be adequate to support the proposed development concepts and conform to Metro, City, ODOT, and County intersection spacing and design standards. City and Agency shall review and comment on the draft Conceptual Station Community Plan Alternatives Memo and map.

- 3.4 **Station Community Plan Alternatives Transportation Analysis Memo.** Consultant shall prepare draft and final Station Community Plan Alternatives Transportation Analysis Memo, evaluating the performance of the transportation network in the Conceptual Station Community Plan Alternatives. Consultant shall obtain from Metro traffic volume and v/c output for a scenario based on the station location analysis conducted by Metro under Task 3.1. Metro shall identify potential mode split associated with the alternative station locations and likely future (2035) link volumes. Metro shall use the Financially Constrained 2035 RTP, Tigard and Washington County TSPs, and OHP to make initial assumptions about the transportation network and designations and capacity. Consultant shall post process model output at up to 12 intersections where there is existing turning movement count data to evaluate the traffic impacts of the Conceptual Station Community Plan Alternatives for all of the station areas including v/c and Level of Service performance. These 12 intersections must include those locations which were determined to be at risk of not meeting mobility standards in the Existing Conditions Report. For purposes of this Project, these locations are identified as “critical intersections.”

The Station Community Plan Alternatives Transportation Analysis must compare the performance under the 2035 Future Base case to the 2035 performance at the critical intersections under each of the proposed Conceptual Station Community Plan Alternative land uses to determine if there is any significant impact on planned transportation facilities, as defined by the TPR (OAR 660-012-0060). Methodology and assumptions to be used in the analysis must be approved by ODOT Region 1 Traffic staff prior to conducting the analysis. Proposed new arterial and collector roadways, as agreed upon by the PMT, must also be analyzed to determine approximate traffic volume demands to guide sizing of the facilities (e.g. number of lanes) and identification of appropriate intersection controls for major intersections. Proposed new intersections must comply with the RTP, City, Washington County, and ODOT design, access management and mobility standards. Should any proposed new intersections not meet design, access management or mobility standards, Consultant shall propose mitigation to address the specific deficiency. The Consultant shall propose bicycle and pedestrian access improvements to the stations, as well as bicycle storage facilities and other transportation amenities to enhance the station area where appropriate and feasible. Consultant shall provide ODOT Region 1 Traffic staff a minimum of two weeks to review and comment on any materials produced under this subtask. City and Agency shall review and comment on the draft Station Community Plan Alternatives Transportation Analysis Memo.

- 3.5 **Draft Conceptual Station Community Plan Alternatives Evaluation Report.** Metro shall prepare Conceptual Plan Alternatives Evaluation Report that evaluates the Conceptual Station Community Plan Alternatives against the Project Objectives and Evaluation Criteria. Draft Conceptual Station Community Plan Alternatives Evaluation

Report must include a short written qualitative and quantitative description of each of the alternatives, an analysis of how each alternative meets the evaluation criteria, and a brief description of opportunities, constraints, and issues associated with each alternative. Basic metrics (jobs to housing ratio, median household size, people per acre, dwelling units per acre, total businesses per acre, FAR and building height, parking ratios, and land use mix) must be included for each alternative. City and Agency shall review and comment on Draft Conceptual Station Community Plan Alternatives Evaluation Report.

- 3.6 **PMT Meeting #3.** City shall provide logistics for and facilitate PMT Meeting #3 to review the TAC Meeting #3 agenda and finalize specific materials to be presented and discussed. City PM, Metro PM, WOCPM, and Consultant PM shall attend PMT Meeting #3.
- 3.7 **TAC Meeting #3.** City shall provide logistics and Consultant shall facilitate TAC Meeting #3 to share the Station Communities Locations Memo prepared by Metro, the Conceptual Station Community Plan Alternatives Memo prepared by Consultant, and the Conceptual Station Community Plan Alternatives Evaluation Report prepared by Metro, and to receive TAC direction and recommendations to guide Task 4 development of the Preferred Conceptual Station Community Plan Alternative for each of the station areas. Consultant shall present the Conceptual Station Community Plan Alternatives Memo including the Transportation Analysis. City shall prepare a meeting summary of TAC Meeting #3. Metro and Consultant shall attend TAC Meeting #3.
- 3.8 **Tigard HCT Team Activities.** Based on the Public Involvement Plan in Task 1.1 the City and Metro shall conduct the appropriate HCT Team activities with support from the Consultant.
- 3.9 **CAC Meeting #3.** City shall provide logistics and facilitate CAC Meeting #3. The purpose of CAC Meeting #3 is to share the Station Communities Locations Memo prepared by Metro, the Conceptual Station Community Plan Alternatives Memo prepared by Consultant, and the Conceptual Station Communities Alternatives Evaluation Report prepared by Metro. An additional purpose of CAC Meeting #3 is to receive CAC recommendations to guide Task 4 development of the Preferred Conceptual Station Community Plan Alternative for each of the station areas. Consultant shall present the Conceptual Station Community Plan Alternatives Report including the Transportation Analysis. City shall provide a meeting summary of CAC Meeting #3. Metro and Consultant shall attend CAC Meeting #3.

**Deliverables:**

City:

- 3A Station Community Locations Memo; Review and Comment (Task 3.1)  
3B Project Design Workshop (Task 3.2)  
3C Review and written comments on Conceptual Station Community Plan Alternatives (Task 3.3)  
3D Review and written comments on Station Community Plan Alternatives Transportation Analysis Memo (Task 3.4)  
3E Review and written comments on Draft Conceptual Station Community Plan Alternatives Evaluation Report 9 (Task 3.5)  
3F PMT Meeting #3 (Task 3.6)

- 3G TAC Meeting #3 Logistics and Meeting Summary (Task 3.7)
- 3H Tigard HCT Team Activities (Task 3.8)
- 3I CAC Meeting #3 Logistics, Facilitation and Meeting Summary (Task 3.9)

**Metro:**

- 3A Station Community Locations Memo (Task 3.1)
- 3B Project Design Workshop (Task 3.2)
- 3C Draft Conceptual Station Community Plan Alternatives Evaluation Report (Task 3.5)
- 3D PMT Meeting #3 (Task 3.6)
- 3E TAC Meeting #3 (Task 3.7)
- 3F Tigard HCT Team Activities (Task 3.8)
- 3G CAC Meeting #3 (Task 3.9)

**Consultant:**

- 3A Project Design Workshop (Task 3.2)
- 3B Conceptual Station Community Plan Alternatives Memo and Map (Task 3.3)
- 3C Station Community Plan Alternatives Transportation Analysis Memo (Task 3.4)
- 3D PMT Meeting #3 (Task 3.6)
- 3E TAC Meeting #3 (Task 3.7)
- 3F Tigard HCT Team Activities support (Task 3.8)
- 3G CAC Meeting #3 (Task 3.9)

**Schedule:**

Months 6-9

**Task 4: Finalize Conceptual Station Community Plan**

**Objectives:**

- Develop the Preferred Conceptual Station Community Plan for each station community from the preliminary Conceptual Station Community Plan Alternatives developed in Task 3.
- Analyze the Preferred Conceptual Station Community Plan for traffic and transportation performance;
- Conduct interactive open house and incorporate stakeholder feedback into a single recommended final Conceptual Station Community Plan.
- Prepare a final Conceptual Station Community Plan for the Study Area that specifies land use patterns and a layout for the transportation system and parks, open spaces, and civic uses. The final Conceptual Station Community Plan must comply with state, regional and local plans, policies and standards identified in Task 2.

**Sub-Tasks:**

- 4.1 **Preferred Conceptual Station Community Plans.** Consultant shall prepare, based on PMT, TAC, CAC and the Project Design Workshop, draft and final preferred Conceptual Station Community Plans for each station and combine them into a single Preferred Conceptual Station Community Plan for the entire Study Area. The preferred conceptual station community plans must include the best mix of typologies and station locations

- that best support a potential HCT alignment in the Study Area. Consultant shall make any final changes to the preferred Conceptual Station Community Plan based on the PMT, TAC, CAC and Tigard HCT Team comments in Task 4. City, Metro and Agency shall review and comment on the preferred Conceptual Station Community Plans.
- 4.2 **Draft Technical Transportation and Traffic Memorandum.** Consultant shall determine the impacts of the preferred Conceptual Station Community Plan on the transportation system and prepare a draft Technical Transportation and Traffic Memorandum. Specific analysis requirements for the Technical Transportation and Traffic Memorandum are in Task 3.4. Consultant shall identify locations that will not meet OHP mobility standards and recommended operational and capacity improvements and pedestrian, bicycle, street, and accessway access improvements to potential HCT stations. Consultant shall forward a copy of the draft Technical Transportation and Traffic Memorandum to the PMT. City, Metro, and Agency shall review and comment on the draft Technical Transportation and Traffic Memorandum.
- 4.3 **PMT Meeting #4.** City shall provide logistics for and facilitate PMT Meeting #3 to review the TAC Meeting #4 agenda and finalize materials to be presented and discussed. City PM, Metro PM, WOCPM, and Consultant PM shall attend PMT Meeting #4.
- 4.4 **Open House #1.** City shall arrange, provide logistics and facilitate Open House #1. The purpose of Open House #1 is to present the preferred Conceptual Station Community Plan, Technical Transportation and Traffic Memorandum, and to obtain stakeholder and public input. Consultant shall attend and provide up to 20 presentation boards. No new significant graphics will be produced for Open House #1; all technical displays will be reprints of graphics produced in other tasks. City shall attend, develop Open House #1 feedback form, compile Open House #1 feedback summary, and provide the summary to the TAC and PMT. Metro shall attend Open House #1.
- 4.5 **TAC Meeting #4.** City shall arrange and Consultant shall facilitate TAC Meeting #4 to review the Technical Transportation and Traffic Memorandum, and Open House #1 summary and feedback in order to gain a TAC recommendation for the preferred Conceptual Station Community Plan. City shall copy and distribute the agenda and materials and take minutes for TAC Meeting #4. Metro and Consultant shall attend TAC Meeting #4.
- 4.6 **Revised Technical Transportation and Traffic Memorandum.** Consultant shall summarize PMT comments in written form and revise the Technical Transportation and Traffic Memorandum based on the PMT and TAC comments
- 4.7 **Tigard HCT Team Activities.** Based on the Public Involvement Plan prepared in Task 1.1 the City and Metro shall provide logistics for and conduct the appropriate HCT Team Activities supported by the Consultant.
- 4.8 **CAC Meeting #4.** City shall arrange and facilitate CAC Meeting #4 to review the Technical Transportation and Traffic Memorandum, and Open House #1 summary and feedback in order to gain a CAC recommendation for the preferred Conceptual Station Community Plan. Consultant shall make a presentation. City shall copy and distribute the agenda and materials and take minutes for CAC Meeting #4. Metro and Consultant shall attend CAC Meeting #4.

**Deliverables:**

City:

- 4A Review and comment on Preferred Conceptual Station Community Plan (Task 4.1)
- 4B Review and comment on Draft Technical Transportation and Traffic Memorandum; (Task 4.2)
- 4C PMT Meeting #4 (Task 4.3)
- 4D Open House #1; provide logistics, facilitate and provide meeting summary (Task 4.4)
- 4E TAC Meeting #4; logistics and meeting minutes (Task 4.5)
- 4F Tigard HCT Team Activities; logistics (Task 4.7)
- 4G CAC Meeting #4; meeting logistics, facilitate and meeting minutes (Task 4.8)

Metro:

- 4A Review and comment on the Preferred Conceptual Station Community Plan (Task 4.1)
- 4B Review and comment on Draft Technical Transportation and Traffic Memorandum (Task 4.2)
- 4C PMT Meeting #4 (Task 4.3)
- 4D Open House #1 (Task 4.4)
- 4E TAC Meeting #4 (Task 4.5)
- 4F Tigard HCT Team Activities (Task 4.7)
- 4G CAC Meeting #4 (Task 4.8)

Consultant:

- 4A Preferred Conceptual Station Community Plan (Task 4.1)
- 4B Draft Technical Transportation and Traffic Memorandum (Subtask 4.2)
- 4C PMT Meeting #4 (Task 4.3)
- 4D Open House #1; attend and presentation materials (Task 4.4)
- 4E TAC Meeting #4 (Task 4.5)
- 4F Revised Technical Transportation and Traffic Memorandum (Subtask 4.6)
- 4G Tigard HCT Team Activities; support (Task 4.7)
- 4H CAC Meeting #4; presentation and attendance (Task 4.8)

**Schedule:**

Months 10-11

**Task 5: Final Conceptual Station Community Plan, Comprehensive Plan and Zoning Code Amendments**

**Objectives:**

- Preparation of materials for review by the Tigard City Council: Final Conceptual Station Community Plan, contingent on further planning, project development, and funding of the HCT facility.
- Preparation of materials for future adoption as a Plan Text and Map Amendment (PTA) into the Tigard Comprehensive Plan and Zoning Code.

**Sub-Tasks:**

- 5.1 **Joint Work Session.** The City shall arrange and facilitate a Joint Work Session of the Planning Commission and City Council to present the recommended Conceptual Station Community Plan. The City shall record comments and identify any Conceptual Station Community Plan changes recommended by the Planning Commission or the City Council. Consultant shall attend and present the Recommended Conceptual Station Community Plan.
- 5.2 **Final Conceptual Station Community Plan and Report.** Consultant shall prepare draft and Final Conceptual Station Community Plan and Report, a compilation and synthesis of earlier deliverables and incorporating Joint Work Session input. The Final Conceptual Station Community Plan and Report must:
1. Include both text and graphics depicting the proposed land uses;
  2. Describe how the Conceptual Station Community Plan fits into the rest of the City, and meets state, region and City's policies and standards;
  3. Include recommended land use designations, a transportation plan, and a local street pattern;
  4. Include suggested changes to applicable City plans and codes;
  5. Include natural resource protection strategies;
  6. Present funding strategies for the redevelopment of the Study Area.
- City, Metro, and Agency shall review and comment on the Final Conceptual Station Community Plan and Report. Consultant shall finalize the Report based on the comments provided.
- 5.3 **Proposed Changes to Tigard Comprehensive Plan, Zoning Map and Development Code.** Consultant shall prepare draft and final Outline of Proposed Changes to Tigard Comprehensive Plan, Zoning Map and Development Code, proposed contingency plan designations and zoning for Conceptual Station Community Plan, and identify potential amendments to other relevant City documents arising from the Conceptual Station Community Plan Report. Adoption of plan and zoning designations must be contingent on the "99W HCT Corridor" being advanced into the Financially Constrained RTP, i.e. the new plan and zoning designations must not become effective until the Highway 99W HCT Corridor is amended into the Financially Constrained RTP project list. City, Metro, and Agency shall review the draft Outline of proposed Changes to Tigard Comprehensive Plan, Zoning Map, and Development Code. Consultant shall finalize Outline of proposed Changes to Tigard Comprehensive Plan, Zoning Map, and Development Code based on the review and comments from the City, Metro, and Agency.
- 5.4 **Tigard HCT Team Activities.** The City shall work with the Tigard HCT Team to determine activities beyond completion of the TGM grant Project, including involvement in the upcoming AA and Environmental Document.

**Deliverables:**

City:

- 5A Joint Planning Commission and City Council Work Session (Task 5.1)  
5B Review and written comments on Final Conceptual Station Community Plan and Report (Task 5.2)

- 5C Review and comment on Outline of Proposed Changes to the Tigard Comprehensive Plan, Zoning Map, and Development Code; (Task 5.3)
- 5D Tigard HCT Team Activities; conduct (Task 5.4)

**Metro:**

- 5A Review and written comments on Final Conceptual Station Community Plan and Report (Subtask 5.2)
- 5B Review and written comments on Proposed Changes to Tigard Comprehensive Plan, Zoning Map and Development Code (Subtask 5.3)

**Consultant:**

- 5A Joint Planning Commission and City Council Work Session attendance and presentation (Task 5.1)
- 5B Draft and Final Conceptual Station Community Plan and Report (Task 5.2)
- 5C Proposed Changes to Tigard Comprehensive Plan, Zoning Map, and Development Code (Task 5.3)

**Schedule:**

Months 12-18

**INFORMATION ONLY**

**City Activities after completion of the TGM funded Tigard HCT Corridor Land Use Plan**

The City will prepare an application and staff recommendation for a Plan Text and Map Amendment to incorporate the Final Conceptual Station Community Plan and Report into the Tigard Comprehensive Plan and Zoning Code and Map

**Planning Commission.** The City will present the proposed Plan Text and Map Amendment to the Planning Commission before a public hearing for its recommendation to the City Council. City will incorporate any recommended changes made by the Planning Commission into the Plan Text and Map Amendment.

**City Council.** Once Planning Commission recommendations are incorporated into the proposed Plan Text and Map Amendment, the City will present proposed Plan Text and Map Amendment to the City Council at a hearing for consideration and adoption contingent on construction of the HCT facility being reasonably likely, i.e. in the Financially Constrained RTP.

**CONSULTANT AMOUNTS PER DELIVERABLE**

<i>Task</i>	<i>Description</i>	<i>Consultant Amount Per Deliverable</i>	<i>Consultant Task Total</i>
<b>1</b>	<b>Project Set-Up</b>		<b>\$7,300</b>
1A	Review and comment on Draft Public Involvement Plan	\$700	
1B	Review and comment on Stakeholder Interview Questions	350	
1C	PMT Meeting #1	700	
1D	Review and comment on draft Project Schedule	350	
1E	TAC Meeting #1 Facilitation	4,000	
1F	CAC Meeting #1 Attendance	1,200	
<b>2</b>	<b>Existing Conditions and Typology Definition</b>		<b>\$46,000</b>
2A	Site Visit	4,300	
2B	Existing and Future Base Case Transportation Conditions Chapter	9,700	
2C	Existing and Planned Land Uses Chapter	3,800	
2D	Natural Resources Inventory Chapter	3,800	
2E	Market Study and Strategy Chapter	7,600	
2F	Modified Tigard Station Area Typologies Memo	9,800	
2G	PMT Meeting #2	700	
2H	TAC Meeting #2	5,100	
2I	CAC Meeting #2, Attend and Present	1,200	
<b>3</b>	<b>Typology and Conceptual Station Community Plan Alternatives Development and Evaluation</b>		<b>\$46,000</b>
3A	Project Design Workshop	8,000	
3B	Conceptual Station Community Plan Alternatives Memo and Map	20,000	
3C	Station Community Plan Alternatives Transportation Analysis Memo	10,900	
3D	PMT Meeting #3	700	
3E	TAC Meeting #3	4,300	
3F	Tigard HCT Team Activities support	1,400	
3G	CAC Meeting #3	700	
<b>4</b>	<b>Finalize Conceptual Station Community Plan</b>		<b>\$41,700</b>
4A	Preferred Conceptual Station Community Plan	18,000	
4B	Draft Technical Transportation and Traffic Memorandum	9,100	
4C	PMT Meeting #4	700	
4D	Open House #1, attend and presentation materials	2,200	
4E	TAC Meeting #4	4,400	
4F	Revised Technical Transportation and Traffic Memorandum	4,800	
4G	Tigard HCT Team Activities; support	1,400	
4H	CAC Meeting #4; presentation and attendance	1,100	

<i>Task</i>	<i>Description</i>	<i>Consultant Amount Per Deliverable</i>	<i>Consultant Task Total</i>
<b>5</b>	<b>Final Conceptual Station Community Plan, Comprehensive Plan and Zoning Code Amendments</b>		<b>\$28,000</b>
5A	Joint Planning Commission and City Council Work Session attendance and presentation	2,800	
5B	Draft and Final Conceptual Station Community Plan & Report	18,100	
5C	Proposed Changes to Tigard Comprehensive Plan, Zoning Map, and Development Code	7,100	
	<b>Project Total</b>	<b>\$169,000</b>	<b>\$169,000</b>



**EXHIBIT B (Local Agency or State Agency)**

**CONTRACTOR CERTIFICATION**

Contractor certifies by signing this contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

**AGENCY OFFICIAL CERTIFICATION (ODOT)**

Department official likewise certifies by signing this contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

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**EXHIBIT C**

Federal Provisions  
Oregon Department of Transportation

**I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION**

Contractor certifies by signing this contract that to the best of its knowledge and belief, it and its principals:

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
- 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

#### **EXCEPTIONS:**

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this contract, the Contractor is deemed to have signed this certification.

#### **II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY COVERED TRANSACTIONS**

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.

4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

### III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

#### **Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

##### Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be

entitled to rely on the accuracy, competence, and completeness of Contractor's services.

**V. NONDISCRIMINATION**

During the performance of this contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment,

without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
  - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such

direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

#### VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

#### DBE POLICY STATEMENT

**DBE Policy.** It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this contract.

**Required Statement For USDOT Financial Assistance Agreement.** If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

**DBE Obligations.** The Oregon Department of Transportation (ODOT) and its contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither ODOT nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

**Records and Reports.** Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

**DBE Definition.** Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

**CONTRACTOR'S DBE CONTRACT GOAL**

**DBE GOAL**   0   %

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

**VII. LOBBYING**

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to

influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**FOR INQUIRY CONCERNING ODOT'S  
DBE PROGRAM REQUIREMENT  
CONTACT OFFICE OF CIVIL RIGHTS  
AT (503)986-4354.**

EXHIBIT D
ELIGIBLE PARTICIPATING COST
DESCRIPTION
<b>PERSONNEL SERVICES</b>
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.
<b>SERVICES AND SUPPLIES</b>
<b>In-State Travel - Per Rates Identified in State Travel Handbook</b>
<i>Meals &amp; Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.
<i>Lodging &amp; Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon. Fares, Taxi, Bus, Air, Etc.
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.
<b>Office Expense</b>
<i>Direct Project Expenses Including:</i>
<i>Photo, Video &amp; Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.
<i>Printing, Reproduction &amp; Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.
<i>Postage</i> - Payment for direct project postage.
<i>Freight &amp; Express Mail</i> - Payment for direct project freight services on outgoing shipments.
<b>Telecommunications</b>
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.
<b>Publicity &amp; Publication</b>
<i>Publish &amp; Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.
<i>Conferences</i> (costs to put on conference or seminars)
<b>Equipment \$250 - \$4,999</b>
<b>NOT ELIGIBLE</b>
<b>Employee Training, Excluding Travel</b>
<b>NOT ELIGIBLE</b>
<b>Training In-State Travel</b>
<b>NOT ELIGIBLE</b>
<b>CAPITOL OUTLAY</b>
<b>NOT ELIGIBLE</b>

AIS-178

Item #: 3. D.

**Business Meeting**

**Date: 10/26/2010**

**Length (in minutes):** Consent Item

**Agenda Title:** Approve Standard Telecommunications Franchise Agreement with XO Communications Services, Inc.

**Prepared By:** Kent Wyatt, Administration

**Item Type:** Resolution

**Meeting Type:** Council Business Meeting - Main

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**Information**

**ISSUE**

Should the City Council approve a Standard Telecommunications Franchise Agreement with XO Communications Services, Inc.

**STAFF RECOMMENDATION / ACTION REQUEST**

Approve the resolution to grant a standard telecommunications franchise to XO Communications, Inc. for ten years.

**KEY FACTS AND INFORMATION SUMMARY**

XO Communications Services, Inc. has requested a ten year renewal of a telecommunications franchise agreement with the City of Tigard which was originally approved with NEXTLINK Oregon, Inc. XO was the parent company of NEXTLINK. The NEXTLINK franchise agreement expired on 5/4/10 and NEXTLINK is no longer doing business in Oregon. XO has continued to pay franchise fees to the City after that agreement expired.

XO Communications Services, Inc. has signed the standard utility franchise agreement as adopted by Council and the company meets the requirements for granting a franchise as set forth in the Tigard Municipal Code (TMC 15.06.060). This new franchise agreement will expire 10/26/2020.

**OTHER ALTERNATIVES**

N/A

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

Tigard Municipal Code 15.06.060 states the Council shall grant a non-exclusive franchise agreement when the requirements of the TMC are met.

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Fiscal Impact**

**Cost:** Revenue

**Budgeted (yes or no):** Yes

**Where Budgeted (department/program):** General Fund

**Additional Fiscal Notes:**

XO Communications Services Inc. has paid the \$2,000 application fee for this renewal. XO paid \$10,900 last fiscal year in franchise fees.

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**Attachments**

Resolution Approving Franchise

Exhibit A to Franchise Resolution

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**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 10-**

A RESOLUTION GRANTING A NON-EXCLUSIVE UTILITY FRANCHISE TO XO COMMUNICATIONS SERVICES, INC. PURSUANT TO TIGARD MUNICIPAL CODE SECTION 15.06.060.

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WHEREAS, the Tigard Municipal Code (“TMC”) Section 15.06.060 allows the City Council to grant a non-exclusive utility franchise to any person providing utility services which meets the requirements of the TMC; and

WHEREAS, XO Communications Services, Inc. was the parent company of NEXTLINK Oregon, Inc. and held a franchise agreement with the City from 5/4/00 through 5/4/10 at which time it expired with XO Communications continuing to pay franchise fees to the City after the franchise expired; and

WHEREAS, XO Communications Services, Inc. is now the provider of services in Oregon, has requested a new utility franchise and has met all necessary requirements in TMC Chapter 15.06; and

WHEREAS, XO Communications Services, Inc. has signed a standard Utility Franchise Agreement without modification.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: XO Communications Services, Inc. is hereby granted a non-exclusive utility franchise for a period of 10 years from the date of this action.

SECTION 2: The Mayor is authorized to execute the attached franchise agreement with XO Communications Services, Inc.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

**CITY OF TIGARD, OREGON  
FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT (“Agreement”) is made and entered into by and between the City of Tigard, an Oregon municipal corporation, (“City”) and XO Communications Services, Inc. a Dacore corporation, (“Franchisee”) qualified to do business in Oregon:

**RECITALS**

1. Pursuant to Federal law, State statutes, and City Charter and local ordinances, the City is authorized to grant non-exclusive franchises to occupy the rights-of-way as defined in Chapter 15.06 of the Tigard Municipal Code (“TMC”), in order to place and operate a Utility System within the municipal boundaries of the City of Tigard (“Franchise Area”); and
2. Franchisee has requested a franchise to place and operate a telecommunication system (the “Utility System”), as defined in TMC 15.06.020, within the Franchise Area; and
3. The City has found that Franchisee meets all lawful requirements to obtain a franchise, and therefore approves the application.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

**AGREEMENT**

1. GRANT OF AUTHORITY

The City grants Franchisee the non-exclusive right to occupy City rights-of-way to place and operate a Utility System for a term of ten (10) years from and after the Effective Date of this Agreement (the “Term”), except as set forth below.

2. AUTHORITY NOT EXCLUSIVE

This Agreement shall be nonexclusive, and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by the City to any person to use the rights-of-way for any purpose whatsoever, including the right of the City to use same for any purpose they deem fit, including the same or similar purposes allowed Franchisee hereunder. The City may, at any time, grant to other persons authorization to use the rights-of-way for any purpose. This Agreement does not confer on Franchisee any right, title or interest in any right-of-way.

3. PERFORMANCE

During the term of this Agreement, Franchisee agrees to comply with all lawful terms and conditions of TMC Chapter 15.06, including but not limited to the permit and permit fee requirements set forth in TMC 15.06.200 and TMC Chapter 15.04, and the right-of-way usage fee set forth in TMC 15.06.100, the provisions of which are incorporated herein as though fully set forth.

4. CHANGE OF LAW; AMENDMENT OF FRANCHISE AGREEMENT

a. It is the intent of the parties that this Agreement may be amended from time to time to conform to any changes in the controlling federal or state law or other changes material to this agreement. Each party agrees to bargain in good faith with the other party concerning such proposed amendments. This Agreement may be amended or terminated by the mutual consent of the parties and their successors-in-interest.

b. To the extent any lawful City rule, ordinance or regulation, including any amendment to the provisions of TMC Chapter 15.06, including any change to TMC 15.06.100, is adopted on a jurisdiction-wide basis and is generally imposed on similarly situated persons or entities, the rule, ordinance or regulation shall apply without need for amendment of this Agreement. The City shall provide Franchisee notice of any such change in local law.

5. TAXES

Nothing contained in this Agreement shall be construed to exempt Franchisee from any license, occupation, franchise or excise tax or assessment, which is or may be hereafter lawfully imposed on Franchisee.

6. INSURANCE

By the Effective Date of this Agreement, Franchisee shall provide a certificate of insurance that names the City as an additional insured and is otherwise consistent with the requirements of TMC 15.06.180.

7. SEVERABILITY

If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be invalid, or unconstitutional by any court of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Agreement. If any material portion of the Agreement becomes invalid or unconstitutional so that the intent of the Agreement is frustrated, the parties agree to negotiate replacement provisions to fulfill the intent of the Agreement consistent with applicable law.

8. REMEDIES

a. This Agreement shall be subject to termination as set forth in TMC 15.06.310, provided that the City complies with the requirements set forth in TMC 15.06.320 and 15.06.330.

b. All remedies under this Agreement, including revocation of the Agreement, are cumulative and not exclusive, and the recovery or enforcement by one available remedy is not a bar to recovery or enforcement by any other such remedy. The City reserves the right to enforce the penalty provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon Franchisee by or pursuant to this Agreement. A specific waiver of a particular breach of any term, condition or obligation imposed upon Franchisee by or pursuant to

this Agreement shall not be a waiver of any other, subsequent or future breach of the same or of any other term, condition or obligation, or a waiver of the term, condition or obligation itself.

c. The right is hereby reserved to the City to adopt, in addition to the reservations contained herein and existing applicable ordinances, such additional regulations as it shall find necessary for the regulation of the right-of-way, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted. Franchisee shall, at all times during the life of this Agreement, be subject to all lawful exercise of the police power by the City, and to such reasonable regulations as the City may hereafter by resolution or ordinance provide. The City hereby reserves the right to exercise, with regard to this Agreement, all authority now or hereafter granted to the City by state statute or City charter, except where such authority may be modified or superseded by the Constitution of the State of Oregon or the Constitution of the United States.

## 9. ASSIGNMENT

All rights and privileges granted and duties imposed by this Agreement upon Franchisee shall extend to and be binding upon Franchisee's successors, legal representatives and assigns. This Agreement may not be transferred or assigned to another person unless such person is authorized under all applicable laws to own or operate the Utility System and the transfer or assignment is approved by all agencies or organizations required or authorized under federal or state laws to approve such transfer or assignment. Franchisee shall provide the City with written notice of any transfer or assignment of this Agreement within twenty (20) days of requesting approval from any state or federal agency.

## 10. NOTICE

Unless specifically provided otherwise herein, all notices shall be mailed, postage prepaid, to the following addresses or to such other addresses as Franchisee or the City may designate in writing:

If to Franchisee:        **[INSERT NAME AND ADDRESS]**    *see attached*

If to City:                City of Tigard  
                                  Attention: City Manager  
                                  13125 SW Hall Blvd.  
                                  Tigard, Oregon 97223

## 11. GOVERNING LAW

The law of the State of Oregon governs the validity of this Agreement, and its interpretation, performance and enforcement. Any action or suit to enforce or construe any provision of this Agreement by any party shall be brought in the Circuit Court of the State of Oregon for Washington County, or the United States District Court for the District of Oregon.

## 12. EFFECTIVE DATE

The effective date of this Agreement ("Effective Date") shall be the date it is fully executed by the City and Franchisee.

CITY OF TIGARD

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

FRANCHISEE

By: Heather B. Gold

Title: Heather B. Gold

Date: 8/12/2010

**XO Communications Services, Inc. Notices**

XO Communications.

Attn: Gegi Leeger

13865 Sunrise Valley Drive

Herndon, VA 20171

With a copy to:

XO Communications

Attn: Barbara Arron

1000 Denny Way, Suite 200

Seattle, WA 98109

**Business Meeting**

**Date: 10/26/2010**

**Length (in minutes):** 10 Minutes

**Agenda Title:** Council Groundrules Update

**Prepared By:** Loreen Mills, Administration

**Item Type:** Ordinance  
Resolution

**Meeting Type:** Council Business Meeting - Main

**Information**

**ISSUE**

Council consideration to modify Tigard Municipal Code to recognize Council Groundrules and adopt updated Groundrules by resolution.

**STAFF RECOMMENDATION / ACTION REQUEST**

Approve the attached ordinance to recognize Council Groundrules in the Tigard Municipal Code as the rules governing the Council as they serve as the City Council, Local Contract Review Board and the City Center Development Agency.

Approve the attached resolution to amend and update the Council Groundrules and add the Code of Conduct. This update will be effective the same time as the ordinance (30 days after passage by the Council).

**KEY FACTS AND INFORMATION SUMMARY**

The City Council annually reviews and updates, when appropriate, their Groundrules. This has occurred 14 times since January 9, 1989. Since there have been so many changes to the Groundrules, the information flow was awkward and in need of streamlining and update. Council also desires to hold themselves to a high level of professional conduct as they serve in their role as Council members and have requested a Code of Conduct be added to the Council Groundrules during this year's update.

During this review, it was noted that the Council Groundrules were not recognized in the Tigard Municipal Code (TMC) except as rules of procedure for the Local Contract Review Board. It is important to clarify in the TMC that Groundrules are the rules of procedure for City Council and the City Center Development Agency too. The TMC amendment also clarifies that a violation of the Groundrules is not a basis for challenging the validity of a Council decision and identifies the censure process should Council determine misconduct has occurred.

The Tigard City Council wants to ensure public confidence in the integrity of Tigard's local government and its effective and fair operation. For that reason, the City Council is updating their Council Groundrules with a Code of Conduct that provides a framework to guide Council in their actions and recognizes that they hold themselves to a high standard of conduct.

Council has expressed their desire that the individual attitudes, words, and actions of Council members should demonstrate, support, and reflect the qualities and characteristics of Tigard as "A Place to Call Home." It is also recognized that, there may be times when action is required to correct and/or prevent behavior that violates the Code of Conduct.

Passage of the attached ordinance and resolution will amend the TMC and adopt the updated Council Groundrules.

**OTHER ALTERNATIVES**

No other alternatives were consider as City Council directed the update of Council Groundrules.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

Council Resolution 08-45, the last update of Council Groundrules, calls for an annual review and update of Groundrules.

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

7/13/10 - Council directed staff to develop Code of Conduct for Board and Committee members and City Council

8/17/10 - Council reviewed Board and Committee members Code of Conduct and then directed staff to add Council Code of Conduct to Council Groundrules during annual update

9/21/10 - Council reviewed updated language for Council Groundrules with the inclusion of the Code of Conduct and recognized the Groundrules would provide guidance to Council as they also serve as the Local Contract Review Board and City Center Development Agency

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**Fiscal Impact**

**Fiscal Information:**

N/A

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**Attachments**

Council Groundrules Amendments

TMC Amendments for Groundrules

Resolution Approving Updated Groundrules

Resolution Exhibit A Groundrules

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# TIGARD CITY COUNCIL GROUNDRULES

## ~~CHARTER AND MUNICIPAL CODE PROVISIONS | MEETING PROCESS GROUNDRULES | COMMUNICATION GROUNDRULES~~

The Tigard City Council Groundrules are a compilation of role definitions and meeting process provisions set forth in the City Charter and Tigard Municipal Code as well as general practice and communication principles. The Council Code of Conduct provides the framework to guide Council in their actions as they serve in publicly elected office. City Council is the policy making body for the City of Tigard.

The City Council will review the Groundrules annually during a July or August Workshop Meeting. The Groundrules may also be reviewed and revised as needed at any other time in the year when a specific issue or issues are identified requiring action prior to the established review period.

**Comment [L1]:** Moved here from the Communication Section and wording updated

The City Charter, Article IV, Section 13, contains regulations that govern Council meetings. Charter provisions may only be changed by a vote of the people. Code provisions may be changed by Council Ordinance. Groundrules may be changed by Council Resolution. ~~This document is divided into three sections that list Groundrules that establish the meeting process, and Groundrules that guide communication among Councilors and with the community.~~

## CHARTER AND MUNICIPAL CODE PROVISIONS

### Council/Mayor Roles

- The Mayor, or in the absence of the Mayor, the Council President, shall be the Presiding Officer at all meetings. The Presiding Officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council, subject to these rules. The Presiding Officer may move, second, debate and vote and shall not be deprived of any of the rights and privileges of a Councilor. The Presiding Officer shall sign all ordinances, resolutions, contracts and other documents, except where authority to sign certain contracts and other documents has been delegated to the City Manager and all documents shall be attested to by the City Recorder. The Mayor shall appoint the committees provided by the Rules of Council.
- In all other actions, decisions and other matters relating to the conduct of business of the City, the Mayor or President shall have no more or less authority than any other Council member. For the purposes of this written procedure any reference to the Council (unless otherwise specifically noted to the contrary) will include the Mayor, Council President and Council members.

# TIGARD CITY COUNCIL GROUNDRULES

## Conduct of City Meetings

- Council will meet at least once a month. Regularly scheduled meetings shall be on the second, third, and fourth Tuesdays of each month.
- The Council meetings on the second and fourth Tuesdays are “Business” meetings; the Council meetings on the third Tuesday of the month are “Workshop” meetings unless otherwise designated by the City Council. Members of the City Council may set other meetings of the full Council such as joint meetings with other agencies or general community meetings.
- Unless specifically noted otherwise, the meetings of Council shall begin at 6:30 p.m. at the established place of meeting. On the second and fourth Tuesdays, the meetings will begin with a Study Session following by the Business meeting. On the third Tuesday, the Workshop meeting will begin at 6:30 p.m.
- Roll Call/Voting Order: The roll shall be called in alphabetical order by last name. At each succeeding meeting at which a roll call vote is taken, the council person who voted last during the previous meeting, shall vote first and the Council person who voted first during the preceding meeting shall vote second and so on in a rotating fashion. It is the intent that the voting order remain fixed for each meeting and that a different Council person shall vote last during each separate meeting for the duration of the meeting.
- Charter Section 19 provides that *“the concurrence of a majority of the members of the Council present and voting, when a quorum of the Council is present, at a Council meeting shall be necessary to decide any question before the Council.”* A Council member who abstains or passes shall be considered present for determining whether a quorum exists, but shall not be counted as voting. Therefore, abstentions and ‘passes’ shall not be counted in the total vote and only votes in favor of or against a measure shall be counted in determining whether a measure receives a majority.

## City Council Compensation

Section 2.44.~~010-020~~ of the Tigard Municipal Code provides for compensation for attendance at Council meetings and meetings for an intergovernmental board, committee or agency. The amount of the compensation for Council members may be reviewed and set annually by resolution of the City Council as part of the budget cycle. As part of the annual review, Council may elect to enter into an agreement with the Mayor or one City Councilor to assume additional responsibilities for additional compensation. The additional duties shall relate to representing the city on regional, state or federal issues and committees or task forces. The responsibilities and compensation shall be set by agreement between the Mayor or Councilor and the Council members.

# TIGARD CITY COUNCIL GROUNDRULES

## GENERAL GROUNDRULE PROVISIONS

The next portion of this document is divided into three major sections identifying groundrules for the Meeting Process, Communication and Code of Conduct that:

- Establish the meeting process;
- Guide individual interaction and communication among Councilors and with the community;
- Set out the Code of Conduct providing the framework to guide Council members in their actions and conduct; and
- Govern proceedings of the City Council, Local Contract Review Board and City Center Development Agency where they do not conflict with statutory provisions.

## MEETING PROCESS

All Council meetings are open to the public with the exception of Executive Sessions, which are called under certain circumstances and topics are limited to those defined in ORS 192.660.

- o The Chair or other members if the Chair fails to remember may call for a Point of Order at or around 9 p.m. to review remaining agenda items. The Council may reset or reschedule items, which it feels may not be reached prior to the regular time of adjournment.
- o The Council's goal is to adjourn prior to 9:30 p.m. unless extended by majority consent of Council members present. If not continued by majority consent, the meeting shall be adjourned to the next scheduled meeting or the meeting shall be continued to another regular or special meeting at another date and time.
- o Regularly scheduled business meetings and workshops are generally televised.

**Comment [L2]:** Moved from the Business Meeting section and wording is updated.

**Comment [L3]:** These two paragraphs have been relocated from below the Executive Session section of Meeting Process and language is updated.

Definitions - Meeting Types, Study Sessions and Executive Sessions:

### BUSINESS MEETINGS

- o ~~Business meetings are regular~~ Regular meetings where Council may deliberate toward a final decision on an agenda item including consideration of ordinances, resolutions & conducting public hearings. ~~Business meetings are open to the public. The regularly scheduled business meetings are televised.~~
- o Business meetings are generally scheduled to begin at 7:30 p.m. with a study session preceding the Business Meeting at 6:30 p.m. Study Sessions are a workshop-type of meeting (see Study Session definition below) ~~which also provide an opportunity for the Council to review the business meeting agenda and to ask questions for clarification on issues or on process. Study Sessions are open to the public.~~

# TIGARD CITY COUNCIL GROUNDRULES

~~○ All Council meetings are open to the public with the exception of Executive Sessions. Executive Sessions can be called under certain circumstances and topics are limited to those defined by ORS 192.660.~~

**Comment [L4]:** Moved to the beginning of the Meeting Process section.

- The “Citizen Communication” portion of the agenda is a regular feature on the Council Business meetings. This item will be placed near the beginning of the Council Agenda to give citizens a chance to introduce a topic to the City Council. Citizen Communications are limited to two minutes in length and must be directed to topics that are not on the Council Agenda for that meeting.
- At the conclusion of the Citizen Communication period, either the Mayor, a Council member or staff member will comment what, if any, follow-up action will be taken to respond to each issue. At the beginning of Citizen Communication at the next business meeting, staff will update the Council and community on the review of the issue(s), the action taken to address the issue, and a statement of what additional action is planned. Council may decide to refer an issue to staff and/or schedule the topic for a later Council meeting.

## WORKSHOP MEETINGS

○ ~~Workshop meetings are regular~~ Regular meetings where Council reviews and discusses agenda topics. Council may not make final decisions during the meeting. Public testimony is ~~generally not~~ scheduled taken at Workshop Meetings unless the Mayor or Council so choose.

~~○ Workshop agenda items are generally topics which Council is receiving preliminary information on and providing direction for further staff analysis and information gathering for a later business meeting. Workshop topics may also include discussions with standing boards and committees, as well as other governmental units.~~

**Comment [L5]:** Redundant language – covered in paragraph above and bullets below.

- Appropriate topics for Workshop meetings include:
  - ~ Introduce a Topic: Staff will bring up new items to determine whether Council wants to entertain further discussion and whether to schedule the topic as an item on a future agenda.
  - ~ Educational Meetings: Council will review research information presented by staff, consultants, or task forces - usually as a process check; i.e., is the issue on the right “track”?
  - ~ Meet with individuals from City boards and committees or other jurisdictions to discuss items of common interest (examples: City Boards and Commissions Tigard Planning Commission, ~~other Councils~~ Lake Oswego City Council, the Tigard-Tualatin School District, ~~and other officials~~).
  - ~ Administrative Updates: Items such as calendar information, scheduling preferences, process checks.

# TIGARD CITY COUNCIL GROUNDRULES

## STUDY SESSIONS

- Study Sessions usually precede or follow a Business Meeting or Workshop Meeting that are open to the public but not regularly televised. As stated above, they are
- ~~Conducted~~conducted in a ~~Workshop~~workshop-type setting to provide Council an opportunity ~~for Council~~ to review the Business Meeting Agenda and ~~to ask questions~~ for clarification on issues or ~~on~~processes. Information is also shared on time-sensitive items ~~that are time sensitive.~~
- ~~During Study Sessions, any~~ Any Council member may call for a Point of Order ~~whenever he or she wishes~~ to stop the “discussion” because he or she ~~feels~~proposes that it ~~is~~would be more appropriate ~~for the City Council~~ to discuss the matter during ~~the a~~ Council Business meeting~~Meeting~~.
- If a Point of Order is raised, the City Council will discuss the Point of Order ~~and to~~ determine whether the “discussion” should continue ~~on~~ or be held during ~~the a~~ Council Business Meeting~~meeting~~. The decision on whether to continue the “discussion” or not shall be determined by the ~~majority~~ consensus of the Council members present.
- If Council discusses a Council Agenda Topic in a Study Session prior to that Council meeting, either the Presiding Officer or City Manager will briefly state at the introduction of the Agenda Topic, the fact that Council discussed the topic in the Study Session and mention the key points of the discussion.

## EXECUTIVE SESSIONS

- ~~Meetings conducted~~Executive Sessions are held by the Council, with appropriate staff or advisors in attendance. The purpose is to review for deliberation on certain matters in a setting closed to the public. Executive Sessions may be held during a regular, special or emergency meeting after the Presiding Officer has identified the ORS authorization for holding the Executive Session. ~~Among the permitted~~ Permitted topics are identified in ORS 192.660 and include employment of a public officer, deliberations with the persons designated by the Council to carry on labor negotiations, deliberations with persons designated to negotiate real property transactions, and to consult with legal counsel regarding current litigation or litigation likely to be filed.
- ~~The Chair, or other members if the Chair fails to remember, shall call for a Point of Order at or around 9:00 p.m. to review remaining items on the agenda with the Council. The Council may reset or reschedule those items, which it feels may not be reached prior to the regular time of adjournment.~~
- ~~The Council's goal is to adjourn prior to 9:30 p.m. unless extended by majority consent of all Council members then present. If not continued by majority consent, then the meeting shall be adjourned to either the next scheduled meeting or the meeting shall be continued to a special meeting on another date.~~

**Comment [L6]:** These two paragraphs are relocated to the beginning of the Meetings Process section.

# TIGARD CITY COUNCIL GROUND RULES

## Council Agendas and Packet Information

- The City Manager will schedule agenda items ~~while attempting to with the objective of maintain maintaining~~ balanced agendas ~~to allow and allowing time to discuss topics within the meeting's time allotment, for discussion of topics while meeting the established 9:30 p.m. adjournment time.~~
- The City Manager will schedule items allowing time for staff research and ~~the~~ agenda cycle deadlines.
- The agenda cycle calls for submittal of items ~~10~~ten days in advance of a Council meeting. ~~With the exception of Executive Sessions, add-on topics and handouts during the meeting Add-ons are to be minimized, as well as handouts distributed at the start of meetings, except Executive Sessions.~~
- Councilors ~~and staff~~ will prepare in advance of public meetings by reviewing packet material and requesting further necessary information in advance of the meeting. ~~and issues Staff will prepare in advance of public meetings by presenting issues should be presented~~ fully in packets and providing additional information requested by Council.
- Council is supportive of the role of staff ~~should play~~ in offering professional recommendations. Staff is aware of Council's right to make final decisions after considering the staff recommendation, public input, the record and Council deliberation on the matter.
- Council members should attempt to give at least 24 hours' notice, by advising the City Manager and the City Recorder of a request to remove a Consent Agenda item for separate discussion. The City Recorder shall notify all Councilors of such requests prior to the start of the Business Meeting.

## Councilors Scheduling Agenda Items

- Councilors are encouraged to suggest agenda topics at the bench or to contact the City Manager about scheduling an item ~~into~~ on the Tentative Agenda.
- Add-on ~~Agenda agenda~~ items should be brought up at the start of the meeting and are generally considered only if continuing to a later agenda is not ~~appropriate~~ practical.
- Requests for legislative action of Council may be initiated by an individual Council member during a Council meeting. The City Manager will respond to the request consistent with resources and priorities, or refer the question of scheduling to Council as a whole.
- ~~Requests for legislative action of Council may be initiated by an individual Council member during a Council meeting. The City Manager will respond to the request consistent with resources and priorities, or refer the question of scheduling to Council as a whole.~~

**Comment [L7]:** Duplicate of paragraph above

# TIGARD CITY COUNCIL GROUNDRULES

## Councilors Use of Electronic Communications Devices During Council Meetings

### Definitions for this section:

Electronic Communications means e-mail, text messages, or other forms of communications transmitted or received by technological means.

Electronic Communications Devices means lap-top computers, blackberries, cell-phones, notebooks, or other similar devices capable of transmitting or receiving messages electronically.

- o Councilors shall not send or receive electronic communications concerning any matter pending before the Council during a Council meeting.
- o Councilors shall not use electronic communication devices to review or access information regarding matters not in consideration before the Council during a Council meeting.
- o Councilors shall not access the internet ~~web~~ but may access Council packet information concerning any matter pending before the Council during a Council meeting.
- o Any electronic communications regarding a quasi-judicial matter to be considered by Council is an ex-parte contact and shall be disclosed as required by law.

## COMMUNICATION

### General

- o Recognize that you are seen as a Councilor at all times, no matter how you see yourself at any particular time. Thus, Councilors are always treated by Administration as Council members.
- o Whenever you put anything in writing, assume that everyone in the city is looking over your shoulder.
- o Do not respond to communications directed to the full Council. The City Manager or Mayor will respond.
- o If a communication is directed to an individual Councilor, you may choose to respond as an individual or refer to the City Manager.
- o Information received by a Council Member that affects the Council should be shared with the whole~~go to~~ Council. The City Manager is to decide on “gray areas,” but too much information is preferable to too little.
- o Budget cuts or increases are policy decisions. Budgets will not be cut “piece meal” or “across the board,” but rather should be made in service or program areas, giving staff full opportunity to provide data clearly defining the anticipated impact of the action.
- o It is the policy of the Council that if Councilors are contacted regarding labor relations during labor negotiations or conflict resolution proceedings, then Councilors have no comment.

## TIGARD CITY COUNCIL GROUNDRULES

- Councilors and the City Manager agree to report and discuss any contact, ~~which that~~ might affect labor relations with the entire Council in Executive Session.
- ~~The Council Groundrules will be submitted for review by Council each year either in the July or August Workshop Meeting. The Groundrules can be reviewed and revised at any other time in the year when a specific issue or issues are identified requiring action prior to the established review period.~~

**Comment [L8]:** Moved to the beginning of the document.

### Communications Between City Councilors, City Manager and Staff

- Councilors are encouraged to maintain open communications with the City Manager, both as a group and individually ~~in one on one sessions.~~
- Councilors are encouraged to take issues to the City Manager first, giving as much information as possible to ensure a thorough response.
- In the absence of the City Manager, Councilors are encouraged to contact the Assistant City Manager. In the absence of both the City Manager and the Assistant City Manager, Councilors are encouraged to contact the Department Head, realizing that the Department Head will discuss any such inquiries with the City Manager.
- City Manager shares information equally with Councilors.
- Councilors are encouraged to avoid substantive contact with staff below the Department Head to avoid possible disruption of work, confusion on priorities, and limited scope of responses. In no case, should Councilors direct the work of staff without prior approval of the Department Head or City Manager.
- Our goal is mutual confidence and respect with staff. Compliment staff members when they make good presentations. Be friendly. Attend staff occasions when you can.

### Communications Among Councilors

- No surprises.
- Be courteous.
- Honestly share concerns and opinions with each other. ~~Be honest. Don't dissemble.~~
- Don't blurt it out on TV.
- If you hold back in a meeting, follow up later with fellow Councilors or the City Manager.

# TIGARD CITY COUNCIL GROUNDRULES

- Bounce ideas off each other by phone or informal conversation, always mindful not to form a quorum.
- Spend some casual time together.

## Communications with Community/General Public

- ~~City Council members will host an event during the month of May to share with potential Mayor or City Council candidates what is involved in serving on the City Council.~~
- Councilors and the General Public are reminded of the Agenda cycle and cut-off dates. Administrative staff is available to explain how public issues are ~~handled~~ addressed and how citizen input may be accomplished.
- ~~Official communication~~ Communication that represents the City's position on an issue should come through City Hall and be provided by the City Manager. Direct submittals or inquiries to the Council or individual Councilors should be referred to the City Manager, or Councilors may ask the City Manager to look into an issue.
- Official press releases are encouraged, both to assure accurate reporting and to advise Council and Staff of the official position communicated to the press. Press releases are issued through the City Manager's Office.

**Comment [L9]:** Moved to new section following this entitled "Communications with Potential Mayor/Council Candidates"

## Communications with Potential Mayor/Council Candidates

- ~~Council members will host an event to share with potential Mayor or City Council candidates what is involved in serving on the City Council.~~
- Council members may support a person running for office but they must declare this as an individual endorsement and not in their official capacity as a Council member.

**Comment [L10]:** Moved from section above to this new section for potential candidate communication and language updated per Council direction.

## Communication Between Partners and Allies

- In general, let the Mayor speak for the City.
- Keep long-term relationships in mind. Don't over-focus on the issue at hand.
- Take issues to the City Manager first.

## Council Communication with Other Public Agencies

As the Portland metropolitan region continues to grow, it is critical that Tigard be at the "table" with other jurisdictions in the region and clearly represent the City's official position.

## TIGARD CITY COUNCIL GROUNDRULES

- Council members will be clear about representing the City or personal interests. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state whether the statement reflects personal opinion or is the official position of the City.
- If a Council member is representing the City, that Council member will consistently support and advocate the City's official position on an issue and cannot foster or further a personal viewpoint that is inconsistent with the official City position.
- Council members will inform the Council of their involvement in an outside organization if that organization is or they believe may become involved in any issue within the City's jurisdiction. If an individual Council member publicly represents or speaks on behalf of another organization whose position differs from the City's official position on an issue, the Council member must clearly communicate the organization upon whose behalf they are speaking. The Council member must withdraw from voting as a Council member upon any actions that have bearing upon the conflicting issue.
- Council members serving on committees or boards as the City representative with outside entities or agencies will communicate with other Council members on issues pertinent to the City.

### Communication with City Boards, Committees and Commissions

The independent advice of City Boards, Committees and Commissions is critical to the public decision-making process. For that reason, Council members will refrain from using their positions to influence unduly the deliberation or outcomes of board proceedings.

Members of boards, commissions, and committees are referred to generally as "board" in this section of the Groundrules.

- Council members will not contact a board member to lobby on behalf of an individual, business or developer. Council members may contact the board member in order to clarify a position taken by the Board. Council members may respond to inquiries from board members. Communications should be for information only.
- Council members may attend any board meeting, which is open to any member of the public. However, Council members should be sensitive to the way their participation could be viewed as unfairly affecting the process.
- Board members do not report to individual Council members, nor should Council members threaten board members with removal because they disagree with the member about an issue.

# TIGARD CITY COUNCIL GROUNDRULES

## Communication as the Council Liaison with City Boards

- Council liaison assignments are determined by consensus of City Council. The goal is to have assignments evenly divided between Council members. Should two or more Council members seek appointment to a position the longest serving Council member will have first choice.
- Council Liaisons are to periodically attend Board meetings, listen to the Board discussion, set context for the Board regarding Council decisions/goals/policies and City priorities, answer questions and carry concerns and information back to the full Council.
- Council Liaisons are not to direct the business or decision-making process of the Board.
- Council Liaisons are to protect the independence of the Boards.
- Council Liaisons at times may advocate Council actions on behalf of their assigned Board. Great care must be taken to avoid the appearance of unfairness, conflict of interest or circumstances where such possibilities may exist (e.g., Planning Commission quasi-judicial matters).

## CODE OF CONDUCT

### Scope

This Code of Conduct is designed to provide a framework to guide Council members in their actions. The Code of Conduct operates as a supplement to the existing statutes governing conduct including the ethics law of the State of Oregon.

This Code of Conduct applies to Council members as they also serve as the Local Contract Review Board and the City Center Development Agency.

### Conduct of Council Members

This section describes the manner in which Council members will treat one another, the public, and city staff.

#### *Council Conduct with One Another During Meetings*

- Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of democratic governance. This does not allow, however, Council members to make belligerent, personal, slanderous, threatening, abusive, or disparaging comments.

## TIGARD CITY COUNCIL GROUNDRULES

- Avoid personal comments that are intended to, or could reasonably be construed to, offend other members or citizens. If a Council member is offended by the conduct or remarks of another member, the offended member is encouraged to address the matter early with the offending member.

### *Council Conduct Outside of Public Meetings*

- Continue respectful behavior in private. The same level of respect and consideration of differing points of view deemed appropriate for public discussion should be maintained in private conversations.
- Be aware of the public nature of written notes, calendars, voicemail messages, and e-mail. All written or recorded materials including notes, voicemail, text messages and e-mail created as part of one's official capacity will be treated as potentially "public" communication.
- Even private conversations can have a public presence. Council members should be aware that they are the focus of the public's attention. Even casual conversation about city business, other public officials or staff may draw attention and be repeated.
- Understand proper political involvement. Council members, as private citizens, may support political candidates or issues but such activities must be done separate from their role as a Council member.

### *Council Conduct with the Public*

- Be welcoming to speakers and treat them with respect. For many citizens, speaking in front of the Council is a new and difficult experience. Council members should commit full attention to the speaker. Comments, questions, and non-verbal expressions should be appropriate, respectful and professional.
- Make no promises on behalf of the Council in unofficial settings. Council members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with citizens. It is appropriate to give a brief overview. Overt or implicit promises of specific action, or promises that City staff will take a specific action are to be avoided.

### *Council Conduct with City Staff*

- Respect the professional duties of City Staff. Council members should refrain from disrupting staff from the conduct of their jobs; participating in administrative functions including directing staff assignments; attending staff meetings unless requested by staff; and impairing the ability of staff to implement policy decisions.

# TIGARD CITY COUNCIL GROUNDRULES

## Individual Conduct of Council Members

The individual attitudes, words, and actions of Council members should demonstrate, support, and reflect the qualities and characteristics of Tigard as “A Place to Call Home.”

### DO THE RIGHT THING

#### *In doing the right thing, I will:*

- Be honest with fellow Council members, the public and others.
- Credit others’ contributions to moving our community’s interests forward.
- Make independent, objective, fair and impartial judgments by avoiding relationships and transactions that give the appearance of compromising objectivity, independence, and honesty.
- Reject gifts, services or other special considerations.
- Excuse myself from participating in decisions when my immediate family’s financial interests or mine may be affected by the Council’s action.
- Protect confidential information concerning litigation, personnel, property, or other affairs of the City.
- Use public resources, such as staff time, equipment, supplies or facilities, only for City-related business.

### GET IT DONE

#### *In getting it done, I will:*

- Review materials provided in advance of the meeting.
- Make every effort to attend meetings.
- Be prepared to make difficult decisions when necessary.
- Contribute to a strong organization that exemplifies transparency.
- Make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City.

### RESPECT AND CARE

#### *In respecting and caring, I will:*

- Promote meaningful public involvement in decision-making processes.
- Treat Council members, board members, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
- Share substantive information that is relevant to a matter under consideration from sources outside the public decision-making process with my fellow Council members and staff.
- Respect the distinction between the role of Council and staff.

## **TIGARD CITY COUNCIL GROUNDRULES**

- Conduct myself in a courteous and respectful manner at all times.
- Encourage participation of all persons and groups.

### **Censure and Violations**

To assure the public confidence in the integrity of the City of Tigard, Council members are held to a high standard of conduct. For this reason, Council members believe the Code of Conduct is as important to the public process as other rules and procedures. It is also recognized that, there may be times when action is required to correct and/or prevent behavior that violates the Code of Conduct.

A Council member may be censured by the other Council members for misconduct, nonperformance of duty or failure to obey the laws of the federal, state, or local government. Misconduct includes not honoring the provisions of the Council Groundrules.

Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Council member but is not required prior to passage of a Council Resolution of Censure by the other Council members.

A violation of the Code of Conduct will not be considered a basis for challenging the validity of any Council decision.

### **Implementation**

Council members will receive a copy of the Council Groundrules and will affirm in writing that they have received the rules including the code of conduct, understand the provisions, and pledge to conduct themselves by the groundrules. A periodic review of the groundrules will be conducted to ensure that they are an effective and useful tool.

# TIGARD CITY COUNCIL GROUNDRULES

## COUNCIL GROUNDRULES CERTIFICATION

As a member of the Tigard City Council, I affirm that:

- ✓ I have read and understand the Council Groundrules including the Code of Conduct and its application to my role and responsibilities while serving on the City Council.
- ✓ I pledge to conduct myself by the Council Groundrules/Code of Conduct.
- ✓ I understand that I may be officially censured by the City Council if my conduct falls below these standards.

Signature: \_\_\_\_\_ Position: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 10-**

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTERS 2.44, CITY COUNCIL; 2.46, LOCAL CONTRACT REVIEW BOARD; AND 2.64, CITY CENTER DEVELOPMENT AGENCY BY ADDING REFERENCES TO RULES OF PROCEDURES INCLUDING COUNCIL GROUNDRULES.

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WHEREAS, the residents and businesses of the City of Tigard are entitled to have fair, ethical and accountable local government; and

WHEREAS, the Tigard City Council desires to hold themselves to a high standard of integrity and ethical conduct as elected officials to support the public's confidence in the integrity of their local government's fair and effective operation; and

WHEREAS, the Tigard City Council wishes to uniformly use the Council Groundrules, including a Code of Conduct, in their roles as Mayor and Council, Local Contract Review Board and the City Center Development Agency and define a censure process for misconduct, nonperformance of duty, or failure to comply with the law.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code Chapter 2.44 entitled *City Council* is to be entitled *Mayor and City Council* and is hereby amended by adding reference to rules of procedures including Council Groundrules as shown in the attached Exhibit A.

SECTION 2: Tigard Municipal Code Section 2.46.050 entitled *Local Contract Review Board "Rules of Procedures"* is hereby amended by adding reference to rules of procedures including Council Groundrules as shown in the attached Exhibit A.

SECTION 3: Tigard Municipal Code Chapter 2.64 entitled *City Center Development Agency* is hereby amended by adding reference to rules of procedures including Council Groundrules as shown in the attached Exhibit A.

SECTION 4: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

## Exhibit "A"

*Added text is double underlined.  
Deleted text in strikethrough.*

### Tigard Municipal Code Amendments

#### Chapter 2.44 MAYOR AND CITY COUNCIL\*

##### 2.44.010 Rules of Procedures.

##### 2.44.010 Rules of Procedures.

1. The Mayor and Council shall serve with integrity, perform the duties of the position and obey the laws of the federal, state and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
2. Council Groundrules will govern proceedings of the Council where they do not conflict with statutory provisions. Council Groundrules will include a code of conduct. Council Groundrules shall be passed by Council resolution.
3. A violation of the Council Groundrules shall not be considered a basis for challenging the validity of any City Council decision.
4. The Mayor or a member of Council may be subject to a Council Resolution of Censure for misconduct, nonperformance of duty and failure to obey the laws of the federal, state and local governments. Misconduct includes not honoring the provisions of the Council Groundrules.
5. Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Mayor or member of Council but is not required prior to passage of a Resolution of Censure.

##### ~~2.07.010~~ 020 Compensation\*. (NOTE: Change in Section number only)

#### Chapter 2.46 LOCAL CONTRACT REVIEW BOARD

##### 2.46.050 Rules of Procedures.

1. The Board shall serve with integrity, perform the duties of the position and obey the laws of the federal, state and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
2. Council Groundrules will govern proceedings of the Board where they do not conflict with these rules or statutory provisions.
3. A violation of the Council Groundrules shall not be considered a basis for challenging the validity of any Board decision.
4. A Board member may be subject to a Council Resolution of Censure for misconduct, nonperformance of duty and failure to obey the laws of the federal, state and local governments. Misconduct includes not honoring the provisions of the Council Groundrules.
5. Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Board member but is not required prior to passage of a Council Resolution of Censure.

## Chapter 2.64 City Center Development Agency

### 2.64.060 Rules of Procedures.

1. The Agency shall serve with integrity, perform the duties of the position and obey the laws of the federal, state and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
2. Council Groundrules will govern proceedings of the Agency where they do not conflict with these rules or statutory provisions.
3. A violation of the Council Groundrules shall not be considered a basis for challenging the validity of any Agency decision.
4. An Agency member may be subject to a Council Resolution of Censure for misconduct, nonperformance of duty and failure to obey the laws of the federal, state and local governments. Misconduct includes not honoring the provisions of the Council Groundrules.
5. Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Board member but is not required prior to passage of a Resolution of Censure.

~~2.64.060~~ 070 Advisory Commission Established. *(NOTE: Change in Section number only)*

**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 10-**

A RESOLUTION AMENDING THE COUNCIL GROUNDRULES, ADDING THE CODE OF CONDUCT, AND SUPERSEDING RESOLUTION NO. 08-45.

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WHEREAS, the residents and businesses of the City of Tigard are entitled to have fair, ethical and accountable local government; and

WHEREAS, the Tigard City Council desires to hold themselves to a high standard of integrity and ethical conduct as elected officials to support the public's confidence in the integrity of their local government's fair and effective operation; and

WHEREAS, the Tigard City Council wishes to uniformly use the Council Groundrules, including the code of conduct, in their role as Mayor and Council (see Tigard Municipal Code 2.44.010), Local Contract Review Board (see Tigard Municipal Code 2.46.050) and the City Center Development Agency (see Tigard Municipal Code 2.64.060) and define a censure process for misconduct, nonperformance of duty or failure to comply with the law.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Council Groundrules are hereby amended and include the Code of Conduct for use by the Tigard City Council, the Local Contract Review Board and the City Center Development Agency.

SECTION 2: The attached Council Groundrules (Exhibit A) supersede the City Council Groundrules adopted by Resolution No. 08-45.

SECTION 3: This resolution is effective 30 days after its passage by the Council.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

# TIGARD CITY COUNCIL GROUNDRULES

The Tigard City Council Groundrules are a compilation of role definitions and meeting process provisions set forth in the City Charter and Tigard Municipal Code as well as general practice and communication principles. The Council Code of Conduct provides the framework to guide Council in their actions as they serve in publicly elected office. City Council is the policy making body for the City of Tigard.

The City Council will review the Groundrules annually during a July or August Workshop Meeting. The Groundrules may also be reviewed and revised as needed at any other time in the year when a specific issue or issues are identified requiring action prior to the established review period.

The City Charter, Article IV, Section 13, contains regulations that govern Council meetings. Charter provisions may only be changed by a vote of the people. Code provisions may be changed by Council Ordinance. Groundrules may be changed by Council Resolution.

## CHARTER AND MUNICIPAL CODE PROVISIONS

### Council/Mayor Roles

- The Mayor, or in the absence of the Mayor, the Council President, shall be the Presiding Officer at all meetings. The Presiding Officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council, subject to these rules. The Presiding Officer may move, second, debate and vote and shall not be deprived of any of the rights and privileges of a Councilor. The Presiding Officer shall sign all ordinances, resolutions, contracts and other documents, except where authority to sign certain contracts and other documents has been delegated to the City Manager and all documents shall be attested to by the City Recorder. The Mayor shall appoint the committees provided by the Rules of Council.
- In all other actions, decisions and other matters relating to the conduct of business of the City, the Mayor or President shall have no more or less authority than any other Council member. For the purposes of this written procedure any reference to the Council (unless otherwise specifically noted to the contrary) will include the Mayor, Council President and Council members.

### Conduct of City Meetings

- Council will meet at least once a month. Regularly scheduled meetings shall be on the second, third, and fourth Tuesdays of each month.
- The Council meetings on the second and fourth Tuesdays are “Business” meetings; the Council meetings on the third Tuesday of the month are “Workshop” meetings unless otherwise designated by the City Council. Members of the City Council may set other meetings of the full Council such as joint meetings with other agencies or general community meetings.

# TIGARD CITY COUNCIL GROUNDRULES

- Unless specifically noted otherwise, the meetings of Council shall begin at 6:30 p.m. at the established place of meeting. On the second and fourth Tuesdays, the meetings will begin with a Study Session following by the Business meeting. On the third Tuesday, the Workshop meeting will begin at 6:30 p.m.
- Roll Call/Voting Order: The roll shall be called in alphabetical order by last name. At each succeeding meeting at which a roll call vote is taken, the council person who voted last during the previous meeting, shall vote first and the Council person who voted first during the preceding meeting shall vote second and so on in a rotating fashion. It is the intent that the voting order remain fixed for each meeting and that a different Council person shall vote last during each separate meeting for the duration of the meeting.
- Charter Section 19 provides that *the concurrence of a majority of the members of the Council present and voting, when a quorum of the Council is present, at a Council meeting shall be necessary to decide any question before the Council.* A Council member who abstains or passes shall be considered present for determining whether a quorum exists, but shall not be counted as voting. Therefore, abstentions and 'passes' shall not be counted in the total vote and only votes in favor of or against a measure shall be counted in determining whether a measure receives a majority.

## City Council Compensation

Section 2.44.020 of the Tigard Municipal Code provides for compensation for attendance at Council meetings and meetings for an intergovernmental board, committee or agency. The amount of the compensation for Council members may be reviewed and set annually by resolution of the City Council as part of the budget cycle. As part of the annual review, Council may elect to enter into an agreement with the Mayor or one City Councilor to assume additional responsibilities for additional compensation. The additional duties shall relate to representing the city on regional, state or federal issues and committees or task forces. The responsibilities and compensation shall be set by agreement between the Mayor or Councilor and the Council members.

## GENERAL GROUNDRULE PROVISIONS

The next portion of this document is divided into three major sections identifying groundrules for the Meeting Process, Communication and Code of Conduct that:

- Establish the meeting process;
- Guide individual interaction and communication among Councilors and with the community;
- Set out the Code of Conduct providing the framework to guide Council members in their actions and conduct; and

# TIGARD CITY COUNCIL GROUNDRULES

- Govern proceedings of the City Council, Local Contract Review Board and City Center Development Agency where they do not conflict with statutory provisions.

## MEETING PROCESS

All Council meetings are open to the public with the exception of Executive Sessions, which are called under certain circumstances and topics are limited to those defined in ORS 192.660.

- The Chair or other members if the Chair fails to remember may call for a Point of Order at or around 9 p.m. to review remaining agenda items. The Council may reset or reschedule items, which it feels may not be reached prior to the regular time of adjournment.
- The Council's goal is to adjourn prior to 9:30 p.m. unless extended by majority consent of Council members present. If not continued by majority consent, the meeting shall be adjourned to the next scheduled meeting or the meeting shall be continued to another regular or special meeting at another date and time.
- Regularly scheduled business meetings and workshops are generally televised.

### Definitions - Meeting Types, Study Sessions and Executive Sessions:

#### **BUSINESS MEETINGS**

- Regular meetings where Council may deliberate toward a final decision on an agenda item including consideration of ordinances, resolutions & conducting public hearings.
- Business meetings are generally scheduled to begin at 7:30 p.m. with a study session preceding the Business Meeting at 6:30 p.m. Study Sessions are a workshop-type of meeting (see Study Session definition below).
- The "Citizen Communication" portion of the agenda is a regular feature on the Council Business meetings. This item will be placed near the beginning of the Council Agenda to give citizens a chance to introduce a topic to the City Council. Citizen Communications are limited to two minutes in length and must be directed to topics that are not on the Council Agenda for that meeting.
- At the conclusion of the Citizen Communication period, either the Mayor, a Council member or staff member will comment what, if any, follow-up action will be taken to respond to each issue. At the beginning of Citizen Communication at the next business meeting, staff will update the Council and community on the review of the issue(s), the action taken to address the issue, and a statement of what additional action is planned. Council may decide to refer an issue to staff and/or schedule the topic for a later Council meeting.

# TIGARD CITY COUNCIL GROUNDRULES

## WORKSHOP MEETINGS

- Regular meetings where Council reviews and discusses agenda topics. Council may not make final decisions during the meeting. Public testimony is not scheduled unless the Mayor or Council so choose.
- Appropriate topics for Workshop meetings include:
  - ~ Introduce a Topic: Staff will bring up new items to determine whether Council wants to entertain further discussion and whether to schedule the topic as an item on a future agenda.
  - ~ Educational Meetings: Council will review research information presented by staff, consultants, or task forces - usually as a process check; i.e., is the issue on the right “track”?
  - ~ Meet with individuals from City boards and committees or other jurisdictions to discuss items of common interest (examples: Tigard Planning Commission, Lake Oswego City Council, the Tigard-Tualatin School District).
  - ~ Administrative Updates: Items such as calendar information, scheduling preferences, process checks.

## STUDY SESSIONS

- Study Sessions usually precede or follow a Business Meeting or Workshop Meeting that are open to the public but not regularly televised.
- Conducted in a workshop-type setting to provide Council an opportunity to review the Business Meeting Agenda and ask for clarification on issues or processes. Information is also shared on time-sensitive items.
- Any Council member may call for a Point of Order to stop the discussion because he or she proposes that it would be more appropriate to discuss the matter during a Council Business Meeting.
- If a Point of Order is raised, the City Council will discuss the Point of Order to determine whether the discussion should continue or be held during a Council Business Meeting. The decision on whether to continue the discussion or not shall be determined by the consensus of the Council members present.
- If Council discusses a Council Agenda Topic in a Study Session prior to that Council meeting, either the Presiding Officer or City Manager will briefly state at the introduction of the Agenda Topic, the fact that Council discussed the topic in the Study Session and mention the key points of the discussion.

# TIGARD CITY COUNCIL GROUNDRULES

## EXECUTIVE SESSIONS

- Executive Sessions are held by the Council with appropriate staff or advisors in attendance. The purpose is to review certain matters in a setting closed to the public. Executive Sessions may be held during a regular, special or emergency meeting after the Presiding Officer has identified the ORS authorization for holding the Executive Session. Permitted topics are identified in ORS 192.660 and include employment of a public officer, deliberations with the persons designated by the Council to carry on labor negotiations, deliberations with persons designated to negotiate real property transactions, and to consult with legal counsel regarding current litigation or litigation likely to be filed.

## Council Agendas and Packet Information

- The City Manager will schedule agenda items with the objective of maintaining balanced agendas and allowing time to discuss topics within the meeting's time allotment.
- The City Manager will schedule items allowing time for staff research and agenda cycle deadlines.
- The agenda cycle calls for submittal of items ten days in advance of a Council meeting. With the exception of Executive Sessions, add-on topics and handouts during the meeting are to be minimized.
- Councilors will prepare in advance of public meetings by reviewing packet material and requesting further necessary information in advance of the meeting. Staff will prepare in advance of public meetings by presenting issues fully in packets and providing additional information requested by Council.
- Council is supportive of the role of staff in offering professional recommendations. Staff is aware of Council's right to make final decisions after considering the staff recommendation, public input, the record and Council deliberation on the matter.
- Council members should attempt to give at least 24 hours' notice by advising the City Manager and the City Recorder of a request to remove a Consent Agenda item for separate discussion. The City Recorder shall notify all Councilors of such requests prior to the start of the Business Meeting.

## Councilors Scheduling Agenda Items

- Councilors are encouraged to suggest agenda topics at the bench or to contact the City Manager about scheduling an item on the Tentative Agenda.
- Add-on agenda items should be brought up at the start of the meeting and are generally considered only if continuing to a later agenda is not practical.

# TIGARD CITY COUNCIL GROUNDRULES

- Requests for legislative action of Council may be initiated by an individual Council member during a Council meeting. The City Manager will respond to the request consistent with resources and priorities, or refer the question of scheduling to Council as a whole.

## Councilors Use of Electronic Communications Devices During Council Meetings

Definitions for this section:

**Electronic Communications** means e-mail, text messages, or other forms of communications transmitted or received by technological means.

**Electronic Communications Devices** means lap-top computers, blackberries, cell-phones, notebooks, or other similar devices capable of transmitting or receiving messages electronically.

- Councilors shall not send or receive electronic communications concerning any matter pending before the Council during a Council meeting.
- Councilors shall not use electronic communication devices to review or access information regarding matters not in consideration before the Council during a Council meeting.
- Councilors shall not access the internet but may access Council packet information concerning any matter pending before the Council during a Council meeting.
- Any electronic communications regarding a quasi-judicial matter to be considered by Council is an ex-parte contact and shall be disclosed as required by law.

## COMMUNICATION

### General

- Recognize that you are seen as a Councilor at all times, no matter how you see yourself at any particular time. Thus, Councilors are always treated by Administration as Council members.
- Whenever you put anything in writing, assume that everyone in the city is looking over your shoulder.
- Do not respond to communications directed to the full Council. The City Manager or Mayor will respond.
- If a communication is directed to an individual Councilor, you may choose to respond as an individual or refer to the City Manager.
- Information received by a Council Member that affects the Council should be shared with the whole Council. The City Manager is to decide on “gray areas,” but too much information is preferable to too little.

# TIGARD CITY COUNCIL GROUNDRULES

- Budget cuts or increases are policy decisions. Budgets will not be cut “piece meal” or “across the board,” but rather should be made in service or program areas, giving staff full opportunity to provide data clearly defining the anticipated impact of the action.
- It is the policy of the Council that if Councilors are contacted regarding labor relations during labor negotiations or conflict resolution proceedings, then Councilors have no comment.
- Councilors and the City Manager agree to report and discuss any contact that might affect labor relations with the entire Council in Executive Session.

## Communications Between City Councilors, City Manager and Staff

- Councilors are encouraged to maintain open communications with the City Manager, both as a group and individually.
- Councilors are encouraged to take issues to the City Manager first, giving as much information as possible to ensure a thorough response.
- In the absence of the City Manager, Councilors are encouraged to contact the Assistant City Manager. In the absence of both the City Manager and the Assistant City Manager, Councilors are encouraged to contact the Department Head, realizing that the Department Head will discuss any such inquiries with the City Manager.
- City Manager shares information equally with Councilors.
- Councilors are encouraged to avoid substantive contact with staff below the Department Head to avoid possible disruption of work, confusion on priorities, and limited scope of responses. In no case, should Councilors direct the work of staff without prior approval of the Department Head or City Manager.
- Our goal is mutual confidence and respect with staff. Compliment staff members when they make good presentations. Be friendly. Attend staff occasions when you can.

## Communications Among Councilors

- No surprises.
- Be courteous.
- Honestly share concerns and opinions with each other.
- Don't blurt it out on TV.
- If you hold back in a meeting, follow up later with fellow Councilors or the City Manager.

# TIGARD CITY COUNCIL GROUNDRULES

- Bounce ideas off each other by phone or informal conversation, always mindful not to form a quorum.
- Spend some casual time together.

## Communications with Community/General Public

- Councilors and the General Public are reminded of the Agenda cycle and cut-off dates. Administrative staff is available to explain how public issues are addressed and how citizen input may be accomplished.
- Communication that represents the City's position on an issue should come through City Hall and be provided by the City Manager. Direct submittals or inquiries to the Council or individual Councilors should be referred to the City Manager, or Councilors may ask the City Manager to look into an issue.
- Official press releases are encouraged, both to assure accurate reporting and to advise Council and Staff of the official position communicated to the press. Press releases are issued through the City Manager's Office.

## Communications with Potential Mayor/Council Candidates

- Council members will host an event to share with potential Mayor or City Council candidates what is involved in serving on the City Council.
- Council members may support a person running for office but they must declare this as an individual endorsement and not in their official capacity as a Council member.

## Communication Between Partners and Allies

- In general, let the Mayor speak for the City.
- Keep long-term relationships in mind. Don't over-focus on the issue at hand.
- Take issues to the City Manager first.

## Council Communication with Other Public Agencies

As the Portland metropolitan region continues to grow, it is critical that Tigard be at the "table" with other jurisdictions in the region and clearly represent the City's official position.

- Council members will be clear about representing the City or personal interests. If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state whether the statement reflects personal opinion or is the official position of the City.

# TIGARD CITY COUNCIL GROUNDRULES

- If a Council member is representing the City, that Council member will consistently support and advocate the City's official position on an issue and cannot foster or further a personal viewpoint that is inconsistent with the official City position.
- Council members will inform the Council of their involvement in an outside organization if that organization is or they believe may become involved in any issue within the City's jurisdiction. If an individual Council member publicly represents or speaks on behalf of another organization whose position differs from the City's official position on an issue, the Council member must clearly communicate the organization upon whose behalf they are speaking. The Council member must withdraw from voting as a Council member upon any actions that have bearing upon the conflicting issue.
- Council members serving on committees or boards as the City representative with outside entities or agencies will communicate with other Council members on issues pertinent to the City.

## Communication with City Boards, Committees and Commissions

The independent advice of City Boards, Committees and Commissions is critical to the public decision-making process. For that reason, Council members will refrain from using their positions to influence unduly the deliberation or outcomes of board proceedings.

Members of boards, commissions, and committees are referred to generally as "board" in this section of the Groundrules.

- Council members will not contact a board member to lobby on behalf of an individual, business or developer. Council members may contact the board member in order to clarify a position taken by the Board. Council members may respond to inquiries from board members. Communications should be for information only.
- Council members may attend any board meeting, which is open to any member of the public. However, Council members should be sensitive to the way their participation could be viewed as unfairly affecting the process.
- Board members do not report to individual Council members, nor should Council members threaten board members with removal because they disagree with the member about an issue.

## Communication as the Council Liaison with City Boards

- Council liaison assignments are determined by consensus of City Council. The goal is to have assignments evenly divided between Council members. Should two or more Council members seek appointment to a position the longest serving Council member will have first choice.

# TIGARD CITY COUNCIL GROUNDRULES

- Council Liaisons are to periodically attend Board meetings, listen to the Board discussion, set context for the Board regarding Council decisions/goals/policies and City priorities, answer questions and carry concerns and information back to the full Council.
- Council Liaisons are not to direct the business or decision-making process of the Board.
- Council Liaisons are to protect the independence of the Boards.
- Council Liaisons at times may advocate Council actions on behalf of their assigned Board. Great care must be taken to avoid the appearance of unfairness, conflict of interest or circumstances where such possibilities may exist (e.g., Planning Commission quasi-judicial matters).

## CODE OF CONDUCT

### Scope

This Code of Conduct is designed to provide a framework to guide Council members in their actions. The Code of Conduct operates as a supplement to the existing statutes governing conduct including the ethics law of the State of Oregon.

This Code of Conduct applies to Council members as they also serve as the Local Contract Review Board and the City Center Development Agency.

### Conduct of Council Members

This section describes the manner in which Council members will treat one another, the public, and city staff.

#### *Council Conduct with One Another During Meetings*

- Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of democratic governance. This does not allow, however, Council members to make belligerent, personal, slanderous, threatening, abusive, or disparaging comments.
- Avoid personal comments that are intended to, or could reasonably be construed to, offend other members or citizens. If a Council member is offended by the conduct or remarks of another member, the offended member is encouraged to address the matter early with the offending member.

# TIGARD CITY COUNCIL GROUNDRULES

## *Council Conduct Outside of Public Meetings*

- Continue respectful behavior in private. The same level of respect and consideration of differing points of view deemed appropriate for public discussion should be maintained in private conversations.
- Be aware of the public nature of written notes, calendars, voicemail messages, and e-mail. All written or recorded materials including notes, voicemail, text messages and e-mail created as part of one's official capacity will be treated as potentially "public" communication.
- Even private conversations can have a public presence. Council members should be aware that they are the focus of the public's attention. Even casual conversation about city business, other public officials or staff may draw attention and be repeated.
- Understand proper political involvement. Council members, as private citizens, may support political candidates or issues but such activities must be done separate from their role as a Council member.

## *Council Conduct with the Public*

- Be welcoming to speakers and treat them with respect. For many citizens, speaking in front of the Council is a new and difficult experience. Council members should commit full attention to the speaker. Comments, questions, and non-verbal expressions should be appropriate, respectful and professional.
- Make no promises on behalf of the Council in unofficial settings. Council members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with citizens. It is appropriate to give a brief overview. Overt or implicit promises of specific action or promises that City staff will take a specific action are to be avoided.

## *Council Conduct with City Staff*

- Respect the professional duties of City Staff. Council members should refrain from disrupting staff from the conduct of their jobs; participating in administrative functions including directing staff assignments; attending staff meetings unless requested by staff; and impairing the ability of staff to implement policy decisions.

# TIGARD CITY COUNCIL GROUNDRULES

## Individual Conduct of Council Members

The individual attitudes, words, and actions of Council members should demonstrate, support, and reflect the qualities and characteristics of Tigard as “A Place to Call Home.”

### DO THE RIGHT THING

*In doing the right thing, I will:*

- Be honest with fellow Council members, the public and others.
- Credit others' contributions to moving our community's interests forward.
- Make independent, objective, fair and impartial judgments by avoiding relationships and transactions that give the appearance of compromising objectivity, independence, and honesty.
- Reject gifts, services or other special considerations.
- Excuse myself from participating in decisions when my immediate family's financial interests or mine may be affected by the Council's action.
- Protect confidential information concerning litigation, personnel, property, or other affairs of the City.
- Use public resources, such as staff time, equipment, supplies or facilities, only for City-related business.

### GET IT DONE

*In getting it done, I will:*

- Review materials provided in advance of the meeting.
- Make every effort to attend meetings.
- Be prepared to make difficult decisions when necessary.
- Contribute to a strong organization that exemplifies transparency.
- Make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City.

### RESPECT AND CARE

*In respecting and caring, I will:*

- Promote meaningful public involvement in decision-making processes.
- Treat Council members, board members, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
- Share substantive information that is relevant to a matter under consideration from sources outside the public decision-making process with my fellow Council members and staff.
- Respect the distinction between the role of Council and staff.
- Conduct myself in a courteous and respectful manner at all times.
- Encourage participation of all persons and groups.

# TIGARD CITY COUNCIL GROUNDRULES

## **Censure and Violations**

To assure the public confidence in the integrity of the City of Tigard, Council members are held to a high standard of conduct. For this reason, Council members believe the Code of Conduct is as important to the public process as other rules and procedures. It is also recognized that, there may be times when action is required to correct and/or prevent behavior that violates the Code of Conduct.

A Council member may be censured by the other Council members for misconduct, nonperformance of duty or failure to obey the laws of the federal, state, or local government. Misconduct includes not honoring the provisions of the Council Groundrules.

Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Council member but is not required prior to passage of a Council Resolution of Censure by the other Council members.

A violation of the Code of Conduct will not be considered a basis for challenging the validity of any Council decision.

## **Implementation**

Council members will receive a copy of the Council Groundrules and will affirm in writing that they have received the rules including the code of conduct, understand the provisions, and pledge to conduct themselves by the groundrules. A periodic review of the groundrules will be conducted to ensure that they are an effective and useful tool.

# TIGARD CITY COUNCIL GROUNDRULES

## COUNCIL GROUNDRULES CERTIFICATION

**As a member of the Tigard City Council, I affirm that:**

- ✓ I have read and understand the Council Groundrules including the Code of Conduct and its application to my role and responsibilities while serving on the City Council.
- ✓ I pledge to conduct myself by the Council Groundrules/Code of Conduct.
- ✓ I understand that I may be officially censured by the City Council if my conduct falls below these standards.

Signature: \_\_\_\_\_

Position: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_



**OTHER ALTERNATIVES**

No other alternatives were considered as City Council directed the creation of the Code of Conduct for board, committee and commission members.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

7/13/10 - Council directed staff to develop Code of Conduct for Board and Committee members and City Council

8/17/10 - Council reviewed Board and Committee members Code of Conduct

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**Fiscal Impact**

**Cost:** 0  
**Budgeted (yes or no):** No  
**Where Budgeted (department/program):** NA  
**Additional Fiscal Notes:**  
None

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**Attachments**

Ordinance adopting TMC amendments  
Resolution approving Code of Conduct

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**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 10-**

AN ORDINANCE CREATING TIGARD MUNICIPAL CODE SECTION 2.07, CODE OF CONDUCT FOR APPOINTED OFFICIALS SERVING ON CITY BOARDS, COMMITTEES AND COMMISSIONS, AND AMENDING CHAPTER 2.08, PLANNING COMMISSION, BY DELETING SECTION 2.08.030, COMMISSION REMOVAL.

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WHEREAS, the residents and businesses of the City of Tigard are entitled to have fair, ethical and accountable local government; and

WHEREAS, the Tigard City Council desires a high standard of integrity and ethical conduct for appointed members of the City's boards, committees and commissions which will support the public's confidence in their local government's fair and effective operation; and

WHEREAS, the Tigard City Council wishes to create a Code of Conduct for appointed members of the City's boards, committees and commissions and define the removal process of those members for misconduct, nonperformance of duty, or failure to comply with the law or meet the Code of Conduct expectations; and

WHEREAS, the Tigard Municipal Code currently contains a removal process for Planning Commission members but does not define or provide for a Code of Conduct.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: A new chapter 2.07 entitled *CODE OF CONDUCT FOR APPOINTED OFFICIALS OF BOARDS, COMMITTEES AND COMMISSIONS* is hereby added to the Tigard Municipal Code as shown in the attached Exhibit A.

SECTION 2: Tigard Municipal Code Chapter 2.08 entitled *Planning Commission* is hereby amended by repealing Section 2.08.030, *Commission Removal*, in its entirety as shown in the attached Exhibit A.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

## Exhibit "A"

*Added text is double underlined.  
Deleted text in strikethrough.*

### Tigard Municipal Code Amendments

#### Chapter 2.07 CODE OF CONDUCT FOR APPOINTED OFFICIALS OF BOARDS, COMMITTEES AND COMMISSIONS

- 2.07.010 Purpose.  
2.07.020 Code of Conduct.  
2.07.030 Removal Process.

2.07.010 Purpose.

A committee member is appointed with the belief that the person will serve with integrity, perform the duties of the position and obey the laws of the federal, state, and local governments. This is required to protect the public's confidence in their local government's fair and effective operation.

This Chapter applies to all boards, committees and commissions established by the City of Tigard.

2.07.020 Code of Conduct.

The Tigard City Council shall define the code of conduct required of appointed committee members. The code of conduct shall be passed by Council resolution.

A violation of the Code of Conduct shall not be considered a basis for challenging the validity of any City committee decision.

2.07.030 Removal Process.

A City committee member may be removed by the appointing authority for misconduct, nonperformance of duty or failure to obey the laws of the federal, state and local governments.

Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the committee member but is not required prior to removal from committee by the appointing authority.

#### Chapter 2.08 PLANNING COMMISSION

~~2.08.030 Commission Removal.~~

~~A member of such a commission may be removed by the appointing authority, after hearing, for misconduct or nonperformance of duty.~~

**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 10-**

A RESOLUTION ESTABLISHING THE CODE OF CONDUCT FOR APPOINTED MEMBERS OF THE CITY'S BOARDS, COMMITTEES AND COMMISSIONS.

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WHEREAS, the residents and businesses of the City of Tigard are entitled to have fair, ethical and accountable local government; and

WHEREAS, the Tigard City Council desires a high standard of integrity and ethical conduct for appointed members of the City's boards, committees and commissions to support the public's confidence in their local government's fair and effective operation; and

WHEREAS, the Tigard City Council wishes to create a code of conduct for appointed members of the City's boards, committees and commissions and define the removal process of those members for misconduct, nonperformance of duty, failure to comply with the law or failure to meet the Code of Conduct expectations.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Code of Conduct for appointed board, committee and commission members is attached as Exhibit A and is approved by Council resolution as required by Tigard Municipal Code 2.07.020.

SECTION 2: This resolution is effective 30 days after its passage by the Council.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

**EXHIBIT “A”**  
**CODE OF CONDUCT**  
**TIGARD BOARDS, COMMISSIONS, AND COMMITTEES**

**Scope**

This Code of Conduct is designed to provide a framework to guide members of boards, commissions, and committees in their actions. The Code of Conduct operates as a supplement to the existing statutes governing conduct including the ethics law of the State of Oregon.

Members of boards, commissions, and committees are referred to generally as “board members” in this Code of Conduct.

**Conduct of Boards, Commissions, and Committees**

This section describes the manner in which board members will treat one another, the public, and city staff.

*Board Conduct with One Another During Meetings*

- Practice civility, professionalism and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of democratic governance. This does not allow, however, board members to make belligerent, personal, slanderous, threatening, abusive, or disparaging comments.
- Avoid personal comments that are intended to, or could reasonably be construed to, offend other members or citizens. If a member is offended by the conduct or remarks of another member, the offended member is encouraged to address the matter early with the offending member.

*Board Conduct Outside Public Meetings*

- Continue respectful behavior in private. The same level of respect and consideration of differing points of view deemed appropriate for public discussion should be maintained in private conversations.
- Be aware of the public nature of written notes, calendars, voicemail messages, and e-mail. All written or recorded materials including notes, voicemail, text messages, and e-mail created as part of one’s official capacity will be treated as potentially “public” communication.
- Even private conversations can have a public presence. Board members should be aware that they are the focus of the public’s attention. Even casual conversation about city business, other public officials or staff may draw attention and be repeated.
- Understand proper political involvement. Board members, as private citizens, may support political candidates or issues but such activities must be done separate from their role as a board member.

### *Board Conduct with the Public*

- Be welcoming to speakers and treat them with respect. For many citizens, speaking in front of a board is a new and difficult experience. Board members should commit full attention to the speaker. Comments, questions, and non-verbal expressions should be appropriate, respectful and professional.
- Make no promises on behalf of the board in unofficial settings. Board members will frequently be asked to explain a board action or to give their opinion about an issue as they meet and talk with citizens. It is appropriate to give a brief overview. Overt or implicit promises of specific action or promises City staff will take a specific action are to be avoided.

### *Board Conduct with City Staff*

- Respect the professional duties of City Staff. Board members should refrain from disrupting staff from the conduct of their jobs; participating in administrative functions including directing staff assignments; attending staff meetings unless requested by staff; and impairing the ability of staff to implement policy decisions.

### **Individual Conduct of Board Members**

The individual attitudes, words, and actions of board members should demonstrate, support, and reflect the qualities and characteristics of Tigard as “A Place to Call Home.”

#### **DO THE RIGHT THING**

*In doing the right thing, I will:*

- Be honest with fellow board members, the public and others.
- Credit others’ contributions to moving our community’s interests forward.
- Make independent, objective, fair and impartial judgments by avoiding relationships and transactions that give the appearance of compromising objectivity, independence, and honesty.
- Reject gifts, services or other special considerations.
- Excuse myself from participating in decisions when my immediate family’s financial interests or mine may be affected by my board’s action.
- Protect confidential information concerning litigation, personnel, property, or other affairs of the City.
- Use public resources, such as staff time, equipment, supplies or facilities, only for City-related business.

#### **GET IT DONE**

*In getting it done, I will:*

- Review materials provided in advance of the meeting.
- Make every effort to attend meetings.
- Be prepared to make difficult decisions when necessary.
- Contribute to a strong organization that exemplifies transparency.
- Make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the City.

## RESPECT AND CARE

*In respecting and caring, I will:*

- Promote meaningful public involvement in decision-making processes.
- Treat board members, City Council, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
- Share substantive information that is relevant to a matter under consideration from sources outside the public decision-making process with my fellow governing board members and staff.
- Respect the distinction between the role of board member and staff.
- Conduct myself in a courteous and respectful manner at all times.
- Encourage participation of all persons and groups.

### **Sanctions and Violations**

To assure the public confidence in the integrity of the City of Tigard, board members are held to a high standard of conduct. For this reason, the City Council believes the Code of Conduct is as important to the public process as other rules and procedures. It is also recognized that, there may be times when action is required to correct and/or prevent behavior that violates the Code of Conduct.

A board member may be removed by the appointing authority for misconduct, nonperformance of duty or failure to obey the laws of the federal, state, or local government (TMC 2.07). Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the board member but is not required prior to removal from the board by the appointing authority. A violation of the Code of Conduct will not be considered a basis for challenging the validity of any City board decision.

### **Implementation**

All board, committee and commission members will be given a copy of the Code of Conduct and will be required to affirm in writing that they have received the code, understand its provisions, and pledge to conduct themselves by the code. A periodic review by City Council of the code will be conducted to ensure that the code is an effective and useful tool.

## CODE OF CONDUCT CERTIFICATION

As a member of a City board, commission, or committee, I affirm that:

- ✓ I have read and understand the Tigard Code of Conduct for members of Boards, Commissions, and Committees and its application to my role and responsibilities while serving on a City board.
- ✓ I pledge to conduct myself by the Code of Conduct.
- ✓ I understand that I may be removed from my position if my conduct falls below these standards.

Signature: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Committee Appointed To

AIS-195

Item #: 6.

**Business Meeting**

**Date:** 10/26/2010

**Length (in minutes):** 10 Minutes

**Agenda Title:** Monthly Update on CIP Projects for Pacific Highway, Main Street, Greenburg Road Project and the Burnham Street Project

**Prepared By:** Ted Kyle, Public Works

**Item Type:** Update, Discussion, Direct Staff      **Meeting Type:** Council Business Meeting - Main

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**Information**

**ISSUE**

Update regarding active and completed CIP projects.

**STAFF RECOMMENDATION / ACTION REQUEST**

Information item. No action required.

**KEY FACTS AND INFORMATION SUMMARY**

This presentation will focus on two major roadway projects.

The Pacific Highway/Main Street/Greenburg Road project has reached the point where curbs are nearly complete and work continues on signal installation. Once the signals are set and switched over to the new signalization system, final work on Main Street and Greenburg Road can continue. It is possible that the paving for this project may be completed this fall. Final landscaping will occur over the winter and spring.

The Burnham Street project has progressed with the removal of all of the utility poles. This opens the way for paving work to begin. Final grading of the roadbed is underway and the first lift of paving is tentatively scheduled for October 16 and 17, weather permitting. Sidewalk installation will continue behind the curbs. Landscaping and final touches will be completed in the spring.

The status of Street Maintenance Fee paving projects is as follows:

- The Slurry Seal program is complete and resulted in 13 miles of street being treated.
- The Overlay program is nearing completion.

**OTHER ALTERNATIVES**

None

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

Council has received monthly updates.

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**Attachments**

[Project Update Powerpoint 10/12/10](#)

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City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



**Construction Update  
City Council Meeting  
October 26, 2010**

[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



Highway 99W - SW Hall Boulevard -  
SW Greenburg Road/Main Street  
Intersection Improvements

A joint project by Washington County, City of Tigard and  
the Oregon Department of Transportation

Coming  
Attractions  
Spring 2011

[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



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[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



## Project Milestones

- Underground Work Complete
- Pacific/Hall New Signal Operational 10/12
- Pacific/Greenburg/Main Signal 10/28
- Paving and sidewalks as weather allows
- Finishing Touches in Spring, 2011
- New travel lanes could open earlier

City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



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[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



# Ways to Stay Informed

- Project Hotline 503-846-7807
- [http://www.tigard-or.gov/pacifichwy\\_99w](http://www.tigard-or.gov/pacifichwy_99w)
- [http://twitter.com/99W\\_Tigard](http://twitter.com/99W_Tigard)
- Or Call Our Project Managers
  - Dan Erpenbach 503-846-7877
  - Mike McCarthy 503-718-2462

City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main

# Pavement Management Program – Slurry Seal

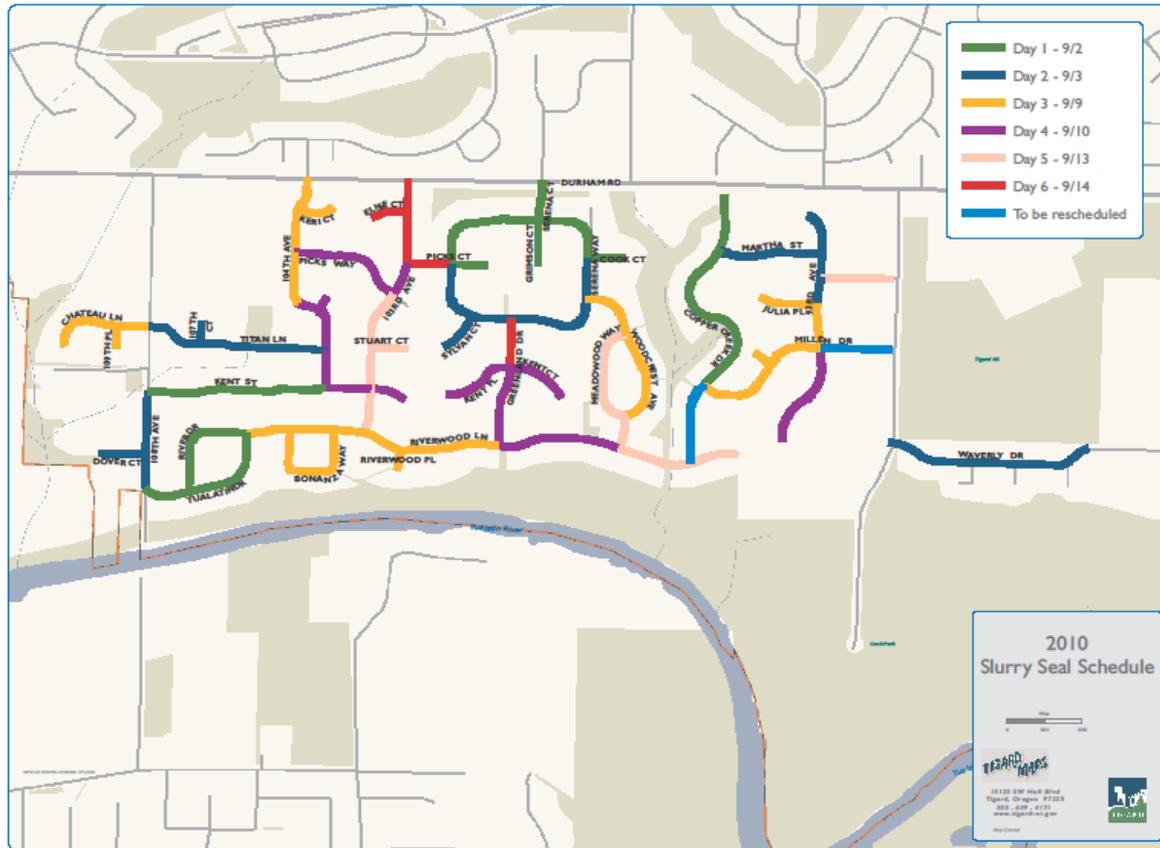


[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)





# City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main

## Pavement Management Program – Overlay



[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



# 2010 PMP Pavement Overlays

- Sequoia Pkwy (Cardinal to Upper Boones)
- 72<sup>nd</sup> Ave (Baylor to Beveland)
- 121<sup>st</sup> Ave (Springwood to Scholls Ferry)
- Pfaffle Street (Hall to Pacific Hwy 99W)

City of Tigard ■ Pacific Hwy / Hall / Greenburg / Main



**Construction Update  
City Council Meeting  
October 26, 2010**

[www.tigard-or.gov/99W](http://www.tigard-or.gov/99W)



**AIS-204**

**Item #: 7.**

**Business Meeting**

**Date: 10/26/2010**

**Length (in minutes):** 20 Minutes

**Agenda Title:** Discussion to Prepare for November 16, 2010, Meeting with Jason Tell, ODOT Region 1 Manager

**Prepared By:** Kathy Mollusky, Public Works

**Item Type:** Update, Discussion, Direct Staff      **Meeting Type:** Council Business Meeting - Main

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**Information**

**ISSUE**

Review of Tigard and Oregon Department of Transportation (ODOT) transportation-related:

1. Principles of cooperation
2. Partnerships of mutual benefit

**STAFF RECOMMENDATION / ACTION REQUEST**

The City Council is scheduled to meet with ODOT Region 1 Manager Jason Tell on November 16, 2010. Councilors have individually expressed interest on focusing the discussion on principles of cooperation and partnership. Attached are some suggested principles that Councilors may wish to use for the upcoming meeting.

**KEY FACTS AND INFORMATION SUMMARY**

Attachment 1 lists five suggested principles for Council's consideration.

**OTHER ALTERNATIVES**

NA

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

4. Advance Methods of Communication; a) Develop communication strategies and methods in support of City Goals.

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Attachments**

ODOT-Council Principles

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### Suggested Principles for Discussion with Jason Tell, ODOT Region 1 Manager

<p><b>Principle 1:</b> Balance Pacific Highway's function as a principal arterial with the community's needs for business and employment opportunities; greater access to alternative transportation modes and improved appearance, environmental quality and livability</p>	<p><b>Implementing Actions:</b> Strategic access management and intersection improvements; landscaped medians and allowed u-turns; tree planting and other landscaping; water quality facilities ; bus queuing lanes; improved bus stops and park and rides; continuous sidewalks and well designed bike facilities and flexibility in ODOT design standards</p>
<p><b>Principle 2:</b> Promote High Capacity Transit (HCT) as a major travel mode within the Pacific Highway 99W Corridor</p>	<p><b>Implementing Actions:</b> Joint engagement and close and supportive coordination in planning for and implementing future HCT.</p>
<p><b>Principle 3:</b> Support the acquisition of funding from multiple sources to invest in state and local transportation facilities within Tigard:</p>	<p><b>Implementing Actions:</b> Collaborate to identify and acquire funding from local, regional, state and national sources to invest in state and local transportation facilities within and adjacent to Tigard.</p>
<p><b>Principle 4:</b> Invest in capital improvements and traffic management measures for state <u>and</u> local roads and streets to reduce congestion, improve safety and capacity for <u>both</u> systems.</p>	<p><b>Implementing Actions:</b> Improved local street connectivity; access managements; signal modernization; traffic information systems; pedestrian, bike and transit improvements, etc.</p>
<p><b>Principle 5:</b> Integrate transportation and land use planning, particularly by supporting development of a transportation efficient and economically viable mixed use land use pattern on lands within the Pacific Highway 99W Corridor:</p>	<p><b>Implementing Actions:</b> Adopt HCT supportive land use designations for the Pacific Highway Corridor; Amend the Transportation Planning Rule (TPR) and Oregon Highway Plan (OHP) to make possible denser and more efficient urban development in the corridor; prioritize investments in the urban portions of the corridor; reconcile ODOT's facility management needs with Tigard's land use aspirations.</p>