



City of Tigard

Tigard Business Meeting - Agenda

TIGARD CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD - Agenda was revised August 18, 2011 to reflect that an Executive Session may be called to discuss employment of a public officer/employee. There was an update to the City Council packet with supplemental information updating Exhibits A and B to the proposed ordinance for River Terrace Annexation, Agenda Item No. 5, (Attachment labeled Revised Exhibits A & B [Legal Description and Maps])

MEETING DATE AND TIME: August 23, 2011 - 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

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;
- 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

VIEW LIVE VIDEO STREAMING ONLINE:

<http://www.tvctv.org/government-programming/government-meetings/tigard>

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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TIGARD CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD -

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MEETING DATE AND TIME: August 23, 2011 - 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**

A. Update on Code-Compliance Related Municipal Code Amendments

B. Review and Discuss Topic Areas for 2011 Community Attitudes Survey

C. Administrative Items:

- Information for tonight's business meeting:

- Revised Exhibits A and B (Legal Description and Maps) for the draft ordinance relating to Agenda Item No. 5, River Terrace Annexation. This is the same information delivered with the August 19, 2011, City Council newsletter.
- August 16, 2011, letter from Washington County Commissioner Roy Rogers supporting the City of Tigard's River Terrace Annexation, Agenda Item No. 5. A copy was also delivered with the August 19, 2011, City Council newsletter.

- Preliminary layouts for the Barbur ramps, State Transportation Improvement Program (STIP) projects are attached.

- Noise variance request and information relating to Oregon Department of Transportation work on I-5 to extend a fourth lane under Carman Drive/Upper Boones Ferry overpass.

- Council Calendar:

- September 11, 2011 - 9/11 Memorial Service, Young's Funeral Home, 1 p.m.
- September 11, 2011 - City's 50th Birthday Party, Library, 2-4 p.m.
- September 13, 2011 - City Council Business Meeting, Town Hall, 6:30 p.m.
- September 20, 2011 - City Council Workshop Meeting, Town Hall, 6:30 p.m.
- September 27, 2011 - City Council Business Meeting, Town Hall, 6:30 p.m.

- **EXECUTIVE SESSION:** The Tigard City Council may go into Executive Session under ORS 192.660(2)(a), to discuss employment of a public officer/employee. 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 - AUGUST 23, 2011
 - 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)
7:35 p.m. Time is estimated.
 - A. Follow-up to Previous Citizen Communication
 - B. Citizen Communication – Sign Up Sheet

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board) 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:
7:40 p.m. Time is estimated.
 - A. Approve Tigard City Council Meeting Minutes:
 1. June 21, 2011
 2. June 28, 2011
 - B. Appoint David Brown as a Voting Member of the Park and Recreation Advisory Board - Resolution No. 11-34

RESOLUTION NO. 11-34 -- A RESOLUTION APPOINTING DAVID BROWN TO HIS FIRST TERM AS A VOTING MEMBER ON THE PARK AND RECREATION ADVISORY BOARD (PRAB)
 - C. Authorize the Reimbursement of Expenditures with Reimbursement Obligation Proceeds - Resolution No. 11-35

RESOLUTION NO. 11-35 -- A RESOLUTION AUTHORIZING THE REIMBURSEMENT OF EXPENDITURES WITH REIMBURSEMENT OBLIGATION PROCEEDS
 - D. Local Contract Review Board:
 1. Approve the Purchase of Four Dodge Chargers from Withnell Motor Company and Two Chevrolet Tahoes from Hubbard Chevrolet/GMAC for the Police Department Fleet

• 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. PROCLAIM SEPTEMBER NATIONAL RECOVERY MONTH

7:45 p.m. Time is estimated.

5. QUASI-JUDICIAL PUBLIC HEARING - RIVER TERRACE ANNEXATION - ZONE CHANGE ANNEXATION (ZCA) ZCA2011-00001

7:50 p.m. Time is estimated.

APPLICANT: Multiple applicants.

PROPOSAL: A request to annex to the City of Tigard approximately 230 acres of property, referred to herein as River Terrace, that includes Metro Urban Growth Boundary expansion area 64, portions of SW Barrows Road and SW Scholls Ferry Road rights of way, and five Clean Water Services parcels (including adjacent right of way) south of SW Barrows Road.

LOCATION: Multiple parcels generally located south of Scholls Ferry Road on the east and west sides of SW Roy Rogers Road plus five Clean Water Services parcels south of SW Barrows Road between SW 152nd Avenue and Scholls Ferry Road.

COUNTY ZONE: FD20 Future Development, 20-acre minimum lot size. The FD20 District applies to the unincorporated urban lands added to the urban growth boundary by Metro through a Major or Legislative Amendment process after 1998. The FD20 District recognizes the desirability of encouraging and retaining limited interim uses until the urban comprehensive planning for future urban development of these areas is complete. The provisions of this district are also intended to implement the requirements of Metro's Urban Growth Management Functional Plan.

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: Annexation areas will retain current Washington County zoning until Tigard zoning is applied with the future adoption of a community plan for the area.

APPLICABLE REVIEW CRITERIA: The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1, Goal 11, Goal 12, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

a. Open Public Hearing – Mayor

b. Statement by City Attorney Regarding Procedure

c. 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?

- Have all members familiarized themselves with the application?

- 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?

d. Staff Report: Community Development Staff

e. Public Testimony

- Proponents

- Opponents

- Rebuttal/Final argument by applicant

f. Staff Recommendation

g. Close Public Hearing

h. Council Discussion and Consideration: Ordinance No. 11-07

ORDINANCE NO. 11-07 -- AN ORDINANCE ANNEXING 230.06 ACRES OF LAND, INCLUDING FORTY-THREE (43) PARCELS, ADJACENT RIGHTS OF WAY, AND A UTILITY SERVICES CORRIDOR WITHIN SW BARROWS ROAD RIGHT OF WAY; APPROVING THE RIVER TERRACE ANNEXATION (ZCA2011-00001); AND WITHDRAWING SIX (6) PARCELS FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT. IN ADDITION, WITHDRAWAL OF THREE (3) PARCELS FROM WASHINGTON COUNTY SERVICE DISTRICT FOR LIGHTING.

6. CONSIDER AN INTERGOVERNMENTAL AGREEMENT WITH TUALATIN HILLS PARK AND RECREATION DISTRICT REGARDING THE MAINTENANCE AND OPERATION OF BARROWS PARK

8:50 p.m. Time is estimated.

7. CONTINUATION OF LEGISLATIVE PUBLIC HEARING FROM AUGUST 9, 2011
- CONSIDER TIGARD MUNICIPAL CODE AMENDMENTS ON ADMINISTRATIVE RULE MAKING

9 p.m. Time is estimated.

- Continue Public Hearing from August 9, 2011
- Hearing Procedures – Legislative Public Hearing
- Staff Report: Community Development Department
- Public Testimony
- Staff Recommendation
- Council Discussion
- Close Public Hearing
- City Council Consideration: Ordinance No. 11-06 (This ordinance number was assigned to the draft ordinance on August 9, 2011)

ORDINANCE NO. 11-06 -- AN ORDINANCE AMENDING TITLE 2 OF THE TIGARD MUNICIPAL CODE AUTHORIZING THE USE OF ADMINISTRATIVE RULES AND DEFINING THE PROCEDURES FOR ADMINISTRATIVE RULEMAKING AND AMENDING EXISTING SECTIONS IN TITLE 9 AND TITLE 11 TO BE CONSISTENT.

8. DISCUSS STRATEGIES FOR COMMUNICATING TIGARD'S FEDERAL LEGISLATIVE PRIORITIES

9:10 p.m. Time is estimated.

9. COUNCIL LIAISON REPORTS

10. NON AGENDA ITEMS

11. 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.

12. ADJOURNMENT
9:30 p.m. Time is estimated.

AIS-531

Item #: A.

Business Meeting

Date: 08/23/2011

Length (in minutes): 10 Minutes

Agenda Title: Update on Code-Compliance Related Municipal Code Amendments

Submitted By: Susan Hartnett
Community Development

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Mtg - Study Sess.

ISSUE

A discussion of amendments to the Tigard Municipal Code related to code compliance and abatement is scheduled for September 13, 2011. At the August 23, 2011 Study Session staff will update the Council on this major elements of the proposed package.

STAFF RECOMMENDATION / ACTION REQUEST

Receive information regarding proposed amendments to the Tigard Municipal Code.

KEY FACTS AND INFORMATION SUMMARY

During the July 27, 2010 meeting, City Council received an update on changes that were underway in the Code Compliance Program as the result of earlier budget reductions. Council directed staff to investigate administrative enforcement and abatement options that can be used to enhance delivery of code compliance activities, particularly regarding nuisance complaints.

During the February 15, 2011 meeting, City Council received an update on the use of administrative enforcement and abatement options in other Oregon cities. At the conclusion of the discussion council directed staff to proceed and present a package of Tigard Municipal Code amendments.

The purpose of this August 23, 2011 discussion is to update the council on the schedule anticipated for the council's review and adoption of the proposal and to provide a high level overview of the major elements included in the proposal.

The schedule for next step activities includes:

1. At the September 13, 2011 Business meeting, a detailed review and discussion of proposed code revisions.
2. At the October 25, 2011 Business meeting, a legislative public hearing on proposed code revisions.
3. At the November 15, 2011 Workshop meeting, an overview of code enforcement program structure.

OTHER ALTERNATIVES

NA

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Goal #1. Implement Comprehensive Plan.

The Code Compliance Program contributes to many of the Comprehensive Plan's goals and policies related to the community's livability and vitality.

Goal #4. Advance Methods of Communication.

Consolidating nuisance citations in a single title will improve and simplify communication with the public as to what actions or inactions constitute code violations.

DATES OF PREVIOUS COUNCIL CONSIDERATION

July 27, 2010, February 15, 2011

AIS-554

Item #: B.

Business Meeting

Date: 08/23/2011

Length (in minutes): 20 Minutes

Agenda Title: Review and Discuss Topic Areas for 2011 Community Attitudes Survey

Prepared For: Kent Wyatt

Submitted By:

Kent Wyatt
City Management

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Mtg - Study Sess.

ISSUE

Which of the proposed topics does Council wish to have considered for use in the 2011 Community Attitudes Survey?

STAFF RECOMMENDATION / ACTION REQUEST

Provide consultation on survey question topics.

KEY FACTS AND INFORMATION SUMMARY

City Council requested that staff commission a survey every two years to help City officials and staff better understand residents perception of the quality of life in the City as well as attitudes toward key issues facing the City. Staff is requesting City Council input on pertinent topics for this year's survey. These suggestions will be added to the attached list which is composed of staff input that has been submitted since the 2009 survey. Also, for your review, is a projected timeline for completing the 2011 Community Attitudes Survey.

OTHER ALTERNATIVES

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Survey results will be used to develop future Council goals.

DATES OF PREVIOUS COUNCIL CONSIDERATION

November 24, 2010 - Staff presented results of the 2009 Community Attitudes Survey.

AIS-636

Item #: 3. A.

Business Meeting

Date: 08/23/2011

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Cathy Wheatley
Administrative Services

Item Type: Motion Requested

Meeting Type: Consent Agenda

ISSUE

Approve City Council meeting minutes as attached to this document. Draft minutes are being finalized and will be submitted and attached no later than Monday, August 22, 2011. Minutes not attached by August 22 will be submitted on September 13, 2011, for council consideration.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as presented.

KEY FACTS AND INFORMATION SUMMARY

Draft minutes are being finalized and will be submitted and attached no later than Monday, August 22, 2011.

OTHER ALTERNATIVES

Propose amendments for consideration.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

June 21, 2011 Tigard City Council Workshop Meeting Minutes

June 28, 2011, Tigard City Council Business Meeting Minutes



City of Tigard

Tigard Workshop Meeting - Minutes

TIGARD CITY COUNCIL

MEETING DATE/TIME: June 21, 2011 – 6:30 p.m. – Workshop Meeting
MEETING LOCATION: City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223



WORKSHOP MEETING

1. A. At 6:33 p.m. Mayor Dirksen called the Tigard City Council Workshop meeting to order.
- B. Deputy City Recorder Krager called the roll.

	Present	Absent
Councilor Wilson	x	
Council President Buehner	x	
Mayor Dirksen	x	
Councilor Henderson	x	
Councilor Woodruff	x	
- C. Pledge of Allegiance
- D. Council Communications & Liaison Reports – Councilor Woodard updated council on recent Metropolitan Area Communications Commission (MACC) activities. He said a resolution was approved to increase their general fund. Higher than expected Comcast revenues were compensated for by the loss of Frontier customer service. A new \$1.512 million TVCTV facility will be constructed near their current location. He said MACC’s agreement with Comcast is coming due in 2014 and they plan to enter into negotiations in 2012.
- E. Call to Council and Staff for Non-Agenda Items – None.

2. TIGARD MUNICIPAL COURT ANNUAL REPORT

Municipal Court Judge O’Brien and Administrative Services Manager Robinson gave the twelfth annual Tigard Municipal Court report. Judge O’Brien presented a PowerPoint slide show. He described Tigard’s four court programs: 1) Traffic, 2) Youth Court, 3) Civil Infractions and 4) Public Information. Traffic includes minor

traffic violations (no DUII or criminal driving while suspended cases) and is the largest caseload. He said the Youth Court Program, ongoing since 2002, had a drop in cases, as did Peer Court. There were fewer civil infractions, which are typically problems such as tall grass in neighborhoods or accumulated refuse or junk in yards.

He said the 2010 caseload overall was down 23 percent from last year; however 2009 was unprecedented in volume. He said the caseload now is averaging what the years previous to 2009 had been. Last July Tigard implemented the electronic citation program (e-cites). He noted that a few years ago Councilor Wilson asked what percentage of violators were Tigard residents. He said they were able to get a reliable number from 2008 and 2009 of just fewer than 30 percent.

A slide showing a sample electronic citation was shown. Judge O'Brien said the issuing officer enters the Department of Motor Vehicles file number and the citation is automatically populated with the driver's information. This saves time for officers and court staff and also reduces data entry errors. Drivers get a written copy with legal rights and procedures listed. Councilor Henderson asked if other state or military license data would be automatically entered. Administrative Services Manager Robinson said it was her understanding that it is just Oregon driver information at this time.

Council President Buehner commented that Portland parking tickets are very small in size and could be easily lost or misplaced. She asked about the tickets Tigard uses and Administrative Services Manager Robinson described the e-cite tickets.

 Judge O'Brien discussed base fines. He said the \$45 surcharge which was tacked on all statewide fines by the Oregon legislature is scheduled to sunset on July 1, 2011. He said it will most likely be extended until at least January. This \$45 is allocated by statute to city treasuries.

Judge O'Brien said that many violators claim financial hardship, often showing documentation. He said the city is allowed a statutory maximum reduction of 25 percent below the base fine for defendants with excellent driving records. Payment arrangements are available if someone is unable to pay their fine within 30 days. In cases that don't involve moving violations the court stresses compliance. These include equipment, registration and insurance violations. He said the court would rather motivate people to come into legal compliance before they appear in court, than impose a fine.

He discussed revenues and collections, and said although there was a 23 percent decline in case load there was only a 4.8 percent decline in collections. He said imposing the \$45 surcharge as required by statute helped, as did a new program allowing payments to be made on-line. In the eight months Tigard's program was active in 2010, more than 1,000 people made payments on-line.

Judge O'Brien discussed changes to traffic law being considered in the current legislature. He said a new cell phone law eliminating the "business" exception is on its way to the governor for signature. He said SB130 will clarify the rules about flashing yellow arrows. These lights are becoming more common in Washington County and Portland and there was uncertainty on how to interpret the law. HB 2712 would reduce the total amount of assessments applied across the board and make them into a flat sum. This bill has gone through many changes and is in the House Ways and Means Committee. He said he has continued his Rules of the Road article in the Cityscape and will include information on new legislation once the session has ended.

Councilor Woodard said he was glad to hear that the city is offering payment terms to those who are in bad financial straits. He inquired about how the declining case load affects the budget. Judge O'Brien said the court contribution to the general fund has declined slightly, but if HB 2712 passes, the costs and fines could go down

TIGARD CITY COUNCIL MINUTES – JUNE 21, 2011

but the percentage retained by the city may increase. He said he could send council a memo to apprise them of budget impacts of any legislation passed in this year's session.

Councilor Wilson commented that he has never heard of fines decreasing. Judge O'Brien said the judicial department did a study to determine average fines around the state for particular violations and decided to set the base fine at the average. Judges will be allowed to reduce fines about 25 percent below that range.

Council President Buehner commented that the annual court report is out of date by the time it is presented to council because it is six months after the end of the year. Administrative Services Manager Robinson and Judge O'Brien said they are flexible and can meet with council whenever they prefer. Council President Buehner suggested meeting sooner in the year. Mayor Dirksen said he is interested in the current trends but also wants to hear about the annual statistics.

3. ANNUAL JOINT MEETING WITH TIGARD TRANSPORTATION ADVISORY COMMITTEE

 Members of the Tigard Transportation Advisory Committee (TTAC) introduced themselves. Present were Chair Christopher Warren, Pedestrian/Bicycle Subcommittee Chair Basil Christopher, Dennis Mitchell, Karen Hughart, Kim Moreland and Steve Bass, and staff liaisons Senior Transportation Planner Gray and Senior Transportation and Streets Project Engineer McCarthy.

Senior Transportation Planner Gray thanked the members of the TTAC for volunteering their time for monthly meetings. She said this is a committee of volunteers recruited from the community. TTAC Member Hughart gave a brief history of the TTAC which was formed by council resolution in March 2009. She said their first year was mostly educational; learning how the city and transportation systems work. She said a benefit of a long-standing committee is that they do not have to spend time each year getting up to speed on transportation acronyms and systems. They received many updates the first year on the Transportation System Plan (TSP), downtown circulation plan and the Pacific Highway/Greenburg/Hall intersection improvement projects. She said the second year's main projects were 1) review of, and recommendation for, Metro funding project choices (Walnut Street, Main Street/Greenstreet or the Gaarde/McDonald intersection); CIP project priority ranking, including a pedestrian/bicycle scoring; and formation of the pedestrian/bicycle subcommittee.

Pedestrian/bicycle subcommittee Chair Christopher said a work plan was submitted to council in their meeting packets and asked if there were any questions. He commented that it is great to see the interest people have in walking and biking in the area and to get a variety of opinions and ideas about access improvements.

TTAC Chair Warren said he participated in the high-capacity transit conference and was impressed with the knowledge of experts involved in this plan. He mentioned the computer program that was used to model how changes in traffic capacity, number of households, density, bicycle and pedestrian access would impact a neighborhood. He said they looked at land use in the Washington Square area and discussed concept plans for stations. He said TTAC wants to see progress on the Tigard Triangle and noted that this is a council goal. He mentioned the difficulty of travelling between Tigard and Hillsboro and said the west Tigard area needs better public transportation. He would like TriMet to respond with solutions instead of reasons why they cannot improve service. He said one of his goals is to make it possible for residents to connect to public transit within one-quarter mile of their homes.

TTAC Member Mitchell said now that the intersection improvements on Hall and Greenburg are complete, TTAC is examining what they believe to be the next bottleneck on Pacific Highway, the Gaarde/McDonald intersection. He said ODOT is working with the city to develop preliminary intersection improvement designs and this is different from their normal process which is to create the designs first and then ask cities for their preferences afterwards. He said in this case, TTAC has been involved in presenting ideas to ODOT and city staff prior to design creation. He said TTAC is comprised of local residents who are familiar with these roads and are able to identify problems and solutions. Mayor Dirksen asked how the collaboration between ODOT and city staff is working. TTAC Member Mitchell said he is an employee of ODOT and noted that their process has changed over time. He said normally ODOT focuses on feasibility first, but they are now considering information from those who use the roads first.

TTAC Member Moreland summarized TTAC's priorities which include the development of goals, strategies and objectives. She said traffic safety issues are important to TTAC as is working with TriMet to explore bus service improvements. She noted that they met with TriMet's master scheduler and saw how daunting it can be to get new services in suburban areas. She said TTAC wants to work with council to find funds for transportation planning. She asked council how TTAC can help shape and frame council transportation goals.

Councilor Henderson asked how TTAC has implemented lessons learned and data from the new intersection improvements. TTAC Chair Warren mentioned a bus pullout problem but said they got involved too late to help.

Council President Buehner said it takes a long time for new committee members to get up to speed and asked if it would be helpful for new appointees to have a primer session with the staff. TTAC Chair Warren agreed. TTAC Member Mitchell also suggested it also cover the history of what the group has already worked on.

Councilor Wilson said transportation is one of his top issues and consistently rates in polls as the public's top issue. He said the city began a concerted effort eight years ago to raise Tigard's profile with TriMet. He said the city completed some sidewalk improvements for them and they in turn promised to improve service. He said the city did its part and, "We were in line for new service but nothing ever happened." He said he applauded TTAC's efforts but noted that the city has been working on this for some time.

Councilor Wilson referred to TTAC's recommendation to use MTIP funding to finish Walnut Street. He said he heard that safety was a prime consideration. He asked if they had access to actual safety data or whether it was based on perception. He encouraged the committee to look at actual accident data when making decisions on safety. He said his perception was that there are more injury accidents on 99W than on Walnut and he disagreed with their recommendation on that basis. He referred to the Pacific Highway/Hall and Greenburg intersections and said he noticed that the new right lanes are less popular than the left or middle lanes (northeast bound). He asked if the city should investigate widening the overpass to extend it to the northbound Highway 217 on-ramp. He said if it was extended that far, it would be easy to bring it all the way to Dartmouth. He said widening a bridge is expensive but it might be the next logical project.

 TTAC Member Mitchell responded to Councilor Wilson's comment on the Walnut Street data and said it was subjective judgment based on the proximity to the school. He said it is nice on one end and it would be good to complete that all the way to Pacific Highway. TTAC Member Hughart said another factor is that the MTIP money could complete the Walnut Street project, but only get the Gaarde/McDonald/99W intersection started.

TTAC Member Moreland asked if Councilor Wilson's suggestion to widen the overpass was an official city recommendation that council wanted TTAC to explore. Councilor Wilson said he didn't think it was in the TSP and Senior Transportation Planner Gray agreed that it was not. She said it could be added to a list of future topics if council desired. Council President Buehner said the Greenburg overpass was widened recently so ODOT may have some cost figures available. Mayor Dirksen said he uses that extra lane frequently as a convenient merging lane. He said as time goes by and people get used to it, he expects use to increase.

Mayor Dirksen referred to earlier comments about suburban bus routes and said TriMet's intent, as more Portland area high-capacity transit is completed, is to redesign the bus routes so they feed from neighborhoods into the closest high-capacity transit stations. The transit will take the place of the major runs from the suburbs to downtown. The same number of routes, redesigned, will serve more people. He asked TTAC to consider this in their plans.

 Council President Buehner suggested that the TTAC hold a joint workshop meeting with the Planning Commission because they represent the land-use side of transportation issues.

Councilor Woodard said it was interesting that TTAC has a pedestrian/bicycle subcommittee. He referred to items 5 and 6 from their 2011 Work Plan and asked for a summary of the subcommittee's prioritized project list. Subcommittee Chair Christopher said they have been identifying possible projects and have a draft list. Councilor Woodard referred to item 6 and asked if pedestrian/cyclist counts have been done before. Senior Transportation and Streets Project Engineer McCarthy said the city hasn't done a broad program before but has collected data on trail use and has gathered pedestrian numbers for specific projects. Councilor Woodard suggested coordinating these efforts with PRAB. TTAC Chair Warren said the germination of the pedestrian/bicycle subcommittee was the bicycle utilization map that an ad-hoc group including Subcommittee Chair Christopher and others worked on.

Mayor Dirksen said there was not time in this meeting for a conversation about funding sources but requested that staff hold a discussion on the flexible fund with TTAC.

Senior Transportation and Streets Project Engineer McCarthy said TTAC meets on the first Wednesday of the month at 6:30 p.m. at the Tigard Library, and the Pedestrian/Bicycle Subcommittee meets the third Thursday of the month at 5 p.m. in the Red Rock Creek Conference Room at Town Hall.

Council and staff thanked TTAC for volunteering their time for this important work.

4. DISCUSSION ON THE SUBMISSION OF A NON-RENEWAL LETTER TO TERMINATE THE REGIONAL WATER SALES AGREEMENT WITH THE CITY OF PORTLAND IN 2016

 Public Works Director Koellermeier said the city is mid-term into a water sales contract with Portland that has a clause requiring five years notice if the city does not want an automatic extension. This contract was written with a one-day window to give notice. He said another issue about this contract is that it is a "take or pay" contract. If the city allows the contract to extend but does not take the water, it still has to pay \$3.9 million for water it won't use. He said the Intergovernmental Water Board says Tigard is on track with the Lake Oswego partnership and unanimously recommended terminating this contract, with the proviso that a bridge contract with Portland be created with a different set of terms and conditions. He said this new contract with Portland will be more like a surplus water contract. Mayor Dirksen suggested it could be more of a regional water supply/mutual use contract. Council President Buehner said it should be for emergency backup water. Public

Works Director Koellermeier said we have bought the infrastructure to move water from Portland to Tigard and that has value.

Mayor Dirksen asked if Tigard doesn't give notice of termination on July 1 and the contract automatically extends, would the rate would be the same. Public Works Director Koellermeier said staff did some projections and estimates the water would be worth \$3.9 million.

Councilor Wilson asked staff if the construction schedule is aggressive or comfortable. Public Works Director Koellermeier said that while there is some cushion in the schedule, he would like to have a new contract with Portland in 2016. He said, "At worst we would have to pay the retail rate."

Councilor Henderson noted there has been a lot of discussion regarding the need to cover water reservoirs in Portland. Public Works Director Koellermeier said 2016 will be an opportune time to get out of the agreement as costs will rise sharply in the years after a project is complete. Council President Buehner said Portland's history is to allocate these improvements to commercial wholesalers to protect their retail water sales.

Councilor Woodard asked what the penalty for buying water would be. Public Works Director Koellermeier said it would depend on the contract terms but historically, he estimated it could be as much as a \$1million. He said we'll pay more per unit cost and then we'll manage how many units we take. Councilor Wilson asked if selling water back to Portland would require Lake Oswego's approval. Public Works Director Koellermeier replied that it does if it comes from the partnership, but Tigard has their own ASR water.

Council President Buehner asked how much more capacity Tigard will have by 2016. Public Works Director Koellermeier said, "ASR well 3 is half finished. We have to decide: Do we move ahead with ASR 4 or will we have too much capacity in the ground? We will have plenty of water in 2016." In reply to a question from Councilor Woodard on the production capacity if ASR's 1-3 are kept filled, Public Works Director Koellermeier said it would be 6MGD.

Mayor Dirksen asked Council if there were any additional discussion on this item. There was none. City Manager Prosser pointed out that consideration of this item is scheduled for the council meeting consent agenda next week, a date that must be kept to stay on track for the contract deadline.

5. REVIEW PROPOSED CHANGES TO TIGARD'S PUBLIC CONTRACTING RULES

Management Analyst Barrett introduced proposed changes to Tigard's public contracting rules. He said by state statute staff is required to come before the LCRB when legislative rules change. He said if a city does not adopt their own set of public contracting rules, they must follow the Attorney General's rules. City Manager Prosser said what is before Council is proposed changes regarding thresholds. Management Analyst Barrett said staff was late bringing these changes to Council for the 2011 changes; and would be back in seven months to bring council information for changes made by the 2012 legislature.

City Manager Prosser said the Attorney General rules have substantially higher limits than what staff is suggesting.

Councilor Woodard said that he had no problem with the proposed changes listed in Attachment 3, but wanted more information on changes to the personal services direct-appointment threshold. Management Analyst Barrett replied that the Personal Services contract amount of \$10,000 has been in place since 2004. Other agencies have raised theirs to \$50,000. He said staff felt \$25,000 was an appropriate number. Councilor

Woodard asked for examples of direct hires and how raising this threshold would help the city. Management Analyst Barrett said examples are architects, engineers, consultants and any service that requires special schooling other than a trade school. He said the city can't just directly appoint anyone. "We have to have worked with them before and liked their work or received a recommendation from another public entity that they performed their work successfully. Then we can look at their project approach and qualifications, as price is not the top consideration in personal services." Councilor Woodard asked about the hazardous waste rules and why the current rule was not addressed. Management Analyst Barrett said when these rules were adopted in 2005, computers were not considered hazardous waste so there is not a current rule.

 Councilor Henderson asked about the new section on Intergovernmental Agreements (IGA's). Management Analyst Barrett said, "We have never clarified how to deal with IGA's before. We want to bring them all to the LCRB now." Mayor Dirksen said in the past they were not approved by the LCRB; they have been approved by council. City Manager Prosser said the city needs a consistent process. He cited IGA's such as the Mutual Aid for Emergencies and the Tigard Urban Services Agreement. Management Analyst Barrett said the Mayor is correct that many IGA's were approved by Council, not the LCRB.

Councilor Buehner said she felt the Tigard Urban Services Agreement should go before Council, rather than the LCRB, because it is a policy decision. Mayor Dirksen agreed. Management Analyst Barrett said that could be noted in the procedures.

Councilor Wilson said he was not in favor of raising the direct appointment threshold very high because it might favor larger, more established firms. He said this is not good for the taxpayers. He said there is no justification to raise it by two- and one-half times and would suggest it only go up to \$15,000. Mayor Dirksen agreed. Councilor Woodard suggested \$20,000.

Councilor Wilson asked a question about contracting with developers. He said he assumes that public improvements are subject to prevailing wage requirements and asked if a contractor would pay a different rate to workers paving a driveway, for example, than would be paid the same workers for the public improvement work. Management Analyst Barrett said yes, that is how it is done.

Councilor Wilson suggested that 72 hours is an archaic timeframe for issuing addenda because everything is in a pdf format now. He said he supports using 48 hours and Mayor Dirksen agreed.

Councilor Buehner said the personal services contract threshold should be raised and she suggested \$20,000 or \$25,000, commenting that as the city grows, the contracts will also become larger. City Manager Prosser said, "I've heard \$15,000 and \$20,000. If we put in \$20,000, will that work? Council agreed.

Councilor Henderson said Attachment 1 was hard to read and requested that staff not use blue backgrounds. Management Analyst Barrett asked if there were any additional questions on policies. There were none.

Mayor Dirksen called for a break at 8:16 p.m. Council reconvened at 8:22 p.m.

6. DISCUSSION ON TIGARD'S PUBLIC CONTRACTING PROCESSES

Management Analyst Barrett distributed flow charts showing complexity and connections as contracts move through the process. He said the large difference is that there is a review team that meets and reviews each contract.

Councilor Woodard referred to consent agenda items and said, “I don’t know if there is a number that would trigger Council review or not.”

Council President Buehner referred to the Personal Services flow chart and said that is quite different when you have expert committees. She said in that case she felt comfortable because a lot of vetting has been completed. She said she relies on council members who are on those teams.

Management Analyst Barrett said, “We tend not to have Council members on most contract review teams.” Assistant Finance Director Smith-Wagar said about 5 percent of contract review committees include city councilors. She said staff looks for people who have experience, rather than just including councilors just because they are on the council. City Manager Prosser referred to putting together the consultant team who hired the urban renewal consultant. He said Councilor Webb was included because this was an important contract for the council and the community. Councilor Wilson said he has served on some review committees in the past and enjoyed his participation.

Councilor Wilson noted that he doesn’t know when RFP’s or RFQ’s are released. He said, “It would be nice for council to be aware of what is being sent out for bid. Council shouldn’t be surprised when a project hits the streets.” Mayor Dirksen said even receiving a list would be helpful. Management Analyst Barrett replied that staff is considering a bi-weekly report. Councilor Wilson said if the city is going to bid on a dump truck he didn’t want to know about it, but does want capital projects on the list. City Manager Prosser cautioned that if staff does a bi-weekly report it would be difficult to pick and choose to match each councilor’s interests with particular bidding activity.

Councilor Wilson commented on construction contract review. He said much of the time construction contracts are based on a schedule, which includes when you have to start construction, and when the city council will meet to approve it, etc. He said if council is informed ahead of time, questions can be dealt with in advance. By the time the contract appears on the consent agenda, the timelines are short. Management Analyst Barrett said, “We can plan to build in more time for council approval.”

Councilor Woodard suggested studying annual costs savings for benchmarking services. He asked staff, “How hard would it be to go back and see if we are paying more for services. It could be done semi-annually. At some point, I’d like to be able to see these lists. It would help me decide if taxpayers are getting more bang for the buck.” Mayor Dirksen agreed that it would be interesting to see cost trends. He said this is often done annually when working on the budget, but it would be helpful to look at this during the year.

City Manager Prosser asked City Engineer Kyle to address benchmarking. City Engineer Kyle said the type of personal services contracts coming from the engineering department cannot be compared because the projects are so different. He referred to Councilor Wilson’s comment on higher thresholds favoring larger firms and said he makes an effort to use small, local firms when possible. He said the law changed so when the city contracts for architectural engineering services it is not allowed to look at price. Management Analyst Barrett said the state has been doing qualification-based selection for years. He said, “You chose the contractor and then negotiate a price. We had to do this when we used state money for the library.” City Engineer Kyle said for those contracts benchmarking will not be a criterion we are allowed to use, per the law.

City Engineer Kyle said, “For construction, we will be able to benchmark. The best way to compare is look at bids. They are a good measure.” He discussed the recent slurry seal contract and said Hillsboro got a bid for three cents a foot less than Tigard. He explained that Tigard specified a polymer that helps the seal make a better bond and he does not know what Hillsboro specified. He said comparing city-to-city bids is “extremely nitpicky work,” because the specifications must be reviewed and may not be comparable. He said, “But what

are always comparable are the multiple bids you get from different people in the marketplace, on your job, in your bid climate, on that day. Then you know for sure you got a good price because that is the best the market can offer to you.” He said the worst situation is receiving only one bid. He said we can always reject and rebid but typically, the bids will then go up. When the rejected bid becomes public other bidders are aware of the amount. He said, “It costs money to reject bids.” Benchmarking becomes very important in this case because it is the only measure left to determine if it is a fair price or not.

 Councilor Woodard said it was obvious to him that there are conditions that may not make the benchmarking worth the exercise, but asked if staff could prepare some kind matrix indicating the different categories of contracts so council can learn about those that might need more discussion. He said contracts valued at \$125,000 or above, or something unique shouldn't go through the consent agenda because he wants to understand more about it. He said he would also not want to see high-value price agreements or proposals that create a contract heavy in labor services go on the consent agenda. Management Analyst Barrett said he is trying to avoid staff having to try to determine what each council member wants to see on the business vs. consent agenda. He staff is not just trying to push things through on consent; if something is on the consent agenda it is because staff considers it fairly routine. He said if the LCRB wants to pull it and talk about it staff has no issue with that.

 Council President Buehner made the suggestion that if a councilor has a question about something on the consent agenda, they should call the relevant staff member and get whatever information they need prior to the meeting. She said it is not fair to staff or the rest of the council to wait until a meeting to raise the issue.

Councilor Henderson said if you don't know that it is there, it's hard to raise questions. He said there will be times when the engineer's estimate is 10 percent higher or lower and he wants to understand why and whether it is budgeted, etc. He said he does not look at the Friday packets.

Council President Buehner said council gets this information almost two weeks before the meeting in the Friday packet and that is what she uses to give her information to ask questions. She said, “Two weeks is enough time to get to the relevant information and questions asked and answered.” City Manager Prosser said council is also provided the tentative agenda where items are listed months in advance, although things get added frequently.

Management Analyst Barrett said there are also legal requirements for providing notice of contract award. The city needs to post intent to award notice and send it to all bidders. This is their opportunity to come in and protest the bid award before council.

Councilor Woodard said a synopsis is a great idea. He said not every consent agenda item was known to him two weeks before the meeting. He said the people that voted him into office want him to help communicate what is going on and it is important to keep the public's trust. He said in some cases, council probably would want to talk to the public about things like the vac truck, for example. Council President Buehner asked if there was any way to leave something on consent but simply allow an explanation.

Management Analyst Barrett asked for clarification on the frequency of the synopsis. Councilor Wilson said bi-weekly was too frequent and he preferred a quarterly report. He said it is important that council does not do staff's job or make their jobs difficult. Management Analyst Barrett asked council if, in the case of a straightforward bid that followed the process, staff could put it on the consent agenda. If any councilor has questions or wants to pull it, they can let him know in advance and he will respond to their issues.

Mayor Dirksen said that one of the duties of the mayor is to set the agenda. He said it is his desire that items that have typically been on consent, remain on the consent agenda. If there are items that council wants more

information on, they should contact staff and request it. If after that, a councilor still feels the item needs council discussion, then it is appropriate for removal from consent. He said in his opinion, removing an item from consent merely because a councilor needs more information is not an appropriate reason for removal. If there is a point of information that a member of council would like to call to the public's attention, it can be done within the consent agenda. He said this is an issue because of the limited time for meetings. He noted that a recent meeting had 16 agenda items for discussion because some items were pulled from consent. Councilors Wilson and Henderson agreed with that.



Councilor Henderson said short timeframes still make him uneasy. Mayor Dirksen said having a regular report showing what is coming down the line will alert council and give them time to get their questions answered. Councilor Henderson said there will be times when something new shows up on the agenda. In response, City Manager Prosser said in that case it can't be a consent agenda item.

City Attorney Bennett reminded council that bid documents have a timeline. He asked staff to include the timeline so that council sees that they need to get their information to them as soon as possible. Give yourselves enough time. We do not always have the luxury of pulling something off and getting more information when we are bound by agreements.

Councilor Woodard asked if a two-month rather than a four-month report would be better. Management Analyst Barrett said it would depend on the time of year. Mayor Dirksen suggested flexibility and said council may not need a report every month.

City Engineer Kyle said the bulk of this summer's construction contracts have already gone out for bid. He said he was working on a two-year project schedule and will distribute that to Council. He said while engineering staff can prepare a list of upcoming construction contracts, the dates and costs will be guesses until the time gets closer. He said staff are not professional construction estimators.

Councilor Henderson said, "That's why you have the Local Contract Review Board." Council President Buehner disagreed, saying, "No, that's not our job." Mayor Dirksen said council doesn't know all of that information either. City Attorney Bennett said, "Even if you do, it is just an estimate. It is a rough idea of what the City thinks a project is worth." City Engineer Kyle said we need to estimate what a project will cost for budgeting, but there is no way to get the level of detailed estimate that a contractor would do; we don't have access to that information. Councilor Wilson commented that given the spread sometime seen between bidders, they don't know either.

Change orders were discussed and City Engineer Kyle said the city works hard to prevent change orders. He noted that for the Burnham Street contract there were change orders to go to LED lighting and for a different paving treatment. Both changes were discussed by council prior to negotiating with the contractor.

Mayor Dirksen asked staff if they had the information they need to proceed with their contract synopsis for council. Councilor Woodard said this synopsis will be very helpful.

7. COUNCIL LIAISON REPORTS - Councilor Woodard reported on MACC earlier in the meeting.
8. NON-AGENDA ITEMS - None.
9. EXECUTIVE SESSION - None held.

TIGARD CITY COUNCIL MINUTES – JUNE 21, 2011

10. ADJOURNMENT - At 9:10 p.m. Council President Buehner moved for adjournment. Councilor Henderson seconded the motion and all voted in approval.

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

Carol A. Krager, Deputy City Recorder

Attest:

Mayor, City of Tigard

Date

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City of Tigard

Tigard Business Meeting – Minutes

TIGARD CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: June 28, 2011 - 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

Mayor Dirksen called the meeting to order at 6:34 p.m.

City Council roll call:

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

- STUDY SESSION
 - DISCUSS THE CITY'S REVISED TRAVEL AND TAXABLE FRINGE BENEFITS POLICIES AND PROCEDURES

Finance and Information Services Department Director LaFrance introduced this agenda topic. Also present for the discussion were Senior Management Analyst Barrett who reviewed the travel policies and Payroll Specialist Strayer who reviewed taxable fringe benefits. A copy of the agenda item summary is in the meeting packet, which included a copy of the Travel Policies and a summary of the travel changes in a PowerPoint presentation. The revised policies and procedures are based on IRS rules, Oregon State Ethics Law, the Fair Labor Standards Act, and U.S. General Services Administration guidance. The policies and procedures apply to all public officials and representatives.

Senior Management Analyst Barrett's remarks included:

- Travel policies are in place for accountability to the public with regard to spending public funds and to assurance compliance with applicable regulations.

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

- The city has an agreement in place with Azumano Travel Agency for government airfare rates. The advantage to the city is that the rates quoted are refundable for west coast travel. Airlines are not participating in offering refundable rates for travel east of the Rocky Mountains. The preference is for staff to book air travel through Azumano; however, staff members are allowed to book through other methods including online sites.
- City officials cannot accrue frequent flier miles for the City of Tigard.
- The city can procure a contracted rate on rental vehicles.
- If a city official chooses to drive a personal vehicle for local travel, insurance information declaring sufficient coverage is in place is required to be on file with the risk management division.
- Federal General Services Administration publishes meal and lodging per diem rates for individual cities. The city's policy is to pay the per diem rate for lodging. Lodging is an option for travel that is at least 50 miles from City Hall. There are exceptions to the lodging per diem rate if it is in the benefit of the city. For example, if an employee is traveling to Seattle and staying at the conference hotel, it might be less expensive for the city to pay a higher a hotel rate rather than to pay for a rental car or taxi fare to and from the convention hotel. The key to this is to provide documentation.
- The city is shifting to an actual cost daily allowance for meal expenses when traveling. The city will pay the actual cost for meals up to the GSA per diem daily rate. The preferred method for payment is to use the city-issued purchasing card to pay for meals; keep receipts and turn them in to the Finance Department. Include gratuity payments also. Receipts can also be kept and turned in for reimbursement. If there are conference meals paid within the registration, the cost of the meal is deducted from the daily allowance. Alcohol can never be purchased with city funds.
- On the first and last day (travel days) of city trips, the city will pay up to 75 percent of the daily per diem rate for meals.
- The city allows personal travel associated with city business; the employee shall pay all personal costs associated with the travel.
- Entertainment expenses are paid only if included in the registration cost. The exception is that the city will pay for (as an example) reception costs associated with the travel event if there is documentation that the employee/official is working at the reception.
- The city will not pay for personal items.

Payroll Specialist Strayer's presentation on taxable fringe benefits included the following remarks:

- The IRS views the benefits included in this presentation as income and, therefore, are taxable.
- Any gifts, including cash or cash equivalents, purchased by the city are taxable. Flowers or plaques have no tangible cash value and are not taxable.

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

- Discussion was held on City Council meals, which can be considered taxable if the meal is not eaten during the City Council meeting. The nuances of this IRS rule and Oregon ethic regulations for public employees were talked about at length.
- Staff will be coming back to the City Council with additional information regarding meals before City Council meetings, so the council members can decide how to proceed.

B. ADMINISTRATIVE ITEMS

- Council Meeting Schedule
- Council Calendar:
 - July 4 Monday Holiday; City Hall is closed.
 - July 12 Tuesday Council Business Meeting
 - July 20 Tuesday Council Workshop Meeting
 - July 27 Tuesday Council Business Meeting
- August 16, 2011, City Council workshop meeting might be cancelled.
- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 7:15 p.m. for consultation with legal counsel concerning legal rights and duties regarding pending litigation under ORS 192.660(2) (h).

Executive session concluded at 7:29 p.m.

1. BUSINESS MEETING - TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD AND CITY CENTER DEVELOPMENT AGENCY - JUNE 28, 2011

A. Call to Order – Mayor Dirksen called the meeting to order at  7:38 p.m.

B. Roll Call

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

C. Pledge of Allegiance

D. Council Communications & Liaison Reports  Council President Buehner gave a report during Agenda Item No. 9

E. Call to Council and Staff for Non-Agenda Items  None.

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011



2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication

City Manager Prosser advised a number of citizens spoke on June 14, 2011, about the removal of the abandoned beaver dam at Merestone Pond. Staff will be meeting next week with the Oregon Department of Fish and Wildlife to obtain clarification about what can and cannot be done to encourage the beavers to return. Following that meeting staff will be hanging notices on neighborhood doors inviting them to a public meeting to discuss alternatives.

B. Citizen Communication – Sign Up Sheet -- None.



3. Mayor Dirksen reviewed the consent agenda:
CONSENT AGENDA: (Tigard City Council and the Center Development Agency)

A. Approve City Council Meeting Minutes

1. May 10, 2011

B. Receive and File

1. 2010 Pavement Condition Report, Including Street Maintenance Fee Findings

C. Resolution to Appoint Tigard Library Board Members Laura Cadiz, Dan Snyder, and John Storhm, and Alternates Stephanie Carter and Katie Harris - Resolution No. 11-24

RESOLUTION NO. 11-24 - A RESOLUTION REAPPOINTING JOHN STORHM TO A FOUR-YEAR TERM AS A BOARD MEMBER, APPOINTING LAURA CADIZ AND DAN SNYDER TO FOUR-YEAR TERMS AS BOARD MEMBERS AND APPOINTING KATIE HARRIS AND STEPHANIE CARTER FOR TWO-YEAR TERMS AS ALTERNATES TO THE TIGARD LIBRARY BOARD.

The Mayor welcomed Dan Snyder who was present. Councilor Henderson thanked those who stepped forward and applied for a position on the Library Board; 12 people were interviewed.

D. Resolution Declaring the "Remnant Triangle" Property as Surplus Property and Authorizing the Transfer of the Property

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

- E. Submit a Non-Renewal Letter to Terminate the Regional Water Sales Agreement with the City of Portland in 2016
- F. Approve FY 2011 Edward Byrne Memorial Justice Assistance Local Solicitation Grant Application
- G. Resolution to Approve Workers' Compensation Insurance for City Volunteers - Resolution No. 11-26

RESOLUTION NO. 11-26 - A RESOLUTION EXTENDING CITY OF TIGARD'S WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY.

- H. City Center Development Agency: Resolution to Consider Additional Sites for the Downtown Public Plaza - CCDA Resolution No. 11-02

CCDA RESOLUTION NO. 11-02 - A RESOLUTION AMENDING CCDA RESOLUTIONS 07-03 AND 08-01 TO ALLOW CONSIDERATION OF ADDITIONAL SITES FOR A DOWNTOWN PUBLIC PLAZA

Council President Buehner commented:

- Consent Agenda Item D – Remnant Triangle: This item relates to some property the city bought from the Tigard Water District of which most was used to create a joint driveway after a driveway was eliminated during the Burnham Street Project.
- Consent Agenda Item E – Non-Renewal Letter: The City of Tigard has one day in which to give notification, July 1, 2011.

Councilor Wilson added that Item E is an important milestone in Tigard's quest to obtain its own water source.

Councilor Henderson referred to Consent Agenda B and City Manager Prosser reported staff had not planned to do an additional presentation; however, at Councilor Henderson's suggestion this report will be scheduled on a workshop meeting.

Motion by Councilor Wilson, seconded by Council President Buehner, to approve the Consent Agenda.

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

4. PROCLAMATION - PROCLAIM GEOGRAPHY AWARENESS WEEK: AUGUST 1-7, 2011

 Mayor Dirksen issued the proclamation.

5. INFORMATIONAL PUBLIC HEARING - CONSIDER A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 50 (SW CANTERBURY LANE)

-  Mayor Dirksen opened the public hearing.
- Hearing Procedures – This is an informational public hearing in which any person shall be given the opportunity to comment. The formation of the reimbursement district does not result in an assessment against the property or lien against the property. (TMC 13.090.050 (hearing on City Engineer’s Report) and TMC 13.09.1053 (final hearing))
- Staff Report: City Engineer Kyle presented the staff report.
- Public Testimony – None.
- Staff Recommendation – Approve the finalization of Sanitary Sewer Reimbursement District No. 50 (SW Canterbury Lane)
-  Mayor Dirksen closed the public hearing.
- City Council Consideration: Resolution No. 11-27

RESOLUTION NO. 11-27 - A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 50 (SW CANTERBURY LANE) AND AMENDING THE PRELIMINARY CITY ENGINEER'S REPORT CONTAINED IN RESOLUTION NO. 10-57

Motion by Council President Buehner, seconded by Councilor Wilson, to adopt Resolution No. 11-27.

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes



6. BRIEFING ON COMMUNICATION EFFORTS RELATED TO CAPITAL IMPROVEMENT PLAN PROJECTS

City Engineer Kyle and Engineering Manager McMillan presented the staff report on City of Tigard public involvement communication efforts. A copy of the staff's PowerPoint slide presentation is on file with the council meeting packet.

Lake Oswego Communications Director Jane Heisler presented information about the outreach efforts for activities resulting from the Lake Oswego/Tigard Water Supply Partnership.

Hotline numbers are available for citizens to call and have questions answered. Councilor Woodard noted the importance of having a centralized information resource.

Council President Buehner noted Tigard citizens are aware of the need for a long-term water source since the city has working on this for many years. Citizens have been informed about the status quo, potential options and have a general idea of what it will cost to achieve a future water supply. Ms. Heisler described the efforts to educate ratepayers regarding details about the water plant in response to Council President Buehner's question about what information is available to Lake Oswego residents.

Councilor Henderson also commented on getting the same message out to residents of both cities. The Lake Oswego/City of Tigard needs to have a single message.

Councilor Wilson commented that support for the water plant and partnership seems to be a little softer in Lake Oswego than in Tigard. He noted the importance of building citizens' trust.

Mayor Dirksen said he agreed with Councilor Wilson's comments. He pointed out that tonight's presentation was on communication efforts and talking about the human element regarding how these projects impact citizens. Ten years ago, the conversation would have been centered only on the projects. Mayor Dirksen and Council President Buehner agreed that, at times, it had been necessary to learn the hard way regarding the importance of communication.



7. LOCAL CONTRACT REVIEW BOARD:

Senior Management Analyst Barrett reviewed the following Local Contract Review Board items:

- A. Award Contract for Financial Adviser Services to Western Financial Group and Direct Staff to Execute the Contract

Motion by Council President Buehner, seconded by Councilor Woodard, to award the contract for financial adviser services to Western Financial Group and direct staff to execute the contract.

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

B. Award Contract for Water Quality Testing and Laboratory Services to Alexin Analytical Laboratories

Motion by Council President Buehner, seconded by Councilor Wilson, to award the contract for water quality testing and laboratory services to Alexin Analytical Laboratories.

Council discussion on the motion followed. In response to a question from Councilor Woodard, Senior Management Analyst Barrett explained water quality testing services. City Engineer Kyle added that some of the testing requires expensive and specialized equipment so it is more cost effective to contract this work. There was discussion regarding the sampling schedules. The Request for Proposals detailed the type of samples needed.

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

C. Award Contract for Pavement Maintenance Program Asphaltic Concrete Overlay to S-2 Construction

Motion by Council President Buehner, seconded by Councilor Wilson, to award the contract for the pavement maintenance program asphaltic concrete overlay to S-2 Construction.

Staff explained the safeguards to assure projects are completed. In response to a question from Councilor Henderson, Senior Management Analyst Barrett said there would be about \$40,000 remaining in the pavement maintenance program if this contract is awarded.

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

D. Award Contract for the 100th Avenue Sanitary Sewer Project to S-2 Construction

Motion by Council President Buehner, seconded by Councilor Wilson, to award the contract for the 100th Avenue sanitary sewer project to S-2 Construction.

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

8. COUNCIL LIAISON REPORTS



Council President Buehner reported on her recent visit, with a number of other people who have been working on the Lake Oswego/Tigard water plant, to an underground piping project (directional boring) in Hillsboro. Overall she was very impressed with this operation. She reported piping would be running under Lakewood Bay when distributing the clean water from the West Linn plant going up A Street, through Lake Grove and then to Tigard. Mayor Dirksen agreed with Council President Buehner that this was exciting technology and reduces the impact to neighborhoods over traditional trenching – noise, disruption, and time.



Council President Buehner advised that Representative Doherty held a meeting in Town Hall last week. About 50 people attended. There were several questions that came up regarding city operations and Council President Buehner and Senior Management Analyst Wyatt were able to answer some of these questions.



In response to a question from Councilor Henderson, Mayor Dirksen said the legislative session is not finished. City Manager Prosser said sine die is scheduled for Thursday.



Councilor Henderson commented on healthcare changes occurring at the county level with new legislation adopted at this session. The end product is to allow physical and mental health operations to work together.

9. NON AGENDA ITEMS: None.

10. EXECUTIVE SESSION: Not held.

11. ADJOURNMENT



Motion by Councilor Wilson, seconded by Council President Buehner, to adjourn the meeting at 8:41 p.m.

TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

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

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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TIGARD CITY COUNCIL MEETING MINUTES – June 28, 2011

AIS-614

Item #: 3. B.

Business Meeting

Date: 08/23/2011

Length (in minutes): Consent Item

Agenda Title: Appoint David Brown as a Voting Member of the Park and Recreation Advisory Board

Prepared For: Steve Martin

Submitted By:

Steve Martin

Public Works

Item Type: Resolution

Meeting Type:

Consent Agenda

ISSUE

Shall council adopt a resolution appointing David Brown as a voting member of the Park and Recreation Advisory Board (PRAB)?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends council adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

- There is currently one vacancy on the PRAB.
- In April 2011, the Mayor's Appointment Advisory Committee interviewed prospective PRAB members and selected one member and two alternate members. Alternates David Brown and Gary Romans were selected with the knowledge that PRAB member Brian Davies would be leaving the board at the end of his term on June 30, 2011.
- The Mayor's Appointment Advisory Committee indicated David Brown should be appointed to Brian Davies' voting member position when it became available on July 1, 2011.
- David Brown has been an active participant on the PRAB and has attended every meeting since his appointment as an alternate in April. He is up to speed on current PRAB activities, including the property evaluation/acquisition process related to the park and open space bond measure.
- If appointed, David Brown's first term as a voting member will end June 30, 2015.
- A brief biography is attached.

OTHER ALTERNATIVES

The council could choose not to adopt the resolution and provide staff with direction on some other course of action.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2011 Tigard City Council Goal No. 3, "Complete Plans for Parkland Acquisition."

The PRAB serves as an advisory board to the council and provides recommendations on park acquisitions and improvements related to the city's 2010 park and open space bond measure.

DATES OF PREVIOUS COUNCIL CONSIDERATION

The council adopted a resolution appointing David Brown as an alternate member on the PRAB at its April 26, 2011 meeting.

Attachments

Resolution

Appointee Biographical Information

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 11-**

A RESOLUTION APPOINTING DAVID BROWN TO HIS FIRST TERM AS A VOTING MEMBER ON THE PARK AND RECREATION ADVISORY BOARD (PRAB)

WHEREAS, there is currently one vacancy on the PRAB; and

WHEREAS, David Brown has expressed an interest in serving on the PRAB; and

WHEREAS, David Brown was interviewed by the Mayor's Appointment Advisory Committee and recommended to serve on the PRAB.

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

SECTION 1: David Brown is appointed to his first term as a voting member on the PRAB. This term will expire on June 30, 2015.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2011.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

**PARK AND RECREATION ADVISORY BOARD (PRAB)
RECOMMENDED APPOINTEE
BIOGRAPHICAL INFORMATION**

Tigard City Council Meeting August 23, 2011

David Brown is recommended to serve on the PRAB as a voting member. David has lived in Tigard for 15 years and just recently started a new job in March after working as a financial manager at Adidas for 10 years. He has a degree in business administration and is a certified public accountant. David was a manager and board member of the Tigard Little League from 2002 to 2008. He and his family are regulars at Tigard parks and he has an interest in the acquisition and development of parks in Tigard.

AIS-624

Item #: 3. C.

Business Meeting

Date: 08/23/2011

Length (in minutes): Consent Item

Agenda Title: Authorize the Reimbursement of Expenditures with Reimbursement Obligation Proceeds

Prepared For: Toby LaFrance

Submitted By:

Toby LaFrance
Financial and
Information Services

Item Type: Resolution

Meeting Type:

Consent Agenda

ISSUE

Shall the Tigard City Council pass a resolution authorizing reimbursement of expenditures with reimbursement obligation proceeds, thus making any costs in fiscal year 2012 related to the Lake Oswego/Tigard Water Partnership eligible for reimbursement from bond funds when the water revenue bonds are issued later in FY 2012.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends approval of the resolution.

KEY FACTS AND INFORMATION SUMMARY

Ordinance No. 10-19 authorized the issuance of water revenue bonds to fund projects related to the Water Financing Plan for the Water Master Plan and the Lake Oswego/Tigard Water Partnership. The first bond issuance is anticipated later this fiscal year; however, Tigard is already using existing resources to further the projects.

Work on the project that is done this fiscal year, but before the bonds are issued, can be reimbursed with bond proceeds when the bond is issued. The means for reimbursing the project costs is for council to adopt this resolution. By adopting the resolution, any project expenses made between 60 days before resolution adoption and bond issuance can be reimbursed when the water revenue bonds are issued.

If the resolution is not adopted and Tigard wants the issued bonds to be tax exempt to the bond buyers (thus making the interest paid by Tigard ratepayers less), Tigard can only reimburse project expenses made 60 days prior to the actual issuance of the bond.

By adopting the resolution prior to the end of August, all project expenses made in fiscal year 2012 are eligible for reimbursement when the bonds are issued.

OTHER ALTERNATIVES

Do not approve resolution. Without the resolution: 1) Only project costs made 60 days prior to bond issuance can be reimbursed while maintaining tax exempt status on the bonds. 2) Project costs made more than 60 days prior to bond issuance could be reimbursed when the bonds are issued, but only if the bonds were taxable. Taxable bonds pay a higher interest rate and would be more expensive to Tigard water rate payers.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

5. Continue Coordination with Lake Oswego on water partnership.

6. Financial stability.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Fiscal Impact

Cost: NA

Budgeted (yes or no): NA

Where Budgeted (department/program): NA

Additional Fiscal Notes:

Passage of the resolution will allow project costs related to the Lake Oswego/Tigard Water Partnership during FY 2012, but before the issuance of the water revenue bonds to be reimbursed with bond proceeds. This will allow other water fund resources to be used for operations and other needs.

Attachments

Resolution

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 11-**

A RESOLUTION AUTHORIZING THE REIMBURSEMENT OF EXPENDITURES WITH
REIMBURSEMENT OBLIGATION PROCEEDS

WHEREAS, the City of Tigard (the “City”) has made and expects to make expenditures from its available funds to finance improvements to the City’s water system, including but not limited to, water facilities included in the Water Rate Study adopted by the City Council on November 9, 2010 in Resolution No. 10-58 (the “Public Improvements”); and

WHEREAS, the City reasonably expects to issue bonds, bond anticipation notes, or other obligations as described in Ordinance No. 10-19 adopted by the City Council on December 28, 2010 (the “Reimbursement Obligations”) and to use the proceeds of the Reimbursement Obligations to reimburse the City for the expenditures it makes from its available funds for the Public Improvement; and

WHEREAS, to permit interest on the Reimbursement Obligations to be excludable from gross income, the Internal Revenue Code of the United States requires that the City declare its intent to reimburse itself from Reimbursement Obligation proceeds within 60 days after the expenditures are made; and

WHEREAS, the City expects that the principal amount of the Reimbursement Obligations will not exceed one hundred and sixty million dollars (\$160,000,000) as authorized by Ordinance No. 10-19 adopted by the City Council on December 28, 2010; and

WHEREAS, the City understands that the use of proceeds of the Reimbursement Obligations to reimburse an expenditure may occur no later than the later of (a) 18 months after the date of such expenditure or (b) 18 months after completion of the projects to which such expenditure relates, and in any event no later than three years after the date of such expenditure. Furthermore, proceeds of the Reimbursement Obligations generally may not be used to reimburse expenditures paid earlier than sixty (60) days prior to the date of the adoption of this resolution. Preliminary expenditures in an amount not exceeding 20 percent of the Reimbursement Obligation proceeds are not subject to these limitations. Preliminary expenditures include: architectural, engineering, surveying, soil testing and similar costs incurred prior to commencement of acquisition, construction or rehabilitation of the projects, other than land acquisition, site preparation and similar costs incident to commencement of construction. In addition, de minimus expenditures (the smaller of \$100,000 or five percent of the Reimbursement Obligation proceeds) of any kind are not subject to the reimbursement rules.

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

SECTION 1. DECLARATION OF INTENT TO REIMBURSE. The City hereby declares its official intent pursuant to Section 1.150-2 of the Federal Income Tax Regulations to reimburse itself for expenditures it makes for the public improvements with the proceeds of the Reimbursement Obligations.

SECTION 2. DELEGATION. The city manager or the financial and information services director is hereby authorized to make future declarations of intent to reimburse under Section 1.150-2 of the Federal Income Tax Regulations, on behalf of the City and without further action by the City Council. All such future declarations shall be in writing and the original or a certified copy of each declaration shall be maintained in the public records of the City.

SECTION 3. EFFECTIVE DATE. This resolution is effective upon its adoption.

PASSED: This _____ day of _____ 2011.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

AIS-621

Item #: . D.

Business Meeting

Date: 08/23/2011

Length (in minutes): Consent Item

Agenda Title: Approve Purchase of Four Dodge Chargers and Two Chevrolet Tahoes for Police Fleet

Prepared For: Joseph Barrett

Submitted By: Joseph Barrett
Financial and
Information
Services

Item Type: Motion Requested

Meeting Type: Consent Agenda -
LCRB

ISSUE

Shall the Local Contract Review Board approve the purchase of four Dodge Chargers and two Chevrolet Tahoes for the police fleet?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board approve the purchase of four police Dodge Chargers from the Withnell Motor Company and two police Chevy Tahoes from Hubbard Chevrolet/GMAC to replace aging fleet vehicles.

KEY FACTS AND INFORMATION SUMMARY

The city has a need to replace four police patrol vehicles, an unmarked captain's vehicle and one police SUV. The vehicles being replaced have met or exceeded the standard replacement schedule for their vehicle category. The city's replacement schedule for vehicles typically follows the following age and mileage estimates:

- Police (patrol vehicles) - 3 years or 75,000 miles
- Police (other) - 5 years or 75,000 miles
- Community Development/Planning - 10 years or 75,000 miles
- Public Works - 10 years or 100,000 miles
- Building Inspection - 12 years or 100,000 miles
- Engineering - 12 years or 100,000 miles

The city does an assessment of each vehicle at the aforementioned years and mileage and determination is made by the vehicle's home department and fleet whether or not to request replacement of the vehicle. In this case the determination was made that the vehicles need to be replaced and the appropriations were placed in the FY 2011-12 budget and subsequently approved by the Budget Committee and City Council. The city will be rotating the patrol cars from patrol duty to light police duties (such as court transportation) and placing into surplus even older, higher-mileage vehicles.

Staff intends to procure the vehicles using State of Oregon contract through the city's membership in the Oregon Cooperative Purchasing Program (ORCPP) and the permissive cooperative procurement clause allowed by ORS 279A.215. Using this method allows the city to realize savings through bulk pricing. The cost of one Dodge Charger under the State of Oregon contract is \$22,081 whereas the msp quote to the city on a standalone purchase is \$30,720. The state contract is \$8,639 less. The cost of one Tahoe under the State's contract is \$26,801 whereas the msp quote to the city on a standalone purchase is \$34,955. The state contract is \$8,154 less. The city's total combine savings of the six cars when comparing state contract pricing versus msp quotes is \$50,864.

Staff intends to purchase the Dodge Chargers under State of Oregon contract #0442 from Withnell Motor Company. The cost of each Charger is \$22,081 for a total of \$88,324. The Chevy Tahoes will be purchased under

State of Oregon contract #9774 from Hubbard Chevrolet/GMAC at \$26,801 each for a total of \$53,602.

OTHER ALTERNATIVES

The council could decline the purchase and direct staff to conduct a formal solicitation for the vehicles. This would likely lead to higher purchase price and increased administrative costs for the ourcahse process.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A.

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time this purchase is being presented to the council.

Fiscal Impact

Cost: \$141,926

Budgeted (yes or no): Yes

Where Budgeted (department/program): General Fund

Additional Fiscal Notes:

The General Fund has a total of \$180,000 appropriated in FY 2011-12 for these six vehicles. The total estimated purchase for the six vehicles is \$141,926, leaving just under \$40,000 left to equip the vehicles for police use which is more than adequate to cover the costs.

AIS-629

Item #: 4.

Business Meeting

Date: 08/23/2011

Length (in minutes): 5 Minutes

Agenda Title: Proclaim September National Recovery Month

Prepared For: Joanne Bengtson

Submitted By:

Joanne Bengtson
City Management

Item Type: Receive and File

Meeting Type:

Proclamation

ISSUE

Should Mayor Dirksen proclaim support for September as National Recovery Month in Tigard?

STAFF RECOMMENDATION / ACTION REQUEST

n/a

KEY FACTS AND INFORMATION SUMMARY

The Federal Substance Abuse and Mental Health Services Administration has asked Mayor Dirksen to issue a proclamation in support of National Recovery Month during the month of September.

OTHER ALTERNATIVES

Do not issue the proclamation.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

n/a

DATES OF PREVIOUS COUNCIL CONSIDERATION

In August 2010 a proclamation was issued in support of National Recovery Month.

Fiscal Impact

Fiscal Information:

No financial impact.

Attachments

National Recovery Month Proclamation

Proclamation

City of Tigard

National Recovery Month

WHEREAS, substance use and mental disorders are serious public health problems faced by millions of people each year in the United States; and

WHEREAS, treatment programs are effective, people do recover and statistics show that treatment and recovery support reduce reported job problems, including incomplete work and absenteeism, by an average of 75 percent; and

WHEREAS, we must recognize the financial savings associated with treatment services, and ensure that such services are readily available to those who need assistance; and

WHEREAS, it is critical that we educate our community that substance use disorders are treatable, and by providing support to the families and children of those with these disorders, we can save both lives and dollars; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, and the White House Office of National Drug Control Policy; invite all residents of Tigard to participate in National Recovery Month.

NOW, THEREFORE BE IT RESOLVED THAT I, Mayor Craig E. Dirksen of the City of Tigard, Oregon, do hereby proclaim the month of September 2011 as

NATIONAL RECOVERY MONTH

in Tigard, and call upon the community to observe this month with appropriate programs, activities and ceremonies.

Dated this _____ day of _____, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig E. Dirksen, Mayor
City of Tigard

Attest:

City Recorder

AIS-527

Item #: 5.

Business Meeting

Date: 08/23/2011

Length (in minutes): 60 Minutes

Agenda Title: Quasi-Judicial Public Hearing - River Terrace Annexation

Submitted By: Ron Bunch
Community Development

Item Type: Ordinance
Public Hearing - Quasi-Judicial

Meeting Type: Council Business Meeting - Main

ISSUE

Consider adoption of an ordinance to annex approximately 230 acres of land (River Terrace) into Tigard including adjacent right of way and a utility services corridor consisting of the southerly portion of the old Barrows Road right-of-way.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that City Council find that the proposed annexation (ZCA2011-00001) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goals 11.1, 11.2 and 11.3; Goal 12.1, and Goals 14.1 and 14.2. Staff also recommends APPROVAL of ZCA2011-00001 by adoption of the attached ordinance.

KEY FACTS AND INFORMATION SUMMARY

History

The majority of the River Terrace area was brought into the Urban Growth Boundary (UGB) by Metro in 2002 and was known as UGB Expansion Area 64. At the same, a nearly adjacent area, Area 63, was included in UGB. However this area is not part of this annexation request. In November 2010, the County Board of Commissioners unanimously approved Resolution & Order 10-105, approving a concept plan (West Bull Mountain Concept Plan) as the basis to develop a more detailed community plan. The community plan will provide land use designations, development code regulations, and financing and public facility plans, which are all necessary for River Terrace, Area 63 and the Rural Element to the south to be urbanized. If City Council approves the annexation, then the city will take the necessary steps, subsequent to an intergovernmental agreement (IGA) with the county to develop the required community plan for River Terrace, Area 63 and the Rural Element.

Proposal Information

The area to be annexed is made up of 43 parcels totaling approximately 230 acres. The area, now known as River Terrace, includes Metro Urban Growth Boundary expansion area 64, portions of SW Barrows Road and SW Scholls Ferry Road rights of way, and five Clean Water Services parcels (including adjacent right of way) south of SW Barrows Road. The subject area is contiguous to the Tigard boundary by way of a utility corridor within the southerly right of way of old Barrows Road and a portion of Scholls Ferry Road. The road right of way is also included in this annexation proposal.

A portion of the proposed utility corridor is within the City of Beaverton boundaries. The Beaverton City Council held a hearing on June 21, 2011 and voted unanimously to de-annex the right of way so it could be annexed to Tigard. Beaverton then held hearings on July 12 and August 9, 2011 and adopted an ordinance to withdraw the right of way from its boundary. The final reading of the ordinance was August 16. The effective date of both the city's annexation ordinance and Beaverton's withdrawal of territory is September 30, 2011.

A majority of the property owners (81 percent), which represent 92 percent of the land area and 81 percent of the total assessed value, of an area south of Scholls Ferry Road and west of Bull Mountain submitted petitions to annex to the City of Tigard. A slightly higher percentage of property owners was previously calculated, but after

reviewing the ownership of each parcel, it was determined that the above percentages are correct. These percentages meet what is known as the “triple majority” method of annexation, which does not require a public election. However, a public hearing before the Tigard City Council is required. The purpose of the request is to obtain urban services from the city needed to urbanize the area and provide housing and employment opportunities as envisioned by Metro when the subject area was added to the UGB in 2002.

The annexation request has been reviewed against applicable local, regional and state regulations and/or policies from the Tigard Community Development Code, Tigard Comprehensive Plan, Metro Code and Oregon Revised Statutes. The attached staff report (Attachment 4) outlines how the proposal satisfies the applicable requirements. Many of these requirements are related to servicing the River Terrace area with utilities, streets, public safety and parks/open spaces.

Conceptual plans for utilities, parks and transportation facilities were part of the West Bull Mountain Concept Plan. Coordination between the city and affected agencies and jurisdictions has been important throughout this process and will continue if annexation is approved. This coordination is necessary for preparation of intergovernmental agreements and the community plan. Also annexation to the Metro and Clean Water Services boundaries will occur following annexation to the city.

Ordinance

If Council adopts the attached ordinance (Attachment 1), annexation of River Terrace will be enacted on September 30, 2011. Associated with ordinance adoption will be removal of three services districts from the area. No more than 10 parcels are involved. The districts include the Enhanced Sheriff's Patrol District, Urban Road Maintenance District and a service district for street lighting.

After annexation, police protection will be provided by Tigard. Also, the city will work with PGE to ensure maintenance of the limited number street lights in the area. Road maintenance will be provided by combined efforts of Tigard, Beaverton and Washington County pursuant to intergovernmental agreements. The ordinance also authorizes the phasing of increased property taxes within the River Terrace annexation area consistent with the City's current annexation policy.

OTHER ALTERNATIVES

Council does have the option to deny the annexation request. Additional findings would need to be made to support a decision to deny.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2011 Tigard City Council Goal #1-e:

- Implement the Comprehensive Plan - work with partners on urbanization policy issues.

DATES OF PREVIOUS COUNCIL CONSIDERATION

NA

Fiscal Impact

Fiscal Information:

Based on current Washington County property tax assessments, Tigard will receive approximately \$26,500 in property tax revenues from the annexed properties. The property tax will be phased in over a three year period. Based on the current assessments, the phased in property tax collection will be approximately \$8,745 in FY 2013, \$17,490 in FY 2014, and \$26,500 in FY 2015.

Upon annexation, Tigard will provide police services to the area. Due to the low density of development that currently exists in the annexed area, Tigard Police will provide police services without additional staff. As this area develops, additional police, and staff for other services, will be needed.

Attachments

Draft Ordinance

Exhibit A - Legal Description

Exhibit B - Legal Maps

Exhibit C - Staff Report

Exhibit D - Applicant's Narrative

Vicinity Map

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 2011- _____

AN ORDINANCE ANNEXING 230.06 ACRES OF LAND, INCLUDING FORTY-THREE (43) PARCELS, ADJACENT RIGHTS OF WAY, AND A UTILITY SERVICES CORRIDOR WITHIN SW BARROWS ROAD RIGHT OF WAY; APPROVING THE RIVER TERRACE ANNEXATION (ZCA2011-00001); AND WITHDRAWING SIX (6) PARCELS FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT. IN ADDITION, WITHDRAWAL OF THREE (3) PARCELS FROM WASHINGTON COUNTY SERVICE DISTRICT FOR LIGHTING.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) to annex contiguous territory upon receiving written consent from owners of land in the territory proposed to be annexed; and

WHEREAS, the City of Tigard is authorized by ORS 222.120(5) and 222.520 to withdraw property which currently lies within the boundary of the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, and Washington County Service District for Lighting upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on August 23, 2011, to consider the annexation of forty-three (43) parcels [Washington County Tax Assessors Map (WCTM) 2S10600, Tax Lots 100, 202, 203, 204, 1000, 1100, 1101, 1200, 1400, 1401, 1500, 1600, 1700, 1800, 1801, 2900, 3000, 3100, 3200, 3300, 3400, 3500 and 3800; WCTM 2S10700, Tax Lots 100, 101, 102, 103, 104, 105, 106, 1300, 1302, 1303, 1305, 1900 and 2000; WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000; and WCTM 2S105BD, Tax Lots 2100, 2200 and 4000] of land located south of the intersection of SW Scholls Ferry Road and Roy Rogers Road, along SW Barrows Road and adjoining right-of-way;

WHEREAS, the Tigard City Council considered, as part of the annexation, the withdrawal of six (6) parcels [WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000; WCTM 2S105BD, Tax Lots 2100, 2200 and 4000; and WCTM 2S106000, Tax Lot 1200] and right of way from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and withdrawal of three (3) parcels[WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000 and WCTM 2S105BD, Tax Lot 4000] and right of way from Washington County Service District for Lighting; and

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and withdrawal of six (6) of the annexed parcels from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District and three of the parcels from the Washington County Service District for Lighting on August 23, 2011; and

WHEREAS, pursuant to ORS 222.524, the city must declare the withdrawal of the annexed properties from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting; and

WHEREAS, the annexation has been processed in accordance with the requirements of Metro 3.09 and has been reviewed for compliance with the Tigard Community Development Code and the Comprehensive Plan and the annexation substantially addresses the standards in Metro 3.09 regulating annexations; and

WHEREAS, the Tigard City Council passed Resolution 11-08 to extend the phasing in of increased property taxes over a three-year period at the rate of 33 percent, 67 percent, and 100 percent, for properties that voluntarily annex until February 2011 per Oregon Administrative Rule (OAR 150-222.111); and

WHEREAS, the Tigard City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed property from the applicable service districts is in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby annexes the subject parcels and rights of way as described and shown in the attached **Exhibits "A" and "B"**, and withdraws noted parcels from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" (ZCA2011-00001) as findings in support of this decision; a copy of the staff report is attached hereto as Exhibit "C" and incorporated herein by this reference.

SECTION 3: City staff is directed to take all necessary measures to implement the annexation, including filing certified copies of the Ordinance with Metro for administrative processing, filing with state and county agencies as required by law and providing notice to utilities.

SECTION 4: The Tigard City Council hereby authorizes the phasing in of increased property taxes over a three-year period at the rate of 33 percent, 67 percent and 100 percent per Oregon Administrative Rule (OAR 150-222.111) for the subject annexation.

SECTION 5: Pursuant to ORS 222.120(5), the effective date of the withdrawal of properties from Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting shall be the effective date of this annexation.

SECTION 6: In accordance with ORS 222.180, the annexation shall be effective upon September 30, 2011.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2011.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2011.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

ANNEXATION DESCRIPTION

A tract of land situated in the Section 5 and Section 6 Township 2 South, Range 1 West, of the Willamette Meridian, described as follows:

Commencing at the corner to Sections 32 and 33 Township 1 South, Range 1 West and Sections 4 and 5 township 2 South, Range 1 West Willamette Meridian; Thence S 00° 26' 16" W, along east line of Section 5, a distance of 929.91 feet to the centerline of SW Barrows Road and the **True Point of Beginning** of the Annexation description; Thence N 32° 32' 55" E, along said centerline, a distance of 188.13 feet to the east line of BPA 100 foot wide power line; Thence S 00° 26' 16" W, along said power line, a distance of 62.08 feet to the southerly right-of-way of SW Barrows Road; Thence said southerly right- of way the following 8 courses; Thence S 32° 32' 55" W a distance of 726.55 feet; Thence S 32° 34' 49" W a distance of 36.84 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet; a central angle of 14° 22' 36" (a chord which bears S 39° 46' 07" W, 151.65 feet) and a length of 152.05 feet to a point of non-tangency; Thence S 47° 46' 49" W a distance of 167.15 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet, a central angle of 19° 48' 49" (a chord which bears S 57° 41' 13" W, 208.51 feet) and a length of 209.55 feet; Thence S 67° 35' 38" W a distance of 1464.05 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of 07° 41' 27" (a chord which bears S 71° 26' 21" W, 158.68 feet) and a length of 158.79 feet; Thence S 75° 17' 05" W a distance of 25.94 feet to the northeast corner of Tract "A" Morningside; Thence S 15° 56' 07" E, along the east line of said Tract "A", a distance of 63.50 feet to the Southeast corner of tract "A"; Thence N 89° 45' 11" W, along the south line of said tract "A", a distance of 90.00 feet to the Southwest corner of Tract "A" and the west line of Morningside; Thence N 00° 14' 49" W, along said west line, a distance of 41.71 to the southerly right of way of SW Barrows Road being a point on a non-tangent curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of 14° 36' 05" (a chord which bears S 84° 49' 04" W, 300.66 feet) and a length of 301.48 feet to a point of curve to the left; Thence along said curve to the left with a radius of 100.00 feet, a central angle of 8° 06' 29" (a chord which bears S 86° 12' 21" W, 14.14 feet) and a length of 14.15 feet to a point of curve to right; Thence along said curve to the right with a radius of 100.00 feet, a central angle of 17° 07' 38" (a chord which bears S 89° 17' 01" E, 29.80 feet) and a length of 29.91 feet to the northeasterly line of Tract "B" Bull Mountain Meadows; Thence along the southerly line of Tract "B" the following 6 courses; Thence S 00° 14' 49" W, leaving said right of way, a distance of 73.06 feet; Thence N 83° 40' 02" W a distance of 164.93 feet; Thence N 89° 45' 11" W a distance of 48.00 feet; Thence S 84° 18' 00" W a distance of 96.52 feet; Thence N 89° 45' 11" W a distance of 142.00 feet; Thence S 00° 14' 49" W a distance of 146.00 feet to the southerly right-of-way of SW Bulruch Lane; Thence N 89° 45' 11" W, along said southerly right-of-way, a distance of 50.00 feet; Thence N 00° 14' 49" E a distance of 146.00 feet to the northeast corner of lot 1; Thence N 89°

45' 11" W a distance of 55.00 feet to the northwest corner of Lot 1; Thence N 84° 59' 50" W a distance of 60.19 feet to the southeast corner of Tract "A" Bull Mountain Meadows; Thence N 89° 45' 11" W , along the south line of said Tract "A", a distance of 105.02 feet; Thence N 83° 59' 18" W , along the south line of said Tract "A" and the extension thereof, a distance of 163.42 feet to an angle point on the south line of Tract "H" Bull Mountain Meadows NO. 3; Thence S 67° 35' 55" W a distance of 47.74 feet; Thence S 00° 14' 49" W a distance of 73.63 feet and an non-tangent curve to the right; Thence along said curve to the right with a Radius of 523.00 feet, a central angle of 0° 06' 41" (a chord which bears S 80° 31' 51" E, 1.02 feet) and a length of 1.02 feet; Thence S 09° 31' 30" W a distance of 46.00 feet to the southerly right-of-way of SW Bulrush Lane and a point on a non-tangent curve to the left; Thence along said curve to the left with a Radius of 477.00 feet, a central angle of 09° 31' 30" (a chord which bears N 85° 13' 57" W 79.12 feet) and a length of 79.22 feet; Thence N 89° 59' 24" W a distance of 242.86 feet; Thence N 00° 00' 36" E a distance of 46.00 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 18.00 feet a central angle of 90° 00' 00" (a chord which bears N 45° 00' 36" E, 25.46) and a length of 28.27 feet; Thence N 00° 00' 36" E a distance of 82.00 feet to the southeast corner of Tract I Bull Mountain Meadows NO. 3; Thence N 89° 59' 24" W a distance of 55.00 feet; Thence N 85° 37' 24" W a distance of 150.55 feet; Thence N 89° 59' 24" W a distance of 351.00 feet; Thence N 00° 00' 36" E a distance of 123.00 feet to the southerly right of way of SW Barrows Road; Thence S 89° 31' 18" W a distance of 847.29 feet to the west line of Section 5 Township 2 South, Range 1 West Willamette Meridian; Thence S 00° 17' 13" W, along said Section line, a distance of 356.76 feet to the west one-quarter corner of Section 5; Thence S 00° 00' 23" W, along said Section line, a distance of 2644.58 feet the Section Corner between Sections 5,6,7 &8 Township 2 South, Range 1 West; Thence S 00° 06' 09" W, along the Section line between Sections 7 and 8, a distance of 2218.91 feet; Thence S 89° 19' 26" W, leaving said Section line, a distance of 1337.59 feet to the westerly right-of-way of SW Roy Rodgers Road; Thence N 00° 01' 15" E, along said westerly right-of-way, a distance of 2219.23 feet to the southerly line of Section 6 Township 2 South, Range 1 West, Willamette Meridian; Thence S 89° 22' 25" W, along said Section Line, a distance of 1313.31 feet to the one quarter corner between Sections 6 and 7 Township 2 South, Range 1 West, Willamette Meridian; Thence N 00° 20' 56" E, along the line between the east and west one halves of said Section 6, a distance of 2719.11 feet the center line of SW Scholls Ferry Road being a point on a non-tangent curve to the left; Thence along said curve to the left with a radius of 1432.39 feet, a central angel of 14° 12' 09", (a chord which bears N 81° 56' 36" E, 354.15) and a length of 355.06 feet to a point of tangency; Thence N 74° 50' 36" E a distance of 876.66 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1432.39 feet, a central angel of 14° 45' 02", (a chord which bears N 82° 13' 07" E, 367.74) and a length of 368.76 feet to the extension of the center line of SW Barrows Road Cr Number 812; Thence N 89° 35' 38" E, a distance of 458.31 feet along the extended center line of SW Barrows Road; Thence along the center line of SW Barrows Road and the extension there of the following 12 courses; Thence N 89° 31' 18" E a distance of 2217.52 feet; Thence S 85° 05' 41" E a distance of 866.23 feet; Thence S 79° 57' 34" E a distance of 183.27 feet to a non-tangent curve to the left; Thence along said curve to the left with a radius of 1150.00 feet a central angle of 17° 13' 58" (a chord which bears N 83° 54'

04" E, 344.58 feet) and a length of 345.88 feet; Thence N 75° 17' 05" E a distance of 90.62 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 1150.00 feet, a central angel of 7° 41' 27" (a chord which bears N 71° 26' 54" E, 154.25) and a length of 154.36 feet; Thence N 67° 35' 38" E a distance of 1464.05 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of 19° 48' 49" (a chord which bears N 57° 41' 13" E, 197.15 feet) and a length of 198.14 feet; Thence N 47° 46' 49" E a distance of 166.68 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of 14° 22' 36" (a chord which bears N 39° 46' 07" E, 143.39 feet) and a length of 143.77 feet; Thence N 32° 34' 49" E a distance of 36.84 feet; Thence N 32° 32' 55" E a distance of 591.02 feet to the point of beginning.

Containing 11162513 square feet or 256.25 Acres



SCALE 1" = 100'



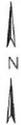
RIVER TERRACE
ANNEXATION

FIGURE
2
FILE NO



1/4 SECTION CORNER

SW ROY ROGERS RD



SCALE 1" = 100'

CAPITAL CONSTRUCTION AND PUBLIC WORKS DEPARTMENT
 12125 S.W. HALL BLVD
 SUITE 10000
 PORTLAND, OR 97219
 PHONE: 503-238-2525
 WWW.CCDP-OR.GOV

RIVER TERRACE ANNEXATION

FIGURE 4
 FILE NO



Prepared by: [unreadable] Date: [unreadable]
 Checked by: [unreadable] Date: [unreadable]
 Drawn by: [unreadable] Date: [unreadable]

SCALE 1" = 100'

CAPITAL CONSTRUCTION AND
 PUBLIC WORKS CORPORATION
 11123 E. W. 102nd St.
 Overland Park, KS 66204
 PHONE: 913-666-1111
 FAX: 913-666-1111
 WWW.CAPCON.COM

**RIVER TERRACE
 ANNEXATION**

FIGURE
 5
 FILE NO

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: RIVER TERRACE ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2011-00001

APPLICANT: Multiple applicants **OWNER:** Multiple property owners
Attachment 1 lists applicants Attachment 2 lists owners

PROPOSAL: A request to annex to the City of Tigard approximately 230 acres of property, referred to herein as River Terrace, that includes Metro Urban Growth Boundary expansion area 64, portions of SW Barrows Road and SW Scholls Ferry Road rights of way, and five Clean Water Services parcels (including adjacent right of way) south of SW Barrows Road.

LOCATION: Multiple parcels generally located south of Scholls Ferry Road on the east and west sides of SW Roy Rogers Road plus five Clean Water Services parcels south of SW Barrows Road between SW 152nd Avenue and Scholls Ferry Road.

COUNTY ZONE: FD20 Future Development, 20-acre minimum lot size. The FD20 District applies to the unincorporated urban lands added to the urban growth boundary by Metro through a Major or Legislative Amendment process after 1998. The FD20 District recognizes the desirability of encouraging and retaining limited interim uses until the urban comprehensive planning for future urban development of these areas is complete. The provisions of this district are also intended to implement the requirements of Metro’s Urban Growth Management Functional Plan.

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: Annexation areas will retain current Washington County zoning until Tigard zoning is applied with the future adoption of a community plan for the area.

APPLICABLE REVIEW CRITERIA: The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1, Goal 11, Goal 12, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

SECTION II. STAFF RECOMMENDATION

Staff recommends that City Council find that the proposed annexation (ZCA2011-00001) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goals 11.1, 11.2 and 11.3; Goal 12.1, and Goals 14.1 and 14.2. Therefore, staff recommends APPROVAL of ZCA2011-00001 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

History

The River Terrace area was brought into the Urban Growth Boundary (UGB) by Metro in 2002 and was known as UGB Expansion Area 64. At the time another expansion area, Area 63, also became part of the UGB; however that area is not included in this annexation application. In November 2010, the County Board of Commissioners unanimously approved Resolution & Order 10-105, approving a concept plan (West Bull Mountain Concept Plan) as the basis to develop a more detailed community plan. The community plan will provide land use designations, development code regulations, and public facility plans which are all necessary for River Terrace, Area 63, and the Rural Element to the south to be urbanized. If City Council approves the annexation, then the city will take the necessary steps to develop the required community plan for River Terrace, Area 63, and the Rural Element.

Proposal Information

A majority of the property owners (81%), which represent 92% of the land area and 81% of the total assessed value, of an area south of Scholls Ferry Road and west of Bull Mountain have submitted petitions to annex into the City of Tigard. A slightly higher percentage of property owners was previously calculated, but after reviewing the ownership of each parcel, it was determined that the above percentages are correct. These percentages meet what is known as the "triple majority" method of annexation, which does not require a public election. However, a public hearing before the Tigard City Council is required. The purpose of the request is to obtain urban services from the City needed to urbanize the area and provide housing and employment opportunities as envisioned by Metro when the subject area was added to the UGB in 2002.

The area to be annexed is made up of 43 parcels totaling approximately 230 acres; five of these are the Clean Water Services (CWS) parcels totaling 5.34 acres south of SW Barrows Road. The area is contiguous to the Tigard boundary, connected by a utility corridor along the south side of old Barrows Road and Scholls Ferry right of way that is also proposed for annexation. A portion of this right of way is within the City of Beaverton boundaries. The Beaverton City Council held a hearing on June 21, 2011 and voted unanimously to de-annex the right of way proposed for annexation into Tigard. The City of Beaverton scheduled subsequent hearings for July 12 and August 9 to adopt an ordinance to finalize withdrawal of the right of way. The proposed ordinance to annex River Terrace states an effective date of September 30, 2011 to coincide with the effective date of the Beaverton withdrawal.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390
Comprehensive Plan Goal 1; Goal 11, Goal 12 and Goal 14.
State: ORS Chapter 222
Regional: Metro Code Chapter 3.09

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

“Chapter 18.320.020.B: Approval Process and Standards.

Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area;”

FINDINGS: The City of Tigard Comprehensive Plan’s Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to storm water management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition the comprehensive Plan Glossary includes public safety, parks, and transportation.

The proposed annexation area is designated as rural with FD20 zoning and urban services are not currently available. The annexation will result in the availability of urban services and provide urban land to meet the Portland Metropolitan Region’s employment and housing needs.

A conceptual plan was prepared for each service as part of the West Bull Mountain Concept Plan. Background documentation included technical memorandums regarding alternative water supplies, transportation, stormwater, and sewer infrastructure needs, was adopted as part of the Concept Plan findings and illustrate that these services can be provided to River Terrace.

Water – City of Tigard. In September 2010 the city adopted the Tigard Water System Master Plan, which looks at current and projected supply and demands for areas currently served and to be served by the City of Tigard. This plan included the proposed annexation area. Recommended upgrades to ensure future capacity requirements are being or have been completed by the city. A 16-inch water main in SW Barrows Road and a 16-in main in SW Leeding Lane are stubbed to the largest portion of the annexation area. City of Tigard water is currently available to the five CWS detention pond sites south of SW Barrow Road.

The West Bull Mountain Concept Plan reviewed potential suppliers of water for the River Terrace vicinity and acknowledged that “water provision is most efficient from the east,” and that the City of Tigard and the Tigard Water District are potential providers.

Sewer – City of Tigard/Clean Water Services. The city through agreements with Clean Water Services (CWS) is and will be the service provider of sewer to the proposed annexation area. The five CWS detention pond sites are not developed with uses that necessitate sanitary sewer service. The majority of River Terrace is not currently served, but can be as shown in a 2009 CWS Sanitary Sewer Service Master Plan, which included the annexation area within study areas of anticipated growth. The plan calls out pump stations and trunk lines necessary to reach the Durham treatment plant, which will serve the future growth in River Terrace and surrounding areas.

Drainage – Clean Water Services. Clean Water Services will be the ultimate provider of stormwater services in River Terrace. There are a few Washington County pipes draining road water into nearby creeks along SW Roy Rogers Road. CWS has storm lines within the unincorporated urban areas to the west of River Terrace. A comprehensive stormwater plan to ensure water quality with the Tualatin River Basin and protect Goal 5 resources within the area will be developed as part of the community plan for the River Terrace vicinity.

Streets – City of Tigard Engineering Division. The proposed annexation area is accessed by SW Barrows Road, SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Existing access will not be affected by the proposed annexation. Rights of way adjacent to parcels within River Terrace are proposed for annexation to the city. Maintenance of these roads will be provided by a combination of the City of Tigard, City of Beaverton, and Washington County through intergovernmental agreements. Necessary improvements to the transportation system within River Terrace and surrounding area will be identified as part of the community plan.

Police – City of Tigard Police Department. The City of Tigard Police Department was notified of the proposed annexation and has no objections to the proposal. Tigard Police have capacity to provide adequate services to the most intense allowed use and providing services will not significantly reduce the level of services available to other land within the City of Tigard. The area is currently served by the Washington County Sherriff. Upon annexation, the area will be served by City of Tigard Police.

Fire – Tualatin Valley Fire and Rescue (TVF&R). The subject property is in Tualatin Valley Fire and Rescue’s (TVF&R’s) service area. The TVF&R District currently provides services to the entire area, both inside and outside of the City of Tigard. TVF&R has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations to developed and undeveloped land within the City of Tigard.

Parks–City of Tigard. The West Bull Mountain Concept Plan notes that the River Terrace vicinity is not located within the boundaries of a parks and recreation provider; therefore the subsequent community plan will need to identify a provider and adopt standards for development and maintenance of a parks system. The City of Tigard, named as one of the possible providers within the concept plan, will utilize its adopted standards to provide parks in conjunction with development following annexation of River Terrace.

CONCLUSION: Based upon the findings above it is concluded that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and will have sufficient capacity to serve annexation territory if developed generally to the most intense uses allowed as proposed by the concept plan. The comprehensive community plan and its associate implementation methods will ensure that annexation and development of the area will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard.

“2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.”

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1, Goal 11, Goal 12, and Goal 14. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

“GOAL 1 – CITIZEN INVOLVEMENT

Goal 1.1: The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.”

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed, and published notice of the public hearing as follows. The City posted the hearing notice at four public places on August 2, 2011: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Scholls Ferry and SW Roy Rogers Roads. The City published notice of the hearing in *The Tigard Times* for two successive weeks (August 4, 2011 & August 11, 2011) prior to the August 23, 2011, public hearing. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties on August 2, 2010.

“GOAL 11 – PUBLIC FACILITIES AND SERVICES

Goal 11.1: Develop and maintain a stormwater system that protects development, water resources, and wildlife habitat.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive stormwater management system.

Policy 3. The City shall require the stormwater management system to comply with all applicable federal, state, and regional regulations and programs.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.”

Clean Water Services in partnership with the City of Tigard will be the ultimate provider of stormwater management within the River Terrace area and will be closely involved in the development of the community plan to ensure stormwater needs and applicable regulations will be met with future development. Throughout this review process, the city has been coordinating with CWS. The agency has requested its water quality facilities on the south side of Barrows Road be included in the proposed annexation area. CWS has budgeted to complete a basin-wide stormwater study that will include the River Terrace vicinity but has not begun the project at the time of this staff report.

Because CWS participated in the concept planning process, the city is aware of CWS concerns and regulatory needs pertaining to stormwater within the River Terrace vicinity. If the River Terrace annexation is approved, the city will request annexation of River Terrace into the CWS service boundary. No services will be provided prior to properties being located within the Tigard city limits.

“11.2 Secure a reliable, high quality, water supply to meet the existing and future needs of the community.

Policy 1. The City shall prioritize securing an interest in a high quality, long-term water supply, which is financially feasible and reliable, to serve the Tigard Water Service Area.

Policy 2. The City shall develop and maintain a water system master plan to coordinate the improvement and expansion of Tigard Water Service Area infrastructure to serve current and projected demand.”

The Tigard Water System Master Plan was approved in September 2010, which included the River Terrace vicinity. This plan studied current and future supply and demand considering population growth within areas currently served and those to be served, analyzed the existing system, and recommended capital improvements. The city is completing these improvements and upgrades. For example the city has ensured a long term water supply from the Clackamas River through a partnership with the City of Lake Oswego.

“Goal 11.3: Develop and maintain a wastewater collection system that meets the existing and future needs of the community.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive wastewater management system for current and projected Tigard residents.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.”

None of the parcels within the annexation area currently receive city wastewater services. There is currently no wastewater service within the majority of the River Terrace area. The city in agreements with CWS will be the ultimate provider of this service. The CWS Sanitary Sewer Master Plan was updated in 2009. The plan included servicing the River Terrace vicinity and included necessary improvements to ensure adequate capacity for development of these areas. These included upgrades to the Durham Treatment Facility, new pump stations, and replacement of pipes throughout the system.

“GOAL 12 - TRANSPORTATION

Goal 12.1 Develop mutually supportive land use and transportation plans to enhance the livability of the community.

Policy 1. The City shall plan for a transportation system that meets current community needs and anticipated growth and development.”

An updated Transportation System Plan (TSP) for the City of Tigard was adopted in 2010 as part of periodic review. The plan considered both problem and growth areas within the city and the urban services area, and was consistent with state and regional rules and policies. A multi-modal and balanced

approach was a key in the plan's development.

As part of the West Bull Mountain Concept Plan, the area was extensively modeled by Washington County. The focus was on impacts to the transportation system surrounding the area upon full urban build out. The area is currently accessible by SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Through the community planning process the city will address impacts to these major streets and ensure adequate and safe access to these streets from future local streets. The city will coordinate planning efforts with other affected agencies and jurisdictions. Any necessary traffic improvements and related findings will be adopted into the Tigard TSP.

“GOAL 14 - URBANIZATION

14.1. Provide and/or coordinate the full range of urban level services to lands and citizens within the Tigard City limits.

1. The City shall only approve the extension of City services:

A. where applications for annexation for those properties have been approved; or

B. in circumstances where applicable state and county health agencies have declared a potential or imminent health hazard pursuant to ORS 431.705 to 431.760 (Health Hazard Annexation or Service District Formation); or

C. as outlined in the intergovernmental agreement regarding water provision within the Tigard Water Service Area.”

The city will not approve extension of services prior to the proposed annexation of the area. Upon annexation, only police and long range planning services will be provided by the city. Extension of utilities and other services will not occur until after the adoption and amendment of the Community Plan, and associated updates of the applicable utility/infrastructure and financing plans. The one exception is city water which is already available to the five CWS sites south of Barrows Road and will continue after annexation.

“2. The City shall maintain, and amend when necessary, agreements with Washington County that recognizes the City as the ultimate provider of governance and identified services to the Tigard Urban Services Area.”

Only the five CWS properties are within the Tigard Urban Services Area (TUSA) boundary. Because of this the remainder of the annexation area is not subject to the TUSA. The city will be the ultimate provider of urban services and governance to the entirety of the annexation territory. This fact is recognized and reflected in an Intergovernmental Agreement (IGA) with Washington County. This agreement includes a provision for Washington County to temporarily provide planning services to the annexation area until the community plan is completed and adopted.

“3. The City shall, as needed, coordinate and/or participate in planning activities or development decisions within the Tigard Urban Services Area.”

While this is not a policy directly related to annexation, the city is clearly a participant in planning activities and development decisions within the Tigard Urban Services Area. Only the CWS properties are located within the current TUSA boundary. However, the city has coordinated with all jurisdictions and agencies within the annexation territory, including Washington County. A proposed IGA with Washington County requests that the County convene government representatives to amend the TUSA to include the River Terrace annexation area.

“4. The City shall protect the existing and future delivery of City services and only support the formation of a new service district, or expansion of existing districts, that will not create a conflict within the Tigard Urban Services Area.”

This is not an applicable policy to the proposed annexation. No new district or expansion of an existing district is proposed with this application.

“5. The City shall enter into and maintain intergovernmental agreement with service districts operating within the Tigard Urban Service Area to:

A. define short and long term service provision roles;

- B. specify the terms and conditions of withdrawal of territory from service districts and the transition of capital facility ownership and administration to the City;**
- C. provide for the coordination of plans and programs to eliminate duplicity and minimize conflict; and**
- D. ensure that services are provided consistent with the City’s adopted Public Facility Plan.”**

With the exception of the five CWS properties, the proposed annexation area is not within the TUSA boundaries. The proposed annexation does not require an amendment to the TUSA. The city has coordinated with all jurisdictions and agencies within the annexation territory, and extension of services to the proposed annexation area will be accomplished pursuant to community plan for the area to be prepared by the city. This plan will be consistent with the city’s Public Facility Plan and the Regional Transportation Plan (RTP).

“Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.”

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.”

The current Washington County zoning designations will be retained for the entire annexation area until adoption of the community plan. Appropriate Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C. (found on pages 7 & 8 of this report).

“Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.”

Capacity has been addressed above, consistent with this policy. The city will prepare a comprehensive community plan for River Terrace and vicinity in accordance with statewide goals and Metro policies. All systems and capacity issues will be fully addressed prior to urban level development within the area. Technical memoranda associated with the concept plan and current facility plans show that the area can be provided the appropriate level of services.

“Policy 3. The City shall approve proposed annexations based on findings that the request:

A. can be accommodated by the City’s public facilities and services; and”

The future availability of public facilities and services has been addressed above, consistent with this policy.

“B. is consistent with applicable state statute.”

As reviewed below, staff finds that the provisions of ORS 222 have been met, consistent with this policy.

“Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.”

No unincorporated islands will be created by the proposed annexation. A majority of the property owners within the proposed annexation area have submitted annexation petitions. In order to avoid creating islands within the area, the application proposal is to annex River Terrace in its entirety. To annex the entire area allows greater efficiency in planning and provision of future public services. Inviting additional parcels outside River Terrace to join the proposal was determined to be unnecessary at this time.

“Policy 6. The City shall periodically update and/or amend its Public Facility Plan to ensure the predictable and logical provision of urban services for areas anticipated to be within the Tigard city limits.”

While this is not a policy directly related to annexation, it is noted that the city is currently updating its Public Facility Plan as part of periodic review. These updates are considering future growth of the city and all will, like the Tigard Waster System Master Plan, include River Terrace within the study areas.

CONCLUSION: There has been extensive communication and invitations for public participation in the application review process. The city has coordinated with all jurisdictions and agencies within the annexation territory. It is determined that the City of Tigard has the capacity and is the most efficient provider of urban services for River Terrace. If annexation is approved, conceptual plans adopted as part of the county's West Bull Mountain Concept Plan will be refined through the city's community planning process. These plans include utilities and infrastructure, parks, and transportation. Based upon the above findings, the proposed annexation is consistent with the city's applicable Comprehensive Plan goals and policies.

“Chapter 18.320.020.C

Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar. A zone change is required if the applicant requests a comprehensive plan map and/or zoning map designation other than the existing designations. A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.”

FINDINGS: The majority of the annexation area has the Washington County zoning designation FD20, with the exception of the five CWS parcels along the south side of Barrows Road. These are zoned R15 (Washington County). The county's FD20 zoning is applied to areas that are currently rural but are designated for future urban development. The city, as is consistent with Statewide Planning Goal 14, does not have any rural zoning districts or any that closely conform to the county's FD20 district.

The city has received written requests from the majority of the property owners in the annexation area to retain the existing Washington County zoning. These requests are consistent with the intentions of the city, which is to provide for a planned and orderly transition of River Terrace from rural to urban uses and service levels through the implementation of the community plan for the area. The requested retention of the County zoning will maintain existing rural level development while the city completes the development and adoption of the community plan; thereby ensuring that compliance with Statewide Planning Goals is not compromised by urban level development that is inconsistent with the city's future community plan for the annexation area.

Because the community plan will also include the utility corridor along SW Barrows and SW Scholls Ferry rights of way, the CWS storm detention sites south of Barrows Road, and the Tualatin Hills Parks and Recreation District pathway within the old Barrows right of way, all current county zoning will be retained within the entire annexation area until completion and adoption of the plan. Therefore, the CWS parcels will continue to be zoned R15 following annexation. The portion of the utility services corridor that is being withdrawn from the boundaries of the City of Beaverton is located in public right of way. The city does not zone right of way, and as such, the utility services corridor will remain public right of way.

CONCLUSION: The applicants have requested the Washington County FD20 zoning remain in place after annexation. Urban level zoning designations will be applied to River Terrace at the adoption of a comprehensive community plan. The code allows zone changes after the annexation has been approved. Maintaining Washington County zoning designations until after annexation is consistent with this code regulation.

“Chapter 18.390.060: Type IV Procedure”

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020.B, which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the city to provide notice at least 10 days prior to the hearing by mail and to publish notice at least 10 business days prior to the hearing; the city mailed notice on August 2, 2010, and published public notice in *The Tigard Times* for two successive weeks (August 4, 2010 & August 11, 2010) prior to the August 23, 2011 public hearing.

“Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;”

FINDINGS: The city’s Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals and as reviewed above, the annexation proposal is consistent with Tigard Comprehensive Plan goals and policies.

CONCLUSION: The proposal is consistent with the city’s acknowledged Comprehensive Plan. Therefore, the proposal complies with statewide planning goals, including citizen involvement, public facilities, transportation, and urbanization.

“2. Any federal or state statutes or regulations found applicable;”

Oregon Revised Statutes Chapter 222 – City Boundary Changes; Consolidations; Withdrawals is applicable to annexations. The applicable subsections are addressed below:

FINDINGS:

“ORS 222.111. Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.”

The utility services corridor is comprised solely of public right of way and provides a continuous extension of the city boundary to the CWS properties and River Terrace. Therefore, the proposed annexation meets the state standard for contiguity under ORS 222.111.

The Oregon courts have interpreted ORS 222 to require that an annexation be reasonable and not arbitrary, based on the totality of the circumstances. This requirement comes from *PGE v. Estacada*, 195 Or 145 (1952). The Oregon Supreme Court identified factors to demonstrate reasonableness:

1. The contiguous territory represents the actual growth of the city beyond its city limits;
2. The property is valuable by reason of its adaptability for prospective town uses;
3. The land is needed for extension of streets and to supply utilities;
4. The property and the city will mutually benefit from the annexation.

In this instance, River Terrace, is connected to the current boundaries of the city by the utility services corridor, a public right of way. The proposed annexation satisfies the reasonableness requirement because it represents growth beyond the city limits that will accommodate Tigard’s 20-year need for residential lands. This action also makes it possible to provide needed urban lands to accommodate Metro’s housing and employment needs as identified in various Growth Management Reports. As identified in the West Bull Mountain Concept Plan, the area can be comprehensively planned for prospective urban uses including a mix of residential types, commercial centers, civic and institutional uses, and parks and open spaces. Annexation will also ensure that transportation needs will be accommodated, including managing traffic impacts within the area and on the surrounding system. Benefits for River Terrace include the community planning and services (provided by the city and its partners) necessary for urban level development. The applicant provides a more detailed discussion of this reasonableness within the narrative submitted with the application materials. Those findings are included by reference into this staff report.

“(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.”

This annexation is being initiated by the owners in the annexation area. Signed petitions are found within the application materials. The proposal satisfies this procedural requirement.

“(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.”

This section does not include any applicable substantive approval criteria. The Application does not include a proposal regarding the rate of taxation for the Property. The applicant recognizes that the city cannot assess taxes on the Property in an amount that exceeds the highest city tax rate for the year. The proposal is consistent with this section.

“(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.”

The applicant states that the annexation area does not include land currently located in a district named in ORS 222.465 or ORS 222.510. However, there are five properties owned by Clean Water Services located on the south side of the SW Barrows Road. These five properties are located within the Washington County Enhanced Sheriff's Patrol District and the Urban Road Maintenance District. Three of the five parcels are also within a Washington County Service District for Lighting. The proposed ordinance includes withdrawal of these five properties from the affected service districts. The application is consistent with this procedural requirement.

“(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.”

This section is not applicable because the application satisfies the requirements of ORS 222.170, as described below.

“(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.”

Because the annexation will not be submitted to a vote of the electors, this section is not applicable to the application.

“(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.”

Because the annexation will not be submitted to a vote of the electors, this section is not applicable to the Application.

“222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”

The city charter does not require that the city submit the question of the proposed annexation to the electors of the city for their approval or rejection. A public hearing in accordance with this section is being held on August 23, 2011 to hear an owner initiated request to annex the River Terrace area and utility corridor into the City of Tigard. Notice was published in the *Tigard Times* for two consecutive weeks prior to the hearing and notices were posted in four public places (Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Roy Rogers Road and Scholls Ferry Road) on August 2, 2011. This application has processed in accordance with applicable law.

“222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.”

This statute is not applicable since the proposed annexation satisfies the requirements under 222.170.

“222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.”

More than half (81%) of the property owners, who also own more than half the land (92%) therein representing more than half of the assessed value of all real property (81%) have filed a petition to annex into the City of Tigard. These petitions represent a percentage of owners that exceeds the applicable thresholds for annexation without public election. Six (6) of the 43 properties within River Terrace are publicly owned (Clean Water Services and Portland General Electric). Since petitions to annex these areas were submitted, then they can be considered in this determination. The annexation request is being processed in accordance ORS 222.170(1) without an election.

“222.173 *Time limit for filing statements of consent; public records.* (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505.”

The application includes 28 petitions, all of which were filed within a year of each other. These petitions meet the thresholds required by ORS 222.170(1). These petitions are found within the land use file (ZCA2011-00001), which is public record. Therefore, the application satisfies this criterion.

“222.175 *City to provide information when soliciting statements of consent.* If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city’s ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited.”

The statements of consent are being offered voluntarily and at the initiation of the owners of the annexation area. Therefore, this section is not applicable.

“222.177 *Filing of annexation records with Secretary of State.* When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4).”

This section does not include any applicable substantive approval criteria, but it does include procedural provisions that govern the city's actions. If the annexation is approved, the city will send necessary information to Metro for final action. Metro will map the annexation and make the appropriate notifications to the Secretary of State's Archives Division, the county elections supervisor, and the county assessor.

“222.180 *Effective date of annexation.* (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177.”

The Applicant requested in the narrative that the city specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State. Because the proposal also involved withdrawal from the City of Beaverton, a coordinated date for both withdrawal and annexation was determined, September 30, 2011. This is a later date than the date of filing with the Secretary of State, which is allowed by and meets the requirements of subsection (2) of ORS 222.180. The city has confirmed with the applicant's representative that the September 30, 2011 date is satisfactory.

CONCLUSION: The proposed annexation has been requested by a majority of the property owners within River Terrace and a public election is not required. The annexation area is contiguous to the city. This utility corridor in Barrows Road/Scholls Ferry Road will allow extension of existing utilities and services to the proposed annexation area. Properties within Washington County service districts will be removed from those districts as part of an annexation approval. Per the above findings, the proposed annexation is consistent with ORS 222.

“3. Any applicable METRO regulations;”

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) &(e) and 3.09.050) below:

FINDINGS:

“Metro 3.09.045 (d) and (e)”

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

“(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;”

There are two applicable urban service agreements: Urban Planning Area Agreement and Tigard Urban Service Agreement. Only the five CWS parcels are within the agreement area boundaries.

The Urban Planning Area Agreement (UPAA – 2006) between the city and the county provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the city is the ultimate service provider of urban services within the Tigard Urban Service Area.

The city has followed all processing and notice requirements in the *UPAA*. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.” A request for comments was sent to the Washington County Long Range Planning Division. Although there were written comments submitted, a phone conversation took place on August 5, 2011 between both planners at both the city and county to address minor questions raised by the county about the applicable review criteria.

The Tigard Urban Service Agreement (TUSA – 2004) is between the city, county, Metro, and the service districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. The city has coordinated with affected jurisdictions and service agencies throughout the review process and will continue this coordination as the community plan is developed. The provision of services is addressed above at the beginning of this report.

“(B) Any applicable annexation plan adopted pursuant to ORS 195.205;”

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This statute is not applicable since this annexation was initiated by the property owners. The applicants have submitted petitions to annex signed by the property owners.

“(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;”

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. Many of these districts will be the same following annexation, including fire and school districts. The majority of the area is not currently served with water or sewer, which will be provided by CWS. If annexation is approved, the city will work to annex the area into CWS service boundaries to include it in service agreements already set up with the city. Although the properties south of Scholls Ferry Road were brought into the UGB in 2002, they still remain outside of the Metro boundary. The city will also initiate a Metro boundary change, if the proposed annexation is approved. The city will work with Metro during the boundary change to identify and amend any applicable planning agreements adopted pursuant to ORS195.020(2).

“(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and”

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. The development of the community plan and its public facility elements will be coordinated consistent with the new facility plan being prepared through periodic review and with CWS and TVF& R facility plans as required by Statewide Planning Goal 14, Urbanization. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

“(E) Any applicable comprehensive plan; and”

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

“(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.”

River Terrace was brought into the Portland Metro UGB in 2002 to ensure future regional housing and employment needs would be met. Since that time, the area has not significantly changed from its rural level development. One reason for this is the inadequate level of services currently available to the area within Washington County. The city is the most efficient provider of urban level services and has the capacity to serve the area effectively. The proposed annexation will not affect the provision of public facilities and services. Conceptual and master plans exist for the River Terrace Area, but provision of services, including financing, will be greater defined through the community planning process, which is another service the City of Tigard is able to provide the area. However, none of these city services are available without annexation into the city limits.

“(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.”

The property to be annexed is not outside the UGB. This criterion is not applicable.

“Metro 3.09.050 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, and that includes at a minimum the following:”

Note that this report is available 15 days before the hearing (August 8, 2011 for an August 23, 2010 hearing).

“(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;”

As addressed previously in this report, urban services can be available to the affected territory prior to urban level development. The city will prepare a comprehensive community plan to provide for all urban level services.

“(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and”

The proposed territory will remain within Washington County but the five CWS parcels along SW Barrows Road will be withdrawn from the Washington County Enhanced Sheriff's Patrol District & Urban Road Maintenance District. Three of these five parcels will also be withdrawn from Washington County Service Districts for Lighting.

“(3) The proposed effective date of the boundary change.”

The public hearing will take place August 23, 2011. If the Council adopts findings to approve ZCA2011-00001, the effective date of the annexation will be September 30, 2011.

“(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.”

The applicant has provided findings within a narrative that addresses the applicable criteria.

“(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.”

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

CONCLUSION: As shown in the above findings the proposed annexation of River Terrace satisfies the Metro Code regulations related to Local Government Boundary Changes.

“(Tigard CDC 18.390.060)

4. Any applicable comprehensive plan policies; and”

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

“5. Any applicable provisions of the City’s implementing ordinances.”

FINDINGS: Resolution 11-08 extended previously approved incentives for property owners that voluntary annex into the city limits through February 2012. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. To ensure property tax increases are properly phased, the phasing language is included in the proposed ordinance. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

CONCLUSION: Based upon previous and above findings, all applicable provisions of the city's implementing ordinances are satisfied.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department Public Information Officer, Jim Wolf, commented that there were no issues with the project.

The city's Public Works Department, Community Development Building Division and Development Services Division were sent a request for comments. No comments were received.

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue has reviewed the proposal and has no objections to it.

The following agencies and jurisdictions were sent a request for comments but provided no formal written comments: City of Beaverton, City of King City, Metro – Land Use & Planning, Washington County – Long Range Planning, Washington County Assessment & Taxation and Cartography, Portland General Electric, Tigard-Tualatin School District, Beaverton School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Verizon, and Qwest Communications.

PREPARED BY: Cheryl Caines
Associate Planner

August 8, 2011
DATE

REVIEWED BY: Ron Bunch
Community Development Director

August 8, 2011
DATE

**BEFORE THE PLANNING COMMISSION AND CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**

**In the Matter of an Application on Behalf)
of Arbor Road LLC to Annex) APPLICANT'S NARRATIVE
Approximately 224 Acres of Real) DEMONSTRATING COMPLIANCE
Property South of Scholls Ferry Road,) WITH APPLICABLE APPROVAL
East and West of Roy Rogers Road, and) CRITERIA
Generally North of Bull Mountain Road,)
Together with Contiguous Public Road)
Rights-of-Way, to the City of Tigard)
("River Terrace").)**

I. Request.

Arbor Road LLC ("Applicant") submits this application ("Application") requesting annexation of certain real property commonly known as "River Terrace" and contiguous public road rights-of-way (together, "Property") to the City of Tigard ("City"). This narrative explains how the Application satisfies the applicable procedural and substantive approval criteria of the Oregon Revised Statutes ("ORS"), the Oregon Administrative Rules ("OAR"), the Tigard Comprehensive Plan ("Comprehensive Plan"), all applicable provisions of the Metro Code, and the Tigard Community Development Code ("TCDC"). Accordingly, the City should approve the Application and adopt an ordinance that annexes the Property.

II. Description of Property.

This Application proposes to annex the Property to the City. The Property consists of: (1) approximately 224 acres of privately-owned real property generally located south of Scholls Ferry Road, east and west of Roy Rogers Road, and generally north of Bull Mountain Road; and (2) contiguous public road rights-of-way.

The Property lies within the Urban Growth Boundary ("UGB") and is contiguous to existing, developed urban areas in the northwest corner of the City's limits. The Property is subject to the West Bull Mountain Concept Plan ("Concept Plan"). A map of the Property is included in **Exhibit A**, attached hereto and incorporated herein by reference. A legal description of the Property is included in **Exhibit B**, attached hereto and incorporated herein by reference.

Washington County ("County") has applied an interim zoning designation—FD-20 District (Future Development 20-Acre minimum lot sizes)—to Area 64 until a community plan and a funding strategy for key infrastructure are adopted.

The Property is currently used for agricultural and single-family residential uses.

The Property consists of 38 separate tax parcels. The duly authorized representatives of the owners of all of the parcels have executed petitions to annex the Property to the City. The City already has four of these petitions on file; copies of the petitions are included in Exhibit C, attached hereto and incorporated herein by this reference.

III. Land Use and Planning History.

In 2002, Metro adopted Ordinance No. 02-969B to bring Area 64 within the UGB. Metro required the County to protect Area 64 from premature urbanization, and thus the County designated the Property as FD-20 in anticipation of a more-detailed community plan.

In November 2010, the County Board of Commissioners unanimously approved Resolution & Order 10-105, approving the Concept Plan to develop and provide infrastructure for certain areas in the West Bull Mountain area, including the Property. The planning bodies next seek to develop a community plan, implementing ordinances, and a finance plan to implement the Concept Plan. As part of this process, planners have recognized the need to extend certain infrastructure and other amenities to lands that include the Property.

IV. Applicable Approval Criteria.

A. Statewide Planning Goals.

Pursuant to OAR 660-014-0060, a city is not required to directly apply the Statewide Planning Goals ("Goals") to an annexation decision when the city's acknowledged comprehensive plan and implementing ordinances "control the annexation." Whether the plan and ordinances control the annexation depends upon whether the plan and ordinances include substantive standards guiding the city's determination of whether or not to annex land. *Patterson v. City of Independence*, 49 Or LUBA 589 (2005). Such standards need not be mandatory approval criteria, provided that they provide relevant guidance to the annexation decision. *Costco Wholesale Corporation v. City of Beaverton*, 50 Or LUBA 476 (2005). When the plan and ordinances "control the annexation," the local government is required to apply such provisions to the decision.

In this case, the City's Comprehensive Plan is acknowledged and includes relevant standards providing guidance for annexation decisions. The City has also adopted substantive approval criteria relating to annexations in TCDC 18.320.010 *et seq.* These provisions collectively include substantive standards guiding the City's determination of whether to annex the Property. Accordingly, the City must apply these provisions to its decision. The City is not obligated, however, to apply the Goals to its decisions. Responses to the relevant Comprehensive Plan standards are set forth in Section IV.D. below, and responses to the relevant TCDC provisions are set forth in Section IV.E. below. Therefore, notice under ORS 197.610 is not required.

The City can find that it is not required to directly apply the Goals to the Application.

B. "Reasonableness" Standard.

Oregon courts have held that state annexation laws include an implied "reasonableness" requirement. *PGE v. City of Estacada*, 194 Or 145, 241 P2d 1129 (1952). This standard essentially prohibits arbitrary annexations. *Id.* Although any decision depends on the facts and circumstances peculiar to the particular situation, the Oregon Supreme Court identified certain factors demonstrating reasonableness:

(1) The contiguous territory represents the actual growth of the city beyond its city limits;

RESPONSE: The Property represents the actual growth of the City beyond its limits, because the Property is currently contiguous to the City and will help accommodate the City's identified 20-year need for residential lands.

(2) The property is valuable by reason of its adaptability for prospective town uses;

RESPONSE: The Property is valuable by reason of its adaptability for the City's prospective uses, including the City's identified need for an appropriate mix of residential uses, open spaces, parks and recreation, and some commercial uses. The Concept Plan contemplates a centrally-located commercial center to help bind the community and provide integrated, prospective planning for the kind of development that will attract additional residents and economic opportunity to the City. The Property can be comprehensively planned and developed to ensure that future development furthers this goal. The City will have the opportunity to review and approve any proposal for urban development before it occurs to ensure consistency with the goals outlined in its Comprehensive Plan.

(3) The land is needed for extension of streets and to supply utilities;

RESPONSE: The Property is needed for extension of the City's streets and utilities necessary to serve the City's identified 20-year need for residential lands, as well as to facilitate the potential annexation of additional properties in the area that the City may need to meet the goals in its Comprehensive Plan.

(4) The property and the city will mutually benefit from the annexation. *Id.*

RESPONSE: The City will benefit from the annexation for four reasons. First, it will help provide sufficient land to accommodate the City's identified 20-year need for residential lands. Second, the annexation will benefit the City by providing lands to meet its needs for open space, parks, and public facilities needs. Third, it will permit the City to exercise a higher level of integration and control over areas targeted for urbanization that are immediately adjacent to the City. Fourth, it will allow the City to receive additional tax revenues.

The Property will benefit from the annexation for two reasons. First, annexation will extend City services to the Property, including water services needed for the development of a residential community. Second, annexation converts the Property to its highest and best use—urban development.

Factors disfavoring a finding of "reasonableness" include annexing an irregularly shaped area, annexing property for the sole purpose of enhancing city revenues, and annexing land used only for agricultural purposes. *Id.*

RESPONSE: The location of existing rights-of-way and the boundaries of Area 64 explain why the Property is shaped as it is. Further, as explained above in response to Factor (4), the City is not annexing the Property for the sole purpose of enhancing City revenues. Finally, the Property is not used only for agricultural purposes, and in any event, it is located inside Metro's UGB and has a temporary designation by the County in anticipation of an adopted community plan.

The Court of Appeals of Oregon subsequently held that the modern adoption of significant statewide land use and annexation laws did not supersede the reasonableness standard; however, "[t]he reasonableness question is no longer one that depends solely or mainly on unguided judicial determinations, but is now largely controlled by specific legislative and regulatory criteria." *Department of Land Conservation and Development v. City of St. Helens*, 138 Or App 222, 227, 907 P2d 259 (1995).

RESPONSE: As explained below in response to the individual substantive approval criteria and procedural requirements, the proposed annexation satisfies the specific state and local legislative and regulatory approval criteria. The City can find that approval of the Application is consistent with this factor.

For the foregoing reasons, the City can find that the proposed annexation satisfies the "reasonableness" standard.

C. Oregon Revised Statutes.

This section explains how the Application is consistent with the applicable provisions of the ORS.

ORS 222.111. Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

RESPONSE: As depicted in **Exhibit A**, the Property will be contiguous to the northern and western boundaries of the existing City limits, following deannexation of certain right-of-way by the City of Beaverton. Thus, the Applicant proposes that the City approve the requested annexation in the manner provided by the applicable provisions of ORS 222.111 to 222.180. Upon compliance with these procedural requirements, the City can find that the Application satisfies this criterion.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

RESPONSE: This annexation is being initiated by the owners of the Property. Copies of the petitions are included in **Exhibit C**, attached hereto and incorporated herein by reference. The City can find that the Application satisfies this procedural requirement.

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

RESPONSE: This section does not include any applicable substantive approval criteria. The Application does not include a proposal regarding the rate of taxation for the Property. Applicant recognizes that the City cannot assess taxes on the Property in an amount that exceeds the highest City tax rate for the year. The City can find that the Application is consistent with this section.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

RESPONSE: The Property does not include land currently located in a district named in ORS 222.465 or ORS 222.510. The Property is not within the boundaries of such districts. The City can find that this section is not applicable to the Application.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

RESPONSE: The City can find that this section is not applicable because the Application

satisfies the requirements of ORS 222.170, as described below.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

RESPONSE: Because the annexation will not be submitted to a vote of the electors, the City can find that this section is not applicable to the Application.

(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.

RESPONSE: Because the annexation will not be submitted to a vote of the electors, the City can find that this section is not applicable to the Application.

222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. **(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.**

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

RESPONSE: The City Charter does not require that the City submit the question of the proposed annexation to the electors of the City for their approval or rejection. Accordingly, the Applicant requests that the City dispense with this City-wide vote in accordance with 222.120(1). Alternatively, the City may hold a noticed public hearing in accordance with this section and adopt an ordinance declaring the Property annexed based upon timely submittal of owner consents provided in accordance with ORS 222.170(1). Upon compliance with these and other procedural requirements identified in this narrative, the City can find that it has processed the Application in accordance with applicable law.

***222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation.* The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.**

RESPONSE: This statute is satisfied because a majority of owners, who own more than half of the land with more than half the assessed value, have petitioned for annexation.

***222.170 Effect of consent to annexation by territory; proclamation with and without city election.* (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:**

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half

of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.

RESPONSE: Applicant requests that the City process the annexation in accordance with ORS 222.170(1). The Property consists of 38 separate tax parcels. The duly authorized representatives of all owners of those parcels including approximately 201.84 acres have executed petitions to annex the Property to the City. The City already has four of these petitions on file, and copies of the other 24 petitions are included in Exhibit C, attached hereto and incorporated herein by reference.

These petitions represent a percentage of owners that exceeds the applicable thresholds. Therefore, the City can process the annexation request in accordance ORS 222.170(1), and the City need not call or hold an election in the area proposed to be annexed before adopting the annexation.

The Property also includes public road rights-of-way that are included as part of the Application. Pursuant to ORS 222.170(4), these rights-of-way are properly excluded from the calculation required by this statute because these rights-of-way are publicly owned real property and/or are exempt from ad valorem taxation. However, the City may nevertheless include these rights-of-way as part of this annexation because the requirements of this section have been satisfied.

222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505.

RESPONSE: The Application includes 28 petitions, all of which were filed within a year of each other. These petitions meet the thresholds required by ORS 222.170(1). The applicable thresholds are met without considering the public road rights-of-way that the City shall annex—ORS 222.170(4) requires their exclusion from consideration because they are public property and/or exempt from ad valorem taxation. Therefore, the City can find that the Application satisfies this criterion.

222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city’s ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited.

RESPONSE: The statements of consent are being offered voluntarily and at the initiation of the owners of the Property. The City has not solicited these statements. Therefore, this section is not applicable.

222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.**
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.**
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.**
- (4) A copy of the ordinance issued under ORS 222.120 (4).**
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4).**

RESPONSE: This section does not include any applicable substantive approval criteria, but it does include procedural provisions that govern the City's actions. Upon compliance with these and other procedural requirements identified in this narrative, the City can find that it has processed the Application in accordance with applicable law.

222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177.

RESPONSE: The Applicant requests that the City specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State.

D. Metro Regulations

3.09.030 Notice Requirements

A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

RESPONSE: The Applicant acknowledges that these notice requirements are applicable.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.

RESPONSE: The City should set a date for the required public hearing before the City Council that falls within 45 days of when the petition is deemed complete. The City can find this criterion met as long as it gives the necessary notices: a weatherproof posting, a published notice in a newspaper of general circulation, and mailed notice to all necessary parties—all at least 20 days before the public hearing. The City can find the other notice requirements met as described in this narrative.

C. The notice required by subsection (b) shall:

1. Describe the affected territory in a manner that allows certainty;

RESPONSE: The Applicant requests that the City include the description of the Property provided in Section II of this Application, as well as the legal description of the Property as prepared by the City.

2. State the date, time and place where the reviewing entity will consider the boundary change; and

RESPONSE: The Applicant requests that the City include the date, time, and place of the public hearing in the required notices.

3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.

RESPONSE: The Applicant requests that the City include a description of how one might obtain a staff report on the Application.

D. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least five days prior to the continued date of decision.

RESPONSE: The City may continue deliberations to later hearings, if necessary.

E. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

RESPONSE: The City can satisfy this section as long as it authenticates its decision on the Application accordingly. The filing and mapping fee required by Metro for an area greater than 40 acres is \$400.

3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

1. The jurisdiction of the reviewing entity to act on the petition;

RESPONSE: The City.

2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;

RESPONSE: A map and legal description (prepared by the City) are included with the Application.

3. For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and

RESPONSE: The Application and attached petitions include the relevant names and mailing addresses.

4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.

RESPONSE: Pursuant to ORS 222.170 and as described in this narrative, the requisite number of owners has signed statements of consent.

B. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

RESPONSE: The Application includes payment of the relevant fees.

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:

- 1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;**
- 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and**
- 3. The proposed effective date of the boundary change.**

RESPONSE: The City can find these criteria met after making the necessary findings and providing those findings in a staff report that the public can access and review at least 15 days before the public hearing before the City Council. Further, the Applicant requests that the City specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State.

C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

RESPONSE: The City can find this criterion met as provided by the Application.

D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

[3.09.045 . . .

D. To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with expressly applicable provisions in:
a. Any applicable urban service agreement adopted pursuant to ORS 195.065;

RESPONSE: The City can find this criterion met as described in Section IV(E) of this Application.

b. Any applicable annexation plan adopted pursuant to ORS 195.205;

RESPONSE: The City can find this criterion inapplicable because electors have not adopted an annexation plan under ORS 195.205.

c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;

RESPONSE: The City can find this criterion inapplicable to the Application because Metro and Washington County have no cooperative agreement with a special district that provides services within the boundaries of the Property.

d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

RESPONSE: The City can find this criterion inapplicable because no such public facility plan exists.

e. Any applicable comprehensive plan; and

RESPONSE: The City can find this criterion met as described later in this Application.

f. Any applicable concept plan; and

RESPONSE: The City can find this criterion met as described in this Application and in the Concept Plan.

2. Consider whether the boundary change would:

a. Promote the timely, orderly and economic provision of public facilities and services;

RESPONSE: The City can find this criterion met as stated in this Application.

b. Affect the quality and quantity of urban services; and

RESPONSE: The City can find this criterion met as stated in this Application.

c. Eliminate or avoid unnecessary duplication of facilities or services.

RESPONSE: The City can find this criterion met as stated in this Application.

E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

RESPONSE: The Property lies within Metro's UGB and thus the City can find this criterion inapplicable to this Application. *See* Metro Ordinance No. 02-969B

3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.

RESPONSE: This section does not apply because Metro brought the Property within the UGB in 2002. *See* Metro Ordinance No. 02-969B.

E. Tigard Comprehensive Plan.

This section of the narrative explains how the Application conforms to applicable policies of the Comprehensive Plan.

Goal 1.1: Provide citizens, affected agencies, and other jurisdictions the opportunity to participate in all phases of the planning process.

RESPONSE: The City maintains an ongoing citizen-involvement program. To date, the planning process has involved extensive collaborative and inter-agency efforts to ensure the most-inclusive, deliberate, and measured process possible. The Concept Plan, the Application, and the required public hearing before the City Council provide examples of this effort.

To assure citizens receive an opportunity to participate, TCDC 18.320.020 requires annexations to follow a Type IV procedure. The City must post, mail, and publish notice as described in this Application. In addition, the City should maintain a list of interested parties and mail notice to them as well. TCDC 18.390.060(D)(1) requires a public hearing before the City Council, and TCDC 18.390.060(D)(2) includes detailed notice requirements. Thus, the City can find this criterion satisfied.

Goal 11.1: Develop and maintain a stormwater system that protects development,

water resources, and wildlife habitat.

RESPONSE: To protect the public health and prevent adverse environmental impacts, the Applicant shall coordinate with the City and service providers to ensure that adequate public services, such as stormwater systems, are provided to the Property. TCDC Chapter 12.02 requires new developments to provide proper "storm and surface water management systems." Future development of the Property will be planned and permitted in accordance with all applicable City policies and standards regarding drainage and run-off. Drainage controls shall be designed to regulate surface water run-off into receiving streams, drainage facilities, or onto adjoining properties.

The Property is in West Bull Mountain, an area that includes three tributaries and wetlands. Washington County and Metro have created inventories of the natural resources subject to state, regional, and local regulatory protection as part of an adopted and acknowledged Goal 5 Program (for the County) and as part of the 2005 "Nature in Neighborhoods" program for the region (for Metro). *Concept Plan* at 16. Applicant will work with the City and other agencies to ensure the planning process considers these important resources by preserving and protecting existing natural resource corridors and minimizing impact on habitat connectivity.

In addition, the County contracted with the Oregon Department of Geology and Mineral Industries (DOGAMI) to identify potential landslide hazards. DOGAMI identified and mapped existing and potential hazard areas, allowing local authorities to plan development accordingly. *Concept Plan* at 11–12, 54–55, and Appendices A-6-7.

Policy 2: "The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive stormwater management system."

RESPONSE: Collaboration is accomplished through coordination with Clean Water Services ("CWS") as it relates to stormwater planning for River Terrace. The City can find that this policy is satisfied.

Policy 3: "The City shall require the stormwater management system to comply with all applicable federal, state, and regional regulations and programs."

RESPONSE: The City will assure that this policy is satisfied at the time the stormwater system is established. The City can find that this policy is satisfied.

Policy 4: "The City shall require a property to be located within the City limits prior to receiving City stormwater services."

RESPONSE: Annexation of the River Terrace area will satisfy this policy.

The City can find that this policy is satisfied.

Goal 11.2: "Secure a reliable, high quality, water supply to meet the existing and future needs of the community."

Policy 1: "The City shall prioritize securing an interest in a high quality, long-term water supply, which is financially feasible and reliable, to serve the Tigard Water Service Area."

Policy 2: "The City shall develop and maintain a water system master plan to coordinate the improvement and expansion of Tigard Water Service Area infrastructure to serve current project demand."

RESPONSE: Neither of these policies are directly applicable to this application as they direct the City to take steps to take actions unrelated to annexation of the River Terrace area. However, to the extent they are applicable, the City can find that they are satisfied because the City has obtained a high quality, long-term water supply which will serve the River Terrace area. Additionally, the City has developed a water system master plan that will be implemented at the time of development of the River Terrace area.

The City can find that these two (2) policies are satisfied.

Goal 11.3: "Develop and maintain a waste water collection system that meets the existing and future needs of the community."

Policy 2: "The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive waste water management system for current and projected Tigard residents."

Policy 6: "The City shall require property be located within the City limits prior to receiving City waste water services."

RESPONSE: This goal and these three (3) policies are satisfied because the City will develop a waste water collection system to serve the River Terrace area following annexation and at the time of development of the property.

Goal 11.4: "Maintain adequate public facilities and services to meet the health, safety, education and leisure needs of all Tigard residents."

RESPONSE: Development of adequate public facilities and services will be assured through the development process at the time property in River Terrace is developed.

The City can find that this goal is satisfied.

Goal 12.1: "Develop mutually supportive land use and transportation plans to enhance the livability of the community."

Policy 1: "The City shall plan for a transportation system that meets current communities'and anticipated growth and development."

RESPONSE: The River Terrace annexation will assure mutually supportive land use and transportation plans through the future adoption of appropriate map designations. The transportation system will meet the River Terrace transportation needs through development of the property and application of the City's acknowledged Transportation System Plan.

The City can find that this goal and policy are satisfied.

Goal 14.1: "Provide and/or coordinate the full range of urban level services to lands and citizens within the Tigard City limits."

Policies:

- 1. The City shall only approve the extension of City services:**
 - A. where applications for annexation for those properties have been approved; or**
 - B. in circumstances where applicable state and county health agencies have declared a potential or imminent health hazard pursuant to ORS 431.705 to 431.760 (Health Hazard Annexation or Service District Formation); or**
 - C. as outlined in the intergovernmental agreement regarding water provision within the Tigard Water Service Area.**
- 2. The City shall maintain, and amend when necessary, agreements with Washington County that recognizes the City as the ultimate provider of governance and identified services to the Tigard Urban Services Area.**
- 3. The City shall, as needed, coordinate and/or participate in planning activities or development decisions within the Tigard Urban Services Area.**
- 4. The City shall protect the existing and future delivery of City Services and only support the formation of a new service district, or expansion of existing districts, that will not create a conflict within the Tigard Urban Service Area.**
- 5. The City shall enter into and maintain intergovernmental agreements with service districts operating within the Tigard Urban Service Area to:**
 - A. define short and long term service provision roles;**
 - B. specify the terms and conditions of withdrawal of territory from service districts and the transition of capital facility ownership and administration to the City;**
 - C. provide for the coordination of plans and programs to eliminate duplicity and minimize conflict; and**

- D. ensure that services are provided consistent with the City's adopted Public Facility Plan.

Goal 14.2: "Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties."

Policies:

1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.
2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.
3. The City shall approve proposed annexations based on findings that the request:
 - A. can be accommodated by the City's public facilities and services; and
 - B. is consistent with applicable state statute.
4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to:
 - A. avoid creating unincorporated islands within the City;
 - B. enable public services to be efficiently and effectively extended to the entire area; or
 - C. implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.
6. The City shall periodically update and/or amend its Public Facility Plan to ensure the predictable and logical provision of urban services for areas anticipated to be within the Tigard city limits.

Goal 14.3: "Promote Tigard citizens' interests in urban growth boundary expansion and other regional and state growth management decision."

- Policy 1:** The City shall support regional and state growth management decisions, while promoting policy that supports cities as the best building blocks of an efficient, stable, and compact urban region.

RESPONSE: Annexation of the River Terrace area will allow the City to provide a full range of public facilities and services. The City will adopt an amendment to its Urban Services Agreement with Washington County and with service providers as necessary. Through these

actions, the City will ensure that full range of urban level services to lands within the River Terrace area are provided at the time of development.

Policy 3: The City shall approve proposed annexations based on findings that the request:

- A. can be accommodated by the City's public facilities and services; and**

RESPONSE: The Comprehensive Plan's Public Facilities and Services Chapter states that "Public Facilities and Services refers to Stormwater Management, Water Supply and Distribution, Wastewater Management, Community Facilities, and Private Utilities." In addition, the glossary to the Comprehensive Plan includes public safety, parks, and transportation as "public facilities and services."

The City shall provide stormwater management as required by Goal 11.1 in the Comprehensive Plan and as described above. For water supply and distribution, the Concept Plan acknowledges, for example, that "water provision is most cost efficient from the east. Potential providers include the City of Tigard and the Tigard Water District." *Concept Plan* at 16. For wastewater management, the City shall consult with appropriate service providers, such as Clean Water Services, to ensure adequate consideration and planning for these needs as well. Further, the City represents the best possible provider for this area, given the likely similarity and natural continuity of uses between the Property and the City's soon-to-be contiguous residential neighborhoods near Barrows Road and Scholls Ferry Road.

The Application is consistent with the City's transportation goals because annexation of the Property will provide for a wider range of choices for vehicular, bicycle, and pedestrian travel within the City. The West Bull Mountain area, of which the Property is part, includes three county arterials (Roy Rogers Road, Scholls Ferry Road, and Beef Bend Road) and two collectors (Bull Mountain Road and 150th Avenue). The Concept Plan notes that agencies plan to widen each of these roads to provide for additional capacity. In addition, several streets will receive extensions to provide greater connectivity, and the Concept Plan emphasizes the creation of bike lanes, sidewalks, and other bike/walk corridors to create an easily navigable community of neighborhoods. The City's annexation of the Property will ensure integration between existing transportation facilities and those planned for the Property. A system of new, walkable, bikeable neighborhood routes and local streets will provide the necessary connectivity and cohesion with the City's existing local street network. Approving the Application and annexing the Property also allows the City to retain the ability to address the concerns of local residents and plan for the preservation and protection of inventoried natural resources. Implementing a comprehensive local street network throughout the Property will enable residents to access important community destinations in a safe and direct manner, without having to overly rely on the larger arterials.

Additionally, the City shall coordinate with the City of Tigard Police Department and Tualatin Valley Fire and Rescue to ensure necessary extensions of public-safety services to the Property. Indeed, the Concept Plan contemplates a new fire station for Tualatin Valley Fire and

Rescue in the "Rural Area" immediately south of the Property. This new station would provide greater and faster services for those residents and businesses that reside within the Property. Finally, the Concept Plan also includes several small "neighborhood" parks and one larger "community" park for the Property. The City itself typically provides park and recreation services and facilities to the City's residents.

The City will assign zoning district designations, at the request of the petitioners for annexation in the River Terrace Area, following annexation. The City can find that urban level service capacity exists in this area through coordination with service providers demonstrating adequacy of service. The City can find that the proposed annexations for the River Terrace area can be accommodated by the City's Public Facilities and Services and is consistent with applicable state statutes as demonstrated in this application. Finally, the City is not required to update the Public Facility Plan to approve the River Terrace annexation.

B. is consistent with applicable state statute.

RESPONSE: The Application is consistent with applicable provisions of the ORS as described in this narrative.

Goal 14.3: "Promote Tigard citizens' interest in urban growth boundary expansion and other regional and state growth management decisions."

Policy 1. The City shall support regional and state growth management decisions, while promoting policy that support cities as the best building blocks of an efficient, stable and compact urban region."

RESPONSE: This goal and policy are satisfied through annexation of the River Terrace area because it provides for urban development inside the City of Tigard.

The City can find that this criterion is satisfied.

F. Tigard Community Development Code.

**Chapter 18.320
ANNEXATIONS**

18.320.020 Approval Process and Standards

A. Approval Process. Annexations shall be processed by means of a Type IV procedure, as governed by Chapter 18.390 using standards of approval contained in Subsection B2 below.

RESPONSE: The City shall process the Application according to the procedures described in this Application and thus can find this criterion met.

B. Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and

RESPONSE: The criterion conforms to that in Policy 3 of Goal 14.2 in the City's Comprehensive Plan (as described above in this narrative).

2. The applicable comprehensive plan policies and implementing ordinance provisions have been satisfied.

RESPONSE: These criteria have been met as described in this narrative.

C. Assignment of comprehensive plan and zoning designations. The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar. A zone change is required if the applicant requests a comprehensive plan map and/or zoning map designation other than the existing designations. (See Chapter 18.380). A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.

RESPONSE: The Property will retain the existing County FD-20 zoning designation until the City adopts a community plan for the Property and then adopts appropriate implementing zoning.

D. Conversion table. Table 320.1 summarizes the conversion of the County's plan and zoning designations to City designations which are most similar.

RESPONSE: The Property will retain the existing County FD-20 zoning designation until the City adopts a community plan for the Property and then adopts appropriate implementing zoning.

Chapter 18.390

DECISION-MAKING PROCEDURES

18.390.060 Type IV Procedure

A. Pre-Application conference. A pre-application conference is required for all Type IV actions. The requirements and procedures for a pre-application conference are described in Section 18.390.080.C.

RESPONSE: The pre-application conference occurred on May 26, 2011, satisfying this requirement.

B. *Timing of requests.* The Director shall receive proposed Type IV actions twice yearly. A completed application shall be submitted not more than 75 days and not less than 45 days before the first commission meeting in April and October. The Director may waive any of the above periods.

RESPONSE: This provision grants the Director authority to waive the specified periods for submitting and thus to conduct Type IV actions at times other than those specified therein.

C. *Application requirements.*

1. Application forms. Type IV applications shall be made on forms provided by the Director as provided by Section 18.390.080.E.1.

2. Submittal information. The application shall:

- a. Contain the information requested on the form;
- b. Address the appropriate criteria in sufficient detail for review and action;
- c. Be accompanied by the required fee; and
- d. Be accompanied by 18 copies of the narrative.

RESPONSE: The Application includes the requested information, the required fee, and 18 copies of the narrative. This narrative addresses the appropriate criteria. Therefore, the City can find these criteria met.

D. *Notice of hearing.*

1. Required hearings. Two hearings, one before the Commission and one before the Council, are required for all Type IV actions, except annexations where only a hearing by the City Council is required.

RESPONSE: Under this section, the City need only hold one public hearing, and that one hearing will be held before the City Council.

2. Notification requirements. Notice of the public hearings for the request shall be given by the Director in the following manner:

a. At least 10 days prior to the scheduled hearing date, notice shall be sent to:

- (1) The applicant;
- (2) Any affected governmental agency;
- (3) Any City-recognized neighborhood group whose boundaries include the site; and
- (4) Any person who requests notice in writing and pays a fee established by Council resolution.

b. At least 10 business days prior to the scheduled public hearing date, notice shall be given in a newspaper of general circulation in the City.

c. The Director shall:

- (1) For each mailing of notice, cause an affidavit of mailing to be filed and made a part of the record as provided by Subsection D.2.a; and

(2) For each published notice, cause an affidavit of publication to be filed and made part of the record as provided by Subsection D.2.b.

RESPONSE: Upon following these procedural requirements, the City can find this provision satisfied.

3. Content of notice. The notice given to persons entitled to mailed or published notice pursuant to this section shall include the following information:

- a. The number and title of the file containing the application and the address and telephone number of the Director’s office where additional information can be obtained;**
- b. A description of the location of the proposal reasonably calculated to give notice as to the location of the affected geographic area;**
- c. A description of the substance of the proposal in sufficient detail for people to determine that a change is contemplated and the place where all relevant materials and information may be obtained or reviewed;**
- d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall or the rules of procedure set forth in Section 18.390.060.E;**
- e. Each mailed notice required by this section of the ordinance shall contain the following statement: “Notice to mortgagee, lienholder, vendor, or seller: The Tigard Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”**

4. Failure to receive notice. The failure of any person to receive notice as required under Subsections B and C of this section shall not invalidate the action, providing:

- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;**
- b. Published notice is deemed given on the date it is published.**

RESPONSE: Upon following these procedural requirements, the City can find this provision satisfied.

H. Approval process and authority.

1. The Commission shall:

- a. After notice and a public hearing, formulate a recommendation to the Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and**
- b. Within 10 business days of determining a recommendation, cause the written recommendation to be signed by the presiding officer of the Commission and to be filed with the Director.**

2. Any member of the Commission who voted in opposition to the recommendation by the Commission on a proposed change may file a written statement of opposition with the Director prior to any Council public hearing on the proposed change. The Director shall transmit a copy to each member of the Council and place a copy in the record;

3. If the Commission fails to formulate a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative a proposed legislative change within 60 days of its first public hearing on the proposed change, the Director shall:

- a. Report the failure together with the proposed change to the Council; and**
- b. Cause notice to be given, the matter to be placed on the Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.**

4. The Council shall:

- a. Have the responsibility to approve, approve with modifications, approve with conditions, deny or adopt an alternative to an application for the legislative change or to remand to the Commission for rehearing and reconsideration on all or part of an application transmitted to it under this title;**
- b. Consider the recommendation of the Commission, however, it is not bound by the Commission's recommendation; and**
- c. Act by ordinance which shall be signed by the Mayor after the Council's adoption of the ordinance.**

I. Vote required for a legislative change.

- 1. A vote by a majority of the qualified voting members of the Commission present shall be required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.**
- 2. A vote by a majority of the qualified members of the Council present shall be required to decide any motion made with respect to the proposed change.**

RESPONSE: Upon following these procedural requirements, the City can find this provision satisfied.

J. Notice of decision. Notice of a Type IV Decision shall be mailed to the applicant and to all parties of record within five business days after the decision is filed by the Review Authority with the Director. The City shall also provide notice to all persons according to other applicable laws.

RESPONSE: Upon following these procedural requirements, the City can find this provision satisfied.

K. Final decision and effective date. Type IV decision shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

RESPONSE: The Applicant requests that the City specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State.

V. Conclusion.

For the foregoing reasons, the Application satisfies the applicable approval criteria. Accordingly, the City can take the following actions: (1) Approve the Application; and (2) Adopt an ordinance annexing the Property to the City limits.

EXHIBITS

- A. Map of Area to be Annexed.
- B. Legal Description of the Property
- C. Petitions for Annexation
- D. West Bull Mountain Concept Plan Map and Report.



City of Tigard
M E M O R A N D U M

TO: Tigard City Council

FROM: Cheryl Caines, Associate Planner

RE: River Terrace Annexation
Revised Exhibits A & B (Legal Description and Maps)

DATE: August 18, 2011

Attached please find a letter from the Department of Revenue approving the legal description and maps for the proposed River Terrace annexation. The final preliminary approval was granted assuming a few minor corrections would be made to the legal and maps. These corrections were completed and the attached legal and map reflects these changes. These documents will be entered into the record at the August 23rd hearing and will replace Exhibits A and B of the proposed ordinance.

**DOR 34-P523-2011
Preliminary Review**



Cadastral Information Systems Unit
PO Box 14380
Salem, OR 97309-5075
(503) 945-8297, fax 945-8737

City of Tigard
Associate Planner
Attn: Cheryl Caines
13125 SW Hall Blvd
Tigard, OR 97223

Date: 8/17/2011

This letter is to inform you that the map and description for your PLANNED Annex to City of Tigard (River Terrace) (ZCA 2011-00001) in Washington County have been reviewed per your request. They MEET the requirements for use with an Order, Ordinance, or Resolution which must be submitted to the Washington County Assessor and Department of Revenue in final form before March 31, 2012 per ORS 308.225.

This boundary change is approved with the following notes:

The annexation boundary must be highlighted or clearly marked with a bold linestyle on the Final Maps submitted with the Ordinance.

Figures 4 & 5: "SW Roy Rogers Rd" should be labeled on the Final Maps submitted with the Ordinance.

All references to "SW Barrows Road" in the legal description need to have "(CR 812)". This includes Page 2, Line 19 & Line 38.

FYI--The maps, legal descriptions, signed and dated ordinance must be filed with the County Assessor and the Dept. of Revenue in final approved form prior to March 31, 2012 per ORS 308.225.

If you have any questions please contact: Elise Bruch 503-945-8344

8/18/2011

ANNEXATION DESCRIPTION

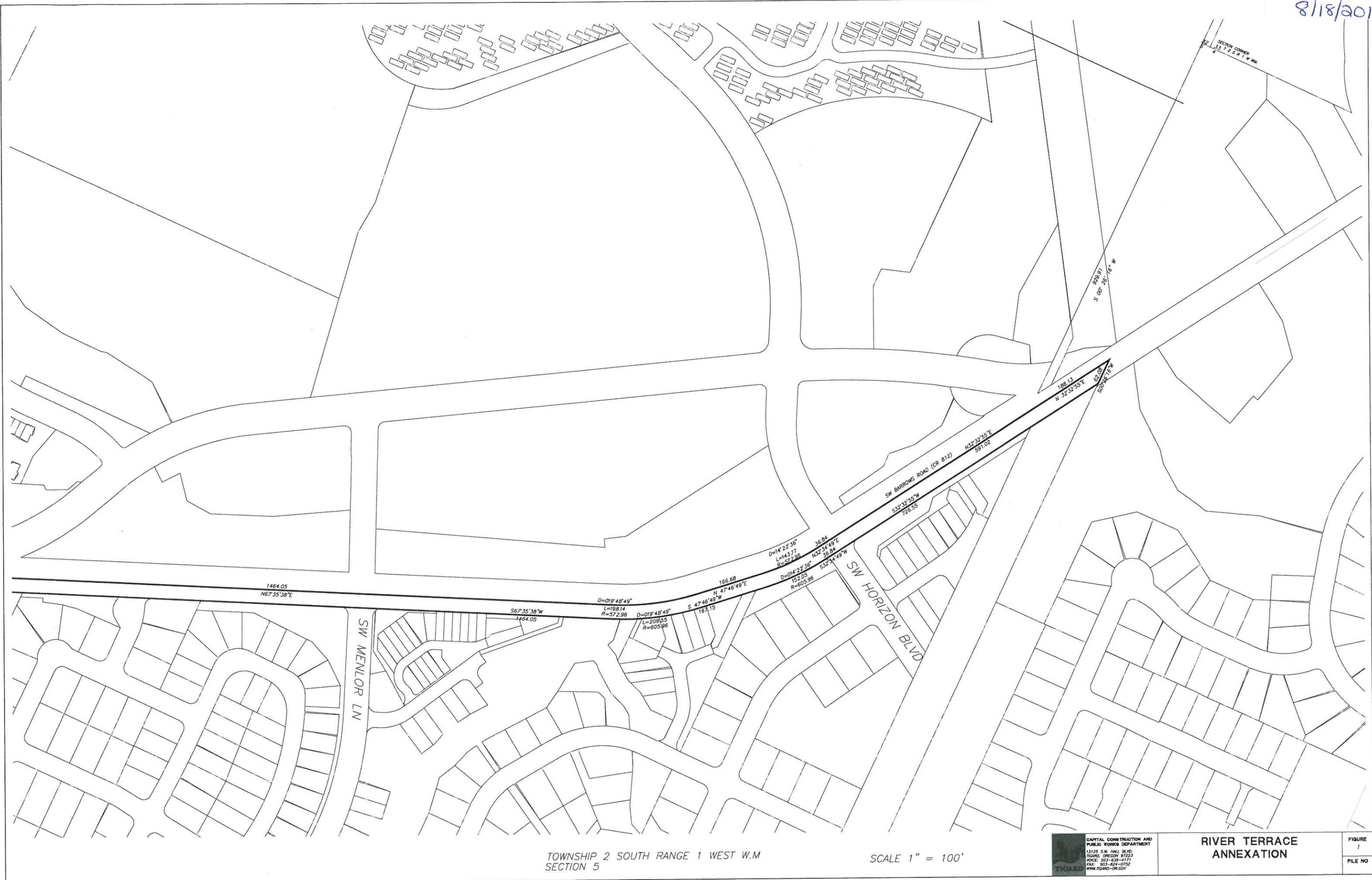
A tract of land situated in the Section 5 and Section 6 Township 2 South, Range 1 West, of the Willamette Meridian, described as follows:

Commencing at the corner to Sections 32 and 33 Township 1 South, Range 1 West and Sections 4 and 5 township 2 South, Range 1 West Willamette Meridian; Thence S $00^{\circ} 26' 16''$ W, along east line of Section 5, a distance of 929.91 feet to the centerline of SW Barrows Road (CR 812) and the **True Point of Beginning** of the Annexation description; Thence N $32^{\circ} 32' 55''$ E, along said centerline, a distance of 188.13 feet to the east line of BPA 100 foot wide power line; Thence S $00^{\circ} 26' 16''$ W, along said power line, a distance of 62.08 feet to the southerly right-of-way of SW Barrows Road (CR 812); Thence along said southerly right- of way the following 8 courses; Thence S $32^{\circ} 32' 55''$ W a distance of 726.55 feet; Thence S $32^{\circ} 34' 49''$ W a distance of 36.84 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet; a central angle of $14^{\circ} 22' 36''$ (a chord which bears S $39^{\circ} 46' 07''$ W, 151.65 feet) and a length of 152.05 feet to a point of non-tangency; Thence S $47^{\circ} 46' 49''$ W a distance of 167.15 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet, a central angle of $19^{\circ} 48' 49''$ (a chord which bears S $57^{\circ} 41' 13''$ W, 208.51 feet) and a length of 209.55 feet; Thence S $67^{\circ} 35' 38''$ W a distance of 1464.05 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of $07^{\circ} 41' 27''$ (a chord which bears S $71^{\circ} 26' 21''$ W, 158.68 feet) and a length of 158.79 feet; Thence S $75^{\circ} 17' 05''$ W a distance of 25.94 feet to the northeast corner of Tract "A" Morningside; Thence S $15^{\circ} 56' 07''$ E, along the east line of said Tract "A", a distance of 63.50 feet to the Southeast corner of tract "A"; Thence N $89^{\circ} 45' 11''$ W, along the south line of said tract "A", a distance of 90.00 feet to the Southwest corner of Tract "A" and the west line of Morningside; Thence N $00^{\circ} 14' 49''$ W, along said west line, a distance of 41.71 to the southerly right of way of SW Barrows Road (CR 812) being a point on a non-tangent curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of $14^{\circ} 36' 05''$ (a chord which bears S $84^{\circ} 49' 04''$ W, 300.66 feet) and a length of 301.48 feet to a point of curve to the left; Thence along said curve to the left with a radius of 100.00 feet, a central angle of $8^{\circ} 06' 29''$ (a chord which bears S $86^{\circ} 12' 21''$ W, 14.14 feet) and a length of 14.15 feet to a point of curve to right; Thence along said curve to the right with a radius of 100.00 feet, a central angle of $17^{\circ} 07' 38''$ (a chord which bears S $89^{\circ} 17' 01''$ E, 29.80 feet) and a length of 29.91 feet to the northeasterly line of Tract "B" Bull Mountain Meadows; Thence along the southerly line of Tract "B" the following 6 courses; Thence leaving said right of way S $00^{\circ} 14' 49''$ W, along the east line of said Tract "B", a distance of 73.06 feet; Thence N $83^{\circ} 40' 02''$ W a distance of 164.93 feet; Thence N $89^{\circ} 45' 11''$ W a distance of 48.00 feet; Thence S $84^{\circ} 18' 00''$ W a distance of 96.52 feet; Thence N $89^{\circ} 45' 11''$ W a distance of 142.00 feet; Thence S $00^{\circ} 14' 49''$ W a distance of 146.00 feet to the southerly right-of-way of SW Bulrush Lane; Thence N $89^{\circ} 45' 11''$ W, along said southerly right-of-way, a distance of 50.00 feet; Thence N $00^{\circ} 14' 49''$ E a distance of

146.00 feet to the northeast corner of lot 1 Bull Mountain Meadows; Thence N 89° 45' 11" W a distance of 55.00 feet to the northwest corner of said Lot 1; Thence N 84° 59' 50" W a distance of 60.19 feet to the southeast corner of Tract "A" Bull Mountain Meadows; Thence N 89° 45' 11" W, along the south line of said Tract "A", a distance of 105.02 feet; Thence N 83° 59' 18" W, along the south line of said Tract "A" and the extension thereof, a distance of 163.42 feet to an angle point on the south line of Tract "H" Bull Mountain Meadows NO. 3; Thence S 67° 35' 55" W a distance of 47.74 feet; Thence S 00° 14' 49" W a distance of 73.63 feet to a non-tangent curve to the right; Thence along said curve to the right with a Radius of 523.00 feet, a central angle of 0° 06' 41" (a chord which bears S 80° 31' 51" E, 1.02 feet) and a length of 1.02 feet; Thence S 09° 31' 30" W a distance of 46.00 feet to the southerly right-of-way of SW Bulrush Lane and a point on a non-tangent curve to the left; Thence along said curve to the left with a Radius of 477.00 feet, a central angle of 09° 31' 30" (a chord which bears N 85° 13' 57" W 79.12 feet) and a length of 79.22 feet; Thence N 89° 59' 24" W a distance of 242.86 feet; Thence N 00° 00' 36" E a distance of 46.00 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 18.00 feet a central angle of 90° 00' 00" (a chord which bears N 45° 00' 36" E, 25.46) and a length of 28.27 feet; Thence N 00° 00' 36" E a distance of 82.00 feet to the southeast corner of Tract I Bull Mountain Meadows NO. 3; Thence N 89° 59' 24" W a distance of 55.00 feet; Thence N 85° 37' 24" W a distance of 150.55 feet; Thence N 89° 59' 24" W a distance of 351.00 feet; Thence N 00° 00' 36" E a distance of 123.00 feet to the southerly right of way of SW Barrows Road (CR 812); Thence S 89° 31' 18" W a distance of 847.29 feet to the west line of Section 5 Township 2 South, Range 1 West Willamette Meridian; Thence S 00° 17' 13" W, along said Section line, a distance of 356.76 feet to the west one-quarter corner of Section 5; Thence S 00° 00' 23" W, along said Section line, a distance of 2644.58 feet to the Section Corner between Sections 5,6,7 &8 Township 2 South, Range 1 West; Thence S 00° 06' 09" W, along the Section line between Sections 7 and 8, a distance of 2218.91 feet; Thence S 89° 19' 26" W, leaving said Section line, a distance of 1337.59 feet to the westerly right-of-way of SW Roy Rodgers Road; Thence N 00° 01' 15" E, along said westerly right-of-way, a distance of 2219.23 feet to the southerly line of Section 6 Township 2 South, Range 1 West, Willamette Meridian; Thence S 89° 22' 25" W, along said Section Line, a distance of 1313.31 feet to the one quarter corner between Sections 6 and 7 Township 2 South, Range 1 West, Willamette Meridian; Thence N 00° 20' 56" E, along the line between the east and west one halves of said Section 6, a distance of 2719.11 feet to the center line of SW Scholls Ferry Road being a point on a non-tangent curve to the left; Thence along said curve to the left with a radius of 1432.39 feet, a central angel of 14° 12' 09", (a chord which bears N 81° 56' 36" E, 354.15) and a length of 355.06 feet to a point of tangency; Thence N 74° 50' 36" E a distance of 876.66 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1432.39 feet, a central angel of 14° 45' 02", (a chord which bears N 82° 13' 07" E, 367.74) and a length of 368.76 feet to the extension of the center line of SW Barrows Road (CR 812); Thence N 89° 35' 38" E, a distance of 458.31 feet along the extended center line of SW Barrows Road (CR 812); Thence along the center line of SW Barrows Road (CR 812) and the extension there of the following 12 courses; Thence N 89° 31' 18" E a distance of 2217.52 feet; Thence S 85° 05' 41" E a distance of 866.23 feet; Thence S 79° 57' 44" E a distance of 183.27 feet to a non-tangent curve to

the left; Thence along said curve to the left with a radius of 1150.00 feet a central angle of $17^{\circ} 13' 58''$ (a chord which bears $N 83^{\circ} 54' 04'' E$, 344.58 feet) and a length of 345.88 feet; Thence $N 75^{\circ} 17' 05'' E$ a distance of 90.62 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 1150.00 feet, a central angel of $7^{\circ} 41' 27''$ (a chord which bears $N 71^{\circ} 26' 54'' E$, 154.25) and a length of 154.36 feet; Thence $N 67^{\circ} 35' 38'' E$ a distance of 1464.05 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of $19^{\circ} 48' 49''$ (a chord which bears $N 57^{\circ} 41' 13'' E$, 197.15 feet) and a length of 198.14 feet; Thence $N 47^{\circ} 46' 49'' E$ a distance of 166.68 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of $14^{\circ} 22' 36''$ (a chord which bears $N 39^{\circ} 46' 07'' E$, 143.39 feet) and a length of 143.77 feet; Thence $N 32^{\circ} 34' 49'' E$ a distance of 36.84 feet; Thence $N 32^{\circ} 32' 55'' E$ a distance of 591.02 feet to the point of beginning.

Containing 11162513 square feet or 256.25 Acres



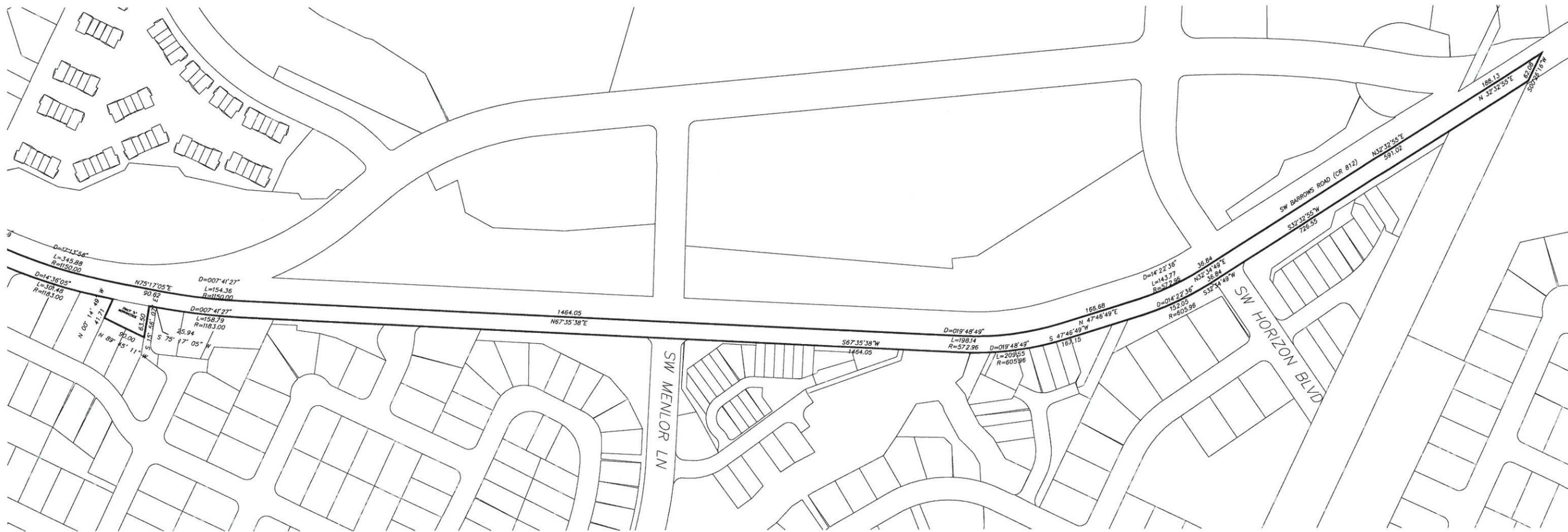
TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
SECTION 5

SCALE 1" = 100'


 CAPITAL CONSTRUCTION AND
 PUBLIC WORKS DEPARTMENT
 13125 S.W. HALL BLVD.
 TIGARD, OREGON 97223
 PHONE: 503-639-4171
 FAX: 503-624-0752
 WWW.TIGARD-OR.GOV

RIVER TERRACE
ANNEXATION

FIGURE
1
FILE NO



TOWNSHIP 2 SOUTH RANGE 1 WEST W.M
SECTION 5

SCALE 1" = 100'

TIGARD
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RIVER TERRACE
ANNEXATION

FIGURE
2
FILE NO



TOWNSHIP 2 SOUTH RANGE 1 WEST W.M
SECTION 5

SCALE 1" = 100'



RIVER TERRACE
ANNEXATION

FIGURE
2 A
FILE NO



D=014°12'09"
L=355.06
R=1432.39

L=368.76
R=1432.39
D=014°45'02"

458.31
N89°35'38"E

2217.52
N89°31'18"E

876.66
N74°50'36"E

366.76
S 00°17'13" W

1/4 SECTION CORNER
5

6

WEST LINE OF SECTION 5

2644.58
S 00° 00' 23" W

N 02°20' 56" E
2719.11

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M
SECTION 5

SCALE 1" = 100'

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RIVER TERRACE
ANNEXATION

FIGURE
3
FILE NO
XXXX



N 00°02' 56" E
2719.11

2644.59
S 00° 00' 23" W

SW ROY RODGERS RD

1/4 SECTION CORNER

6
7

1313.31
S 89° 22' 25" W

SECTION CORNER
T 2 S R 1 W WM
6 5
7 8

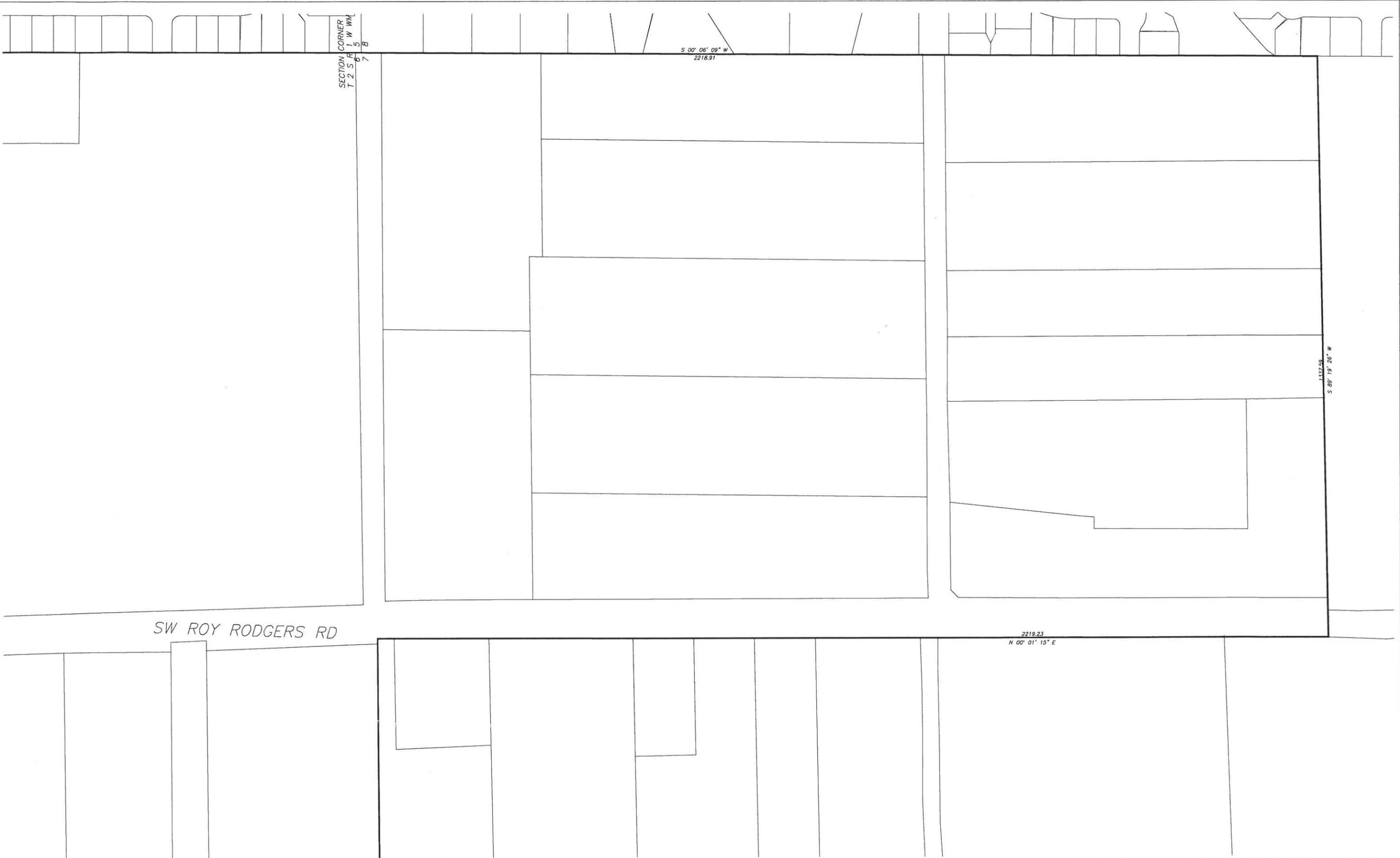
TOWNSHIP 2 SOUTH RANGE 1 WEST W.M
SECTION 6 AND 7

SCALE 1" = 100'

CAPITAL CONSTRUCTION AND
PUBLIC WORKS DEPARTMENT
13125 S.W. HALL BLVD.
TIGARD, OREGON 97223
PHONE: 503-639-4171
FAX: 503-624-0752
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RIVER TERRACE
ANNEXATION

FIGURE
4
FILE NO



SECTION CORNER
T 2 S R 1 W W.M.
5
7

S 00° 06' 09" W
2218.91

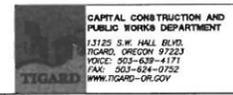
1,117.59
S 89° 19' 26" W

SW ROY RODGERS RD

2219.23
N 00° 01' 15" E

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
SECTION 6 AND 7

SCALE 1" = 100'



CAPITAL CONSTRUCTION AND
PUBLIC WORKS DEPARTMENT
13125 S.W. HALL BLVD.
TIGARD, OREGON 97223
VOICE: 503-639-4171
FAX: 503-624-0752
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RIVER TERRACE
ANNEXATION

FIGURE
5
FILE NO

AIS-595

Item #: 6.

Business Meeting

Date: 08/23/2011

Length (in minutes): 10 Minutes

Agenda Title: Consider an Intergovernmental Agreement with Tualatin Hills Park and Recreation District Regarding the Maintenance and Operation of Barrows Park

Prepared For: Brian Rager

Submitted By:

Greer Gaston
Public Works

Item Type: Motion Requested

Meeting Type:

Council Business
Meeting - Main

ISSUE

Shall the council:

- Approve the intergovernmental agreement (IGA) with Tualatin Hills Park and Recreation District regarding maintenance and operation of Barrows Park?
- Authorize the interim city manager to execute the agreement?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the council approve the IGA.

KEY FACTS AND INFORMATION SUMMARY

- Property owners within Area 64, also known as River Terrace, have asked the city to annex the area. The territory annexed will include private property and rights-of-way.
- Tualatin Hills Park and Recreation District (THPRD) operates Barrows Park. A small portion of Barrows Park, which is in the old Barrows Road right-of-way, is slated to be annexed into the city as a part of the River Terrace annexation.
- This presents a conflict, as the Tigard Urban Services Agreement (TUSA) currently contains a provision that prohibits the THPRD from operating a park within Tigard city limits. The TUSA will need to be revised in the future to eliminate this prohibition.
- The IGA demonstrates Tigard's and THPRD's intent to allow THPRD to continue to manage and operate Barrows Park.
- The IGA was reviewed by the city's legal counsel.
- The city will not incur any costs as a result of the IGA.
- THPRD executed this IGA on August 9, 2011.

OTHER ALTERNATIVES

The council could choose to not approve the IGA. Such action could result in operational conflicts and may have a negative impact on coordinating annexation efforts with other entities.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2011 Tigard City Council Goal No. 1 - "Implement Comprehensive Plan," section e. - "Work with partners on urbanization policy issues."

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time this IGA has come before the council.

Attachments

IGA

AGREEMENT

Management and Operation of Barrows Park

BETWEEN: City of Tigard, an Oregon Municipal Corporation (“City”)
AND: Tualatin Hills Park and Recreation District, (“THPRD”)
A Special District
DATED: _____, 2011

RECITALS

A. Both City and THPRD are units of local government organized under the laws of the State of Oregon.

B. Tigard wishes to annex territory that includes a small portion of a developed THPRD facility, known as Barrows Park, which will cause this facility and a portion of THPRD’s political boundary to exist within the jurisdictional boundaries of City. The territory proposed to be annexed by the City, that is the subject of this Agreement (“Annexation Area”), is illustrated on the map attached hereto as Exhibit A and incorporated herein by reference.

C. The Annexation Area is former right-of-way for Barrows Road. Barrows Park exclusive of the Annexation Area will remain within the jurisdictional boundaries of the City of Beaverton. The City of Beaverton allows THPRD to manage Barrows Park for recreational use pursuant to a 2007 agreement, which agreement will remain in effect and be complemented by this agreement.

D. Both City and THPRD wish to enter into an agreement for the management and operation of the Annexation Area, which is a portion of Barrows Park that will now exist within the jurisdictional boundaries of the City.

E. Under Exhibit D to the Tigard Urban Service Agreement (“TUSA”), which is an agreement that both City and THPRD have accepted as binding, City is the designated provider of park services within its jurisdictional limits, but City and THPRD may enter into intergovernmental agreements for the provisions of park, recreation, and open space services to residents within each others’ boundaries.

F. Under ORS 190.010 units of local government may enter into written agreements for the performance of any or all functions that a local government is authorized to perform.

AGREEMENT

NOW, THEREFORE, the parties mutually agree as follows:

1. Rights of THPRD. City acknowledges THPRD’s management of the Annexation Area, and THPRD’s continuing right to operate and maintain the facility, all of

which may occur to the fullest extent possible under THPRD's charter and ordinances. City agrees it will not deannex the Annexation Area from THPRD.

2. Rights of City. THPRD acknowledges City's annexation has the effect of including the Annexation Area within the jurisdictional limits of City. THPRD consents to the annexation and agrees that City may enforce its charter, ordinances, and all provisions of state and federal law within the Annexation Area except as specifically provided in this agreement.

3. Conflicts in Regulations. If a situation presents a conflict between City and THPRD regulations such that enforcing both regulations would produce different results, the THPRD regulation shall control questions involving park use and enjoyment, conduct of park patrons, vehicle parking on park premises, care and maintenance of the park facility, hours of operation, and any other situation where the interests of the public in park operation are more specific and relevant than are the interests in general city governance with respect to the facility.

4. Municipal court. The proper venue for violations and crimes that occur on THPRD premises covered by this agreement shall be the Municipal Court for the City of Tigard, to the extent that Court has jurisdiction over the violation in question.

5. Applicability. This Agreement is intended to address the Annexation Area, following annexation only. The remainder of the Barrows Park facility not within the Annexation Area, remains within the jurisdictional limits of the City of Beaverton and its operations are governed by a separate agreement between THPRD and Beaverton.

6. Term, Termination. The term of this Agreement is perpetual unless it is terminated as provided herein. This Agreement may be terminated by either party for any reason upon six months' written notice to the other party's designated representative listed below:

City of Tigard:

Dennis Koellermcier
Public Works Director
City of Tigard
13125 SW Hall Blvd.
Tigard Oregon 97223,
(503) 718-2596
dennis@tigard-or.gov

THPRD:

Hal Bergsma
Director of Planning
Tualatin Hills Park and Recreation District
15707 SW Walker Rd
Beaverton, OR 97006
(503) 645-6433
hbergsma@thprd.org

7. **Dispute resolution.** If a dispute arises between the parties, including if the parties cannot agree on an interpretation of any of its provisions, the parties shall attempt to resolve the problem by negotiation, followed by non-binding mediation, then binding arbitration. The progressive dispute resolution process set forth under Article IX of the TUSA shall be employed to resolve disputes under this section.

8. **Severability.** If any portion of this Agreement is invalidated by a court of court of competent jurisdiction, such provision is deemed a separate provision, and such holding shall not affect the validity of the remaining portions of this Agreement.

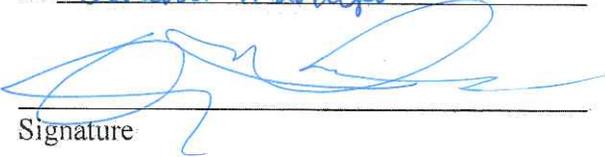
CITY OF TIGARD, an Oregon Municipal Corporation

TUALATIN HILLS PARK AND RECREATION DISTRICT, a Special District

By: _____
Name: _____
Its: _____

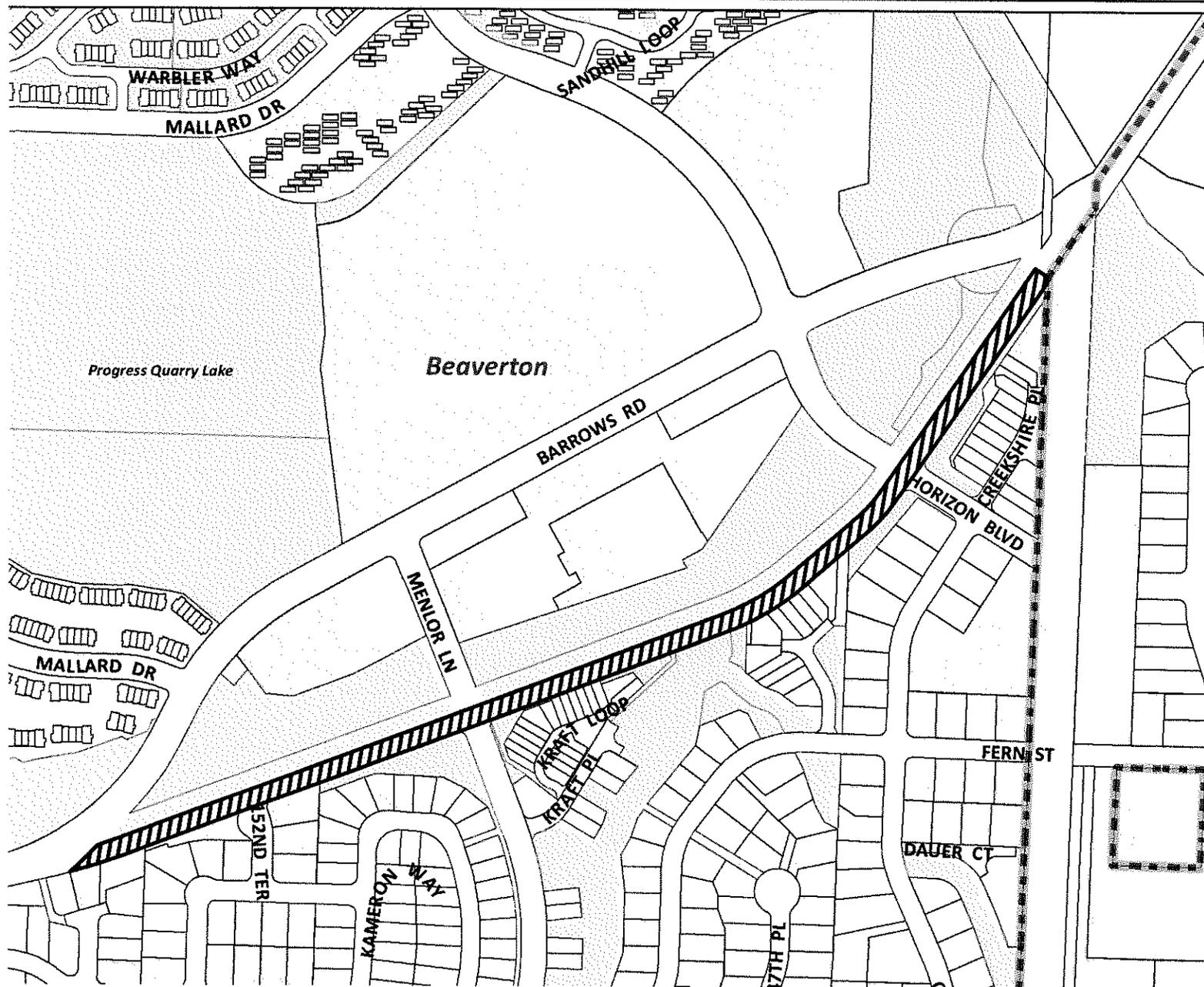
By: THPRD
Name: Doug Menke
Its: General Manager

Signature



Signature

Plotted by: RAY WOODLIF on Tuesday, July 19, 2011 at 3:50:19 PM from the 8.5x11 FIGURE BORDER layout tab
File Name: Path: L:\ENG\PROJECTS\2012-2013 FT GIP\PROJECTS\BARROWS RD PARK\BARROWS RD PARK DISPLAY.DWG




ANNEXATION AREA



NO SCALE



ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
13125 S.W. HALL BLVD.
TIGARD, OREGON 97223
VOICE: 503-639-4171
FAX: 503-624-0752
WWW.TIGARD-OR.GOV

BARROWS ROAD PARK

FIGURE
N/A

FILE NO
N/A

AIS-635

Item #: 7.

Business Meeting

Date: 08/23/2011

Length (in minutes): 10 Minutes

Agenda Title: Continuation of Legislative Public Hearing from August 9, 2011 - Consider Tigard Municipal Code Amendments on Administrative Rule Making

Prepared For: Ron Bunch

Submitted By:

Susan Hartnett
Community
Development

Item Type: Ordinance
Public Hearing - Legislative

Meeting Type:

Council Business
Meeting - Main

ISSUE

Shall council approve amendments to the Tigard Municipal Code to authorize, define and limit the use of administrative rules and to define a process for administrative rule-making?

STAFF RECOMMENDATION / ACTION REQUEST

Approve the attached ordinance amending the Tigard Municipal Code.

KEY FACTS AND INFORMATION SUMMARY

On August 9, 2011, the Tigard City Council opened a public hearing on this item. During the council discussion, desired modifications to the proposed language were identified by the council. The goals of the modifications are to assure that council has an opportunity to review a proposed administrative rule prior to initiation of public notice, and to clarify that council notice occurs before public notice is initiated and not concurrent with it. The modifications, in response to council direction, are outlined in the attached August 14, 2011, memorandum from Assistant Community Development Director Hartnett. Council continued the hearing to August 23, 2011 and directed staff to amend the language consistent with these goals.

Currently, the Tigard Municipal Code (TMC) contains several references to administrative rules but lacks a definition and other key elements including administrative rule-making authority, procedures for their creation and amendment, and a clear process for appeals by the public. In addition, many sections of the TMC codify aspects of a department's activities that need to change over time as program objectives, technology and operations shift. Because this requires a public hearing to amend the TMC, these regulations can become stale and administration of the program can become more cumbersome.

Administrative rules provide an alternative to the Tigard Municipal Code for creation of regulations and procedures that are capable of being enforced. In the past, the City Council has seen the value of this tool and included it in several specific areas of the TMC, for example, Title 9 - Parks and Title 11 - Solid Waste Management. However, the current administrative rules are not broadly useful because of variations in language, lack of procedures and no designated central authority.

Council is requested to amend the TMC to include a definition of administrative rules and other key elements as described above. This would make it possible to utilize administrative rules to incorporate several code amendments currently underway into the TMC.

At the July 19 workshop meeting, the City Council reviewed a draft package of TMC amendments that authorize, define and limit the use of administrative rules and define a process for administrative rule-making. At the conclusion of the discussion, council directed staff to proceed to a public hearing on the draft amendments.

Attachment 1 provides an ordinance adopting the TMC amendments. Exhibit A (Attachment 2) includes the specific text amendments to Title 2 - City Manager, which define and limit the use of administrative rules as well as

define the procedural steps for their creation and amendment as well as the process for appeal. The exhibit also includes amendments to Title 9 - Parks and Title 11 - Solid Waste Management to conform the two existing sections that reference administrative rules to the language being adopted in Title 2.

Based on the council's direction, staff also performed an electronic search of the TMC to identify any other sections that reference administrative rules and that would need to be amended. No other sections were identified.

OTHER ALTERNATIVES

Council may choose to:

- Not approve the ordinance amending the Tigard Municipal Code
- Direct that the proposed administrative rules be revised (Exhibit A) and subsequently approve the ordinance

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

NA

DATES OF PREVIOUS COUNCIL CONSIDERATION

July 19, 2011

August 9, 2011

Attachments

Attachment 1 Ordinance

Attachment 2 Exhibit A

August 14, 2011, Memorandum to Mayor and Council

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 11-**

AN ORDINANCE AMENDING TITLE 2 OF THE TIGARD MUNICIPAL CODE AUTHORIZING THE USE OF ADMINISTRATIVE RULES AND DEFINING THE PROCEDURES FOR ADMINISTRATIVE RULEMAKING AND AMENDING EXISTING SECTIONS IN TITLE 9 AND TITLE 11 TO BE CONSISTENT.

WHEREAS, the Tigard Municipal Code contains several references to administrative rules but lacks a definition of administrative rules and other key elements including administrative rulemaking authority, procedures for their creation and amendment and a clear process for appeals by the public; and

WHEREAS, many sections of the Tigard Municipal Code codify aspects of a department's activities that need to change over time as program objectives, technology and operations shift and because a public hearing is required to amend the Tigard Municipal Code, these regulations can become stale and administration of the program can become more cumbersome; and

WHEREAS, administrative rules provide an alternative to the Tigard Municipal Code for creation of regulations and procedures that have the force of law; and

WHEREAS, in the past, the City Council has seen the value of administrative rules and authorized their use in several specific areas of the Tigard Municipal Code; and

WHEREAS, the City Council reaffirms the use of administrative rules as a valuable tools for the City of Tigard and desires to clarify and centralize the authority to use administrative rules, the definition of administrative rules and the procedure for administrative rulemaking, including an appeal process; and

WHEREAS, the City Council will be notified of a proposed administrative rule prior to public notice and any council member can request council review of the proposal prior to public notice; and

WHEREAS, the City Council desires existing sections of the Tigard Municipal Code that refer to administrative rules to be consistent with the new text.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Title 2, Title 9 and Title 11 of the Tigard Municipal Code are amended as shown in Exhibit A; text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

SECTION 2: 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 _____, 2011.

City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2011.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

Chapter 2.04 CITY MANAGER.

Sections:

- 2.04.010 Office Established.
- 2.04.020 Appointment And Removal.
- 2.04.030 Salary.
- 2.04.040 Duties.
- 2.04.050 Administrative Rulemaking – Definition – Purpose.
- 2.04.060 Administrative Rulemaking – Authority.
- 2.04.070 Administrative Rulemaking - - Procedure.

(2.04.010 to 2.04.040 – No changes)

2.04.050 Administrative Rulemaking – Definition – Purpose.

_____ (1) Administrative Rulemaking means the drafting, adoption, and amendment of administrative rules, pursuant to and consistent with the provisions of this section.

_____ (2) The purpose of administrative rulemaking is to ensure that standards and procedures by which the departments of the City of Tigard operate are made available and accessible to the public in written form, upon direction by council. Administrative rulemaking also establishes a process by which the public can be involved in the process of developing department standards and procedures through engaging in public comment.

_____ (3) Administrative rule means a written directive, standard, regulation or statement of general applicability that is established through administrative rulemaking and implements, interprets or prescribes law, or describes the

procedure or practice requirements of any city department.

2.04.060 Administrative Rulemaking Authority.

_____ (1) The Tigard City Council hereby authorizes, and establishes the process for, administrative rulemaking consistent with this section.

_____ (2) Administrative rules adopted pursuant to the administrative rulemaking procedures in this section have the full weight and effect of law.

_____ (3) This section provides the authority and process applicable to administrative rulemaking by the city manager, but does not directly enable to the city manager to engage in administrative rulemaking. Authority to engage in administrative rulemaking pursuant to the procedures in this section shall be enabled by separate provision of the Tigard Municipal Code.

_____ (4) The scope of administrative rulemaking shall be limited by the terms of the enabling provision.

_____ (5) All administrative rules shall be consistent with the Tigard Municipal Code.

2.04.070 Administrative Rulemaking -- Procedure.

_____ (1) Prior to the adoption or amendment of an administrative rule the city manager or designee will follow the provisions as described in this section.

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

_____ (a) Fourteen (14) days prior to initiating the public notice described in (b), notification shall be made to council of the proposed administrative rule or amendment. At any time following council notification, any council member may put the subject on the discussion agenda for the next available council meeting for council consideration or action. Public notice as described in (b) may be initiated fourteen (14) days after council notification if no council member requests council consideration or action. If the council considers or takes action on the item, provision of public notice as described in (b) shall be at the direction of council.

_____ (b) Publish a notice in a newspaper of general circulation in the city. The notice must be published not less than fourteen (14) days before the deadline for receipt of comments.

_____ (c) The notice shall provide a brief description of the subject(s) covered by the proposed administrative rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained.

_____ (d) The city manager or designee will receive written comments regarding the proposed administrative rule. The city manager or designee will take into consideration the written comments received and may either approve, modify or reject the proposed administrative rule.

_____ (e) If a substantial modification is made to the proposed administrative rule,

the city manager or designee may approve the modification, or provide additional public comments prior to approval.

_____ (f) Unless otherwise stated, all administrative rules will be effective on the 14th day after approval by the city manager or designee unless a written protest is received by the City Manager or designee.

_____ (g) If written protest of the proposed administrative rule is received by the city manager or designee on or before the 14th day after approval, the city manager or designee shall refer the administrative rule to the city council for a public hearing. The council may direct the city manager to approve, modify or reject the administrative rule. The council's decision on the contents of the proposed administrative rule shall be binding on the city manager.

_____ (2) All administrative rules must be filed in the office of the city recorder.

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

Chapter 9.04 GENERAL PROVISIONS.

Sections:

9.04.005 Adoption of Administrative Rules ~~and Supplemental Regulations~~.

9.04.010 Purpose.

9.04.020 Facility Reservation.

9.04.040 Refund Of Fees And Change In Reservation.

9.04.050 Repealed By Ord. 92-33.

9.04.060 Waiver Of Fees.

9.04.005 Adoption of Administrative Rules ~~and Supplemental Regulations~~.

The ~~C~~city ~~M~~anager, or designee, ~~has~~ ~~thei~~s authorized ~~ty~~ to adopt ~~and amend~~ administrative rules ~~and supplemental regulations~~ related to the provisions of park facility reservations and consistent with the provisions of this section. (Ord. 10-09 § 1, 2010). Such rules shall be adopted pursuant to TMC 2.04.

9.04.010 Purpose.

The purposes of these park facilities reservation rules ~~and regulations~~ are to:

(1) Facilitate maximum use of public facilities by the citizens of Tigard;

(2) Coordinate the use of park facilities, thus assuring maximum opportunity for use through the convenience of advance reservations;

(3) Provide for use of park facilities by the citizens of Tigard, but where exclusive use

takes place, or special handling is required, to recover associated costs;

(4) Coordinate the public use of park facilities with maintenance, construction and other activities. (Ord. 10-09 § 1, 2010; Ord. 92-33 §1(Exh. A)(part), 1992; Ord. 83-55 §1(part), 1983; Ord. 78-13 §1, 1978).

(9.04.020 to 9.05.060 – No changes)

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

Chapter 11.04 SOLID WASTE MANAGEMENT.

- 11.04.010 Title For Citation.
- 11.04.020 Purpose, Policy And Scope Of Chapter Provisions.
- 11.04.030 Definitions.
- 11.04.040 Franchise--Granted To Certain Persons--Scope Of Regulations.
- 11.04.050 Franchise--Term--Automatic Renewal When.
- 11.04.060 Franchise--Fees.
- 11.04.065 Franchises Records.
- 11.04.070 Responsibility Of Franchisee.
- 11.04.080 Franchise--Transfer, Suspension, Modification Or Revocation--Conditions.
- 11.04.090 Rates For Service.
- 11.04.100 Container Requirements And Collection Limitations.
- 11.04.105 Stationary Solid Waste Compactors.
- 11.04.110 Offensive Wastes Prohibited.
- 11.04.120 Unauthorized Deposits Prohibited.
- 11.04.130 Interruption Of Franchisees Service.
- 11.04.140 Termination Of Service By Franchisee.
- 11.04.150 Subcontracts.
- 11.04.155 Business Recycling Requirement.
- 11.04.160 Rules And Regulations Applicable to Franchisees.
- 11.04.165 Administrative Rules And Regulations Applicable To Business Pursuant To Business Recycling Requirement.
- 11.04.170 Enforcement.
- 11.04.180 Penalty.

(11.04.010 to 11.04.150 – No Changes)

11.04.155 Business Recycling Requirement.

Unless otherwise exempt, all Businesses and Business Recycling Service Customers shall comply with the Business Recycling Requirement Performance Standard set forth in Metro Regional Government Code Section 5.10.330 and the administrative rules and supplemental regulations adopted pursuant to rulemaking authority set forth in TMC 11.04.165. (Ord. 09-05 §1)

11.04.160 Rules And Regulations Applicable to Franchisees.

The City Manager or designee may propose and prepare rules and regulations applicable to franchisees that pertain to this chapter. The rules and regulations shall be printed or typewritten, and be maintained for inspection in the office of the City Recorder. All proposed rules and regulations promulgated under the authority of this section, and all amendments thereto, shall be immediately forwarded to the franchisee operating under this chapter for response. The franchisee shall have thirty days to respond in writing to such proposed rules and regulations. If the franchisee has objections or revisions to the proposed rules, the franchisee shall meet and confer with the City Manager regarding the franchisees concerns. If the concerns are not resolved through consultation with the City Manager, then the City Manager shall forward the proposed rule, with the franchisees comments, to the City Council for its consideration. The franchisee may request that the City Council hold a public hearing on a

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

proposed rule. The ~~C~~Council may approve the proposed rule as submitted, modify the rule, or reject the rule. The ~~C~~City ~~M~~Manager shall enact all rules pursuant to this subsection by written order. (Ord. 09-05 §1; Ord. 03-08, Ord. 91-36 §1 Exh. A (part), 1991: Ord. 78-64 §14, 1978).

11.04.165 Administrative Rules And Regulations Applicable To Businesses Pursuant To Business Recycling Requirement.

1. ~~Adoption of Administrative Rules and Supplemental Regulations.~~

a. ~~The C~~City ~~manager or designee is Council has the~~ authorized to adopt ~~the initial administrative rules and supplemental regulations~~ related to the provisions of the Business Recycling Requirement. Such ~~initial administrative~~ rules and regulations shall be adopted ~~pursuant with the provisions of TMC 2.04~~by resolution.

~~b. The Public Works Director has the authority to adopt and amend the administrative rules and supplemental regulations related to the provisions of the Business Recycling Requirement. The Public Works Director has the authority to administer the rules and regulations whether adopted by the City Council or by the Public Works Director. Rules subsequent to the initial rules adopted by City Council will be adopted according to the procedures in this section.~~

~~2. Permanent Rules. Prior to the adoption of a permanent rule, the Public Works Director will:~~

~~a. Publish a notice in a newspaper~~

~~of general circulation in the City. The notice must be published not less than 14 days before the deadline for receipt of comments. The notice shall provide a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained.~~

~~b. The Public Works Director will receive written comments regarding the proposed rules. The Director will take into consideration the written comments received and may either adopt, modify or reject the proposed rule.~~

~~c. If a substantial modification is made to the proposed rule, the Public Works Director may adopt the modification as an interim rule or provide additional public comments prior to adoption.~~

~~d. Unless otherwise stated, all rules will be effective on the 14th day after adoption by the Public Works Director unless a written protest is received by the Director.~~

~~e. If written protest of the proposed rule is received by the Public Works Director on or before the fourteenth day after adoption, the Director shall refer the rule to the City Council for a public hearing. The Council may adopt, modify or reject the rule. The Council's decision on the contents of the proposed rule shall be final and effective upon passage.~~

~~3. Interim Rules.~~

~~a. Interim rules will be effective for a period of not longer than 180 days.~~

EXHIBIT A – AMENDMENTS TO TIGARD MUNICIPAL CODE

Text to be deleted is shown in ~~strike through~~ and text to be added is shown in underline.

~~b. Not more than 30 days after adoption of an interim rule, public notice of the interim rule must be published in a newspaper of general circulation in the City. Such notice must identify the location at which copies of the full set of the interim rules may be obtained.~~

~~4. All permanent and interim rules must be filed in the office of the Public Works Director. (Ord. 09-05 §1)~~

(11.04.170 to 11.04.180 – No Changes)



City of Tigard Memorandum

To: Mayor Dirksen and Members of the Tigard City Council
From: Susan Hartnett, Assistant Community Development Director
Re: Refinements to Tigard Municipal Code Chapter 2.04
Date: August 14, 2011

Based on council direction at the August 9, 2011 meeting, I worked with the City Attorney to refine the language for the administrative rulemaking provisions, which are proposed to be added to Chapter 2.04. The goals of this modification are to assure that council has an opportunity to review a proposed administrative rule prior to initiation of public notice, and to clarify that council notice occurs before public notice is initiated and not concurrent with it.

Because the proposed amendment is all new language in the Tigard Municipal Code, it is shown in Exhibit A to the ordinance as underlined text. Since it is difficult to show amendments to this underlined text, I have copied the text as it was shown in the August 9 proposal in normal text and show below the modifications developed in response to council direction in strike through and underlined text. These changes have also been made in the revised Exhibit A for council consideration on August 23.

2.04.070 Administrative Rulemaking -- Procedure.

(1) Prior to the adoption or amendment of an administrative rule the city manager or designee will follow the provisions as described in this section.

(a) Fourteen days prior to initiating the public notice described in (b), Provide notification shall be made to council of the proposed administrative rule or amendment prior to public notification. During the fourteen day review period At any time following council notification, any council member may put the subject on the discussion agenda for the next available council meeting for council consideration or action. Public notice as described in (b) may be initiated fourteen (14) days after council notification if no council member requests council consideration or action. If the council considers or takes action on the item, provision of public notice as described in (b) shall be at the direction of council.

(b) Publish a notice in a newspaper of general circulation in the city. The notice must be published not less than fourteen (14) days before the deadline for receipt of comments.

(c) through (g) No changes

AIS-567

Item #: 8.

Business Meeting

Date: 08/23/2011

Length (in minutes): 25 Minutes

Agenda Title: Discuss Strategies for Communicating Tigard's Federal Legislative Priorities

Prepared For: Liz Newton

Submitted By:

Kent Wyatt
City Management

Item Type: Update, Discussion, Direct Staff

Meeting Type:

Council Business
Meeting - Main

ISSUE

Should the City of Tigard hire a Washington, DC based lobbying firm that would provide technical advice and direct advocacy and support for the City's federal intergovernmental interests?

STAFF RECOMMENDATION / ACTION REQUEST

Decide whether the city should allocate financial and staff resources for strengthening its federal legislative priorities.

KEY FACTS AND INFORMATION SUMMARY

Currently, Tigard devotes limited resources toward federal advocacy efforts. Most of the efforts have occurred during the annual National League of Cities Conference attended by the Mayor and City Council or when federal officials visit the area during a Congressional recess. Consequently, the city has been absent a strong federal voice supporting city projects, policies and programs that are influenced or supported by federal policies and funding.

City staff has identified several city projects that might benefit from federal advocacy including the Lake Oswego/Tigard Water Partnership, the Tigard Trail, the COPS Program, and after-school programs operated by the Police Department. Contracting with a federal affairs firm would allow for a more aggressive pursuit of funds for these projects.

Further, a federal affairs firm would enhance Tigard's federal presence by promoting City positions on policy matters to elected officials and their staffs; assisting in the preparation of federal appropriations requests and submit on behalf of the City; and providing a written weekly report of recent and upcoming activities and actions in Congress and federal agencies.

In preparing this agenda item, staff talked with several area cities which employ a federal affairs firm. Each city interviewed stressed the success of federal lobbying efforts is dependent upon a long-term commitment (four to five years) and the ability to turn federal funds into projects that are finished on-time and under budget.

The city of Battle Ground, WA is an example of a municipality benefiting from a long-term relationship with a federal affairs firm. A transportation project, a school resource officer, and a new community center were funded in part from advocacy on the federal level. Battle Ground worked with a federal advocacy firm to secure \$400,000 in funding in 2009 for construction of a new community center and recreation center project. The project was funded by the CDBG program, the USDA Rural Development program and the Economic Development Administration public infrastructure program.

This week a Washington Post article noted a recent resurgence of federal advocacy firms representing cities and counties is taking place as local governments compete for the ear of the committee that will decide how to cut \$1.2 trillion in discretionary spending. It is unclear how the cuts will be dispersed among municipalities but the uncertainty ensures the committee will be heavily courted by lobbyists fighting to preserve local programs.

Contracting with a federal affairs firm would not be a separate effort to gain funding for local projects in opposition

to Metro's regional requests and the region's Transportation System Plan. Tigard would continue to be part of the Metro/JPACT priorities and processes, which includes the Southwest Corridor High Capacity Transit.

OTHER ALTERNATIVES

- Direct staff to further research "sharing" a lobbyist with an area city
- Decide against pursuing a contract with a federal government affairs and lobbying firm

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

- Financial Stability - Work with partners on long-range solutions to statewide structural problems.
- Continue Coordination with Lake Oswego on Water Partnership.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A
