



City of Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: October 23, 2012 - 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; and
- Qualified bilingual interpreters.

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

SEE ATTACHED AGENDA

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.



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: October 23, 2012 - 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. City Manager Evaluation: Setting Criteria & Process

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

7:30 PM

1. **BUSINESS MEETING**

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Council Communications & Liaison Reports
- E. Call to Council and Staff for Non-Agenda Items

2. **CITIZEN COMMUNICATION (Two Minutes or Less, Please)**
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) - 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:
7:45 p.m. - time is estimated

A. Approve City Council Meeting Minutes for:

1. July 24, 2012
2. August 14, 2012
3. September 11, 2012

B. Adopt a Resolution in Support of Changing the Name of the Tonquin Trail to the Ice Age Tonquin Trail

C. Amend City Manager Employment Contract

D. Adopt a Resolution Authorizing the Submission of a Grant Application to Partially Fund Construction of a Segment of the Fanno Creek Trail

E. Authorize the Mayor to Execute an Intergovernmental Agreement with Clackamas River Water Providers

F. Authorize the Mayor to Execute an Intergovernmental Agreement with Metro Regarding Trail Signage

G. Approve Third Quarter Council Goal Update

- 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. CONTINUATION OF PUBLIC HEARING ON URBAN FORESTRY CODE REVISIONS -
URBAN FORESTRY CODE REVISION PROJECT - COMPREHENSIVE PLAN AMENDMENT
(CPA) 2011-00004 DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002

7:50 p.m. - time is estimated

REQUEST: To implement the city's Comprehensive Plan as recommended by the Urban Forestry Master Plan, the City of Tigard is proposing a Comprehensive Plan Amendment adopting the "Significant Tree Groves" Map and Tigard Development Code (Title 18) Amendments to Chapters 18.115, 18.120, 18.310, 18.330, 18.350, 18.360, 18.370 18.390, 18.530, 18.610, 18.620, 18.630 18.640, 18.715, 18.745, 18.775, 18.790, and 18.798. (Non Land Use Elements) In addition, in support of the Title 18 amendments, amendments are proposed to the Tigard Municipal Code (TMC) Chapters 1.16, 6.01, 6.02, 7.40, 8.02 through 8.16, 9.06, and 9.08.

LOCATION : Citywide. ZONE: Citywide.

APPLICABLE REVIEW CRITERIA: City of Tigard Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals 1, Citizen Involvement; 2, Land Use Planning; 5, Natural Resources; 6, Environmental Quality; 7, Hazards; 8, Parks Recreation, Trails and Open Space; 9, Economic Development; 10, Housing; 11, Public Facilities and Services; 12, Transportation; 13, Energy Conservation; and 14, Urbanization; METRO's Urban Growth Management Functional Plan Titles 1, 3, 12 and 13. Statewide Planning Goals 1, 2, and 5 through 14.

A. Urban Forestry Code Revisions - Land Use Elements

B. Urban Forestry Code Revisions - Non Land Use Elements

5. ADOPT 2013 LEGISLATIVE AGENDA (packet materials will be published October 18, 2012)
8:30 p.m. - time is estimated
6. COUNCIL LIAISON REPORTS
7. NON AGENDA ITEMS
8. 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.
9. ADJOURNMENT
9:00 p.m. - time is estimated

AIS-1052

A.

Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): 20 Minutes

Agenda Title: City Manager Evaluation: Setting Criteria & Process

Prepared For: Sandy Zodrow

Submitted By: Sandy Zodrow, City Management
Council Business Mtg - Study

Item Type: Update, Discussion, Direct Staff

Meeting Type: Sess.

Information

ISSUE

The City Manager's annual performance evaluation is due in December 2012. The City Council discussion will focus on the process to be used for the evaluation, and the criteria upon which the evaluation will be based.

STAFF RECOMMENDATION / ACTION REQUEST

Direct staff regarding the format of the evaluation document, and who will be surveyed for evaluation feedback.

KEY FACTS AND INFORMATION SUMMARY

The Employment Agreement for the City Manager stipulates that a performance evaluation for the prior 12 month period be completed in December 2012. In anticipation of that, staff is requesting Council discussion and direction regarding the evaluation criteria and form to be used, the process and time lines, as well as which individuals Council wishes to request feedback from regarding the City Manager's performance. This will be the first evaluation conducted for the current City Manager.

OTHER ALTERNATIVES

Not applicable - required per employment agreement

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

No prior discussions have taken place

Attachments

Memo to Council from Human Resources Director Zodrow

Council Appraisal Form

Staff Input to Council Form



City of Tigard Memorandum

To: Mayor and City Council

From: Sandy Zodrow, Human Resources Director 

Re: City Manager Annual Performance Review

Date: October 15, 2012

In accordance with the Employment Agreement for City Manager Marty Wine, the City Council is required to conduct an annual performance review in December 2012. This will be the first performance review for the City Manager. The first step to be taken by Council is to decide on the criteria and process to be used for the evaluation. This is scheduled for your October 23rd meeting. On November 13th the Council will request public input on the criteria and process that has been selected, as required by employment law for public employees. Finally, the performance review is scheduled on the City Council's agenda for November 20, 2012 instead of December due to the holidays and other Council business in December.

Enclosed please find a copy of the review forms that have been used in prior years by the City Council for the annual performance review of the City Manager. Two forms have been used, one for the City Council to note their comments and ratings, and one for Executive Staff to complete. These were submitted to myself and I combined all ratings and comments, without reference to the rater's name, assigned an average score to each criteria evaluated, and collated the information onto a single review form for Council.

The Executive Staff that completed a performance review for the City Manager last time included:

- Department Directors: Toby LaFrance, Dennis Koellermeier, Margaret Barnes, Chief Orr, Liz Newton (Assistant CM)
- Other Staff: Joanne Bengtson (Exec. Assistant to the CM), Loreen Mills (Assistant to the CM), Cathy Wheatley (City Recorder), and myself

The issue before the City Council for your October 23rd meeting is:

- 1) what criteria does the Council wish to include in the review document
- 2) what process do you want to use to collect this information
- 3) do you want to add any additional evaluator names to the list

I will be there at the meeting to assist in any way I can.

Council Appraisal of City Manager City of Tigard

City Manager:	Date:
City Councilor: Mayor & Council Appraisal	

SECTION I: PERFORMANCE MEASUREMENT CRITERIA

Please designate the appropriate box for each item and include examples, which support the rating.

Administrative Ability

<p><u>Planning:</u> Ability to anticipate and analyze problems. Maps effective solutions. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Organizing:</u> Ability to arrange work and efficiently apply resources. Recognizes opportunities for management and operational efficiencies. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Timing - Opportunist:</u> Makes decisions when sufficient information is available. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Analytical:</u> In making decisions considers the best available facts, projections, and evidence. To the extent that resources permit, insures that these tools are available. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Job Knowledge:</u> Has a solid understanding of all phases and departments of municipal government. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>

Personnel Functions

<p><u>Supervision:</u> Builds and motivates a team, provides direction, monitors and adjusts performances as necessary. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>

City Manager Performance Appraisal

Delegation: Effectively assigns work to others to get City business done efficiently.
Exceeds Fully Effective Developing Needs Improvement

Comments:

Communication with Employees: Listens to employees and openly communicates in order to provide sufficient information to keep the employees motivated and part of the team. Understands their concerns.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Hiring: Recognizes the value of excellent employees and hires and maintains available staff.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Labor Relations: Understands contract negotiations and contract administration. Equitably handles problems of grievances among subordinate employees.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Leadership: Motivates, encourages and seeks to develop skills and abilities in staff. Sets the standard for performance accountability by example.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Collaboration Skills: Builds collaborative trust with staff. Treats staff with respect.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Risk Management: Implements effective programs to limit liability and loss.

Exceeds Fully Effective Developing Needs Improvement

Comments:

City Manager Performance Appraisal

Budget and Finance

Financial Management: Accurately and concisely reports and projects the financial condition. Management practices and policies are designed to maintain or achieve a sound long-range financial condition. Uses debt cautiously, plans for the long-term replacement and maintenance of equipment and infrastructure.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Operational Efficiency: Obtains the best possible end result for the money spent. Monitors efficiency service improvement and effectiveness for all programs. Most economical utilization of manpower, materials and machinery.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Community Relations

Public Service: Commitment to the service of the public. Recognizes and respects the value of public service. Projects a positive image of the City.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Forges Compromises: Has the ability to resolve conflicts with little or no assistance from outside sources. Is a good negotiator. Is credible and builds trust in the community.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Sensitivity: Listens and understands the positions and circumstances of others. Communicates that understanding.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Communication with the Public: Approachable and responsive to the public and takes their concerns and problems seriously, regardless of how insignificant the questions or complaints seem to be. Is able to represent Council at community events and forums. Pursues an outreach style of management as a spokesperson for city issues.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Public Involvement: Involves citizens in city issues and programs. Provides link between the Council and business community.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Media Relations: Develops effective relationships and positive image with public/media. Is able to accurately articulate City Council and community goals.

Exceeds Fully Effective Developing Needs Improvement

Comments:

City Manager Performance Appraisal

Relation with Council

Communication with Council: Accurately interprets the direction given by the Council. Provides Council with well informed concise oral and written communication.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Accepts Direction: Aggressively responds to the direction of the majority of the Council. Not sidetracked to the minority but recognizes their concerns.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Research: Prepares fully researched materials for Council action including alternatives and recommendations. Analyzes issues and presents policy alternatives to Council with documented justified recommendations. Assures that material is concise and easily understandable.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Intergovernmental Relations

Develop Relations: Develops good working relationships with other local, county, regional, state and federal agencies.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Representative: Effectively represents the City on commissions, boards, and committees.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Resource Developer: Exerts appropriate influence on decisions affecting Tigard from other agencies, gaining resources to benefit the City. Has basic understanding of federal and state grants and appropriations.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Interpersonal Skills

Creativity: Implements effective and creative solutions to resolve City problems.

Exceeds Fully Effective Developing Needs Improvement

Comments:

Honest, Fair: Consistently demonstrates integrity and honesty, straightforward and impartial.

Exceeds Fully Effective Developing Needs Improvement

Comments:

City Manager Performance Appraisal

<p><u>Adaptable:</u> Responds positively to a changing work environment and changing local conditions. Does not cling to the status quo for its own sake. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Resilient:</u> Energy and motivation maintained in spite of constant demands. Handles stress well. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Ethical:</u> Conforms to the high standards of the profession. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Professional Development:</u> Takes action to acquire new knowledge and skills. Encourages employees to do the same. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
<p><u>Judgment:</u> Thinks logically and utilizes independent thought to make sound decisions. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>

Economic Growth

<p><u>Economic Development:</u> Identifies and helps Council create conditions which foster economic development. Understands importance of, and knowledge of factors and methods for, maintaining existing businesses, as well as recruiting new ones. Recognizes relationship of local economy to region and beyond. Develops policies and guidelines to reasonably allocate costs of public improvements and services related to economic development between the public and private sectors. Exceeds <input type="checkbox"/> Fully Effective <input type="checkbox"/> Developing <input type="checkbox"/> Needs Improvement <input type="checkbox"/></p> <p><u>Comments:</u></p>
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SECTION II: ESTABLISHMENT OF GOALS & OUTCOMES FOR UPCOMING RATING PERIOD

Outline the goals for the upcoming period and the desired outcomes. The City Manager's goals should be related to the Community goals. The City Manager goal may include a new project or may include a goal that is an ongoing fundamental portion of the position. Any number of goals may be set. The desired outcome is the standard against which performance will be measured. These should be specific and measurable including timeframes.

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

City Manager Performance Appraisal

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

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Individual Goal:	
Desired Outcome:	

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Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

City Manager Performance Appraisal

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

Dept/City Goal:	
Individual Goal:	
Desired Outcome:	

SECTION III: COUNCIL'S SUMMARY COMMENTS

The following is an overall performance rating for the City Manager, recommended action by the Council, and sign off. The City Manger's signature does not necessarily mean that the City Manager agrees with the rating, only that the evaluation process has taken place.

Summary Comments:

Overall Rating (check one):

- Exceeds: Exceeds expectations in all or majority of categories.
- Fully Effective: Meets expectations in all categories (may exceed in some)
- Developing: does not meet expectations in one or more category
- Needs Improvement: Does not meet expectations in majority of categories

City Manager's Signature

Date

Mayor's Signature

Date

City Manager Performance Appraisal

Rating Definitions & Scoring

Exceeds	=	4.0
Fully Effective	=	3.0
Developing	=	2.0
Needs Improvement	=	1.0

**Staff Input to the Council
Appraisal of City Manager
City of Tigard**

City Manager:	Date:
Rater: Executive Staff	

SECTION I: PERFORMANCE MEASUREMENT CRITERIA

Please designate the appropriate box for each item and include examples, which support the rating.

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City Manager Performance Appraisal

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Exceeds Fully Effective Developing Needs Improvement

Comments:

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City Manager Performance Appraisal

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City Manager Performance Appraisal

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Comments:

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Comments:

Adaptable: Responds positively to a changing work environment and changing local conditions. Does not cling to the status quo for its own sake.

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Comments:

Resilient: Energy and motivation maintained in spite of constant demands. Handles stress well.

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Comments:

Ethical: Conforms to the high standards of the profession.

Exceeds Fully Effective Developing Needs Improvement

Comments:

City Manager Performance Appraisal

Professional Development: Takes action to acquire new knowledge and skills. Encourages employees to do the same.

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Comments:

Judgment: Thinks logically and utilizes independent thought to make sound decisions.

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Comments:

Economic Growth

Economic Development: Identifies and helps Council create conditions which foster economic development. Understands importance of, and knowledge of factors and methods for, maintaining existing businesses, as well as recruiting new ones. Recognizes relationship of local economy to region and beyond. Develops policies and guidelines to reasonably allocate costs of public improvements and services related to economic development between the public and private sectors.

Exceeds Fully Effective Developing Needs Improvement

Comments:

SECTION II:

What do you consider the City Manager's greatest strengths?

Do you have any suggestions for the City Manager, which you feel, will improve his effectiveness?

Rating Definitions & Scoring

Exceeds = 4.0

Fully Effective = 3.0

Developing = 2.0

Needs Improvement = 1.0

AIS-1060

3. A.

Business Meeting

Meeting Date: 10/23/2012

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

Information

ISSUE

Approve City Council meeting minutes.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as submitted.

KEY FACTS AND INFORMATION SUMMARY

Minutes for the July 24, August 14 and September 11 council meetings are attached.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

July 24, 2012, Council Minutes

August 14, 2012, Council Minutes

September 11, 2012, Council Meeting Minutes



City of Tigard
Tigard City Council Meeting Minutes
July 24, 2012

- STUDY SESSION

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

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

ADMINISTRATIVE ITEMS

- Distributed July 24, 2012, memorandum from Assistant Finance and Information Services Director Debbie Smith-Wagar, advising of an update to Resolution No. 12-23, adopting the 2013 City of Tigard Budget. The update includes the changes to the Schedule of Appropriations as a result of Technical Adjustments 1-4, which were reviewed with the council and accepted by the council during the budget hearing. Section 2 of the updated resolution notes the appropriations include the adjustments made during the hearing. The proposed update to the resolution was acceptable to council members present.
- For tonight's business meeting:
 - Consent Agenda Item No. 3.A.2. - June 12, 2012 meeting minutes. After review of the audio recording for the meeting, Councilor Wilson's motion to approve Resolution No. 18-23 included the words, "with technical adjustments as presented." Resolution No. 12-23 adopted the City of Tigard Budget for Fiscal Year 2013. City Recorder Wheatley requested the amendment to the minutes, Page 18, to add the phrase, "with technical adjustments as presented," at the end of the motion adopting Resolution No. 12-23.

TIGARD CITY COUNCIL MEETING MINUTES – JULY 24, 2012

- Agenda Item No. 5 - Public Hearings - Urban Forestry Code Revisions - Land Use and Non Land Use Elements
 - An updated schedule for the Urban Forestry Code Revisions was distributed and reviewed with the City Council.
 - PowerPoint slides to be presented during the staff report were distributed to the City Council.
 - Written testimony received July 24, 2012, from John Frewing was distributed to the City Council.

- Council Calendar:
 - August 7 - CCDA Meeting Canceled - National Night Out
 - August 14 - Business Meeting - 6:30 p.m. Study Session/7:30 p.m. Business Meeting
 - August 21 - Workshop Meeting - 6:30 p.m.
 - August 28 - Business Meeting - 6:30 p.m. Study Session/7:30 p.m. Business Meeting

- Councilor Henderson suggested, and Mayor Dirksen agreed, that attention will be called to Consent Agenda Item C whereby the council is anticipated to approve a resolution to extend worker's compensation insurance to City of Tigard volunteers.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:48 p.m. to discuss real estate transaction negotiations and to consult with legal counsel regarding pending litigation under ORS 192.660(2) (e) and (h).

1. BUSINESS MEETING - JULY 24, 2012



A. Mayor Dirksen called the meeting to order at 7:37 p.m.

B. Roll Call:

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

C. Pledge of Allegiance

D. Council Communications & Liaison Reports

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

2. CITIZEN COMMUNICATION

- A. Follow-up to Previous Citizen Communication

City Manager Wine advised that Mr. John Frewing came before the City Council last week and offered testimony as it relates to the urban forestry code revisions, which is before the council later tonight. The comments from Mr. Frewing were entered into the record and are still under legal review by staff.

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

 Mayor Dirksen reviewed the Consent Agenda:

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board)

- A. Approve City Council Meeting Minutes for:

1. May 15, 2012
2. June 12, 2012

- B. Reappoint Linda Monahan to a four-year term on the Tigard Library Board effective July 1, 2012 through June 30, 2016

RESOLUTION NO. 12-28 -- A RESOLUTION RE-APPOINTING LINDA MONAHAN TO THE TIGARD LIBRARY BOARD FOR A FOUR-YEAR TERM EFFECTIVE JULY 1, 2012 THROUGH JUNE 30, 2016.

- C. Approve Workers' Compensation Insurance for City Volunteers

RESOLUTION NO. 12-29 -- A RESOLUTION EXTENDING CITY OF TIGARD'S WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY.

- D. 2nd Quarter Council Goal Update

- E. Local Contract Review Board:

1. Authorize the Mayor to Execute an Amendment to an Intergovernmental Agreement with the Oregon Department of Transportation

Councilor Henderson commented on Item C. He said this insurance is needed to provide coverage for volunteers.

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City Recorder Wheatley requested the City Council approve an amendment to the June 12, 2012, minutes on Page 18 to add the phrase, “with technical adjustments as presented” at the end of the motion adopting Resolution No. 12-23.

Motion by Council President Buehner, seconded by Councilor Henderson, to approve the Consent Agenda with the amendment to the June 12, 2012, minutes as noted.

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

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



4. AUTHORIZE AN AGREEMENT WITH METRO AND THE PURCHASE OF THE FIELDS PROPERTY

Parks Facilities Manager Martin asked the City Council to authorize the City Manager to enter into an assignment agreement with Metro on the purchase of the Fields’ property. Metro has a Purchase and Sale Agreement that is contingent upon Tigard entering into the agreement for the purchase of the property. This property was on the parks acquisition list and was rated fairly high by the Park and Recreation Advisory Board. The property consists of 25.69 acres and there is a portion at the southwest corner where Fanno Creek flows through the property. Property owned by Metro to the south of this property consists of 12 acres and it will remain a natural area.

Motion by Councilor Henderson, seconded by Councilor Woodard, to adopt Resolution No. 12-30.

Council discussion: Council President Buehner said she has no problem with the concept of buying this piece of property; however, she has concerns about process issues that she feels were left out. As a result, she advised she would abstain from voting on this resolution.

Mayor Dirksen said this property purchase has moved forward quickly. The city has looked at this property for a long time, but considered it to be unattainable. The property status suddenly changed and the city was in a position to acquire the land. He said he considers having the opportunity to bring this property into public ownership and to the city’s inventory is “truly a dream come true.” This piece of property will be a centerpiece for the City of Tigard’s park system providing access and connections to the Fanno Creek Trail. He noted the property contains a riparian corridor, densely forested areas and open uplands.

Councilor Woodard said he thinks there is a lot of potential for this property, which offers a great deal of useable land. It will serve Tigard residents well.

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Councilor Henderson referred to the piece of property to the south owned by Metro. These two properties can be utilized together. As future trails are built, this will be a great union between the city and Metro.

Mayor Dirksen advised the cost of the property is \$5 million for which the city is committing \$2 million -- \$1 million of the city's share will come from systems development charges and \$1 million will come from the parks bond measure proceeds adopted by Tigard voters a couple of years ago. The city is grateful for the partnership with Metro in the purchase of this property.

Councilor Henderson advised that PRAB rated this parcel very high on their list based on public input, but it was unattainable because funds remaining from the park bond were dwindling. He expressed gratitude to the PRAB members for their hard work in compiling a comprehensive list of potential park lands.

City Recorder Wheatley read the number and title of the resolution:

RESOLUTION NO. 12-30 -- A RESOLUTION AUTHORIZING AN ASSIGNMENT AGREEMENT WITH METRO AND THE PURCHASE OF THE FIELDS PROPERTY (TAX LOT 2S1010001200) AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTION TO COMPLETE THE PROPERTY PURCHASE ON BEHALF OF THE CITY.

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

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



5. PUBLIC HEARINGS - URBAN FORESTRY CODE REVISIONS LAND USE AND NON LAND USE ELEMENTS

Mayor Dirksen read the title and description for the proposal under consideration.

**- URBAN FORESTRY CODE REVISION PROJECT -
COMPREHENSIVE PLAN AMENDMENT (CPA) 2011-00004
DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002**

REQUEST: To implement the city's Comprehensive Plan as recommended by the Urban Forestry Master Plan, the City of Tigard is proposing a Comprehensive Plan Amendment adopting the "Significant Tree Groves" Map and Tigard Development Code (Title 18) Amendments to Chapters 18.115, 18.120, 18.310, 18.330, 18.350, 18.360, 18.370 18.390, 18.530, 18.610, 18.620, 18.630 18.640, 18.715,18.745, 18.775, 18.790, and 18.798.

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- (Non Land Use Elements) In addition, in support of the Title 18 amendments, amendments are proposed to the Tigard Municipal Code (TMC) Chapters 1.16, 6.01, 6.02, 7.40, 8.02 through 8.16, 9.06, and 9.08.

LOCATION: Citywide. **ZONE:** Citywide. **APPLICABLE REVIEW CRITERIA:** City of Tigard Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals 1, Citizen Involvement; 2, Land Use Planning; 5, Natural Resources; 6, Environmental Quality; 7, Hazards; 8, Parks Recreation, Trails and Open Space; 9, Economic Development; 10, Housing; 11, Public Facilities and Services; 12, Transportation; 13, Energy Conservation; and 14, Urbanization; METRO’s Urban Growth Management Functional Plan Titles 1, 3, 12 and 13. Statewide Planning Goals 1, 2, and 5 through 14.

A. URBAN FORESTRY CODE REVISIONS - LAND USE ELEMENTS

B. URBAN FORESTRY CODE REVISIONS - NON LAND USE ELEMENTS

 Mayor Dirksen opened the public hearing for the urban forestry code revisions for the land use and non land use elements. The revisions under consideration tonight and scheduled for several additional meetings represent a comprehensive package. The legal process for the land use and non land use elements is different, but for the purposes of council discussion and public testimony, both elements will be processed together.

 City Attorney Hall said any person may offer relevant oral and/or written testimony. Oral testimony may be offered only by a person who has been asked to speak by the mayor. Members of the City Council will be asked whether they have any potential conflicts. A council member with a potential conflict of interest may participate after fully describing the potential conflict. An actual conflict exists if the decision would result in financial benefit to the council member or a family member. In cases of actual conflict, the council member will not participate.

After the discussion of conflicts, any person may challenge participation of a council member based on an actual conflict or failure to disclose a potential conflict. The council member in question may respond to such a challenge.

After the discussion of conflicts and any challenges, city staff will summarize the written staff report and identify applicable standards. Then, those in favor of the proposed amendments will testify followed by those who oppose the amendments or have questions or concerns. Council members may ask the staff and witnesses questions throughout the hearing until the record closes.

After all testimony is taken, the city staff can make a closing statement.

After the record is closed, the City Council will deliberate. During deliberations, the council may reopen the public portion of the hearing, if necessary, to receive additional evidence before making a decision. A copy of the rules of procedure for the hearing and copies of the agendas

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for today's hearing are available at the entrance. The staff report of this hearing has been available for viewing and downloading on the city's website and a paper copy of the staff report has been available at city hall.

A person must testify orally or in writing before the close of the public hearing to preserve the right to appeal the council's land use decisions to the Land Use Board of Appeals. Failure to raise an issue clearly enough so that council understands and can address the issue may preclude raising the issue on appeal.

Please do not repeat testimony offered by yourself or earlier witnesses. If you agree with a statement of an earlier witness, please just state that and add any additional points of your own. Demonstrations from the audience that prolong or interfere with the hearing are prohibited. Please refrain from them. Comments from the audience, other than from a recognized speaker, should not be offered and will not be part of the record.

When you are called to testify, please come forward to the table. Please begin your testimony by giving your name, spell your name, spell your last name, and give your full mailing address, including zip code. If you represent someone else, please say so. If you have any exhibits you want the council to consider, such as a copy of your testimony, photographs, petitions or other documents or physical evidence, at the close of your comments you must hand all new exhibits to the City Recorder. These exhibits will be marked as part of the record. The city staff will keep exhibits until appeal opportunities expire and then you can ask for the return of your exhibits.

When giving oral testimony, please feel free to address any issues that you see or would like to give comments for both the land use and non land use elements of the urban forestry code.

 Mayor Dirksen asked if there were any councilors who wished to declare a real or potential conflict of interest. Councilor Henderson said he owns a business and house that has trees on the property. He holds a builder's license, but he is not a developer. Councilor Henderson said he has spoken to some people in the community about how many trees they would like to have. Councilor Henderson said he did not believe he had any conflicts of interest.

 Council President Buehner advised she is a real estate and land use lawyer who represents some developers. She has had no contacts regarding this matter.

 Mayor Dirksen commented that all City Council members live in the city and likely all have trees on their property and will be impacted by the decisions made on this matter. The council members would be impacted no more or less than anyone in the community; therefore, there is no conflict of interest.

 Mayor Dirksen asked if there was anyone present who would like to challenge a member of the council as to having a real or potential conflict of interest regarding this issue. There were none.

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Mayor Dirksen reviewed the timeline planned to proceed through this legislative process.

- The council will receive the staff report tonight on the entire package. The council will take public testimony tonight. Council will voice initial comments or ask for clarification of issues that have arisen during the council members' study of the documents or as a result of the testimony heard tonight.
- The public testimony will be closed tonight; however, the public hearing will not be closed. The hearing will be continued to August 14, 2012, at which time the City Council will hold a workshop to provide an opportunity for the council to meet with staff and with the Planning Commission members who have already heard testimony from the public. At this workshop meeting, attendees will discuss what they have heard and what changes might be needed. Public testimony will not be taken at the August 14 meeting; however, the public is welcome to attend to hear the discussion.
- Another workshop is scheduled for September 11, 2012, for the purpose of receiving a staff report on issues of interest that came up during the August 14 meeting as well as council direction to staff on potential changes.
- On October 23, 2012, the public hearing will continue and there will be another opportunity for public testimony after everyone has had a chance to digest all the discussion and information.
- A meeting is tentatively scheduled for November 27, 2012, to hold the final public hearing, close the public hearing and determine if City Council is ready to consider the package for a vote.



Mayor Dirksen announced that copies of the above timeline are available at the entrance to the Town Hall should anyone want to take one to keep track of the process.



Associate Planner/Arborist Prager presented the staff report using PowerPoint slides during his presentation. A copy of the slide presentation is on file with the meeting packet. Key points follow:

- There has been community interest in revising the city's urban forestry code. The council chose to direct a study of community values and the existing urban forest conditions to set a framework for addressing the code.
- The initial process began during the Comprehensive Plan update, which established broad, 20-year goals and policies in the new urban forest section of the Comprehensive Plan.
- The Comprehensive Plan gave direction to develop an Urban Forestry Master Plan, which expanded upon those goals and policies and studied the issues in greater detail.
-  The long-term goal in the Urban Forestry Master Plan is to increase citywide tree canopy from the current 25 percent to an aspirational goal of 40 percent.

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- The short-term action items include:
 - Revise the city’s urban forestry codes and funding streams in support of the long-term goal.
- It is time to consider revisions to both the land use and the non land use elements of the code and create an urban forestry manual to implement the details of the code. Also, the Master Fees and Charges Schedule will need to be updated to cover costs associated with administering the code.
- Reviewed the five main categories of the project:
 - Urban Forestry Standards for Development and Tree Grove Preservation Incentives (land use elements)
 - Tree Permit Requirements
 - Hazard Trees
 - Urban Forestry Manual (non land use elements)
 - Administrative rules (Urban Forestry Manual) that will implement the code details for land use and non land use code requirements
- The Urban Forestry Standards would apply to major development projects, such as subdivisions, planned developments and site development reviews. The main issue identified with the existing code is the fact that property owners with existing trees are subject to much greater requirements (such as mitigation fees) than property owners without trees. There was much discussion about how to address this equity issue. The Development Code revisions are focused towards addressing the equity issue with more even-handed standards that apply to all development equally and result in a reasonable amount of tree canopy after development is complete.
-  Reviewed the tiers of canopy requirements. An incentive was built in for preserving existing trees, since they would be granted 200 percent bonus canopy credit based on their existing canopy size.
-  There is also a built-in incentive for planting native trees, by allowing 125 percent bonus canopy credit based on their mature canopy growth.
-  There is an incentive for maximizing street-tree planting. Street trees are granted full canopy credit, even though half of their canopies hang over streets, which are excluded from the percentage of canopy calculations.
- Reviewed the component of refining the planting requirements for street trees and parking lot trees to assure adequate soil volumes. This is critical for these trees to achieve their full, mature canopy size.
- Reviewed the creation of a discretionary review track. An applicant could propose alternative green building or development techniques, such as installing solar panels or meeting green street standards instead of planting or preserving trees.
- When all various credits and standards for calculating the canopy requirements are taken into account, the results from planting and preservation would fall with the ranges described for the tiers reviewed. The tiers have been peer reviewed using actual site plans by outside experts. The Planning Commission found they strike the balance between trees, development and open space.  Examples of the peer review were summarized and presentation slides were used to illustrate these examples.

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-  Tree grove preservation incentives are for major development projects; i.e., subdivisions. Seventy large groves of primarily native trees covering 527 acres of land area were identified. Of the 527 acres, there are 131 acres on what is considered buildable lands. The groves on buildable lands are the most vulnerable to development and are the focus of the preservation incentives. (One of these groves was purchased by the City Council earlier in tonight’s meeting.)
-  The primary preservation incentives include allowing a waiver of minimum density requirements to preserve these groves.
- There is an incentive that would allow density transfer from the tree grove to the non tree grove portion of a site to cluster development away from the tree grove. Elements were reviewed.
-  For commercial and industrial development, the primary preservation incentive would be an allowed increase in building height in order to preserve tree groves.
-  All preservation incentives would be contingent on permanent preservation of the grove through methods such as creating a tree preservation tract for grove placement. Examples were reviewed.
- Reviewed the non land use elements beginning with the tree permit requirements. The primary purpose of the code is not to regulate any additional tree situations or required tree permits. The purpose is to increase the clarity, consistency and scientific basis for making decisions when issuing tree permits.
-  Tree permits would apply to the already regulated tree types of street median trees, native trees in sensitive lands, trees required by a prior development permit, trees planted using the urban forestry funds and heritage trees.
-  Tree requirements are scattered throughout the code. The recommendation is to consolidate requirements into a new Title 8.
-  Decisions regarding tree permits would fall into two major categories.
 - City Manager decisions would be implemented administratively by staff without public review and would cover simple situations such as when trees are in poor or hazardous conditions, a nuisance or “weed” type trees, causing damage to structures/infrastructures or in the way of allowed development.
 - City board or committee decisions would be implemented through a public review process for the more complex and nuanced situations where the reasons for tree removal are less clear. This board/committee would be authorized to use their discretion to weigh the benefits of the tree and reasons for removal when issuing their decision.
-  Reviewed the “hazard trees” category. Issues identified in the existing code include an unclear definition of what a hazard tree is and a lack of clarity about the city’s role in hazard tree situations between two private property owners.
-  The definition of hazard trees has been revised to be consistent with the standardized point rating system developed by the International Society of Arboriculture.
-  When there are disputes between private property owners regarding hazard trees, clear evidence must be presented that efforts were made to resolve the issues before

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involving the city. If the city becomes involved, a third-party arborist would be hired to conduct an independent evaluation to lend an objective voice to the situation and limit the city's legal exposure. If the third-party arborist determines there is a hazard, abatement of the hazard would be ordered to be completed within a specific timeframe.

- Associate Planner/Arborist Prager confirmed for Mayor Dirksen that tree permits would not apply to trees in existing, established neighborhoods on private property. If you are not required to get a permit for your trees currently, then you would not be required to obtain a permit under the proposed code amendments.
- Council President Buehner asked who would make the decision whether a property owner can remove a tree on their property on a newer subdivision. She said as she reads the proposed regulations, the rule would deny property owners' requests to cut down trees on their own property without replacing them for the first two years of occupancy. Associate Planner/Arborist Prager said in this case, there is flexibility written into the proposed regulations. Currently, there is no flexibility to make those modifications formally in the code.  The prior land use approval would have to be reevaluated and amended. The proposal is for the city to allow those types of changes to occur through an administrative process or a Type I permit process, which would be a staff-level decision. Council President Buehner suggested the proposed regulation would take the right of a private property owner to do what they want on their own property with regard to the number of trees on their property. Associate Planner/Arborist Prager said this would be addressed through the tree permit requirement – the current code would require that property owner to amend the land use decision for the overall subdivision, an expensive and time-consuming process. He clarified that the existing code is more onerous.

Mayor Dirksen summarized that the first two years after the development is built, the property is considered to be development property even though the new homeowner has moved in. During that period the developer is still responsible for the survival of the trees (existing and newly planted trees).

Associate Planner/Arborist Prager said after this two-year period, if the property owner wants to remove a tree(s), the proposal would not require an amendment to the land use approval but to go through a separate permit approval process, not part of the land use process. This permit approval would be administered either by city staff or by a designated board/committee. The proposal is less onerous than the process stipulated in current code language. Council President Buehner commented that the current code language is not being enforced.

Assistant Community Development Director Hartnett clarified that currently, if a property owner wants to remove a tree that was included in an approved subdivision, that property owner is told he/she has two choices.

1. Amend the subdivision (a significant land use decision).

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2. Go through the “illegal tree removal process.” (Property owner cuts the tree down and the city fines the property owner.)

Assistant Community Development Director Hartnett says the above two options are not good. With the proposed regulations staff has tried to:

- o Place a clear time limit on how long the development aspects of a new tree exists – this is unclear at this time.
- o Provide regulations so someone now has the option to remove or replace/relocate the tree through a process before a city board/committee.

Mayor Dirksen commented on the hearing procedure tonight and clarified:



Requesting clarification on the intent of the proposed code is appropriate. Discussion and proposals for adjustments to what is in the draft documents, would be more appropriate at a later meeting.

Associate Planner/Arborist Prager continued with his staff presentation:

- Reviewed the Urban Forestry Manual, which consists of the administrative rules that implement the details of the code. The council is requested to enable administrative rulemaking for the Manual through the adoption of Chapter 8.02 of the Tigard Municipal Code. Once enabled by the council, the city manager would be authorized to adopt and amend the Urban Forestry Manual according to the public process described in Chapter 2.04 of the Tigard Municipal Code.
- Summarized the draft code before the council tonight:
 - o For development, the code is focused on quality rather than quantity of trees. In testing, staff found there would often be less trees but more strategic locations when compared with the existing code.
 - o For the tree grove preservation incentives, the code is focused on incentives and flexible standards rather than the punitive standards (for tree removal) in the existing code.
 - o For the tree permits, the code is focused on being more user friendly by consolidating and not regulating additional tree situations beyond what is currently regulated.
 - o For hazard trees, the focus is to resolve these situations in an objective and efficient manner.
 - o The Urban Forestry Manual is intended to implement the details of the code sections.
- On May 7, 2012, the Planning Commission made a unanimous recommendation for council approval of the land use elements of the proposal. They also advised council that the non land use elements are consistent with and supportive of the land use elements.
- During the Planning Commission process, the commissioners made several key changes to the proposal, including:

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- Granting 125 percent canopy credit to encourage the planting of native trees. This credit also had the effect of lowering the canopy requirements by 20 percent for projects that use native trees.
- Reducing the canopy requirements for higher density residential development and allow canopy to be measured for the overall development site rather than individual lots for higher density residential and non-residential development. The purpose for both of those changes was to strike a balance between trees, development and open space.
- Allowing either landscape architects or arborists to develop urban forestry plans for development. The purpose of this change was to reduce development costs by eliminating the need for hiring two urban forestry professionals for one project.
-  In the Planning Commission’s transmittal memorandum to the council, the amount of time and effort spent to consider public testimony and improvements to the proposal were highlighted.
-  The plan tonight is to receive public testimony, provide some initial feedback to staff and continue the hearing to August 14, 2012.
-  On August 14, the council will have an extensive discussion with the Planning Commission about the testimony council receives tonight about the overall project.
-  At the close of the August 14 meeting, the council will have an opportunity to identify issues of interest and direct staff to bring back more information or possible code changes.
-  The entire project record is available electronically in the meeting room should the council need additional information from this record.

 Council Questions:

- Associate Planner/Arborist Prager, in response to a question from Councilor Woodard, advised the tree fund provides the ability for the city to plant about 200-250 trees per year. The number of trees planted through efforts of volunteers in riparian corridors is about 15-16,000 trees per year. Associate Planner/Arborist Prager clarified that the amended code requirements would only apply to trees planted/funded by the urban forestry fund. Councilor Woodard noted concerns about the cost and sustainability of the tree fund. In Volume I, Page 33, Councilor Woodard read,

“While the committee was initially split on the issue, they did reach consensus that the city should continue to restrict the use of the current tree mitigation funds to planting and three years of early establishment. The rationale was the development community paid fees with the expectation that the funds would be used for planting trees, and that using those for expanded purposes would be inconsistent with that real or perceived commitment. However, the committee did agree that the revised code should allow for future funds collected to be used for a broader range of urban forestry activities.”

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If the allowed use of the funds expands beyond a certain point, he is concerned about where the funding will coming from. Councilor Woodard advised he does not know the costs associated with the proposed expansion in scope into the future.

Mayor Dirksen said he recalled earlier discussions. There is no land left to do mitigation plantings. The proposal to expand represents a way to utilize this fund. Councilor Woodard said he had no problem with redefining the usage of the funds, but said his concerns relate to the increasing number of trees that would require attention. As this matter develops and information is prepared, Councilor Woodard said he would like to see some numbers associated with this part of the proposal.

City Manager Wine referred to a future opportunity to bring to the council the Capital Improvement Program profile, which includes the tree canopy replacement program and the efforts in place to aid healthy streams – these are different efforts from what is before the council this evening and are funded separately.

- Associate Planner/Arborist Prager confirmed for Councilor Henderson that testimony is available in the hearing room through computer access. These electronic files are not available online but are available through a records request. Councilor Henderson said he would like the record from tonight’s hearing to be available for Councilor Wilson’s review. Assistant Community Development Director Hartnett commented that the council sessions are available through TVCTV access online and she understands Councilor Wilson plans to review the proceedings accessing the TVCTV website. The key documents that make up the project record are available on the city’s website. The entire record, which includes all documents on this project, has not been posted online; however, it is available should someone make a records request.
- Council President Buehner referred to the TVCTV scheduling for the City of Tigard on cable access.
- Councilor Woodard noted his concern with the proposed language in the ordinance (land use document):

“...Statewide Planning Goal 5...limit or prohibit uses that conflict with the inventoried natural resources...”

He said he could not see any deliberation that uses the above terminology. Mayor Dirksen suggested this could be an item for legal staff review to determine compatibility between this document and the Goal 5 record.



Public Testimony:

Proponents:

- Justin Wood, Home Builders Association of Metropolitan Portland, 15555 SW Bangy Road, Lake Oswego 97035. In addition to being a Government Affairs Director of the

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Homebuilders, Mr. Wood is a builder and is currently building two houses in Tigard. Mr. Wood's remarks included:

- Thanked staff for hard work with all the stakeholders to reach a fair and equitable outcome. He had expressed concerns and several of those were addressed.
 - In general he supports the Urban Forestry Code as it is a significant improvement over the current practice. The code does a good job of encouraging preservation through incentives as opposed to penalties. It also removes the responsibility of the city trying to plant trees with mitigation funds.
 - The plan does add some cost to development. In many cases the costs are less than the cost of developing the treed lots with mitigation fees. However, when a lot is free of trees, there are significant costs because there are no mitigation costs to work around.
 - While he supports the overall project, resolving a couple of issues would create a better, more workable plan:
 - 40 percent coverage goals – he believes this to be a little high. He worked with Portland when they revised their tree plan and the goal they settled on was 33 percent. 40 percent creates a fairly heavily treed lot when the canopy is mature. He agreed with Council President Buehner that it is difficult to plant rose bushes or do other things once you have a 40 percent (fully matured) canopy. He suggested starting at a smaller canopy percentage such as 25 percent as a test for five years to see how this works.
 - Arborist plan requirements on all lots – he referred to Associate Planner/Arborist Prager's comment that the 40 percent canopy coverage can be achieved on a small lot (5,000 sq. ft.) by planting a street tree. If that is the case, he suggested that planting a street tree be made a condition of the building permit. The tree type could be from a pre-approved list of street trees so one would not need to go to the expense of hiring an arborist.
 - Agreed with Council President Buehner that homeowners might remove trees after they take possession of the house. He referred to the proposed requirement that the developer would be held responsible if there is no tree.
 - Referred to the requirement for arborist visits during construction every two weeks. He thinks the same goal would be served if the arborist visits the construction at the beginning and the end of the project.
 - Referred to tree grove preservation requirements and whether reduction in densities were going to be allowed. This should be factored into the housing forecasts and the anticipated growth.
-
- Ken Gertz, 19200 SW 46th Avenue, Tualatin, OR 97062. Mr. Gertz is a homebuilder and developer. He served on the Citizen Advisory Committee that worked on the proposed tree code. He said he is a proponent of the proposal as it is a great

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improvement. The new code would allow for modifications to be made to a plan without going to an appeal process.

Mr. Gertz referred to a proposal that the Forestry Manual be added as an approval criteria and he said this was a bad idea. He suggested additional documents would provide a source for people to find loopholes. Mr. Gertz participated in a recent open house where about 500 people were polled for input on what they thought was a reasonable canopy requirement. Not one person thought 40 percent was reasonable. Results of the poll were from “nothing” up to 30 percent. A tree plan for a small lot is “silly” since the trees will have to be removed and street trees planted or a landscape plan for a planned unit development.

He agreed with Council President Buehner that there is a problem that once the home is turned over to the new homeowner, the builder has no control over the health/viability of the tree. He would like to be released from the obligation of the tree’s viability once the home is sold. The new code will provide more trees so even if some trees are removed after the home is sold, the net result will still be for more trees overall.

There are many things in the design manual that will cost developers a great deal of money. For example, the cost is at least \$1,000 a tree for a tree vault. Nevertheless, he feels the efforts will be worthwhile.

Mr. Gertz said he likes the flexibility of the proposed code as this has been lacking for a long time. He noted his appreciation for the staff’s work and while no one is totally happy with the final proposal, he thanked the staff for doing an outstanding job.

The current code, because of the mitigation factors, encourages developers to clear cut their property prior to development. He said it is horrible. The proposed code encourages people to save the trees.

Councilor Henderson asked Mr. Gertz whether he has experienced times where homeowners have added trees after they purchased the property. Mr. Gertz referred to a project where fir trees were planted on all the lots and almost all were removed and replaced with a different type of tree. One of the things that should be understood within the code, is that people will have the ability to move or change trees with approval or payment for mitigation. He disagrees with the amount of mitigation required.

Mr. Gertz described for Councilor Henderson some of the setback requirements in the proposed code and the complications for infill development. He suggested a solution would be for canopy averaging for a development, which he thinks has been added to the proposal. He questioned whether 40 percent tree canopy was a good number.

In response to a question from Council President Buehner about his concerns regarding the tree manual (containing design criteria), Mr. Gertz said there has been some support

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by a member of the CAC to codify the manual. His solution is to keep the proposal as it is, with the tree manual being used as a guideline for submittal with the code specifying approval requirements. Council President Buehner asked Mr. Gertz if he could provide the City Council with written testimony on his specific concerns.

- Paul Whitney signed up to testify but was not present.

Opponents

- Robert Ruedy, 14185 SW 100th Avenue, Tigard OR 97224. Mr. Ruedy distributed written testimony and exhibits to the City Council. His remarks included:
 - During his initial review of the proposed changes, he had concerns about hazard trees and solar access.
 - First response from city staff was that there were no existing solar protection provisions, so this subject was not going to be addressed.
 - He referred to building application forms whereby solar access elements are mentioned; however, there is no way to protect the solar access should a property owner install an expensive system.
 - He referred to a State of Oregon Administrative Rules addressing solar installation and he questioned whether the city was lagging behind in protecting solar access.
 -  He said he was frustrated with the response that the Planning Commission did not want to address the hazard tree issue. The current plan will place the homeowner between the insurance company and the city. The insurance company might stipulate a hazard tree should be removed while the city might deny the request to cut the tree down. There is no enforcement capability stipulated in the proposed code if there is a hazard tree on a neighbor's property.
 -  Tree height restrictions – many CC&R's require tree heights to be maintained no higher than the height restrictions on the properties. The purpose is to avoid infringing on view lines. This is not taken into account in the proposed code.

 Council President Buehner referred to previous solar restrictions in the City of Portland that have since “gone out of fashion.” She said she thinks it is time for the city to recognize the solar issues.

 Council President Buehner said she was the one who initially brought forward the hazard tree concerns noting three trees have fallen on her house. There are some fire insurance policies that will help pay for the cost to remove a tree if the city or regulatory jurisdiction declares a tree to be a hazard. She agreed that the proposed language needs to be stronger with regard to enforceability.

 Mayor Dirksen said Mr. Ruedy's point about solar protection is well taken. He said he is unsure whether this has been addressed in the new code or, perhaps, it could be addressed in a different section of the code. He said solar installation is a viable

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alternative to tree planting. A neighbor obstructing the solar access is a separate issue and needs to be discussed.

 Mr. Ruedy referred to Councilor Woodard's earlier concerns about the Goal 5 verbiage. Mr. Ruedy maintained this is very close to "land takings" subject to legal challenges.

Councilor Woodard noted he is uncertain how the proposed language to allow solar access in lieu of tree planting would be applied for new development vs. established development. He noted a process for discretionary administrative board review, but he would like to know more about how this would work.

 Mr. Ruedy said he would like to see more flexibility in reducing the number of cars allowed on properties; i.e., flex car systems, car share.

 Mayor Dirksen asked if there was anyone who would like to speak who had not signed up. He reiterated there will be additional opportunities to speak.

 Mayor Dirksen closed the testimony portion of the proceeding for tonight. The public hearing is not closed and is held open through the scheduled October or November meetings. By closing tonight's testimony, if a person comes back to testify, the testimony should be new – not a repetition of what has been heard tonight. Written testimony is encouraged and people do not have to wait for a meeting to submit written input.

 Councilor Woodard received clarification that minor partitions consist of less than four units. Associate Planner/Arborist Prager advised that the 40 percent requirement for Tier 1 is averaged over the entire development site. For lower density residential development, the Planning Commission recommended retaining a minimum amount of canopy for each lot at 15 percent; i.e., a 15 percent minimum per lot in low-density residential development. Assistant Community Development Director Hartnett explained that a site can consist of multiple lots. She offered to bring maps to the August 14 meeting to illustrate canopy requirements.

Council President Buehner asked for information from staff for the August 14 meeting to show canopy coverage received from street trees in various lot sizes.

Assistant Community Development Director Hartnett asked a local firm, AKS, to perform a peer review of the proposal as presented to the Planning Commission. AKS did further analysis on modifications as discussed through the Planning Commission's process. The Planning Commission found it helpful for representatives to attend a meeting to work through details. Council members agreed it would be beneficial for staff to ask AKS members to come to the August 14 meeting.

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Council President Buehner commented that at the future City Council meeting, she will define the issues she has with canopy cover and hazard trees. She referred to the administrative rules recently, which are up for revision. She said she needs to know what changes are being proposed.

Mayor Dirksen encouraged council members with specific questions/issues to give those to staff in advance if possible.

Council President Buehner asked for follow up to Mr. Gertz' concerns on the tree manual. She also called attention to further consideration to solar access and tree-height limits.

Councilor Henderson asked for any information in the Tigard code that deals with solar access. He would also like some information so the need for solar access can be evaluated.

Associate Planner/Arborist Prager clarified that the 40 percent canopy requirement can be confusing and the canopy can be reduced to a much lower amount.

Council President Buehner said she would be interested in information to clarify how the proposed code provisions would apply when doing infill with two or three houses in an established neighborhood.

Assistant Community Development Director Hartnett reminded council that the goal for the August 14 meeting is to discuss with the Planning Commission similar issues as raised by the council tonight. Much of the clarification-of-issues information will be prepared for and discussed at the September 11, 2012 meeting.

Mayor Dirksen continued the public hearing to August 14, 2012. The meeting format for August 14 will be a workshop with the Planning Commission; no public testimony will be received but the public is welcome to attend to listen to the discussion and feedback. More public testimony will be accepted at a future meeting.



6. COUNCIL LIAISON REPORTS



In response to a request for information from Council President Buehner, City Manager Wine reported that an employee who suffered from a heart attack is now home and resting comfortably.

7. NON AGENDA ITEMS: None

8. EXECUTIVE SESSION: Not held.



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9. ADJOURNMENT: 9:33 p.m.

 Motion by Councilor Woodard, seconded by Councilor Henderson, to adjourn the meeting.

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

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

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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City of Tigard
Tigard City Council Meeting Minutes
August 14, 2012

• STUDY SESSION

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

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

Staff present: City Manager Wine, Assistant City Manager Newton, Public Works Director Koellermeier, Utility Division Manager Goodrich, City Engineer Stone, Senior Transportation Planner Gray, City Attorney Hall, City Recorder Wheatley

A. Discuss Council Groundrules

Assistant City Manager Newton presented the information on this agenda item. Current groundrules require the council to review the rules in July or August each year. Last summer when Assistant City Manager Newton was serving as City Manager the decision was made to include the groundrules discussion as part of the goal-setting meeting once the new city manager was appointed.

A list of proposed amendments to the groundrules was submitted to the council in February 2012. No action was taken on the list.

Assistant City Manager Newton noted the upcoming election for mayor/council candidates. She proposed a couple of options:

- Time has been set aside on the August 28 meeting for the council to discuss groundrules, or
- Council could discuss groundrules during its goal-setting discussion after the November election.

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Assistant City Manager Newton suggested that if the council would like maximum flexibility regarding the timing of groundrules discussion, the council could revise the groundrules resolution to remove the July/August dates and indicate there would be an annual groundrules review.

Councilor Wilson said he would like to hold a groundrules discussion when new councilors begin their term. An every-other year review is enough. Council President Buehner agreed with Councilor Wilson and Mayor Dirksen noted an every-other year review would coincide with council elections.

Mayor Dirksen advocated that it would be best to have a specific date mentioned in the groundrules regarding the timing of the review. Council President Buehner suggested the date be for every-other year in conjunction with goal setting.

Mayor Dirksen noted that the groundrules could be reviewed at any time, but a specified review date would be important.

Councilor Henderson said he is not in favor of an every-other year review. He would prefer the rules be reviewed on an annual basis as a refresher for council members to reflect on the rules guiding how they should treat one another. He said he currently has seven issues with the groundrules. He said he would favor holding a short session to review the rules. He agrees with others that the current timing for groundrule review is not good and would like to have the review occur when new council members join. He referred to a specific section now in the groundrules that provides that the council will host an event for potential mayor or council candidates regarding what is involved in serving on the council.

Councilor Henderson also referred to problems he perceives with regard to the city charter and a need for further council discussion. There are questions with regard to interpretation and voters' intent.

City Manager Wine said if there are specific issues/sections of the groundrules identified by the council tonight, staff could take that list to set time aside at a future meeting for a more in-depth council discussion.

Councilor Henderson said he would like to have a review of provisions with regard to not only how council members treat each other, but also how the council treats members of the community. He reiterated a desire for an annual groundrules' review and said that a January review would be acceptable. Council President Buehner and Mayor Dirksen suggested the review occur in December when the council reviews its goals and incoming councilors can attend and exiting councilors can assist with the discussions. Councilor Henderson said this was a great idea.

Mayor Dirksen requested that council members give staff a list of issues they would like to discuss with regard to groundrules.

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Councilor Woodard brought an issue forward that needs to be discussed now. He contacted legal counsel on the following statement in the rules:

- o Council members, as private citizens, may support political candidates or issues but such activities must be done separate from their role as a council member.

City Attorney Hall noted the above provision is on Page 11 of the current groundrules and there is a similar statement on Page 8:

- o Council members may support a person running for office but they must declare this is an individual endorsement and not in their official capacity as council member.

All City Council members indicated they had endorsed candidates. Mayor Dirksen noted this is done around the region with individuals identifying themselves by the positions they hold. Mayor Dirksen suggested the council consider an amendment to the groundrules to allow council members to use their position titles for purposes of identification when endorsing a political position or candidate.

City Attorney Hall acknowledged updated language could be written for council's consideration to indicate endorsements could be made by the mayor and council members (including their title) with it noted that such endorsements were from the individual.

Additional groundrules discussion, with a proposed amendment as noted above, will be before the City Council on August 28, 2012.

Councilor Woodard said he would agree to a once-a-year groundrules review. Mayor Dirksen suggested that each year as the groundrules are brought forward for review, if there are no outstanding issues, the council could agree to simply receive a copy of the groundrules and not necessarily hold a formal discussion.

Track 3:

- B. Briefing on a Draft Cooperative Improvement Agreement (CIA) with Oregon Department of Transportation and Wal-Mart

Engineering Manager McMillan presented the staff report on this item. She referred to the CIA and a map showing the proposed improvements. She said conditions of approval are under review for the project. She reviewed the proposed improvements, which are outlined in the agreement. Wal-Mart representatives are working on obtaining permits; however no permits will be issued until all three parties, Tigard, ODOT, and Wal-Mart have entered into the agreement.

One provision of the agreement is for Wal-Mart to provide medians with landscaping on Highway 99. The City of Tigard will maintain the landscaping.

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Signalization responsibilities are outlined in the agreement.

Engineering Manager McMillan advised the Building Department has completed most of its review required through the permitting process. ODOT will need to issue permits they require before the city will issue any permits. She estimated the earliest date for issuance of permits will be mid-September at the earliest. Council President Buehner requested updates and Engineering Manager McMillan agreed she could provide these when appropriate in the council's weekly mail packet.

Council President Buehner commented that the planned improvements are significant and care must be taken to work with businesses in the area so they can continue to operate during construction. Engineering Manager McMillan said an informal staff task force was assembled by the City Manager and one component of the task force's responsibility is to manage public involvement with Wal-Mart and their consultant(s).

City Manager Wine pointed out the City of Tigard is not the lead agency for this project, but to the extent we can coordinate with the parties during the improvement, we will do that. Wal-Mart will take the lead on public involvement.

In response to a question from Councilor Wilson, Engineering Manager McMillan advised she is fairly certain all right of way needed has already been acquired by Wal-Mart. Council members agreed that staff needs to be accessible and prepared to coordinate issues the public might have regardless of whether or not the city is the lead agency on the project.

In response to a comment by Councilor Henderson, Engineering Manager McMillan explained that as a result of this project, Highway 217 will be widened with one additional lane to Beveland. There will be a bottleneck from Beveland to Dartmouth Avenue on Highway 217 – this project is listed on the Capital Improvement Program (CIP) five-year list. The widening of 217 from Dartmouth to 99W is on the CIP list, but is further out; that is, this segment is not on the five-year list.

Additional transportation improvements underway in this area were discussed briefly.

The CIA is scheduled on Council's Consent Agenda next week; however, it is under review at the Department of Justice and might not be ready by then. Staff will likely move this forward to the next business meeting.

- C. DISCUSS POTENTIAL LIGHT RAIL REFERENDUM (This item removed from Study Session to the Executive Session.)

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D. Administrative Items: City Council and the City Manager reviewed the administrative items.

- City Council members received a transcription of a telephone message from John Schmidt, 10960 SW Fairhaven Street, Tigard, OR regarding his objections to the rehabilitation center for drug and alcohol at 10975 SW Park Street.
- City Council members received a revised resolution for Agenda Item No. 5, Initiate the Transfer of Jurisdiction of Certain County Roads to the City of Tigard. Changes include formatting changes as well as revised wording to describe this segment of road to be transferred:
 - SW 113th Avenue, from Durham Road south to the Tigard city limits...

Original wording was: SW 113th Avenue, south of Durham Road...

- Council Calendar
 - August 21, Tuesday Council and CCDA meeting, 6:30 p.m. Town Hall
 - August 28, Tuesday Council Business Meeting, 6:30 p.m., Town Hall
 - September 3, Monday Labor Day Holiday, City Offices Closed
 - September 4, Tuesday City Center Development Agency, 6:30 p.m. Red Rock Creek Conference Room
 - September 11, Tuesday Council Business Meeting, 6:30 p.m. Town Hall

Mayor Dirksen read the purpose of the Executive Session:

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 7:04 p.m. to discuss real property transaction negotiations, exempt public records and consultation with legal counsel regarding potential litigation, under ORS 192.660(2) (e) (f) and (h).

Executive Session concluded at 7:34 p.m. Council met again in Executive Session after the business meeting from 9:37 p.m. to 10:51 p.m.



1. BUSINESS MEETING

A. Mayor Dirksen called the meeting to order at 7:40 p.m.

B. Roll Call

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

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C. Pledge of Allegiance



D. Council Communications & Liaison Reports: None.

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

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication  City Manager Wine referred to recent citizen communication received from Myron Robinson, Executive Director of the Portland Poker Players Association. There is interest in reviewing the likelihood of the City of Tigard allowing or regulating social gaming in the city. City Manager Wine reported that she and Mayor Dirksen met with Mr. Robinson and a community restaurant owner. This topic is scheduled for City Council discussion at its September 18, 2012 workshop meeting.

B.  Tigard Area Chamber of Commerce – Chamber CEO Debi Mollahan presented an update on recent and future activities. A copy of her report is on file in the meeting packet.

C. Citizen Communication

Mayor Dirksen acknowledged persons who signed up to speak on the sign-in sheet for this portion of the agenda. Upon request by the mayor, those who signed in agreed to have one person speak and then if there are additional comments to make, others could address the City Council.

 Maria Copelan, 10885 SW Derry Dell Court, Tigard OR 97223 – She reported there is a home adjacent to the backyard of her property that was recently purchased by a couple who have rented the home to a person who runs a “501c3” (non-profit business) called Fairhaven. This is a “clean and sober home.” She said it is a group home for men who have had former addictions.

There are currently three men living in the house. She understands there might be up to five men living there; no permits or notice requirements apply.

She reported these men are in the backyard much of the time and her teenage daughters are very uncomfortable and avoid spending time in their backyard.

The home is within a thousand feet of a preschool, elementary school and a private school. In addition the bus stop for the middle school and high school is adjacent to this property. Ms. Copelan said she has contacted Tigard-Tualatin School District and asked that the bus stop be moved.

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 In the month since this home opened, there has been an incredible amount of mischief in her neighborhood. Mail has been stolen (with debris of the mail scattered along Park Street and in Woodard Park). The neighbors have filed police reports. Also, there have been incidents of entries into people's garages – tools were stolen. An RV was trespassed with evidence that someone was smoking in the RV. Ms. Copelan clarified she could not say these activities were done by the residents in this home.

 Ms. Copelan presented three questions to the City Council:

1. She understands no application is needed for this facility because it is a group home of five people or less. Is it possible that the zoning laws could be amended so that children foster care or elderly care facilities would not be required to file an application, but homes for men and women who have had addictions should at least be required to inform the neighborhood. Could the zoning be reviewed since the home is so close to school properties and a bus stop?
2. Now that the city knows this facility is at this location, is there any way for the city to monitor? She said she does not know if there is a counselor or a general manager to make sure these men are working on recovery and whether there are outside visitors (former “drug pals”) coming to the site. She said the person sponsoring the facility, John Liebertz, has seven such homes and she said there might be additional homes in the community that no one is aware of.
3. She asked that the city mediate a meeting between the neighbors and Mr. Liebertz. She and the neighbors would like to ask him questions about the operations of the home.

 Mayor Dirksen commented that he was impressed that Ms. Copelan has done research into this situation. He advised the City Council has only just become aware of the situation. He acknowledged there are certain types of group homes that do not require any kind of permit or regulation. At present, the council has no way of knowing whether this home meets these requirements or not. The city staff will investigate to determine the circumstances and if there are any legal issues. The mayor advised there are certain types of group homes that cities are not allowed to regulate or limit (Fair Housing).

 Mayor Dirksen said in response to Ms. Copelan's first question, if the home does come under the cover of the state law that does not allow cities to regulate, then “no, we cannot change the zoning.”

 Mayor Dirksen addressed Ms. Copelan's second question regarding who is monitoring the residents and what are the requirements for such monitoring. He said the city would find out.

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 Mayor Dirksen addressed Ms. Copelan’s question about mediation. Typically when these types of group homes are put into place, the city talks with the person who is supervising the facility and work towards establishing a relationship between them and the city (specifically, the Police Department) to make sure everyone is being held to the right standard as a preventative measure.

Mayor Dirksen said the city will look into this matter in greater detail to make sure all the codes and requirements are being followed. When the city learns more, he said he thought Ms. Copelan’s idea of mediation meeting between this home and the neighborhood was an excellent idea. The city will work towards setting this or something like this up.

 Mayor Dirksen asked if there were people present who have additional issues to bring up on this matter. In response to a question from a person in the audience, City Manager Wine said staff would immediately look to find out the owner’s name, the operator’s name and the nature of the facility’s use. Ms. Copelan agreed to be the contact person for the neighbors for the city staff to relay information as it is revealed, including whether a mediation or facilitated discussion session could be scheduled. In the past, City Manager Wine said a “Good Neighbor Agreement” was drawn up. Mayor Dirksen commented that this process has been used successfully with similar facilities in neighborhoods in the past. Ms. Copelan noted her appreciation for the proposed follow up.

Mayor Dirksen reviewed the Consent Agenda: 

3. CONSENT AGENDA: (Tigard City Council)

A. RECEIVE AND FILE:

1. Council Calendar
2. Tentative Agenda

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

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4. PUBLIC HEARINGS CONTINUED - URBAN FORESTRY CODE REVISIONS LAND USE AND NON LAND USE ELEMENTS - WORKSHOP FORMAT WITH PLANNING COMMISSION AND STAFF (NO PUBLIC TESTIMONY ACCEPTED AT THIS HEARING OR A CONTINUATION HEARING DATE TENTATIVELY SCHEDULED FOR SEPTEMBER 11, 2012. ADDITIONAL PUBLIC TESTIMONY WILL BE ACCEPTED AT ANOTHER CONTINUATION HEARING DATE TENTATIVELY SCHEDULED FOR OCTOBER 23, 2012)

**- URBAN FORESTRY CODE REVISION PROJECT -
 COMPREHENSIVE PLAN AMENDMENT (CPA) 2011-00004
 DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002**

REQUEST: To implement the city’s Comprehensive Plan as recommended by the Urban Forestry Master Plan, the City of Tigard is proposing a Comprehensive Plan Amendment adopting the “Significant Tree Groves” Map and Tigard Development Code (Title 18) Amendments to Chapters 18.115, 18.120, 18.310, 18.330, 18.350, 18.360, 18.370 18.390, 18.530, 18.610, 18.620, 18.630 18.640, 18.715,18.745, 18.775, 18.790, and 18.798.

(Non Land Use Elements) In addition, in support of the Title 18 amendments, amendments are proposed to the Tigard Municipal Code (TMC) Chapters 1.16, 6.01, 6.02, 7.40, 8.02 through 8.16, 9.06, and 9.08.

LOCATION: Citywide. ZONE: Citywide. APPLICABLE REVIEW CRITERIA: City of Tigard Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals 1, Citizen Involvement; 2, Land Use Planning; 5, Natural Resources; 6, Environmental Quality; 7, Hazards; 8, Parks Recreation, Trails and Open Space; 9, Economic Development; 10, Housing; 11, Public Facilities and Services; 12, Transportation; 13, Energy Conservation; and 14, Urbanization; METRO’s Urban Growth Management Functional Plan Titles 1, 3, 12 and 13. Statewide Planning Goals 1, 2, and 5 through 14.

- A. URBAN FORESTRY CODE REVISIONS - DISCUSSION OF LAND USE ELEMENTS
- B. URBAN FORESTRY CODE REVISIONS - DISCUSSION OF NON LAND USE ELEMENTS

Planning Commissioners present: Tom Anderson, Calista Fitzgerald, Jason Rogers, Don Schmidt

- Continuation of public hearing from July 24, 2012. Mayor Dirksen advised that while this is a public hearing and the city encourages the community to be present, no public testimony will be accepted at this hearing or the continuation hearing date tentatively scheduled for September 11. Additional public testimony, based on the council’s discussion over the next couple of meetings will be accepted at another continuation hearing date tentatively scheduled for October 23, 2012.

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- *Tentative Schedule for Urban Forestry Code Revisions (copies of following schedule were available at the entrance to Town Hall for public):*

Meeting Date	Meeting Type	Meeting Purpose
Aug 14, 2012	Council Public Hearing (workshop format) (no public testimony)	<ul style="list-style-type: none"> • Staff report summarizing public testimony from July 24th public hearing. • Recommendation from and discussion with Planning Commission; and • Council direction to staff on issues of interest for further study or possible code changes.
Sep 11, 2012	Council Public Hearing (workshop format) (no public testimony)	<ul style="list-style-type: none"> • Interactive staff report on issues of interest; and • Council direction to staff on possible changes.
Oct 23, 2012	Council Public Hearing (public testimony)	<ul style="list-style-type: none"> • Staff report based on council direction from prior meeting; • Public testimony on any changes under consideration; and • Potential council decision on adoption of any changes and entire package.
Nov 27, 2012	Council Public Hearing (public testimony)	<ul style="list-style-type: none"> • Additional meeting in similar format as previous meeting if needed.



- Associate Planner/Arborist Prager presented the staff report.
 - At the July 24 City Council hearing, a range of testimony was received on both the land use and non land use elements of the proposal. The council provided preliminary feedback to staff. All of this information has been captured and summarized in the meeting materials contained in the council packet.
 - The hearing was continued from July 24 to tonight so the council could have a discussion with the Planning Commission and to direct staff regarding additional issues of interest.
 - Later in the meeting, there will be an opportunity to provide feedback to staff on the issues of interest for further study or possible code changes. These will be discussed in more detail at the September 11 meeting.
 - The preliminary issues of interest, stated at the July 24 meeting, have been compiled into a chart. Those issues were labeled as:

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- (I) Informational – Issues the council asked for more information.
 - (C) Possible code changes.
 - (P) Big picture policy issues – those major policy changes.
 - During the first part of the meeting tonight, there will be an opportunity for discussion with the Planning Commissioners on their recommendation to council regarding the urban forestry code revisions.
 - Mr. Prager suggested the council might want to have a discussion with the commissioners on their perspective relating to issues that came up on July 24, since the Planning Commission wrestled with many of these issues during their hearing process.
 - Mr. Prager commented on the time allowed for tonight’s discussion and City Manager Wine clarified that 60 minutes has been allotted for this discussion. On September 11, there will be an opportunity to have a more detailed discussion on all issues.
 - Mr. Prager said proposed code changes will be brought to the council for its consideration on October 23 and public testimony will be accepted. The September 11 meeting will be a workshop-style discussion.
- Planning Commissioner Schmidt addressed the City Council. He referred to the Planning Commission hearing process on this matter. He said the commission’s goals were to create a recommendation to the council on a balanced plan for consideration. The commission process was lengthy.
 - Mayor Dirksen said he was expecting to hear an overview of what the commission heard during public testimony and whether issues were responded to and addressed satisfactorily in the proposed code.
- Planning Commissioner Schmidt said one of the biggest issues articulated by the development community related to the 40 percent canopy requirement. This requirement was controversial throughout the Citizens Advisory Committee process and Planning Commission discussions. Changes were made to the canopy requirements including alternatives such as preservation and making other options available through a tier system to allow a reduction to the 40 percent requirement.
 - Mayor Dirksen said his understanding of the now-proposed canopy cover requirements include different basic cover requirements depending on housing density. There are other ways to adjust the required canopy cover; i.e., existing trees, street trees, etc.
 - Mayor Dirksen said there was some misunderstanding from people who testified with regard to their belief that the city wanted a 40 percent canopy, on average, for every kind of zoning. The goal is to achieve a 40 percent canopy for the entire city, including park areas that might have 80-90 percent coverage.
-  Commissioner Fitzgerald said when the canopy issue came up at the Planning Commission, there was a misunderstanding that was clarified when staff demonstrated how this might be applied to individual properties. She shared how her property would be affected as an example. When street trees were included, it appeared to be quite easy to meet

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the canopy requirement. The 40 percent number is an “overall” number; there is no such percentage requirement for every property.

-  Council President Buehner said that street trees are fine, but said you could not grow roses and plants that need a lot of sunlight.
- Council President Buehner said when this issue came up at the City Council two-three years ago, the council was concerned about canopy in parking lots and commercial facilities. The council was not talking about private residential property. Somehow the canopy coverage morphed from parking lot canopy to canopy over the entire city. This was not the intent when the council sent it forward for review. The proposed canopy is at least ten percent above the canopy rules for the City of Portland. Trees cannot be removed on newer properties if there are limitations on the property without going through a permit process and said this was a “taking.”
- Commissioner Fitzgerald commented that the current code stipulates a penalty to be paid if a tree is removed on property. Council President Buehner explained that this issue came up several years ago when a committee she was serving on was discussing landscaping in the context of planned unit developments and the Goal 5 discussion.
- Councilor Wilson said he shared Council President Buehner’s concerns. More  discussion is needed but suggested discussion move forward onto other items. Mayor Dirksen agreed that an issue has been identified by at least one councilor regarding a concern of a misunderstanding about the goal for achieving a 40 percent canopy cover – whether on public property or for the city as a whole. This issue needs background information collected for a future discussion.
-  Councilor Wilson advised he submitted a list of comments to the city manager. He said it appears there was a disconnection between the goals the council started with and what we ended up with. He said the council inserted a sentence into the Comprehensive Plan stating that nothing in the plan should mean the city is regulating people’s private landscapes. He referred to a survey that indicated that people are generally satisfied with the amount and quality of trees in their neighborhood and citywide.
-  Commissioner Rogers said since the issue was initially sent to the commission from the council, there was a public process through the Citizen Advisory Committee and the Planning Commission. The matter is now before the council, which is the third part of the process. The council has the power, if it does not agree with the 40 percent canopy or other things, to change them during its proceedings.
- Council President Buehner said her problem was with the disconnection between what was asked for and what was worked on by the Planning Commission.
- Commissioner Rogers acknowledged Council President Buehner’s concern; however, he thought tonight’s discussion was to be focused on the process followed by the Planning Commission. He reiterated that if the council does not agree with the 40 percent number to “fix it.” There are other topics that have come up.
- Council President Buehner referred to a list of issues she prepared. Mayor Dirksen asked Council President Buehner to present a synopsis of her issues. She reviewed:
 - Canopy – original intent by the council.

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- Taking – when Goal 5 was adopted, this was a major issue in the context of the PUD committee she was serving on.
 - Panel for tree removal – who will be on the panel.
 - Manual – should it be codified.
 - Solar access issues – not provided to the Planning Commission.
 - Street trees – what kinds are appropriate; should they be deciduous or evergreen.
 - Hazard trees – problems she has raised previously that are inconsistent with the new code just adopted a few months ago.
 - Tree planting standards – thinning – types of trees that grow into pipes – how to deal with that.
 - Balanced representation of interests.
 - What kind of soil amendment standards will be forced on new property owners to maintain trees – a significant cost.
 - Trees on northern slopes where light needs to be maximized.
 - Tree height – what is appropriate.
 - Views – do people have a right to a view.
 - City Attorney Hall responded to the use of the word “taking” within the context of this project. This is a “loaded term” that can mean a lot of different things. In the constitutional sense, he does not believe this is what is before the council insofar as it is presented in the provisions proposed for tree canopy percentages or defining a process for tree removal. A taking from a regulatory perspective would require the city to deprive someone of all economic use of their property. There are valid policy discussions to be had about how many trees are required and what the process is for allowing people to remove trees. If the property remains developable, we are not at risk of committing a regulatory taking for which the city would have to compensate a property owner.
 - Mayor Dirksen acknowledged the depth of concern expressed by Council President Buehner, but for the sake of clarity with regard to the “disconnect” between what council directed and what she feels staff has returned with – he said, and Council President Buehner agreed, she was not saying there was an intentional effort to circumvent the direction of the council.
- City Manager Wine noted the intent was to bring forward council issues. She referred to Commissioner Rogers’ point about the Planning Commission presentation regarding what they had heard beyond the tree canopy issues and the process the commission followed.
 - Councilor Woodard advised he attended some of the meetings where the Planning Commission was reviewing this matter. He would like to hear more about the process and agreed the council might have concerns that they will need to address. Overall, he said he thought the Planning Commission public process went well. At the request of Mayor Dirksen, Councilor Woodard summarized his concerns:
 -  Councilor Woodard referred to costs associated with the proposed urban forestry program. By using information contained in Volume V, he

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was concerned about the costs of implementing this program and the costs to sustain it. He suggested an exercise to look at the proposal that has come to the City Council from the Planning Commission along with what the City Council would like to see in the program – he said he believes this will show that this program is too expensive.

- Councilor Woodard also commented on funds coming into the urban forestry fund and the expansion of what the funds will be used for; i.e., care and maintenance for trees planted by the city for three years after the planting. He spoke of defining how the fund will be replenished and whether the program was sustainable – how to tie these two mechanisms together. In response to a comment by Mayor Dirksen, Councilor Woodard said he would like to go through the exercise because it appears to him that the program would cost \$1.2 – 1.5 million. He said he likes some of the land use provisions of the proposed code changes, but the changes are too far-reaching into business and private ownership.
- Councilor Woodard referred to the administrative rules proposed for private property – he said he has a huge problem with this.
- Councilor Henderson said he concurred with much that has been expressed by the councilors. He was concerned about new development proposals insofar as the choices preferred by future homeowners were not considered. He thinks the canopy requirement should be cut in half. A person buying a home should be able to landscape as they want. He said he did not think the city was deficient in tree canopy.
-  Planning Commissioner Anderson said their biggest concern was to address mitigation, which has been an issue for years. The proposed code revisions would work well for mitigation because if there is a grove or cluster of trees on a large development, that cluster can remain, which would mean several property sites might not need to have any trees. This was good because it would reward developers who keep clusters of mature trees. The commission reviewed several developments in recent years and compared them to the new canopy approach and it turned out to be less onerous on developers. The Homebuilders were “on board” with these revisions – Ken Gertz of the Homebuilders Association (HBA) participated in the process and gave some good input. The HBA was not totally on board with the 40 percent canopy requirement, but this can be reviewed. All the developments reviewed met the requirements provided for canopy in the proposal. One of the commissioners does not like a lot of canopy creating a “dark town.” Allowing the street trees to be taken into account was helpful.
-  Planning Commissioner Rogers said the commission spent a lot of time talking about mitigation and the canopy cover. Costs were not addressed as the commissioners felt this would be a council decision. The questions about administrative rules versus the code were not addressed by the Planning Commission and suggested this could be explored more when

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the City Council and staff have a discussion on September 11. He indicated that the commissioners had many of the same concerns that have been expressed by the council tonight but became comfortable with the end results (i.e., staff showing them drawings of what the canopy cover would look like on their own properties, current and new developments). He said the proposed revisions are not perfect; however, these were vetted through the public process.

-  Council President Buehner said that three of the council members attended all of the Planning Commission hearings on this subject. She acknowledged the hard work of the Planning Commission in its review of this matter. Her underlying concern was that the commission was dealing with an issue that was not what the council intended to have reviewed.
-  Councilor Wilson said he agreed with the provisions in the Master Plan. He recently reviewed the Volumes II – V and concurred with most of the land use elements with the proposal. Councilor Wilson said he started to get “bogged down” when he reviewed the Forestry Manual. He said the manual addresses non-existent issues and said we should not try to create a fix for non-existent problems.

Councilor Wilson commented on his perspective as a landscape architect with 25 years of experience in many jurisdictions, including those in other states. When reviewing the requirements in the proposed revisions, he wondered how he could comply. The proposal is very complicated. If he were to work in Tigard, his fees would more than double. The proposals need to be substantially simplified. If adopted, the proposed code would be the most complicated of any city, with the possible exception of San Diego.

Currently, a consultant/landscape architect would be required to do a landscape plan and a tree protection plan. The proposal adds a canopy plan, a soil plan and a special report. This work will raise costs for owners. The impact to small projects will be huge.

The Forestry Manual lists a number of restrictions regarding where trees cannot be placed. As a landscape architect, it is difficult at times to find places to put them. With further constraints, it becomes unworkable. The most extreme restriction was the 30-foot distance of a large tree away from a building, but this is done all the time. He questioned how the public would be served with the proposed code.

Councilor Wilson said he does not know why trees should be limited to a handful listed by the city.

Councilor Wilson referred to the distinction between stand-grown trees and isolated trees. He understands this when discussing native groves of trees, but there is no distinction from a landscape designer’s view in that there might be a reason to plant a small grove of trees. He said he does not know why it would be in the public’s interest to limit creativity.

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 Planning Commissioner Fitzgerald and Councilor Wilson discussed their differences in opinion on whether the new provisions allow more or less creativity than the current code.

 Councilor Wilson said he is in favor of the city getting involved with hazard tree abatement; however, he is not in favor of saying all hazard trees within the City of Tigard shall not be allowed to stand. The city is the largest property owner within the city and we are not going to go through all of our lands and identify every hazard tree and remove it. In reality, except in a storm, any individual's chance of being harmed by a falling limb or tree is small. He said he researched this for statistics and found that tree cutting is one of the more hazardous professions. The irony is that requiring property owners to remove trees can present more safety risks. However, he said it is important that if someone cannot sleep at night because they are worried about a neighbor's tree falling on their house, that they ought to have some recourse. He referred to an experience where some beautiful trees were cut down because they were identified as hazardous trees but, in his opinion, they were viable trees. With this proposal, a lot more good trees will be cut down than are necessary.

 Councilor Wilson said there is no practical reason to specify sheet sizes and scales with regard to written submittals. We are in the "pdf world" and such requirements will add cost.

 Councilor Wilson said he strongly supports ensuring adequate soil volumes. He said this is where the council discussion on this matter started – our parking lot tree requirements are not working. We have thirty years' experience and the trees planted are not growing. The code should address this problem but he recognizes this will be expensive.

 Councilor Wilson said he would like more discussion about the concept of nuisance species. As an example, he said Norway maples are an important landscape tree; however they are starting to appear on nuisance lists. From his research he said it appears these trees are a problem in New England where they are out-competing the sugar maples; however, we do not have native sugar maples. He said he has not heard of any evidence where these trees have been a problem. He pointed out there is no authority on nuisance trees. There are lists of so-called experts who place trees on lists – there's no adjudication process, no data or agreement on what a nuisance species is. There is a federal definition that he would like to adopt – or something similar. Councilor Wilson said he would like to see a process whereby things are nominated, where the data is provided and it is clear. There are cases where plants have altered ecosystems, but there is also common naturalization, which he does not think is a problem.

 Councilor Wilson said the proposed code requires a landscape architect or arborist visit a site every two weeks. He noted how expensive this would be for a project that would take a year or longer to build. He would favor that the arborist/landscape architect inspect before grading takes place. Councilor Wilson said he has never seen a case where an

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architect or a consultant is held civilly responsible for not showing up on a visit; however, this requirement is in the proposed code revisions.

 In response to a question from Mayor Dirksen, Councilor Wilson said he has shared this list with staff, noting the last two points he raised are new.

 Council President Buehner advised she does not disagree with Councilor Wilson comments on hazard trees. Her goal is to create a situation to incentivize removal of trees in the case where a few trees are left in a subdivision where there used to be a number of trees. She said she has had three trees fall on her house. There is no provision in the current code to allow people get hazard trees removed who might have insurance coverage that would assist with the cost.

 Mayor Dirksen said it was his desire to achieve a 40 percent canopy for the entire city. He said he thinks it is achievable without placing an onerous burden on developers or private property owners. He agrees with the rest of the council that they need to craft the code so it does not restrict private property owners from being able to use the property as they wish. He shares Councilor Woodard's concerns about financing program. To achieve the 40 percent goal, the city will have to take the lead in finding ways to re-canopy areas of the city; e.g., parking lots. It will be difficult for private owners or commercial interests to retrofit to achieve the canopy goal; therefore, the city will need to have a program to help make this happen. The city needs to look for ways to finance this effort. One issue with the sustainability of the program is that is open ended – the goal would be to strive to achieve the canopy coverage over a period of time.

 Councilor Woodard agreed with the mayor regarding goal achievement over a period of time. He suggested looking at a smaller scope. Mayor Dirksen said the canopy approach is a good one because it addresses what is desired rather than defining steps that might lead to what is desired.

 Mayor Dirksen said he did not think the code revisions are as burdensome as some of the councilors have shared. He said he will need to review the proposals again. Canopy requirements for different levels of development are valuable tools. He referred to the ways to mitigate the 40 percent coverage requirement and he thinks this would work.

 Mayor Dirksen asked some questions for staff to research with regard to what he has heard from people who testified at the last meeting. One person expressed concern whether or not the approach of separating the administrative rules from the development code meets state requirements. He called for submitting the proposed code to state officials for review and then advise whether it meets state requirements.

 Mayor Dirksen said he heard a concern with regard to the Tree Manual (administrative rules) and whether there are statements within the manual that would open the door to

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increased appeals based on interpretation. He asked for the city attorney's office to review this. He suggested a scenario approach might shed some insight on whether this would become an issue.

 Councilor Wilson commented on the canopy approach. He said he liked the idea of using the canopy approach to set goals, but was less fond of this approach as a regulatory tool because no one really knows how big a canopy will become in practice. He would rather see the city use the canopy goal as a tool. He prefers the focus to be on healthy trees.

 Mayor Dirksen said he understands what Councilor Wilson is saying, but he is not sure how to achieve this. He likes where the existing groves have been identified along with finding ways to incentivize/reward developers and property owners for preserving while at the same time allowing for full development rights. This should be the city's main goal.

 Commissioner Rogers commented on the process and agreed with Mayor Dirksen that the larger "chunks" have been dealt with and now it is up to the council to fine tune. Again, he said it will not be a perfect tool when the code revisions are in place and there will be refinements needed over the years.

 Councilor Wilson acknowledged Commissioner Fitzgerald's question about why council concerns were not expressed earlier. He agreed the process has been lengthy. It would have been good to see the proposed language revisions earlier in the process.

 Council President Buehner said she has long felt it important for the City Council and Planning Commission to hold joint workshops so the two bodies have opportunity to communicate directly.

 Councilor Henderson thanked the commission for speaking with the greater public and listening to the people including the representatives from the Homebuilders Association.

 Council President Buehner thanked the Planning Commission for its hard work.


5. INITIATE THE TRANSFER OF JURISDICTION OF CERTAIN COUNTY ROADS TO THE CITY OF TIGARD - RESOLUTION

Assistant Public Works Director Rager presented the staff report.

The city and Washington County worked together on the River Terrace annexation. As part of this work, some details need to be addressed in an Intergovernmental Agreement. Part of the agreement was that both Washington County and city staff identified several roadway segments that are presently under county jurisdiction, but are under existing Tigard city limits. Staff felt it would be

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appropriate to initiate the transfer of jurisdiction of those segments. Assistant Public Works Director Rager reviewed the list as also shown in the agenda item summary. Staff is recommending the council adopt the proposed resolution to initiate the transfer of jurisdiction of the listed roads.

 Mayor Dirksen noted that some of the roads are unimproved or in poor condition. One of the conditions of the agreement is continued coordination with the county to bring those roads up to the basic city standards. Assistant Public Works Director Rager noted the county recently overlaid 113th Avenue in a section the city will be taking over – this was promised by the county and it is now done.

 Councilor Woodard said his only concern was whether the county would help with the cost to bring the roads up to standard. Council President Buehner said last summer the county did an overlay of Bull Mountain Road on and beyond where the city will be taking over jurisdiction.

 Councilor Wilson noted he is opposed to this type of IGA; however, he will be voting yes. Mayor Dirksen stated he understands that Councilor Wilson is concerned about the city accepting responsibility for these roads, but recognizes this is a prior commitment. Councilor Wilson agreed the mayor stated his concerns correctly. He said the city has been taking responsibility for county roads for a long time. This means that the gas taxes collected from Tigard citizens are spent in other places. The county does not maintain anything but county roads; however, we are all county citizens and paying into the gas tax fund. Later in the discussion, Councilor Wilson reviewed his understanding of how the gas tax monies are paid to counties and very little is spent on urban roads, resulting in an equity issue.

 Council President Buehner said that one of the issues is that Tigard has, by far, the highest percentage of roads transferred from the county, whereas, cities such as Hillsboro have taken almost none of the county roads. This means Tigard citizens pay for these roads in the urban road maintenance program and this is a problem.

 Councilor Henderson said there is more than just a money issue. There are agreements that need to be maintained and it is important for us to work with Washington County for our community.

 Mayor Dirksen said in the future, as we work with our city partners and the county, this issue needs to be addressed. Other cities should be held to the same level of financial responsibility as has been asked of the City of Tigard.

City Recorder's Note: the proposed resolution was replaced by a new version distributed to the City Council during the study session held earlier this evening.

Motion by Council President Buehner, seconded by Councilor Woodard, to adopt Resolution No. 12-31.

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RESOLUTION NO. 12-31 - A RESOLUTION INITIATING ACTION TO TRANSFER JURISDICTION OF CERTAIN COUNTY ROADS (SEGMENTS OF SW BARROWS ROAD, SW FRIENDLY LANE, SW ROSHAK ROAD, SW BULL MOUNTAIN ROAD AND SW 113TH AVENUE) WITHIN THE CITY OF TIGARD TO THE CITY OF TIGARD

The motion passed 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. ACCEPT THE FINAL REPORT OF THE TIGARD HIGH CAPACITY TRANSIT LAND USE PLAN - RESOLUTION



Senior Transportation Planner Gray presented the staff report, which included PowerPoint slides. She said she has been before the council several times on this topic. She said she does not have new information but asked if the council had any comments or questions. She gave a brief overview of the plan highlighted on the slide presentation and outlined in the agenda item summary.

Council members expressed appreciation for Senior Transportation Planner Gray's work on this project and for the outcome, which is now being utilized by a number of neighboring jurisdictions.



Motion by Councilor Wilson, seconded by Council President Buehner, to adopt Resolution No. 12-32.

RESOLUTION NO. 12-32 - A RESOLUTION ACCEPTING THE FINAL REPORT OF THE TIGARD HIGH CAPACITY TRANSIT LAND USE PLAN FOR THE PURPOSE OF INFORMING FUTURE TIGARD PLANNING ACTIVITIES

The motion passed by a unanimous vote of City Council present:

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

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7. COUNCIL LIAISON REPORTS – Council members recently attended neighborhood events held for National Night Out and had positive comments. Mayor Dirksen commented there were 18 events in the city, which was more than the entire City of Portland. City Manager Wine said she valued the feedback and comments received while attending these gatherings.



8. NON AGENDA ITEMS: None

9. EXECUTIVE SESSION: Citation read by Mayor Dirksen below.



10. ADJOURNMENT – 9:31 p.m.

Motion by Council President Buehner, seconded by Councilor Woodard, to adjourn the business meeting.

Mayor Dirksen announced that the Tigard City Council will go into Executive Session under ORS 192.660(2)(h) for consultation with legal counsel regarding potential litigation. (9:32 p.m.) 

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – AUGUST 14, 2012



City of Tigard

Tigard City Council Meeting Minutes

September 11, 2012

TIGARD CITY COUNCIL/LCRB

MEETING DATE/TIME: September 11, 2012 – 6:30 p.m.
MEETING LOCATION: City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

- **STUDY SESSION**

Council Present: Mayor Dirksen, Councilors Henderson, Wilson, Woodard and Buehner
Staff Present: City Manager Wine, Assistant City Manager Newton, Risk Manager Mills, Deputy City Recorder Krager

- **EXECUTIVE SESSION:** At 6:30 p.m. Mayor Dirksen called the meeting to order and read the citation to announce that the Tigard City Council would be entering into Executive Session to consult with counsel concerning the legal rights and duties with regard to current litigation or litigation likely to be filed, under ORS 192.660(2) (h).

Executive Session ended at 7:15 p.m.

ADMINISTRATIVE ITEMS

- Mayor Dirksen gave background on a request for Tigard to support the Tualatin City Council changing the name of the Tonquin Trail in Tualatin to the “Ice Age Tonquin Trail.” Council agreed to consider a resolution at a future meeting.
- Mayor Dirksen said there is a CCDA (City Center Development Agency) meeting scheduled for November 6, 2012, which is also Election Day. He asked council members if they prefer to hold the CCDA meeting as scheduled or postpone any items to a future meeting. City Manager Wine noted there are no agenda items scheduled. Council agreed to cancel this meeting. Any urgent CCDA items that arise will be heard at the October 2 or December 4 CCDA meetings.

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- Council discussed the schedule for tonight's continued public hearing on Agenda Items No. 5 and 6 – Urban Forestry Code Revision Comprehensive Plan Amendment (CPA) 2011-00004 and Development Code Amendment (DCA) 2011-00002

Mayor Dirksen noted that Council was given copies of additional comments, which have been added to the record.

- A) Letter, dated September 5, 2012, from Brian Wegner, Tualatin Riverkeepers
- B) Email, dated September 5, 2012, from Justin Wood, Home Builders Association of Metropolitan Portland
- C) Letter, dated September 11, 2012, from Robert E. Ruedy

Council President Buehner said she was concerned about timing and covering all of this material tonight. Mayor Dirksen said if needed, the council we will continue discussion to a future date. City Manager Wine said the Issues of Interest were developed from council's questions and comments raised at the last meeting. She said she and Interim Community Development Director McGuire will make sure they captured council's concerns accurately and that anything new from tonight is added. She said they want to focus on the standards for development section because it is the foundation of the code revision. She said Planning Commission Chair Walsh's presentation may answer some of the questions.

City Manager Wine brought up two procedural points. Ninety minutes have been scheduled for this agenda item and there is a council groundrule that says council will check in with each other at 9:30 p.m. to see how the meeting is going. She said at either point council may decide to postpone remaining discussion until the next public hearing.

- The THS Student Envoy will most likely not be in attendance tonight.
- Mayor Dirksen noted that Councilors Woodard and Henderson had questions regarding an item on the consent agenda and asked them if they wanted it pulled for separate discussion. Councilor Woodard requested a chance to comment on this item but did not want it pulled for separate discussion.

The Study Session ended at 7:21 p.m.

TIGARD CITY COUNCIL MEETING MINUTES – September 11, 2012

BUSINESS MEETING

1. BUSINESS MEETING – September 11, 2012

- A. At 7:31 p.m. Mayor Dirksen called the meeting to order.
- B. Deputy City Recorder Krager called the roll:

	Present	Absent
Councilor Woodard	✓	
Councilor Wilson	✓	
Council President Buehner	✓	
Mayor Dirksen	✓	
Councilor Henderson	✓	

- C. Pledge of Allegiance
- D. Council Communications & Liaison Reports – Councilor Woodard reported on a Parks and Recreation Board meeting. He gave an update on parks acquisition and concept planning. There will be a celebration at the Fields property in early October; Metro is working out the details. A request was made to put park updates on the website. He noted that the ballroom property on Commercial is available and could be used for a city recreation program.

Councilor Woodard described a presentation given to PRAB by recreation consultant Vince Ardit which outlined what a city recreation program can accomplish. He said advice given is to use available resources and sculpt the program to the resource availability and what citizens want. He recommended the presentation be viewed by the entire council when they are ready to consider a recreation program.

There was discussion on the rotary club and donated fitness equipment. In response to a question from Mayor Dirksen, Councilor Woodard said it would be appropriate for installation along a walking trail.



Mayor Dirksen reported on the Washington County Coordinating Committee meeting. He said they are on a very short timeline to get an ACT (Area Committee for Transportation) together to accept federal funding through ODOT. Washington County will make recommendations on project priorities but this does not preclude cities from applying directly. He noted that Tigard Senior Transportation Engineer McCarthy was at the meeting and will prepare a list of projects for the state and county lists.

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In response to a question from Councilor Woodard, Mayor Dirksen said a prioritized list is being developed through the CIP.

- E. Call to Council and Staff for Non-Agenda Items – Councilor Woodard said he wanted to discuss the Vision Action Network (VAN) at the end of the meeting.

2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- A. Follow-up to Previous Citizen Communication – City Manager Wine said a group of Park Street neighbors will attend a facilitated meeting this Thursday evening with the operator of Fairhaven Homes and the Assistant City Manager. There will be a forum for questions and answers.
- B. Tigard High Student Envoy (not present tonight)
- C.  Tigard Area Chamber of Commerce Chief Executive Officer Debi Mollihan spoke about upcoming chamber activities. The Tigard Farmers Market is open for a few more weeks and the last day is Sunday, October 28. She said the Chamber launched a new website that is very member and community friendly. There is an events calendar and people can schedule the meeting room online. The new Chamber Directory will be released in October.
- D. Citizen Communication: No one signed up to speak.

3. PROCLAMATION – Mayor Dirksen

Mayor Dirksen noted that today is the 11th anniversary of the terrorist attack on the United States. He requested there be a moment of silence in honor of those who lost their lives on that day.

Mayor Dirksen proclaimed September 17-23, 2012, as Constitution Week, the 225th anniversary of the signing of the Constitution.

Council President Buehner noted that today is the City of Tigard's 51st birthday.

4.  CONSENT AGENDA: Mayor Dirksen gave a synopsis of the consent agenda items.

- A. Receive and File:
 - 1. Council Calendar
 - 2. Tentative Agenda

TIGARD CITY COUNCIL MEETING MINUTES – September 11, 2012

B. Approve City Council Meeting Minutes for:

1. July 10, 2012

Local Contract Review Board:

C. AWARD A CONTRACT FOR TELEVISION INSPECTION SERVICES OF THE CITY'S SANITARY SEWER LINES TO PACIFIC IN-R-TEK

Councilor Woodard commented regarding this contract and said he realizes the service is critical but preventive maintenance should have been in the forecast and thus part of the budget. Mayor Dirksen said it is unusual that it is in the supplemental budget.

City Manager Wine said there was a glitch in the budget development process and it got missed. She said that through the intergovernmental agreement with Clean Water Services the city is obligated to check every sanitary sewer and storm water line every seven years.

Councilor Henderson requested that when the first quarter supplemental budget comes to council for consideration he would like to see a breakout of the impact to the general fund and what is left in the contingency. He asked, "Are we asking to have this contract approved now and get the money later, and is this the right way to do things?" City Manager Wine replied there is a base amount budgeted but the incremental amount was not, and that will appear on a future supplemental budget. It was the incremental amount that got lost in the budget process. She said if council desires, staff can wait and bring back this item after the supplemental budget is approved. No member of the Local Contract Review Board requested that consideration of this item be postponed. Council President Buehner moved for approval and her motion was seconded by Councilor Wilson. The motion to approve the consent agenda passed unanimously.

	<i>Yes</i>	<i>No</i>
Councilor Woodard	✓	
Councilor Wilson	✓	
Council President Buehner	✓	
Mayor Dirksen	✓	
Councilor Henderson	✓	

TIGARD CITY COUNCIL MEETING MINUTES – September 11, 2012

5. CONTINUATION OF PUBLIC HEARING ON URBAN FORESTRY CODE REVISIONS – DISCUSSION ON LAND USE ELEMENTS

**– URBAN FORESTRY CODE REVISION PROJECT –
COMPREHENSIVE PLAN AMENDMENT (CPA) 2011-00004
DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002**

At 7:55 p.m. Mayor Dirksen reopened the continued public hearing on both the land use and non land use elements of the Urban Forestry Code Revisions. He commented on the last council meeting discussion saying, “I walked into the meeting believing we were in the home stretch to bring forward a new urban forestry code. But I heard from my fellow councilors several concerns that led me to believe that may not be the case and that there might be a need to go back and restructure what had already been done. If that is the case, I would encourage them to reconsider.” He said he heard comments regarding basic policies and concepts regarding the targeted forest canopy percentage, such as a desire to cut the percentage in half. He heard from another councilor that there are already enough trees in Tigard. He said he also heard that staff may have redirected the Citizen Advisory Committee away from council’s original direction and he does not believe that is true and those statements represent the direction given to the CAC when the process started.

Mayor Dirksen shared some things that were in the Urban Forestry Master Plan (UFMP) that was approved by this council. He said some were directly quoted comments. Goals included:

- Strive to achieve 40 percent citywide tree canopy by 2047.
- Develop canopy cover or tree density standards for all lots to be met either by preserving existing trees or planting new trees.
- Create a design and maintenance manual with drawings and specifications for species selection, planting and maintenance.
- Require a private arborist to be involved in the development process from site planning through landscape installation.
- Require landscape architects to develop landscape plans for projects of a certain type and or size
- Revise TMC to establish a permit system for planting removal or replacement of required trees

He said these were specific goals and direction given by council to the CAC for the creation of the code proposal and he believed it reflects this direction. He said the public process was unprecedented. A CAC was created to review the approved Urban Forestry Master Plan and to work with staff to create a code structure that would meet our goals. They were successful even though there was a broad, diverse group of people involved. Their proposal was brought before the citizen Planning Commission, which reviewed it and unanimously approved forwarding the code revisions to the council. He said that since

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council's last meeting he reviewed letters received from two CAC members from opposite ends of the spectrum, from Tualatin Riverkeepers on the one side and the Home Builders Association on the other. They both supported the proposed code revisions and encouraged the City Council to approve them as brought forward from the Planning Commission.

Mayor Dirksen said, "With that kind of broad-based support in the community and based on the direction that council gave the citizen panels, I think at this point to consider a major change in the policy direction is fraught with peril and would be a huge mistake."

Mayor Dirksen said he heard from fellow councilors some specific technical concerns and he also had some. He said those issues can be adjusted, resolved or removed to make this work. He said he recognized that the City Council has the responsibility as final arbitrator to consider what is brought before them and make sure that it meets the needs of the citizens of Tigard. Staff met with council nine times since the Urban Forestry Master Plan adoption to keep them up to speed with how the proposal was developing. He acknowledged there are some policy issues to discuss now that council has seen the entire proposal. He said he wanted to accomplish two things at tonight's meeting:

- Hear from the President of the Planning Commission, who could not attend the last meeting, about key highlights regarding the development of the proposal from the CAC to the Planning Commission hearings and how that relates to council's questions; and
- Discuss with City Manager Wine and Interim Community Development Director McGuire on how the proposed code relates to the UFMP goals and to confirm that all the concerns and questions raised by council are listed. At the October 23 meeting these questions will be answered and discussed.



Planning Commission President Walsh outlined the history of the urban forestry code. He said he was involved through the city's entire comprehensive plan process and commented that the tree section was the most contentious. Many people wanted to talk about trees. In 2008, a priority of the Planning Commission and the City Council was to do something about mitigation. Council advised the Planning Commission that the tree section of the comprehensive plan was a high priority. He said that led to the Urban Forestry Master Plan. Staff suggested a citizen advisory committee and a technical advisory committee be formed. Although he disagreed initially with such a structured program, he said it was a fantastic process that brought both sides of the spectrum together. The Planning Commission and the City Council received interim reports, findings and recommendations. The development code portion of this process came to the Planning Commission who took on this large, contentious issue and held four public hearings over four months. They received testimony from the CAC, the Home Builders Association and ten members of the general public. Much of the testimony they received was written.

Mr. Walsh said that the Planning Commission members realized they didn't understand it all after the first few hearings so they asked the staff for help. AKS Engineering tested the code and applied it to past and current projects and offered it as case examples. He said

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Councilor Wilson would have found the ensuing discussion exceptional. AKS showed how it applied to actual cases and said it works fairly well and is much better than what the city had.

He noted for Councilor Woodard that they found it to be more cost effective. He said there had been discussion with staff about setting up the same session for council which he recommended.

Planning Commission President Walsh said there were surveys and open houses and it was well vetted with public input that came back to the Planning Commission. Two Planning Commission members, he and Donald Schmidt were on the Citizen Advisory Committee. He noted that the rights of citizens to remove trees on their own property have been protected throughout the process. He said that the proposal only applies to new development, not existing development. He said they wanted to educate people about the correct way to remove trees. A permit was designed, not as a money-maker, but will require people to go online or come to the Permit Center and get this information with their permit. The Planning Commission did not discuss permit fees.

He noted that Ken Gertz and the Home Builders Association were present from the beginning and involved in many discussions. He said there were parts that they would still like changed but the Planning Commission strived for balance. Some items amended by the Planning Commission from the original CAC recommendation include:

- Reduced tree canopy from 40 percent to 33 for small residential lots.
- Reduced the per lot canopy requirement from 20 percent to 15 percent.
- Allowed for averaging of tree canopy across all lots in a subdivision.
- Eliminated the 15 percent requirement for small lots, commercial lots, industrial, schools and mixed use lands.
- Recommended granting bonuses for planting native trees but people are not required to do so (This came from a letter from Oregon Department of Wildlife saying native trees are preferred by wildlife.)
- Allow a landscape architect or arborist to prepare plans.

Areas not addressed by the Planning Commission:

- Solar access and rights - Planning Commission deemed outside the scope.
- Tree heights affecting views

Planning Commission President Walsh said they recognized that the existing tree mitigation system was broken and not working. They realize that the tree canopy goal is somewhat aspirational. He said the City will not all achieve 40 percent cover because the system has many credits. He said the tree code is not perfect but it is better, as AKS Engineering can attest. He said the Planning Commission recommends that this program be evaluated in a few years and it may require adjustments.

Planning Commission President Walsh said the new tree code sets a long-term goal for trees across the city's landscape. It also:

- Strives to incentivize citizens to embrace trees and feel good about them.
- Provides incentives to preserve existing tree groves.

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- Replaces punitive mitigation fees with incentives.
- Provides generous credits towards canopy goals if trees are not cut and left.
- Canopy targets are tiered to density.
- Provides flexibility and ways to meet canopy goals.
- Provides a framework and place to address hazard trees.
- Simplifies code administration by placing the tree manual outside of the development code.
- Does not prevent citizens from removing trees on their own property.
- Provides canopy credits for using green building techniques in lieu of planting trees.
- Allows for payment of a fee in lieu of meeting canopy targets but this is only an option and wasn't viewed as a desired outcome.
- Meets goals set forth in the Comprehensive Plan and Urban Forestry Master Plan.

He said he hoped to see this moved forward by the end of this year. He said developers and citizens are waiting to utilize the features of this proposal.

Planning Commission President Walsh commented on the discussion on this topic held at the August 14, 2012, meeting. He said he watched a replay of the meeting and it seemed to him that the City Council and Planning Commission were disconnected at times. He said addressing specific issues and holding meaningful discussions will help the Council and Commission to stay more aligned.

City Attorney Hall announced that this is a legislative land use public hearing that will be treated as a work session for discussion between staff and council. There will be no public testimony taken this evening. We are on the record and the hearing record is in the room.

Mayor Dirksen noted that the staff report for this agenda item has a calendar listing at the end that says there will be no opportunity for testimony at the October 23 public hearing but he believed that to be an error. City Manager Wine confirmed that he was correct; public testimony will be taken on October 23, 2012.

City Manager Wine and Acting Community Development Director McGuire said that council was given two printouts developed since the last discussion, called Issues of Interest and the Policy Roadmap. She said the Roadmap creates a relevant linkage between the goals adopted in the Urban Forestry Master Plan and the way that the proposal is organized. The Issues of Interest document has 47 questions identified by the City Council. She noted that Planning Commission President Walsh answered many of the questions on this list tonight. She said staff's goal is to determine which of the 47 questions were addressed tonight and if some require answers or a fuller explanation. She said staff also wants to capture anything

 Councilor Wilson offered his reaction to the Roadmap document. He commented on the increasing size of the forestry volumes and the range of ways to accomplish the same thing. He said that there is too much detail and we got to this point because during there

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weren't checkpoints during the year of detail development. He said his 25 years of career experience also gives him a unique perspective and while he did not have a problem with the concepts, he is reacting to the sheer complexity. He said many of his comments relate to his desire to make it simpler.

City Manager Wine acknowledged the time it would take the council to move through a detailed proposal but said the code revisions are fairly comprehensive. She said these principles were in the UFMP and the fact that council wants to delve into them and potentially revise the proposal is what staff wants to discuss tonight. She said they want to identify the major issues. City Manager Wine said the majority of council questions raised related to forestry standards and tree permit requirements.

City Manager Wine said one-third of council's questions were addressed in the administrative rules in the tree manual and she wanted to put this document in context. She noted that what is in the tree manual is not what staff is recommending that council adopt in the code. It is designed for a person at the permit counter responding to customer questions. She said she recognized that the manual adds yet another layer of complexity to what is already a very comprehensive code revision and staff can do something different if council so directs. She said, "Quite frankly, it is a level of detail I would never want to see in the Tigard Municipal Code." She said the main principles that Planning Commission President Walsh identified are what staff is asking council to approve – the land use elements and the non land use elements.

 Mayor Dirksen clarified that the UFMP volumes are not the code, but rather the history of the project. He said the tree manual is the administrative rule for the tree process. Every time a new section of code is created, the staff has to create a process to administer the new laws and write standard operating procedures and administrative rules.

City Attorney Hall said Tigard's administrative rule process as adopted by council is in Tigard Municipal Code Chapter 2.04. It established the process whereby administrative rules can be adopted under the authority granted to the city manager by council. He said administrative rules must be followed like the code. Council has authority over all of it however, and if here is something they are not comfortable with being an administrative rule, they can place it the code or modify the rule.

Council President Buehner asked City Attorney Hall if a manual can be strictly an in-house tool, as opposed to being formally adopted as administrative rules. He replied, "Conceptually, yes," and suggested it would need some adjusting as it was written under the impression that it would be formally adopted.

Council President Buehner said her issue is not with the code but with the way it is being interpreted in the manual. She said that most of the code is fine but there are specific areas where it is unclear or it has been interpreted in a way she does not agree with. She said another issue is the length of the process and said, "To be blunt, I allowed myself to be

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brought along but have subsequently realized what the real result of some of the concepts would be.” She said her primary concern is the manual and felt it does take away people’s rights.

 City Attorney Hall suggested a framework for addressing council’s issues. He suggested council start with the code and manual and make sure these documents lay out the requirements that council wants. Then council can decide what elements belong as an administrative rule and what elements belong in the code.

Council President Buehner said her primary concern is that it is difficult to use some provisions of the tree code without the manual as they are so interrelated. She understands that this was done intentionally but it opens the door to a variety of interpretations.

Councilor Henderson said he is not comfortable with how the use of administrative rules has grown.

City Manager Wine said that in the absence of administrative rules or a tree manual that gives staff guidance, there may not be consistent application of the rules and from a due process standpoint, the city is taking on more risk. She acknowledged the complexity of the manual, but said if we do not follow administrative rules and are inconsistent in interpreting the code for applicants, we are at greater risk for appeal or leaving the city open for a lawsuit.

Councilor Woodard said there are key elements that concern him. He said he doesn’t see a problem with the Planning Commission recommendations for canopy for new development. He said he was concerned with costs and did not want the city to, “build a Cadillac program when we might want to start looking at a Volkswagen.” His rough estimates are that changes due to this program might cost about \$1.2 million to implement. He said it was similar to the city recreation program, “We don’t have the money.” He commented that he did not see that Tigard has a shortage of trees.

Councilor Woodard said he is concerned about the cost of this program adding to the cost of building a home in Tigard. He said he is also concerned about the administrative rules and was not in favor of any rule that interferes with individual private land owner property rights. He said if he plants a tree on his property and it grows too large in 20 years, he wants to be able to cut it down.

Mayor Dirksen said, “There is nothing in this proposal that would prevent that.”

Community Development Director McGuire said staff can prepare more detailed information on costs for the next council discussion on this on October 23. He noted that some costs are being incurred now under the existing program. He said every time there is a permit issued and trees are protected, this information is transferred to the GIS system to be identified at the permit counter. This is a cost the city incurs that is usually recovered through a portion of the tree permit fee.

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Councilor Woodard said that although the tree program is very important, and he agreed one was needed, staff has to realize that there are a lot of people concerned about costs and infringement upon rights. He said there is concern that this could lead to unforeseen onerous enforcement situations in ten years. Mayor Dirksen replied, “Very simply and clearly, all of this that we are talking about only applies to new development, during development.”

Councilor Wilson said, and Interim Community Development Director McGuire agreed, that if a tree is protected as a condition of development, it is protected forever. He said that currently, street trees are required for single-family detached lots. Street trees are generally in the right of way or nearby easement so technically, they are on public property. He said what the new code potentially would do is require additional trees in the backyards or other places that would then be protected (requiring a permit or mitigation to remove). He suggested making a distinction between single-family detached homes vs. condos with common space. He said in a condominium situation there is recognition that a tree doesn’t belong to one sole family. He said he would be more willing to accept this restriction on corporate- or business-owned property than on a single-family detached home.

Councilor Woodard said people purchasing a home in a development likely realize there are CC&R’s. He said he was not sure a person building their own home on their own land is going to have protection.

Interim Community Development Director McGuire briefly walked through a few scenarios comparing current and proposed tree code process. Currently, if someone is buying a single-family lot, platted in 1990 that went through a subdivision review, there are only specific situations where a permit is required for removal: street tree, heritage tree, tree planted specifically through the urban forestry fund or a tree identified through the subdivision process as a tree to be preserved. Currently, the owner would be required to go back through the subdivision process. The new tree code is a much simpler, over-the-counter, permitting process. This owner could remove the tree and either plant another one or pay into a fee-in-lieu fund.

Council President Buehner said, “There is a flaw in your argument. The trees that were set to be left there are not put on the deed as a permanent deed restriction.” She said the code doesn’t require this to be done therefore the buying public is unaware. She said they do not get notice of this unless it is a recorded restriction on the deed. And if it is not on the deed it is not enforceable. City Manager Wine said she will add this as issue No. 48. Planning Commission President Walsh commented that the Planning Commission did not intend for any legally binding deed restrictions to be placed on trees included to achieve the canopy goal. City Attorney Hall asked Council President Buehner if she wanted to see a deed restriction clause in the city code. She replied that she did not want that but wants staff to know that if this is the goal, notice must be given of the restriction to prospective buyers. City Attorney Hall suggested the discussion would be better served if council proceeded with policy objectives and then he can advise how to get there once he had direction from council.

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Councilor Wilson said this question only pertains if we treat some trees differently than others. If a permit is required for cutting down any tree – this is a non-issue.

Mayor Dirksen asked council if they wanted to walk through the issues to look for duplicates. City Manager Wine said what staff wants to hear from council is, from a policy perspective, what they want to see in the code. Planning Commission President Walsh has already said what the intention was with the Planning Commission proposal. She said the issues are sorted by code sections. Staff organized the questions by key organizing principles of the code revisions. She noted that there were 19 questions in the urban forestry standards category, but there was no major controversy with tree grove preservation requirements. There were questions about permitting requirements and hazard trees and many questions about the manual. She asked council what they wanted to tackle tonight and what they could discuss in October.

Council President Buehner said her sense is that all council is in favor of the aspirational tree grove preservation incentives program. She said she wants to discuss tree height, views and solar rights and asked if a number could be assigned to those concerns and a discussion held later. City Manager Wine asked if council wanted to talk about these concerns now; council decided to note this concern for later discussion.

Councilor Wilson said he strongly supports fixing the amount of soil required when planting trees, but asked, “Can we start with a little less soil?” He said the industry is still experimenting on structural soil requirements. He suggested moving in that direction and requiring it in parking lots. In response to Interim Community Development Director McGuire’s question about requiring this for street trees, Council President Buehner said more soil might be needed in large parking lots but the cost for the amount of soil required seems onerous for residents.

At 9:13 p.m. Mayor Dirksen asked council if it would be possible to go through the Issues of Interest so that staff can prepare answers by the October 23 meeting.

Council President Buehner said that several questions deal with canopy percentages and are closely related. Planning Commission President Walsh asked staff to come to that meeting with graphics to help reduce discussion time.

Council President Buehner asked for a section to be assigned to solar rights, tree height and view issues and noted that this section can be discussed later. City Manager Wine asked for clarification on whether council’s intent is to discuss these for the code now or put a placeholder in for later discussion and council said they want to address it later.

Councilor Henderson said wanted to clarify what he heard from people regarding the tree canopy requirements. He suggested that because of the economy and other factors, citizens should plant their own trees and the city should back off a little bit. He said council needs to be conscious about encouraging development in the next four to eight years and doesn’t want the tree code to be a hindrance.

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Councilor Wilson said part of the problem is that 40 percent shade sounds like a lot. He said we are really talking about a certain number of trees that will be required and they will be spaced in such a way that sometime in the future - maybe in 50 years, they will produce a tree canopy cover of 40 percent. Planning Commission President Walsh agreed and said the city would be approving a plan at the time of development, that if successful, will provide a 40 percent effective canopy in the future. Mayor Dirksen commented that the 40 percent goal is for the entire city and includes riparian areas where the cover could be as high as 100 percent. Interim Community Development Director McGuire said that if you have a 20 percent canopy on your property and you preserve those trees you get double the percent. When you subdivide, you wouldn't have to plant additional trees. Also, street trees crowns are counted towards the property canopy even though the cover may be mostly on public right of way.

Council President Buehner said she prefers sun-loving plants and has problems growing them in her yard because there are too many trees. Mayor Dirksen said the 40 percent canopy is subdivision-wide so some yards will have more and some less.

Councilor Woodard read comments from Ken Gertz relating to tree plan requirements for small lot developments being a waste of money. Staff said a tree plan is required currently and will be required with the new code but street trees will be factored in.

Councilor Wilson said his chief objection to the canopy standard is not the flexibility of being able to achieve it different ways, but the complexity of drawing the plan. It could cost property owners more. Councilor Wilson suggested making it easier to comply and achieve the same results. Mayor Dirksen asked him if he could propose different language and Councilor Wilson requested that it shouldn't be so restrictive. Planning Commission President Walsh said AKS found compliance to be less expensive. Interim Community Development Director McGuire said he could invite AKS staff to a future council meeting.

Council President Buehner noted that the issue of very small infill projects (2-4 lots) is not on the list. What is required in a big subdivision may not work with smaller subdivisions. She questioned whether the rules in the manual (not the code) will be sufficiently flexible to address these needs. She also said many of these lots are on hillsides. The map examples show flat land and there are topography issues. Planning Commission President Walsh said the Planning Commission attempted to address infill lots and lowered the requirements.



At 9:32 p.m. Mayor Dirksen thanked Planning Commission President Walsh for attending the meeting. He continued the public hearing until October 23, 2012. Councilor Henderson asked why there were duplicate materials for agenda item No. 5 and No. 6. City Manager Wine said some elements relate to land use and some to non land use and council has spoken interchangeably about land use and non land use items tonight.

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6. CONTINUATION OF PUBLIC HEARING ON URBAN FORESTRY CODE REVISIONS – DISCUSSION ON NON LAND USE ELEMENTS

- URBAN FORESTRY CODE REVISION PROJECT –
COMPREHENSIVE PLAN AMENDMENT (CPA) 2011-00004
DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002

This item was heard concurrently with Agenda Item No. 5. Mayor Dirksen continued the public hearing on both land use and non land use Urban Forestry Code Revisions to October 23, 2012.

7. CONSIDERATION OF QUASI-JUDICIAL PUBLIC HEARING – COMPREHENSIVE PLAN AMENDMENT, SENSITIVE LANDS REVIEW AND ADJUSTMENT TO EXTEND WALL STREET

Mayor Dirksen opened the Public Hearing at 9:34 p.m. and continued it to 7:30 p.m., December 11, 2012, at Tigard Town Hall.

In response to a question from Council President Buehner, City Attorney Hall said the Fields property sale is still pending. He said the understanding with the applicant is that they will withdraw their application once the transfer has been completed.

8. COUNCIL LIAISON REPORTS: None

9. NON AGENDA ITEMS:  Councilor Woodard attended the Vision Action Network meeting and found that AARP is part of that body (as are the World Health Organization and Portland State University). He discussed the Coming of Age in America videos and said this brings senior citizens together to give them a forum to tell how we are doing and what cities can do to make things better for the aging population.

He said they are examining the built environment as well as the social environment. Council President Buehner recommended that Councilor Woodard get involved with VAN.

Councilor Woodard suggested forming a Citizen Advisory Committee (CAC) for senior citizens. Council President Buehner suggested that Councilor Woodard investigate Summerfield's recreation program which serves a large contingent of Tigard seniors.

10. ADJOURNMENT

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At 9:44 p.m. Councilor Henderson moved for adjournment. Council President Buehner seconded and the motion passed unanimously.

	<i>Yes</i>	<i>No</i>
Councilor Woodard	✓	
Councilor Wilson	✓	
Council President Buehner	✓	
Mayor Dirksen	✓	
Councilor Henderson	✓	

Carol A. Krager, Deputy City Recorder

Attest:

Craig Dirksen, Mayor

Date

TIGARD CITY COUNCIL MEETING MINUTES – September 11, 2012

Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): Consent Item

Agenda Title: Adopt a Resolution in Support of Changing the Name of the Tonquin Trail to the Ice Age Tonquin Trail

Prepared For: Dennis Koellermeier

Submitted By:

Greer Gaston,
Public Works

Item Type: Resolution

Meeting Type:

Consent Agenda

Information

ISSUE

Shall council adopt a resolution in support of changing the name of the Tonquin Trail to the Ice Age Tonquin Trail?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

Metro, in partnership with Clackamas and Washington Counties, and the Cities of Sherwood, Tualatin, and Wilsonville, is in the process of completing the Tonquin Trail Master Plan. These partners will fund and operate the proposed 22-mile regional trail which will connect the Willamette and Tualatin rivers and the communities of Sherwood, Tualatin and Wilsonville.

There has been a proposal to change the name of the Tonquin Trail to the Ice Age Tonquin Trail in order to promote public awareness, and enhance funding opportunities and economic development through tourism and scientific research.

A consensus of trail partners is required to make the name change.

Tigard is not a trail partner. However, Tigard is adjacent to Tualatin and a segment of the proposed trail may connect to Tigard's Cook Park via the Tualatin River pedestrian bridge. To build support for the name change, the Tualatin City Manager, Sherilyn Lombos, has asked for Tigard's support. Tigard's resolution is patterned after a sample resolution provided by Tualatin.

OTHER ALTERNATIVES

The council could choose not to adopt the resolution.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

None

DATES OF PREVIOUS COUNCIL CONSIDERATION

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

Fiscal Impact

Fiscal Information:

There are no costs associated with the adoption of this resolution.

Attachments

Resolution

Exhibit A - Foundation Document

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 12-**

A RESOLUTION IN SUPPORT OF CHANGING THE NAME OF THE TONQUIN TRAIL TO THE ICE AGE TONQUIN TRAIL TO PROMOTE PUBLIC AWARENESS, AND ENHANCE FUNDING OPPORTUNITIES AND ECONOMIC DEVELOPMENT THROUGH TOURISM AND SCIENTIFIC RESEARCH

WHEREAS, toward the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods, representing the greatest floods on earth, occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of Montana, Idaho, Washington and Oregon, including the Willamette Valley; and

WHEREAS, in 2009 Congress established the Ice Age Floods National Geologic Trail in the states of Montana, Idaho, Washington and Oregon enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities; and

WHEREAS, the national geologic trail is in its earliest stages of planning through the leadership of the National Park Service and the Ice Age Floods Interagency Coordination Committee to collaborate and oversee the activities that will enhance interpretation of the Ice Age floods story and features along the flood pathways of the Ice Age Floods National Geologic Trail pursuant to the attached Foundation Document (Exhibit A) for the Ice Age Floods National Geologic Trail; and

WHEREAS, the national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area and existing roadways will link many of the region's geologic resources by way of a long, central pathway and designated loops and spurs, and where in places foot and bicycle trails that enable access and provide interpretive opportunities of fundamental and other important resources and values will also be a part of this network; and

WHEREAS, Metro, in partnership with Clackamas and Washington Counties, and the cities of Sherwood, Tualatin, and Wilsonville are now in the process of completing the Tonquin Trail Master Plan and will fund and operate the proposed 22-mile regional trail that will travel through landscape and unique geological features that were formed by the Ice Age Floods within and near the Tonquin Geologic Area in order to interpret the natural resources and tell the story of the Ice Age Floods; and

WHEREAS, there may be funding opportunities by tying the regional trail to the national trail, and linking the two trails may result in economic development by bringing more tourists and scientific research to the communities the regional trail will serve.

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

SECTION 1: The City of Tigard supports changing the name of the Tonquin Trail to the Ice Age Tonquin Trail.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2011.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

DESCRIPTION OF ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL

"At the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington, and Oregon."

Public Law 111-11, March 30, 2009

Today, evidence of the immense floods remains in many forms including high water lines, huge current dunes, boulders transported hundreds of miles, giant coulees and dry falls, and enormous gravel bars. These reminders of the floods exist on public and private lands across the four states of Montana, Idaho, Washington, and Oregon. Many of the most dramatic features are managed by federal, tribal, state, and local governments.

The national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area. Existing roadways will link many of the region's superb geologic resources by way of a long, central pathway and designated loops and spurs. In places, other types of foot and vehicle trails may also be a part of this network.



J Harlan Bretz, 1922

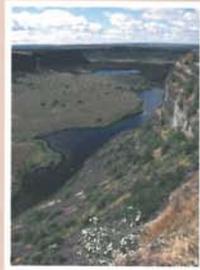
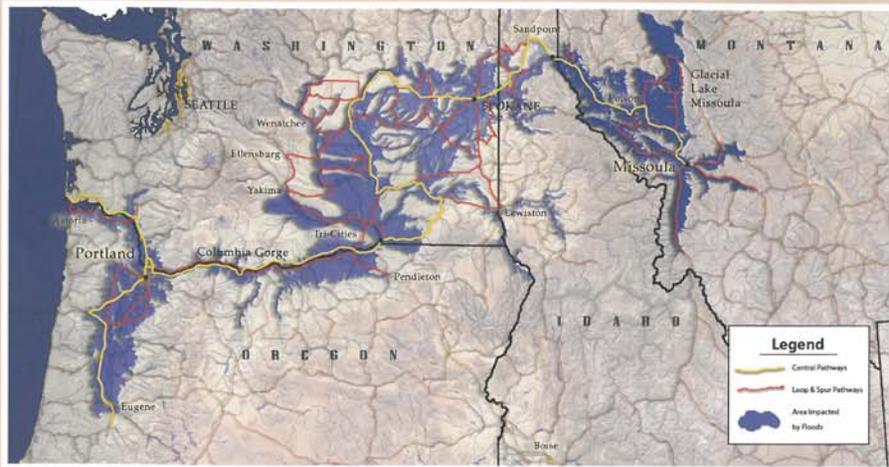


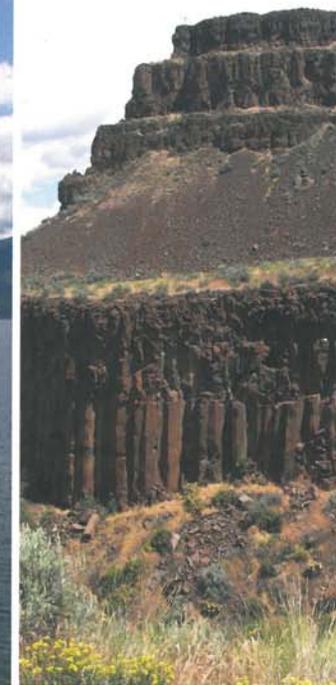
Photo: Melissa Rosin



Map adapted from *Ice Age Floods Study of Alternatives and Environmental Assessment*, February 2011, prepared for the National Park Service by Jones & Jones Architects and Landscape Architects.

National Park Service
U.S. Department of the Interior

Ice Age Floods National Geologic Trail
Montana, Idaho, Washington, and Oregon



Foundation Document

Ice Age Floods National Geologic Trail



Purpose

The Ice Age Floods National Geologic Trail tells the stories of the cataclysmic Ice Age floods and invites people to discover and explore the resulting extraordinary landscapes and distinctive features. Interpretation, research, and stewardship are achieved through collaboration between public and private partners.

Interpretive Themes

Interpretive themes are the key concepts to be communicated to visitors to help them understand and appreciate the significance of the trail.

Geologic Setting. A remarkable alignment of past geologic forces, resulting terrain, and Ice Age conditions produced a series of some of the greatest floods on earth, dramatically sculpting 16,000 square miles of the northwestern United States and as much of the Pacific Ocean floor.

Cataclysmic versus Incremental. The Ice Age floods remind us that the slow, incremental processes shaping our earth can be punctuated by sudden, epic, cataclysmic events, and that such events are possible in our lifetimes.

Evidence that Remains. In the wake of the floods, a wide array of floods-formed features remained, just waiting for human curiosity to discover. Some features are gigantic—readily visible from space; others are subtle—only revealed and appreciated through close observation.

In Search of the Truth. Unraveling the mysteries of the Ice Age floods reveals the human, often subjective and sometimes contentious, side of the scientific method that arises when new evidence challenges prevailing paradigms.

Lives and Livelihoods. Just as the Ice Age floods left an enduring mark on the landscape of the northwestern United States, so too has that landscape profoundly shaped human history and culture across the region. The impact of the floods continues to this day.

Significance

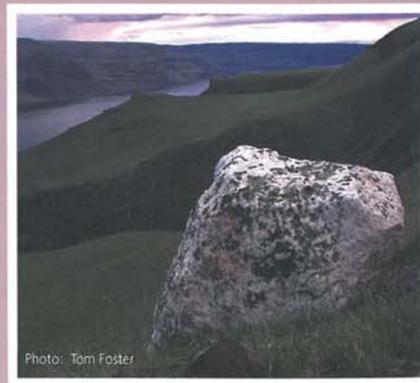
Significance statements define what is most important about the trail's resources and values. They express why the trail and its resources are significant within a regional, national, and global context—focusing attention on those exceptional qualities that Congress felt were important to preserve and interpret.

Cataclysmic Ice Age Floods. Ice Age Floods National Geologic Trail represents the greatest floods on earth. Repeated cataclysmic releases of water exploding from glacially dammed Lake Missoula thundered across the landscape to the Pacific Ocean, carrying water, debris, rock, and ice with a discharge equal to 10 times the flow from all of today's rivers worldwide.

Distinctive Geologic Resources. The Ice Age floods sculpted extraordinary landscapes and left behind a variety of distinctive geologic features across a vast area of the northwestern United States. Gigantic basalt coulees, enormous dry falls, and flood ripples of immense proportion are just a few examples of the evidence that survives to illustrate the scale and power of the floods.

Science and Research. The discovery and investigation of the Channeled Scabland led to an understanding of cataclysmic origin that challenged prevailing geologic thought. Ongoing research has established the Ice Age floods as the quintessential example of megaflood landscapes throughout the world.

Human Settlement. The Ice Age floods transformed the environment of the northwestern United States, greatly influencing the use of the land and its resources from early native peoples to contemporary society.



Fundamental Resources and Values

Fundamental resources and values are those features, systems, processes, experiences, stories, scenes, sounds, smells, or other attributes that are critical to achieving purpose and maintaining significance. That which is most important about the trail could be jeopardized if these resources and values are allowed to degrade.

Outstanding Floods-Related Geologic Resources. Numerous floods-related geologic features exist within this four-state area, but not all have been inventoried. Resources are categorized into seven types, including bedrock features, terrain features pre-existent to the floods, erosional landforms created by Ice Age floods, depositional landforms created by Ice Age floods, glacial features, lake features, and features deposited by wind.

Exceptional Scenery and Views. Vast landscapes and stunning scenery created by the floods are present at many places along the proposed trail routes. Views of natural and human-influenced scenery enable visitors to comprehend the scale of the floods, to appreciate the grandeur that the floods created, and to understand the impact of the floods on human settlement and on the natural world.

Scientific Knowledge and Research. Investigation of the Ice Age floods has greatly contributed—and continues to contribute—to the body of scientific knowledge. In bringing to light the story of the floods, J Harlen Bretz, Joseph Pardee, and other geologists yielded a new theory for the origin of many landforms in the northwest. Aided by new technologies, subsequent researchers built upon these early discoveries and further advanced our knowledge of the floods and landform features.

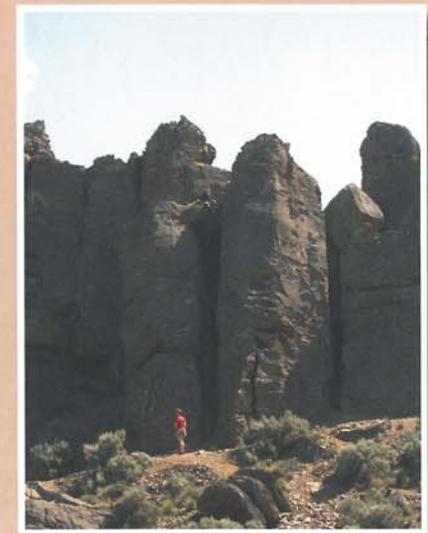


Other Important Resources and Values

The identification of certain resources and values as fundamental is not meant to imply that other resources are not important. The National Park Service draws this distinction because it can help trails and other national park system units set priorities among competing management concerns.

Floods-Related Cultural Resources. Although geological resources are the primary focus of the national geologic trail, the human history of the region adds another dimension to the floods' story. The federal and state partners responsible for managing the trail also manage cultural resources in accordance with laws and regulations that mandate their protection. Cultural resources along the trail corridor convey thousands of years of human history and patterns of settlement across the numerous, varied landscapes shaped by Ice Age floods.

Access to Diverse Recreational and Educational Opportunities. Providing for enjoyment and understanding of resources is central to the mission of the National Park Service and to every park unit or trail that the agency administers. Through partnerships, the national geologic trail offers access to a variety of recreational and educational opportunities that enable visitors to learn about, appreciate, and experience the floods features.



AIS-1057

3. C.

Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): Consent Item

Agenda Title: Amend City Manager Employment Contract

Prepared For: Loreen Mills

Submitted By:

Loreen Mills, City Management

Item Type: Motion Requested

Meeting Type:

Consent Agenda

Information

ISSUE

Should the City Council amend the indemnification section of the City Manager's employment agreement to delete an insurance policy reference and be more comprehensive and consistent with other department directors' agreements?

STAFF RECOMMENDATION / ACTION REQUEST

Recommend approval of City Manager's employment agreement indemnification section by removing reference to the ICMA insurance policy and updating language to be consistent with other department directors' agreements.

KEY FACTS AND INFORMATION SUMMARY

During a periodic review, the City has discovered the indemnity section language in the City Manager's contract does not follow the City's employment agreement boilerplate language and references insurance requirements that are not available.

Provision of the ICMA public officials' liability insurance is required in the agreement but this is not available through ICMA. Since the City handles this liability coverage through the City County Insurance Pool (CIS) here in Oregon, this reference should be removed.

The rest of the indemnity language should be more comprehensive and consistent with current language in all other department directors' employment agreements.

OTHER ALTERNATIVES

Take action to only remove the insurance reference in the indemnity section.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

October, 2011 - Original employment agreement approved

June, 2012 - Amendment #1 approved - self-requested reduction of City Manager's salary

Attachments

CM Employment Agreement Amendment 2

**Amendment #2
To Employment Agreement**

Effective Date November 1, 2012
Between City of Tigard (the "City")
And Marty Wine ("Employee")

The City of Tigard has discovered the indemnity language in the City Manager's contract references the ICMA public officials' liability insurance policy which is not available through ICMA. This language should also be more comprehensive and consistent with current language in all other department directors' employment agreements.

Section 15: Indemnification

~~*Remove current language:* The City agrees to defend, hold harmless, and indemnify the Employee from any and all demands, claims, suits, actions, and legal proceedings brought against Employee in her individual capacity, or in her official capacity as agent and employee of the City, as to any actions of employee within the scope of her employment. The City agrees to pay premiums on appropriate insurance policies through the City's normal insurance program and through the Public Officials Liability Program of the International City Management Association.~~

Insert new language: To the full extent permitted by law, the Employer shall defend, save harmless and indemnify the Employee against any tort, professional liability claim, administrative proceeding or action, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the course and scope of the Employee's duties as City Manager unless the act or omission involved gross negligence or willful or wanton conduct under which circumstance the Employee shall be responsible for any and all damages, costs and fees caused by the misconduct or negligence herself. The Employee's actions within the course and scope of her employment shall be indemnified by the City until the statute of limitations has expired without regard to her continued employment with the City.

Legal representation, provided by the Employer for the Employee, shall extend until a final determination of the legal action including any appeals brought by Employer or other party. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

The Employee recognizes that the Employer shall have the right to compromise or settle any claim, suit, proceeding or action.

Marty Wine, City Manager

Craig Dirksen, Mayor

Signature

Signature

Date

Date

Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): Consent Item

Agenda Title: Adopt a Resolution Authorizing the Submission of a Grant Application to Partially Fund Construction of a Segment of the Fanno Creek Trail

Prepared For: Kim McMillan

Submitted By:

Greer Gaston,
Public Works

Item Type: Resolution

Meeting Type:

Consent Agenda

Information

ISSUE

Shall the council adopt a resolution authorizing the submission of a grant application to partially fund construction of a segment of the Fanno Creek Trail?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

Proposed Grant Project

Fanno Creek Trail is part of a regional trail system. The City of Tigard is actively working to complete segments of the Fanno Creek Trail system within city limits. One of those segments lies between Grant Avenue and Woodard Park.

Staff is seeking council approval to submit a grant application. Grant funds, if awarded, would partially fund the construction of the segment of Fanno Creek Trail from Grant Avenue to Woodard Park. The proposed trail segment is approximately 1400 lineal feet and will be approximately 10 feet wide. The path will be hard surface where possible and elevated where needed to minimize impacts to wetlands and to span a drainage way to Fanno Creek.

On March 27, 2012, the council approved an intergovernmental agreement (IGA) with Metro to transfer trail easements to the city. With these easements, the city has access to all the property necessary to construct the Grant Avenue to Woodard Park trail segment. The IGA obligates the city to construct the trail within 10 years or the easements revert back to Metro.

The city plans to construct an adjoining trail segment, from Main Street to Grant Avenue, in 2013. If the city is able to construct the Grant Avenue to Woodard Park segment, trail systems from Portland and Beaverton would connect to the Tigard trail system and Downtown Tigard and the Tigard Public Library.

Grant Process

In May 2012 the Oregon Department of Transportation (ODOT) announced \$20 million in grant opportunities through the Transportation Enhancement and Bicycle & Pedestrian Program. Interested parties were required to submit a Notice of Intent, and staff submitted the notice, which requested grant funding to construct a segment of the Fanno Creek Trail from Grant Avenue to Woodard Park.

In August 2012 ODOT notified the city that our project advanced to Stage Two, the application and scoping phase of the grant review process. A copy of the notice letter is attached.

The next step in the grant review process is to submit an application. Applications are due December 2012, award notification takes place in April 2013 and funds will be available October 2013.

Grant Requirements

The grant requires a minimum 10.27 percent match.

OTHER ALTERNATIVES

Should council decide not to adopt this resolution, staff will not submit the grant application.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

The Tigard Comprehensive Plan Goal 8.2 - "Create a Citywide network of interconnected on- and off-road pedestrian and bicycle trails."

The Tigard Comprehensive Plan Goal 8.2, Policy 1 - "The City shall create an interconnected regional and local system of on- and off-road trails and paths that link together neighborhoods, parks, open spaces, major urban activity centers, and regional recreational opportunities utilizing both public property and easements on private property."

The construction of the Grant Avenue to Woodard Park trail segment is included in the Park System Master Plan adopted by council in 2009 and is listed as a high priority in the Tigard Greenways Trail System Master Plan accepted by council in 2011.

DATES OF PREVIOUS CONSIDERATION

This is the first time this grant application has come before the council.

Fiscal Impact

Cost: \$616,000

Budgeted (yes or no): No

Where budgeted?:

Additional Fiscal Notes:

If grant funding is awarded, staff will return to council with recommendations to:

- Accept the grant revenue.
- Allocate funds for the city’s local match.

The grant requires a minimum 10.27-percent match. Estimates place the total project cost at \$616,000; 10.27 percent of this total is approximately \$63,000. The following funding can be divided between Main Street to Grant Avenue trail segment and the Grant Avenue to Woodard Park trail segment.

- \$195,000 in city park bond funding.
- \$127,000 in Metro bond funding.

Of this combined \$322,000, \$134,000 is allocated to the Main Street to Grant Avenue trail. The remaining \$188,000 could be used as matching funds for a grant to construct the Grant Avenue to Woodard Park trail segment. Therefore, there is more than enough available funding to cover the required match.

Staff is also pursuing Washington County Major Streets Transportation Improvement Program - 3d funding for this project.

Attachments

Resolution

Map - Fanno Creek Trail Woodard Park to Grant Ave

Notice of Intent Selection

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 12-**

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN OREGON DEPARTMENT OF TRANSPORTATION (ODOT) TRANSPORTATION ENHANCEMENT AND BICYCLE & PEDESTRIAN GRANT APPLICATION TO PARTIALLY FUND THE DESIGN AND CONSTRUCTION OF A SEGMENT OF FANNO CREEK TRAIL FROM GRANT AVENUE TO WOODARD PARK

WHEREAS, the City of Tigard is actively working to complete segments of the Fanno Creek Trail system within city limits; one of those segments lies between Grant Avenue and Woodard Park; and

WHEREAS, city staff became aware of grant monies that could be used to design and construct this segment of the Fanno Creek Trail; and

WHEREAS, city staff submitted a Notice of Intent, which requested grant funding to design and construct the trail segment; and

WHEREAS, in August 2012 ODOT notified the city that the trail segment project advanced to Stage Two, the application and scoping phase of the grant review process; and

WHEREAS, the next step in the grant review process is to submit an application; and

WHEREAS, if the city's application is successful, the city will be required to provide a minimum 10.27-percent funding match of project costs, including design and construction; and

WHEREAS, estimates place the total project cost at \$616,000; 10.27 percent of this total is approximately \$63,000; and

WHEREAS, funds from city and Metro bonds are available and could be used as matching funds; and

WHEREAS, if the city's application is successful, staff will return to council with a request for the appropriate budget adjustments.

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

SECTION 1: The City Council supports and authorizes the submission of an ODOT Transportation Enhancement and Bicycle & Pedestrian grant application to partially fund the design and construction of a segment of Fanno Creek Trail from Grant Avenue to Woodard Park.

SECTION 2: If grant funding is awarded, staff will return to council with recommendations to:

1. Accept the grant revenue.
2. Allocate funds for the city's local match, which will be a minimum of 10.27-percent of total project costs.

SECTION 3: This resolution is effective immediately upon passage.

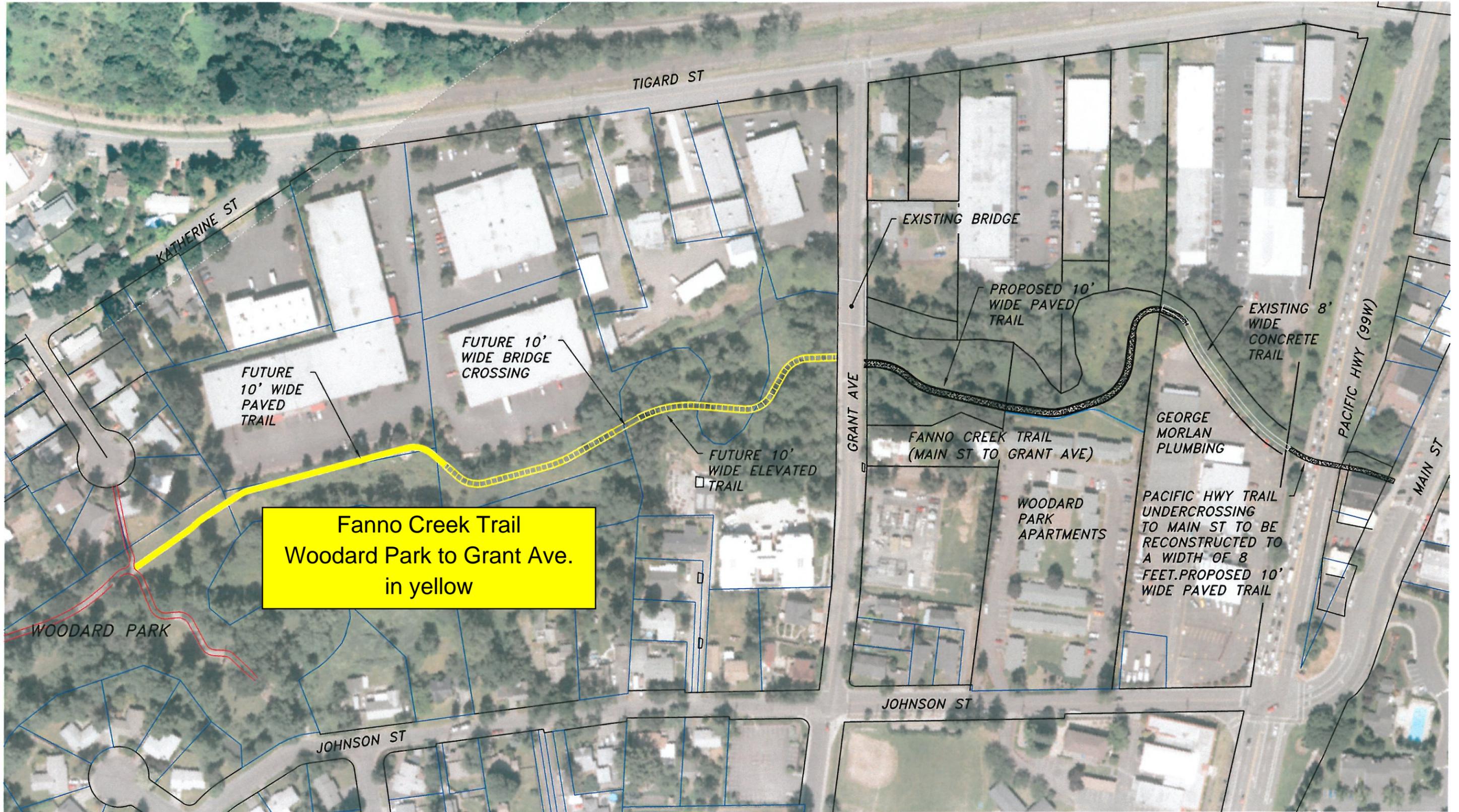
PASSED: This _____ day of _____ 2012.

Mayor - City of Tigard

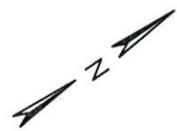
ATTEST:

City Recorder - City of Tigard

Plotted by: JEFF PECK on Tuesday, October 09, 2012 at 2:37:08 PM from the 11x17 FIGURE BORDER layout tab
File Name: \\path\l\eng\1 - ACTIVE PROJECTS\92024 FANNO CREEK TRAIL MAIN STREET TO GRANT STREET\PUBLIC INFORMATION & INVOLVEMENT\WEB TEAM\SITE MAP_RECOVER.DWG



**Fanno Creek Trail
Woodard Park to Grant Ave.
in yellow**



TIGARD
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

**FANNO CREEK TRAIL
MAIN ST TO WOODARD PARK
LAYOUT**

**FIGURE
FIG-1
FILE NO**



Oregon

John A. Kitzhaber, MD, Governor

Department of Transportation

Active Transportation Section

555 13th St NE

Salem, OR 97301-6867

Jeff Peck
City of Tigard
13125 SW Hall Blvd
Tigard, OR 97223

**RE: TE-OBPAC Combined Solicitation 2012 – Notice of Intent Selection Results
Fanno Creek Trail- Woodard Park to Grant Ave**

We are pleased to inform you that your proposed project (above) has advanced to Stage Two, the application and scoping phase of the combined solicitation process. Congratulations! Now the hard work begins.

You will soon be contacted by ODOT Active Transportation staff to schedule site visits and to provide information about the stage two application and related project scoping. During site visits and project review meetings in August and early September, ODOT will assist (where needed) in refining the scope, schedule and budget of your project and determining what endorsements, commitments, and other coordination you need to complete or obtain for your application. The application form will be provided in September, after the initial site visits and scoping are complete. Your completed application will be due December 13, 2012.

ODOT received 155 Notices of Intent. The TE-OBPAC advisory committees selected 64 to advance to Stage Two. We expect to award funding to between 25 and 30 projects. Please note that the Transportation Enhancement (TE) program is affected by the recent passage of federal transportation legislation, MAP-21. It's too early to know how the changes will affect this project solicitation, but we do expect changes. We are awaiting program guidance from the Federal Highway Administration and decisions by the Oregon Transportation Commission. We will keep you informed of these developments.

Again, congratulations on advancing to Stage 2. Please contact us if you have any questions.

Sincerely,

Pat Fisher
TE Program Manager
(503) 986-3528

Sheila Lyons
Pedestrian and Bicycle Program Manager
(503) 986-3555



Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): Consent Item

Agenda Title: Authorize the Mayor to Execute an Intergovernmental Agreement with Clackamas River Water Providers

Prepared For: Dennis Koellermeier

Submitted By: John Goodrich,
Public Works

Item Type: Motion Requested

Meeting Type: Consent Agenda

Information

ISSUE

Shall the council authorize the mayor to execute an intergovernmental agreement (IGA) with the Clackamas River Water Providers (CRWP)?

STAFF RECOMMENDATION / ACTION REQUEST

Authorize the mayor to execute the IGA.

KEY FACTS AND INFORMATION SUMMARY

The CRWP is a coalition made up of municipal water providers that get their drinking water from the Clackamas River. The purpose of the organization is to collectively fund and coordinate efforts regarding water resource planning, management, and water conservation to preserve the Clackamas River as a high quality drinking water source and to minimize future drinking water treatment costs. Lake Oswego is a founding member of the CRWP.

The CRWP was established via IGA in 2007; this IGA was amended in 2011.

When the Lake Oswego-Tigard Water Partnership projects come online in 2016, Tigard’s water will be drawn from the Clackamas River.

The Public Works Department informed the council it was pursuing membership in the CRWP in a memo dated March 14, 2012. A copy of that memo is attached. Staff also briefed the council on the IGA at its September 18, 2012, workshop meeting.

Joining CRWP will enable Tigard to:

- Contribute to the stewardship of our future water supply.
- Establish relationships with other CRWP members.
- Have a voice on various CRWP issues.
- Demonstrate its commitment to the Lake Oswego-Tigard Water Partnership.

A majority of the existing CRWP members approved Tigard's membership on July 9, 2012. With this approval, Tigard has the opportunity to join the CRWP as a non-voting member in fiscal year 2012-2013 and would attain full, voting member rights beginning in fiscal year 2013-2014.

To obtain membership, the council needs to authorize the mayor to sign the existing CRWP IGA.

The city attorney's office has reviewed the IGA.

OTHER ALTERNATIVES

The council could decide not join the CRWP. In doing so, Tigard would have to rely on Lake Oswego to represent its interests on the CRWP. Lake Oswego would also have to fund the full CRWP water diversion cost allocations for both cities. Rather than paying membership dues directly to the CRWP, Tigard would likely have to reimburse Lake Oswego for Tigard's Clackamas River water usage.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

2012 Tigard City Council Goal 1.a. - "Continue oversight of design, permits, rate implementation and costs for the Lake Oswego-Tigard Water Partnership."

DATES OF PREVIOUS CONSIDERATION

Staff briefed the council on the IGA at its September 18, 2012, workshop meeting.

The Public Works Department informed the council it was pursuing membership in the CRWP in a memo dated March 14, 2012. A copy of that memo is attached.

Fiscal Impact

Cost: \$10,000
Budgeted (yes or no): Yes
Where Budgeted (department/program): Water Fund

Additional Fiscal Notes:

Annual dues are based on each CRWP member's proportionate annual water usage. However, Tigard is not drawing any water from the Clackamas River at this time, so this allocation method can not be used to determine dues. In lieu of this method, the CRWP will assess Tigard \$10,000 per year in membership dues until Lake Oswego-Tigard Water Partnership projects are operational in 2016. Once these projects are online, Tigard's assessment will be based on its annual water usage; staff estimates this number will be approximately \$50,000 per year.

Attachments

CRWP IGA

Memo to the Council on CRWP Membership - Dated March 14, 2012

INTER-GOVERNMENTAL AGREEMENT

OF

THE CLACKAMAS RIVER WATER PROVIDERS

(as Amended in 2011)

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CLACKAMAS RIVER WATER PROVIDERS

This Inter-Governmental Agreement is entered into by and among the undersigned municipalities and special districts, herein after called “Participants”, to establish and operate the Clackamas River Water Providers (CRWP).

RECITALS

WHEREAS, ORS Chapter 190 authorizes units of local government to enter into written agreements with any other unit or units of local government for the performance of any or all functions and activities that any of them has the authority to provide, and that the agreement may provide that such functions and activities may be performed by an intergovernmental entity created by the agreement and governed by a board or commission appointed by, responsible to and acting on behalf of the units of local government that are parties to the agreement; and

WHEREAS, all the Participants are thus authorized to enter into an inter-governmental agreement; and

WHEREAS, the Participants through separate authorizations from the State Water Resources Department, hold permits or rights to the use of public waters from the Clackamas River for beneficial uses without waste; and/or

WHEREAS, the Participants own and operate structures on the Clackamas River the purpose of which are to divert the waters of the Clackamas River for beneficial uses without waste; and

WHEREAS, the signatories to this Agreement recognize that their respective customers can benefit through cooperative planning, management and development of water supply from the Clackamas Basin.

The parties, NOW, THEREFORE, agree as follows:

Section 1. Definitions

For the purpose of this Agreement the following terms shall be defined as follows:

“Agreement” – This document and any authorized amendments thereto.

“Clackamas River Water Providers” (herein CRWP) – Shall mean all Participants and Joinder Entities to this Agreement acting pursuant and under the terms of the Agreement.

“CRWP Board” – Shall mean the Board of Directors established under Section 8 of this Agreement, consisting of one representative from each Participant organization.

“CRWP Funds” – CRWP funds shall consist of all dues/cost shares, grant monies and funding from any other source provided to CRWP to conduct the activities and business of the CRWP.

“Fiscal Year” - Shall mean the period beginning on July 1 of any given year and ending June 30 the following year.

“Joinder Entity” – Shall mean any dues-paying member that is not a public water supply agency.

“Members” – Shall mean both Participants and Joinder Entities

“Participant” – Shall mean any dues-paying member that is a public water supply agency.

Section 2. Establishment of CRWP

There is hereby created an intergovernmental entity to be known as the Clackamas River Water Providers (“CRWP”).

Section 3. Purposes

The purposes of the CRWP are as follows:

- A. To coordinate efforts regarding water resource planning, management, conservation and beneficial use of the waters of the Clackamas River and its supporting watershed;
- B. To fund and/or support public outreach and education programs;
- C. To fund and/or support water resource activities that may include (but are not limited to) watershed assessments, water quality monitoring and analyses, and water supply planning;
- D. To fund staff, services, and contracts to implement the activities and programs of the CRWP as they may be identified and approved by the CRWP Board.
- E. To provide a forum for the study and discussion of water resource issues of mutual interest to the Members and to allow for common understanding and collaborative decision-making related to these issues.

Section 4. Cooperation and Participants' Retained Authority

CRWP shall act through the process laid out herein in the spirit of cooperation among its Members. By entering into this Agreement, no Participant has assigned or granted to another or to the CRWP its water rights or authority to plan, construct, and operate its water system or perform any other obligation or duty assigned to it under law.

Section 5. Clackamas River Water Provider's Authority

In accomplishing its purposes, and utilizing the organizational structure and decision-making processes contained herein, the CRWP is authorized to:

- A. Adopt by-laws and other operating procedures consistent with the terms of this Agreement to govern operations and administration including budgeting , finance, accounting, reporting, meeting arrangements, voting procedures, elections of officers, notice procedures, and procedures for execution of contracts;
- B. Adopt and implement an annual Work Plan, and Budget;
- C. Collect regular dues (or reimbursements) from Participants and Joinder Entities to support the activities of the CRWP in the amounts established as provided herein;
- D. Expend CRWP funds and establish accounts and accounting processes to manage such funds;
- E. Execute contracts to obtain goods and services needed to conduct the activities of CRWP;
- F. Establish a procedure and criteria whereby other units of government or entities may become Members of the CRWP, either as a Participants or Joinder Entities, subsequent to the effective date of this Agreement;
- G. Establish procedures for managing its own staff, including hiring, development, compensation, and termination;
- H. Apply for and receive grants and accept other funds from any person or entity to carry out CRWP activities.
- I. Take other action within the powers specifically granted to CWRP in this section and to carry out the purposes stated in Section 3 above.

Section 6. Membership

- A. Initial Participants. The initial Participants and signatories to this Agreement include the South Fork Water Board, North Clackamas County Water Commission, City of Lake Oswego, City of Estacada, Clackamas River Water and the Sunrise Water Authority;
- B. Membership. Membership in CRWP shall be comprised of Participants and Joinder Entities, as defined herein. The CRWP Board may establish standards for membership in its by-laws or may allow new Members to join on terms that the CRWP Board considers appropriate, consistent with the terms of this Agreement, provided, however, that no new Members may join CRWP without the affirmative vote of a majority of the CRWP Board;
- C. Withdrawal. Any Member may withdraw from CRWP at the end of a fiscal year by providing written notice to the Chair of the CRWP Board by April 1 of that year. Withdrawing Members shall be responsible for dues for the entire fiscal year during which withdrawal occurs.
- D. Voting Rights. Voting rights on the CWRP Board will be extended only to Participants and shall be limited to one vote per such member.

Section 7. Dues

- A. Each Member shall pay annual dues each fiscal year on (at least) a quarterly basis for membership during that fiscal year.
- B. The dues for each Participant shall be established annually by the CWRP Board and shall be based on the proportionate annual water usage among all Participants consumed during the full calendar year prior to the given fiscal year.
- C. The dues for any Joinder Entity shall be established by the CRWP Board at the time the Board approves the entity's membership.
- D. If any Member becomes unable to pay its annual dues obligation for reasons of financial constraint, the CRWP Board may negotiate a payment schedule with that Participant.
- E. Additional Participants shall be allowed to join CRWP only at the beginning of a fiscal year.
- F. The dues of all Joinder Entities will be treated as part of budget reserves for the fiscal year in which the Joinder Entity dues are assessed, and will not impact or change the dues of any Participant for that fiscal year. Budget reserves resulting from any prior fiscal year

operation may be used to offset dues of Participants in subsequent fiscal years, as available and approved by the CRWP Board.

Section 8. CRWP Board

- A. The CRWP Board shall be made up of one representative staff person appointed by each Participant. Each Participant shall also appoint an alternate representative staff person to serve in the absence of the primary representative.
- B. The Board is authorized to: (1) approve CRWP's annual work plan and budget; (2) set CRWP policy; (3) approve new Members; (4) recommend water resource planning, and regional cooperation actions to Participants' governing boards, commissions, or councils; (5) adopt by-laws; (6) exercise any other powers and authority granted to the CRWP by this Agreement necessary to accomplish CRWP's purposes as established in Section 3 of this Agreement.
- C. Consistent with the terms of this Agreement, the by-laws shall, at least, (1) establish the offices of Chair and Vice-Chair and determine their terms, their general duties, and the method for their election; (2) establish a method to allow additional entities to apply for membership; (3) establish a method to determine timing of meetings; (5) establish a method whereby the Board can create subcommittees of the Board and other advisory committees or bodies to assist the Board in conducting its business.
- D. Unless specified otherwise in this Agreement or the bylaws, Board actions must be approved by a vote of a majority of the Board members present and eligible to vote at a meeting at which a simple majority of the Board is present.

Section 9. Fiscal Agent

The Board shall designate a fiscal agent for CRWP from among its Members, unless so authorized from the CRWP Board.

Section 10. Term

The term of this Agreement, unless otherwise terminated according to its provisions, shall be perpetual from the date that the last of the Participants named in Section 6(B) of this Agreement signs this Agreement.

Section 11. Dispute Resolution

Disputes among the Members shall, if possible, be resolved through the use of a mandatory, binding dispute resolution mechanism established by CWRP Board in the by-laws. However, the issues subject to this dispute resolution mechanism shall be limited to interpretation of the terms of the Agreement. No issues related to water supply development or program development by individual members will be raised as part of this dispute resolution mechanism.

Section 12. Duration and Dissolution

This Agreement shall remain in effect, subject to the following: (1) any Participant may withdraw at the end of any fiscal year as provided in this Agreement; (2) should all but one Participant withdraw, the Agreement shall end and CRWP shall be dissolved; (3) CRWP may be dissolved by a majority vote of the CRWP Board.

Section 13. Contractual Liability

Members shall share contractual liability of CRWP, including any judgment, fines or penalties and reasonable attorney fees incurred in a contract action that are levied against CRWP, or against a Member who entered into a contract on behalf of CWRP with authorization of the CWRP Board, on a basis proportionate to the each respective Member's dues, unless otherwise specified by a majority vote of the membership of the CRWP Board. This obligation shall apply to any entity that was a Member at the time the liability arose or the cause of action accrued. Settlement of any claim or action that would impose an obligation to pay upon Members under this provision must be approved by a majority of the membership the CRWP Board. Members who are not signatories to this Agreement shall be required to execute an agreement consistent with the terms of this Section 13 as a condition of membership.

Section 14. Indemnification

To the extent permitted by the Constitution and laws of Oregon relating to units of local government and subject to the limitations of ORS 30.265 to 30.300, each Member shall indemnify, defend and hold the others harmless from any liability arising from that Member's negligence in connection with CRWP activities including but not limited to acts or omissions of the Member's officials, employees and agents. Members who are not signatories to this Agreement shall be required to execute an agreement consistent with the terms of this Section 14 as a condition of membership.

Section 15. Oregon Law and Forum

- A. This Agreement shall be construed according to the laws of the State of Oregon.
- B. Any litigation between the Participants under this Agreement or arising out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.

Section 16. Agreement Amendments

Amendments to this Agreement shall be recommend by the Board and shall be effective when authorized by the governing board, commission or council, as the case may be, of every Participant.

Section 17. Prior Agreement

This Agreement amends, by completely replacing, the terms of the agreement Clackamas River Water Providers IGA entered into by the parties on August 2007.

SIGNATURES ON FOLLOWING PAGE

CLACKAMAS RIVER WATER PROVIDERS

CITY OF LAKE OSWEGO

By: _____
Mayor

Date: _____

**NORTH CLACKAMAS COUNTY
WATER COMMISSION**

By: _____
Chair

Date: _____

SOUTH FORK WATER BOARD

By: _____
Chair

Date: _____

CITY OF ESTACADA

By: _____
Mayor

Date: _____

SUNRISE WATER AUTHORITY

By: _____
Chair

Date: _____

By: _____
Secretary

Date: _____

CLACKAMAS RIVER WATER

By: _____
President

Date: _____

By: _____
Secretary

Date: _____

CITY OF TIGARD

By: _____
Mayor

Date: _____



City of Tigard Memorandum

To: The Honorable Mayor and City Council

From: Public Works Director Dennis Koellermeier

Re: Clackamas River Water Providers Membership

Date: March 14, 2012

When the Lake Oswego-Tigard Water Partnership projects come online in 2016, Tigard's water will be drawn from the Clackamas River.

The Public Works Department is pursuing city membership in the Clackamas River Water Providers (CRWP). The CRWP is a coalition made up of municipal water providers that get their drinking water from the Clackamas River. The purpose of the organization is to collectively fund and coordinate efforts regarding water resource planning, management, and water conservation to preserve the Clackamas River as a high quality drinking water source and to minimize future drinking water treatment costs.

Joining CRWP at this early stage will enable Tigard to:

- Contribute to the stewardship of our future water supply.
- Become familiar with other CRWP members.
- Demonstrate its commitment to the Lake Oswego-Tigard Water Partnership.

Current CRWP members must approve our membership. Staff will keep the council apprised of our progress and will bring any membership agreement(s) before the council.

Business Meeting

Meeting Date: 10/23/2012

Length (in minutes): Consent Item

Agenda Title: Authorize the Mayor to Execute an Intergovernmental Agreement with Metro Regarding Trail Signage

Prepared For: Steve Martin

Submitted By:

Greer Gaston,
Public Works

Item Type: Motion Requested

Meeting Type:

Consent Agenda

Information

ISSUE

Shall the council authorize the mayor to execute an intergovernmental agreement (IGA) with Metro regarding trail signage?

STAFF RECOMMENDATION / ACTION REQUEST

Authorize the mayor to execute the IGA.

KEY FACTS AND INFORMATION SUMMARY

The Intertwine is the name given to the regional network of parks, trails and natural areas. Metro, along with many businesses, nonprofits and cities, including Tigard, participate in The Intertwine. Most of Tigard’s parks, trails and open spaces are included in The Intertwine.

In order to provide a consistent and uniform look throughout The Intertwine, Metro developed designs and guidelines for directional (wayfinding) signage for regional trails such as Fanno Creek Trail. In March Metro posted 10 directional test signs along Fanno Creek Trail near Downtown Tigard. Attached is a drawing of a sample sign that has been posted. Neighboring Tualatin Hills Park and Recreation District has plans to place similar Intertwine directional signage along its trails.

Other segments of Tigard's Fanno Creek Trail lack any type of directional signage; signage is one of the most highly requested trail amenities.

Metro was recently awarded a grant to install directional signage on selected regional trails including Fanno Creek Trail in Tigard. The attached IGA outlines Metro and city responsibilities as they pertain to directional signage:

1. Metro will install directional signs along Fanno Creek Trail in Tigard.
2. Tigard and Metro will agree on the type and location of the signs.
3. Tigard, at its expense, will maintain the signs.

Under Metro's grant, approximately 100 directional signs will be produced and installed along Fanno Creek Trail in Tigard; the estimated cost of this work is \$100,000. Tigard is required to contribute \$5,000 in matching funds.

OTHER ALTERNATIVES

The council could propose changes to the agreement or could decide not to approve the agreement.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

None

DATES OF PREVIOUS COUNCIL CONSIDERATION

The council was briefed on the IGA at its October 16, 2012, meeting.

Fiscal Impact

Fiscal Information:

Under Metro's grant, approximately 100 directional signs will be produced and installed along Fanno Creek Trail in Tigard; the estimated cost of this work is \$100,000. If the IGA is approved, Tigard will be required to contribute \$5,000 in matching funds. This money would come from the park maintenance budget.

Attachments

Fanno Creek Trail Signage IGA

Sample Directional Sign

INTERGOVERNMENTAL AGREEMENT
Metro Regional Trails: Intertwine Signage

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between Metro ("Metro") and the City of Tigard (the "City") effective as of the last date of signature indicated below.

RECITALS

1. Metro has received Surface Transportation Program funds for the design, fabrication and installation of wayfinding signs along three regional trails in the Portland Metropolitan area (the "Project"), and the City desires for Metro to install some of these wayfinding signs along the Fanno Creek Trail right of way located within the City (the "Trail").
2. By the authority granted in Oregon Revised Statutes (ORS) 190.010, local government agencies may enter into cooperative agreements with units of local government for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. The City hereby grants Metro and its contractors the right to enter onto and occupy Trail right of way for the installation of signage along the Trail. Before Metro installs a sign, the City and Metro will agree on the type of sign and the place where the sign will be installed on the Trail. This right of entry shall continue for so long as necessary for Metro to complete installation of the signage, and shall terminate upon completion of the installation, or by December 31st, 2014, whichever is sooner.
2. The City shall, at its own expense, maintain and operate the Project signs on the Trail right of way upon completion of the Project and throughout the useful life of the Project signs. Said maintenance shall be at a minimum level that is consistent with normal depreciation and/or service demand. Parties agree that the useful life of the Project signs is defined as twenty (20) years. The State of Oregon (the "State") may conduct periodic inspections during the life of the Project signs to verify that Project signs are properly maintained and continue to serve the purpose for which federal funds were provided. If the State determines that additional maintenance is necessary, the City agrees to perform such maintenance. Maintenance responsibilities shall survive any termination of this Agreement.
3. The City acknowledges and agrees that Metro shall have no liability for the quality or accuracy of the signage, and hereby releases Metro for any damages or loss of any kind, including without limitation, direct, indirect, special, consequential, or punitive

damages arising out of the use or installation of the signage, or related in any way to the information contained therein.

4. The City shall identify and grant Metro and its contractors all the required permits for the Project. If required, permit fees will be borne by Metro as a Project expense. Hazardous materials, archeological, and environmental investigations will also be borne by Metro as a Project expense.
5. Metro's Project Manager for this Project is Robert Spurlock, 600 NE Grand Avenue, Portland, OR 97232, 503-813-7560, robert.spurlock@oregonmetro.gov, or assigned designee upon individual's absence. Metro shall notify the other party in writing of any contact information changes during the term of this Agreement.
6. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together will constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed will constitute an original.
7. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement will bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

METRO

CITY OF TIGARD

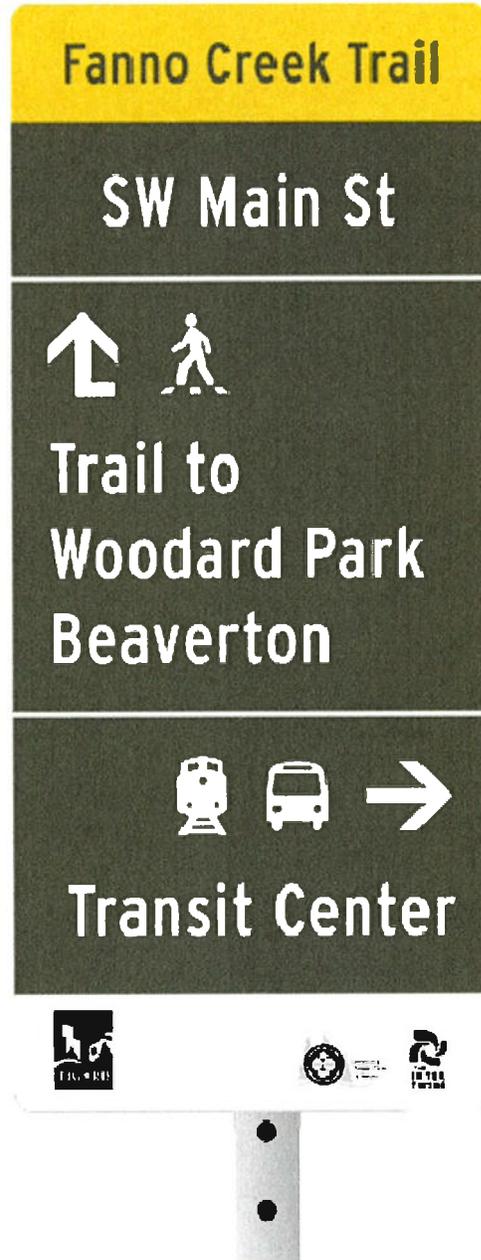
By _____

By _____

Date _____

Date _____

Sample Directional Sign



Business Meeting**Meeting Date:** 10/23/2012**Length (in minutes):** Consent Item**Agenda Title:** Approve Third Quarter Council Goal Update**Prepared For:** Joanne Bengtson**Submitted By:** Joanne Bengtson, City Management**Item Type:** Update, Discussion, Direct Staff**Meeting Type:** Consent Agenda**Information****ISSUE**

This is an update on progress made during the third quarter to the 2012 City Council Goals.

STAFF RECOMMENDATION / ACTION REQUEST

Informational only.

KEY FACTS AND INFORMATION SUMMARY

The City Council met December 6, 2011, to set goals for the coming year. While the city will accomplish much more than what is listed here, the identified goals represent items deserving special attention in the months ahead.

OTHER ALTERNATIVES

not applicable.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

1. Take the Next Step on Major Projects

a. Continue oversight of design, permits, rate implementation and costs for the Lake Oswego-Tigard Water Partnership.

b. Implement the Comprehensive Plan through code revisions, including

i. Tree code.

ii. Contribute to the SW Corridor Plan by adopting Tigard's land use policies and designations and identifying priorities for high-capacity transit (HCT) station location alternatives by mid-2012.

1. Determine the economic development opportunities, development plan, city policies and regulations needed to position the Tigard Triangle as an HCT station location.

c. Deliver on the promise of the voter-approved park bond by identifying all acquisition opportunities and completing the majority of park land acquisitions and improvements by the end of 2012.

2. Financial Sustainability

a. Maintain the long-term financial health of the General Fund and reserves.

i. Develop a long-term financial strategy by mid-2012.

b. Communicate regularly to residents about the alignment of city priorities with resources.

c. Evaluate the city's sustainability efforts on an ongoing basis.

3. Downtown

a. Identify a geographic-opportunity area in the downtown with the greatest potential to create a catalyst for further development. Concentrate most resources there.

b. Contact owners of key, structurally sound Main Street buildings with vacancies. Begin cooperative effort to secure tenants that will contribute to the vitality of downtown.

4. Annexation

a. Re-evaluate the city's annexation policy.

b. Develop a philosophy and approach to consider annexations, including islands.

5. Recreation

a. Evaluate options and resources to create a pilot recreation program:

i. Inventory existing city and community recreational programs, facilities and resources.

ii. Create recreational opportunities by partnering with the school district and other agencies or groups.

iii. Identify funding options aligning with the recreational programming demand.

DATES OF PREVIOUS COUNCIL CONSIDERATION

The City Council receives a Council Goal progress report each quarter throughout the year. This year the updates occur April 24, July 24, October 23 and the fourth quarter update will be given January 21, 2013.

Attachments

3rd Quarter Council Goal Report

Goal 1. Take the Next Step on Major Projects

a. Continue oversight of design, permits, rate implementation and costs for the Lake Oswego-Tigard Water Partnership

- Design continues to advance; the River Intake Pump Station (RIPS) is nearing 100 percent and all other phases are at 60 percent, allowing for a budget update next month.
- Contractor pre-qualification for RIPS is underway.
- Water rights case continues to churn through the State Court of Appeals. The League of Oregon Cities and the Oregon Water Utility Council have filed friends of the court briefs supporting the partnership's position.
- Oregon Division of State Lands has granted the easement for the Willamette River crossing.
- Supplier selection of specialty equipment continues.
- Land use hearings in West Linn scheduled for October 2012.
- Negotiation of a franchise fee to be imposed by West Linn upon the partnership continues at the city manager level.

b. Implement the Comprehensive Plan through code revisions, including:

i. Tree code

- At the July 10 Study session, staff summarized the adoption process and adoption volumes
- On July 24, a public hearing was held to share a staff report and gain public testimony and feedback from Council.
- On August 14, a public hearing was held for discussion with the Planning Commission and identify issues of interest
- September 11, a public hearing and discussion occurred with Planning Commission President Dave Walsh and the project garnered refinement of the issues of interest.

ii. Contribute to the SW Corridor Plan by adopting Tigard's land use policies and designations and identifying priorities for high-capacity transit (HCT) station location alternatives by mid-2012

1. Determine the economic development opportunities, development plan, city policies and regulations needed to position the Tigard Triangle as an HCT station location

- On August 14 Council voted unanimously to approve a resolution accepting the HCT Land Use Plan report for the purposes of: 1) informing future planning activities, including the Southwest Corridor Plan; 2) acknowledging the work and recommendation of the Citizen's Advisory Committee; and 3) fulfilling the obligations of the intergovernmental agreement with the funding agency (ODOT) and planning partner (Metro)
- Tigard continues to be represented at several levels of the SW Corridor project teams including the steering committee, project management group, project team leaders group, and public involvement group.
- On August 21 the report "*Tigard Triangle: A Path Forward*" was presented to the Tigard City Council and Planning Commission. It provided history on previous planning efforts in the Triangle, opportunities and barriers to redevelopment and key elements to ensure success of future plans.

- In late September, ODOT announced that Tigard had been selected to receive a Transportation Growth Management (TGM) grant for additional planning work in the Triangle. This work will help to identify and refine potential economic development opportunities, strategies and policy/plan amendments for the Triangle.

c. Deliver on the promise of the voter-approved park bond by identifying all acquisition opportunities and completing the majority of park land acquisitions and improvements by the end of 2012.

- The city closed on Eiswerth parcel.
- In partnership with Metro, the city recently finalized the purchase of the Fields property, which is a 26-acre site along the Fanno Creek Greenway and near the Tigard Public Library. The acquisition is a major milestone that will help to close a key gap in the Fanno Creek Greenway.
- Acquisitions via the park bond have added over 105 acres to the city's parkland inventory and leveraged over \$6 million of grant and local agency contributions to the program.
- The Fanno Creek House project obtained land use approval.
- East Butte Heritage Park project obtained conditional use permit.
- The Jack Park expansion project was submitted for land use. The project allows construction of a trail from Walnut Street to Jack Park.
- Property acquisition inquiries for open space continued for the properties on the Park and Recreation Advisory Board's list.
- One property on Main Street is on track for acquisition. The acquisition may be funded with park bond dollars. The City Center Advisory Commission and CD staff continue to identify possible park acquisitions in the downtown area.

Goal 2. Financial Sustainability

- a. **Maintain the long-term financial health of the General Fund and reserves.**
 - i. **Develop a long-term financial strategy by mid-2012.**
- This quarter the city convened the Mayor's Blue Ribbon Task Force, a group of community leaders charged with recommending how "Tigard should spend its next dollar". The group will bring recommendations to the December 18 workshop.
- b. **Communicate regularly to residents about the alignment of city priorities with resources.**
- c. **Evaluate the city's sustainability efforts on an ongoing basis.**
 - Work continues with the Brightworks firm, with a focus on the Public Works department as a pilot project
 - A department steering committee was formed to help develop a sustainability action plan
 - The steering committee will receive sustainability training October 29 from Brightworks

Goal 3. Downtown

- a. **Identify a geographic-opportunity area in the downtown with the greatest potential to create a catalyst for further development. Concentrate most resources there.**
- b. **Contact owners of key, structurally sound Main Street buildings with vacancies. Begin cooperative effort to secure tenants that will contribute to the vitality of downtown.**
- CCDA approved signing a Purchase & Sale Agreement with owners of Saxony-Pacific property. Due diligence is underway
- Targeted Improvement Program finalized and an RFP has been released to owners of vacant properties, brokers and businesses
- Progress made in securing a public open space in the downtown
- One new façade improvement grant approved. One previously approved project (Main Street Cleaners) completed
- Downtown street fair on August 11 drew an estimated 2,000 visitors
- Downtown connectivity plan proceeding. Public notice sent to property owners and Council workshop held. A hearing will take place with the Planning Commission on October 15th
- Conversations held with prospective developers/investors
- Main Street public art call for artists underway

Goal 4. Annexation

- a. **Re-evaluate the city's annexation policy.**
 - b. **Develop a philosophy and approach to consider annexations, including islands.**
- At the July 17 Council workshop on annexation policy, Council reviewed the annexation background report and prioritized topics for the first policy discussion held on August 21. Issues included the legal context for island annexation, phasing-in taxes and the development potential of property within islands
 - Council discussion supported an offer for tax phase-in with a promise not to apply city taxes before the River Terrace Community Plan for areas 63, 64 and Roy Rogers West is finalized and approved. Council showed some urgency to consider a resolution on this issue

Goal 5. Recreation

- a. **Evaluate options and resources to create a pilot recreation program:**
 - i. **Inventory existing city and community recreational programs, facilities and resources.**
 - ii. **Create recreational opportunities by partnering with the school district and other agencies or groups.**
 - iii. **Identify funding options aligning with the recreational programming demand.**
- Completed a searchable inventory of recreational sources that will be made available to customers through the city's website. A discussion with Council is scheduled for November 2012
 - Discussions continue with Tigard-Tualatin School District regarding partnering opportunities, including a field improvement at Metzger Elementary

Business Meeting**Meeting Date:** 10/23/2012**Length (in minutes):** 40 Minutes**Agenda Title:** Urban Forestry Code Revisions - Land Use Elements**Submitted By:** Todd Prager, Community Development**Item Type:** Public Hearing - Legislative**Meeting Type:**Council Business
Meeting - Main**Information****ISSUE**

This aspect of the council public hearing covers the land use elements of the Urban Forestry Code Revisions (UFCR) which include urban forestry standards for development and tree grove preservation incentives. The purpose of the hearing is to have Council discussion and get Council direction on eight policy issues and potential code changes in advance of the November 27, 2012 meeting.

STAFF RECOMMENDATION / ACTION REQUEST

Receive the staff report and:

1. Provide direction to staff for each of the eight policy issues of interest.
2. Verify whether issues of interest have been accurately categorized for the discussion.

The staff report/memo is in draft and will be sent to Council on Thursday, October 18.

KEY FACTS AND INFORMATION SUMMARY

On September 11, 2012 Council discussed the UFCR proposal and confirmed the list of issues of interest for further study or possible code changes. This information has been reformatted into a discussion guide for October 23, 2012 (Attachment A, to be sent on Thursday October 18). This memo categorizes each issue of interest based on topic (i.e. standards for development or hazard trees) and type (i.e. policy issue or clarification item).

The purpose of this meeting is to get council direction on the eight policy items which relate to the overall direction of the code. For each policy item a staff response and recommendation has been included. Staff responses to both policy issues and issues for clarification are included in Attachment A.

On October 23, a joint panel that will include Community Development staff; Todd Prager, former staff member and now principal of Todd Prager and Associates; and AKS Engineering and Forestry, the firm who completed the peer review of the draft code, will present a brief overview of the code topics relevant to council's issues of interest. For each topic, the presentation will include a discussion of policy issues raised by council, the Planning Commission's recommendation and policy alternatives based on council's deliberations to this point. Staff requests Council direction on each policy item and indicate whether it is desirable to:

1. Accept the Planning Commission's recommendation,
2. Choose one of the policy alternatives proposed by staff, or
3. Propose a new alternative

Public Hearing Overview

At the October 23, 2012 meeting:

- Todd Prager will present the policy issues of interest.
- Council will direct staff on any desired code changes to address each of the issues.

- Council will notify staff of any issues for clarification that should be brought forward as policy issues.
- This meeting is designed for maximum discussion by the Council about the proposal. Public testimony will be accepted at the end of the hearing, limited to three minutes per person.

At the November 27, 2012 meeting:

- Staff will present a report based on council direction from prior meetings.
- Public testimony will be taken on any changes under consideration.
- Potential council decision to adopt any changes and the entire UFCR package.

Additional meetings may be scheduled if more time is needed to adopt the proposal.

OTHER ALTERNATIVES

Council has a wide range of options in the legislative adoption process. Council could also decide not to adopt any changes to the existing codes.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

- Goal 1.b.i. Implement the Comprehensive Plan through code revisions, including tree code.
- Comprehensive Plan Goal 2, Section 2. Tigard's Urban Forest
- Urban Forestry Master Plan

DATES OF PREVIOUS COUNCIL CONSIDERATION

Council previously considered this matter on the following dates:

- February 16, 2010 (council direction to pursue a comprehensive set of code revisions)
- October 19, 2010
- November 9, 2010
- November 23, 2010
- January 25, 2011
- July 19, 2011 (staff presentation and council input on draft code revisions)
- January 24, 2012
- July 10, 2012
- July 24, 2012 (first public hearing on planning commission recommended code revisions)
- August 14, 2012
- September 11, 2012

Fiscal Impact

Fiscal Information:

Cost: N/A

Budgeted (yes or no): N/A

Where Budgeted (department/program): N/A

Additional Fiscal Notes:

The code amendments contained in the Urban Forestry Code Revisions package do not have a direct impact on the city's revenue and expenditures. Certain fees are proposed to be created and other to be adjusted. These fees, their purposes, and calculation methodologies are contained in the Resolution and its exhibits attached to agenda item 914. The amount of funds collected in the Urban Forestry Fund may be affected by the proposed change from the existing "tree mitigation" fee to the proposed "tree canopy" fee.

Business Meeting**Meeting Date:** 10/23/2012**Length (in minutes):** 40 Minutes**Agenda Title:** Urban Forestry Code Revisions - Non Land Use Elements**Submitted By:** Todd Prager, Community Development**Item Type:** Public Hearing - Legislative**Meeting Type:**Council Business
Meeting - Main**Information****ISSUE**

This aspect of the council workshop covers the non land use elements of the Urban Forestry Code Revisions which include tree permit requirements, hazard trees and the Urban Forestry Manual. The purpose of the hearing is for Council to discuss, and to get Council direction on eight policy issues and potential code changes in advance of the November 27, 2012 meeting.

STAFF RECOMMENDATION / ACTION REQUEST

Receive the staff report and:

1. Provide direction to staff for each of the eight policy issues of interest.
2. Verify whether issues of interest have been accurately categorized for the discussion.

The memo (staff report) is still in draft and will be sent to Council on Thursday, October 18.

KEY FACTS AND INFORMATION SUMMARY

On September 11, 2012 Council discussed the UFCR proposal and confirmed the list of issues of interest for further study or possible code changes. This information has been reformatted into a discussion guide for October 23, 2012 (Attachment A, to be transmitted to Council on Thursday, October 18). This memo categorizes each issue of interest based on topic (i.e. standards for development or hazard trees) and type (i.e. policy issue or clarification item).

The purpose of this meeting is to get council direction on the eight policy items which relate to the overall direction of the code. For each policy item a staff response and recommendation has been included. Staff responses to both policy issues and issues for clarification are included in Attachment A.

On October 23, a joint panel that will include Community Development staff; Todd Prager, former staff member and now principal of Todd Prager and Associates; and AKS Engineering and Forestry, the firm who completed the peer review of the draft code, will present a brief overview of the code topics relevant to council's issues of interest. For each topic, the presentation will include a discussion of policy issues raised by council, the Planning Commission's recommendation and policy alternatives based on council's deliberations to this point. Staff requests Council direction on each policy item and indicate whether it is desirable to:

1. Accept the Planning Commission's recommendation,
2. Choose one of the policy alternatives proposed by staff, or
3. Propose a new alternative.

Public Hearing Overview

At the October 23, 2012 meeting:

- Todd Prager will present the policy issues of interest.
- Council will direct staff on any desired code changes to address each of the issues.

- Council will notify staff of any issues for clarification that should be brought forward as policy issues.
- This meeting is designed for maximum discussion by the Council about the proposal. Public testimony will be accepted at the end of the hearing, limited to three minutes per person.

At the November 27, 2012 meeting:

- Staff will present a report based on council direction from prior meetings.
- Public testimony will be taken on any changes under consideration.
- Potential council decision to adopt any changes and the entire UFCR package.

Additional meetings may be scheduled if more time is needed to adopt the proposal.

OTHER ALTERNATIVES

Council has a wide range of options in the legislative adoption process. Council could also decide not to adopt any changes to the existing codes.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

- Goal 1.b.i. Implement the Comprehensive Plan through code revisions, including tree code.
- Comprehensive Plan Goal 2, Section 2. Tigard's Urban Forest
- Urban Forestry Master Plan

DATES OF PREVIOUS COUNCIL CONSIDERATION

Council previously considered this matter on the following dates:

- February 16, 2010 (council direction to pursue a comprehensive set of code revisions)
- October 19, 2010
- November 9, 2010
- November 23, 2010
- January 25, 2011
- July 19, 2011 (staff presentation and council input on draft code revisions)
- January 24, 2012
- July 10, 2012
- July 24, 2012 (first public hearing on planning commission recommended code revisions)
- August 14, 2012
- September 11, 2012

Fiscal Impact

Fiscal Information:

Cost: N/A

Budgeted (yes or no): N/A

Where Budgeted (department/program): N/A

Additional Fiscal Notes:

The code amendments contained in the Urban Forestry Code Revisions package do not have a direct impact on the city's revenue and expenditures. Certain fees are proposed to be created and other to be adjusted. These fees, their purposes, and calculation methodologies are contained in the Resolution and its exhibits attached to agenda item 914. The amount of funds collected in the Urban Forestry Fund may be affected by the proposed change from the existing "tree mitigation" fee to the proposed "tree canopy" fee.



City of Tigard Memorandum

To: Tigard City Council
From: Marissa Daniels, Associate Planner
Re: Urban Forestry Code Revisions
Date: October 1, 2012

On October 23, 2012, City Council will continue discussion on the Urban Forestry Code Revisions. At the September 11, 2012, public hearing, staff presented a list of 47 “issues of interest” to capture Council feedback. At that time, Council gave direction to staff to categorize and simplify the list of issues to be discussed. The result of that process is included on page 3 of this memo (Discussion Guide). Issues from the September matrix have been condensed and categorized, then sorted into the following types:

Policy Issues are items where Council has indicated a desire to look at potential changes to Planning Commission’s recommendation. Discussion on October 23, 2012, will center on these items and staff will be asking Council to provide direction on each issue.

Appendix A details each of the policy issues and provides a staff response. Most notable are the few areas where staff has provided options to consider, based on your prior discussions. This includes alternatives to:

- Exempt single family residential trees on private property (i.e. backyard trees) from maintenance and permit requirements.
- Revise the Administrative Rules during their (separate) adoption process. Specific items to address at that time could include:
 - Should the tree lists be amended?
 - Should the administrative rules be simplified?
- Revise the proposed code to clarify that hazard trees are required to be removed only after complaints are verified using industry standard methods.

Issues for Clarification are informational in nature, and Appendix B includes staff response. While some of these questions may be answered by the staff presentation, we do not plan to run through each item individually. If there is an item in this category you’d like to raise for group discussion, please do so during the October 23, 2012, meeting.

Future issues will not be considered in the adoption of the code at this time. For example, if Council wishes to amend certain administrative rules in the Urban Forestry Manual, then that

can be addressed during the upcoming administrative rules adoption process. Solar access is another example of an issue Council identified as a future work item.

Resolved indicates issues discussed on September 11, 2012 with some resolution.

Please note that time for public testimony will be provided. Staff from AKS, the firm that completed the Peer Review, will also be on hand.

Background

Council took the approach of first studying community values and existing conditions to set the framework for addressing the code. This began with the Comprehensive Plan process which established broad, 20 year goals and policies through the new Urban Forest Section of the Comprehensive Plan. From the Comprehensive Plan, council then directed the Urban Forestry Master Plan which expanded upon the Comprehensive Plan goals and policies and studied the issues in much greater detail. While the long term goal in the Master Plan is to increase citywide tree canopy from the current 25% up to 40%, the short term action items are to revise the city's urban forestry codes and funding streams in support of that goal. We're now here on the ground implementing the action items in the Urban Forestry Master Plan:

- Revising the land use and non land use elements of the code,
- Creating the Urban Forestry Manual to administer the code, and
- Updating the Master Fees and Charges Schedule to reflect fees associated with the recommended code.

The City Attorney advised staff to separate the land use vs. non land use elements of the code on council agendas because they have different process requirements. The Urban Forestry Standards for Development and Tree Grove Preservation Incentives apply during development and so are categorized as land use elements, and the Tree Permit Requirements, Hazard Trees and Urban Forestry Manual represent the non land use elements of the code. The Urban Forestry Manual consists of administrative rules that implement the details of the land use and non land use elements of the code.

Discussion Guide

Urban Forestry Code Revision Issues of Interest – September 11, 2012

Category	Issue	Type			
		Policy	Clarification	Future	Resolved
Standards for Development	5. Is the canopy approach appropriate as a regulatory tool?	P1			
	10. How will the requirements apply to large subdivisions vs. small infill (i.e. partitions) and redevelopment sites?	P2			
	11. Should developers be required to maintain trees for two years after planting to ensure establishment?	P3			
	7. Are the canopy requirements a regulatory taking?				<input checked="" type="checkbox"/>
Administrative Rules - Details	32. Are the tree planting, removal and thinning standards internally consistent?			<input checked="" type="checkbox"/>	
	33. What is the “built environment” (e.g. trees are allowed to be removed if their roots damage the “built environment”)?			<input checked="" type="checkbox"/>	
	35. Are there some inappropriate trees on the lists such as London Plane Tree?			<input checked="" type="checkbox"/>	
	36. How was the nuisance tree list developed?			<input checked="" type="checkbox"/>	
	39. Should there be spacing standards between trees and from buildings?			<input checked="" type="checkbox"/>	
	40. Why are there different standards for planting open grown vs. stand grown trees?			<input checked="" type="checkbox"/>	
	44. Why is it necessary to specify sheet size and scale for development plans?			<input checked="" type="checkbox"/>	
	45. Is it necessary for the city to have hard copies submittals of development plans?			<input checked="" type="checkbox"/>	
	46. Is requiring tree protection inspections by arborists/landscape architects twice monthly during development excessive?			<input checked="" type="checkbox"/>	
Administrative Rules – Tree Lists	48. Complexity of requirements to draw plans.			<input checked="" type="checkbox"/>	
	34. Do the tree lists provide enough options?			<input checked="" type="checkbox"/>	
	35. Are there some inappropriate trees on the lists such as London Plane Tree?			<input checked="" type="checkbox"/>	
	36. How was the nuisance tree list developed?			<input checked="" type="checkbox"/>	
	37. Is there a federal definition of a nuisance tree that can be used to develop the list?			<input checked="" type="checkbox"/>	
	38. Should Norway Maple be removed from the nuisance tree list?			<input checked="" type="checkbox"/>	
Tree Permit Requirements	43. Are there trees on the list that will cause damage to underground pipes and utilities?			<input checked="" type="checkbox"/>	
	22. Should a permit be required to remove trees that were planted or preserved with development?	P4			
	21. Should permits continue to be required to remove trees on private property?				
	20. Are the proposed permit requirements more restrictive than the existing permit requirements?		C1		
	23. Who will serve on the board or committee that makes decisions regarding removing healthy, protected trees?		C2		
Hazard Trees	25. Why does the code allow the removal and replacement of trees that die within three years of planting (e.g.8.12.040)?		C3		
	28. Should hazard trees be prohibited in Tigard?	P5			
	27. How do the hazard tree requirements relate to insurance requirements?	P6			
	26. Will the hazard tree requirements be effective in requiring removal of hazard trees when there are disputes?		C4		
Administrative Rules - General	29. Are there conflicts between the hazard tree requirements and the recently adopted nuisance code?		C5		
	16/30. Should the Administrative Rules (Urban Forestry Manual) be eliminated and the elements moved into the Code?	P7			
	*Does the proposal increase the cost of development due to the tree canopy plan and soil volume plan requirements?	P8			
	14. Do the administrative rules that implement the development code meet state land use law?		C6		
	15. Will the use of administrative rules lead to more appeals of development projects?		C7		
	17. Do the administrative rules for the development code need to be so detailed?			<input checked="" type="checkbox"/>	
Soil Volumes	31. Are the administrative rules a solution in search of a problem?			<input checked="" type="checkbox"/>	
	9/13. Will the cost of development increase due to the tree canopy plan and soil volume plan requirements?		C8		
Funding	*Should parking lot canopy (and associated soil volume) be required, since it could lead to increased development costs?		C9		
	*How will funding of the Urban Forestry Program be affected by the proposal?		C10		
Proposal Development Process	1. Was there a balance of viewpoint when developing the proposal?				<input checked="" type="checkbox"/>
	2. Is there a disconnect between where we started (i.e. Comp Plan and Urban Forestry Master Plan) and where we ended?				<input checked="" type="checkbox"/>
	3. Do Tigard residents support a 40% long term canopy goal?				<input checked="" type="checkbox"/>
	4. Is the 40% canopy goal for all private property or is it citywide?		C11		
	19. Should there be a review period after adoption?		C12		
	36. How was the nuisance tree list developed?		C13		
Future Work Items	8. Will the canopy requirements prevent solar access?			<input checked="" type="checkbox"/>	
	24. Should people have the right to significant view corridors such as Mt. Hood views?			<input checked="" type="checkbox"/>	
	41. Should there be limits on tree heights in order to preserve significant view corridors such as Mt. Hood views?			<input checked="" type="checkbox"/>	
	42. Should there be restrictions on planting evergreen trees on the south side of streets (due to winter shade/ice issues)?			<input checked="" type="checkbox"/>	

* Denotes issues raised on September 11, 2012

Policy Issues

Standards for Development

P1	Issue of Interest: Is the canopy approach an appropriate regulatory tool?
	<p>Staff Response: Many cities and counties throughout the country, particularly in the southeastern United States, have adopted tree canopy ordinances. The CAC and Planning Commission felt the approach was right for Tigard for three main reasons:</p> <ul style="list-style-type: none"> • The canopy approach allows maximum flexibility for the project designer to meet code requirements. • The canopy approach is more consistent with urban forest science and the city’s long-term urban forestry goals. It encourages large stature, appropriately spaced trees, which have the highest benefit/cost ratios. • The canopy approach requires the project designer to consider future canopy growth, which helps ensure that trees are properly placed within a site to become long-term amenities. It encourages appropriate tree spacing and setbacks from buildings by highlighting mature canopy growth. <p>The CAC and Planning Commission supported the development of a tiered approach to the canopy requirements, recognizing that, for example, more tree canopy is desirable and achievable in residential zones than in industrial zones. Staff and consultants then extensively tested the tiered tree canopy requirements on a wide range of development projects and made adjustments as needed based on CAC and Planning Commission input. The goal of the CAC and Planning Commission was to ensure the requirements are achievable, result in a reasonable balance between trees and development, and do not force typical development projects to pay a fee in lieu of canopy or utilize the discretionary review option.</p> <p>If the canopy requirements are modified significantly, staff recommends additional testing to determine the implications of the modifications. For example, if the canopy requirements are reduced by half, they may be achieved with small stature street trees only and result in less tree canopy in new development than currently exists in the same zones.</p> <p>For more detailed information about why a tree canopy approach was selected over tree count (i.e. tree density or number of trees) please see Volume V, page 6.</p>
	<p>Staff Recommendation: Staff recommends adopting the proposed canopy approach and tiered canopy requirements because they have been extensively tested and supported through the Citizen Advisory Committee, public involvement, and Planning Commission processes. If significant modifications are made, staff will need more time to rework the proposal and recommends additional testing of the results.</p>

P2	Issue of Interest: How will the requirements apply to small infill sites vs. larger subdivisions, planned developments and redevelopment sites?																
	<p>Staff Response: Taking into consideration future development trends, the Planning Commission recommended continuing to apply the draft code standards to Minor Land Partitions (when lots are divided to create two or three lots). These small infill sites represent a significant portion of potential future development. The draft code standards are also applicable to larger projects such as residential Subdivisions and Planned Developments, and redevelopment projects that require Conditional Use Permits, Downtown Design Reviews and Site Development Reviews.</p> <p>Independent peer review by AKS Engineering and Forestry (See Volume II, pages 187-217) demonstrated that the proposed effective tree canopy requirements were achievable on the range of sites that were tested, including three residential sites with smaller lots from the following zones:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;"><u>Zoning</u></th> <th style="text-align: center;"><u>Tier¹</u></th> <th style="text-align: center;"><u>Minimum Lot Size</u></th> <th style="text-align: center;"><u>Effective Tree Canopy Provided</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">R-4.5</td> <td style="text-align: center;">Tier 1</td> <td style="text-align: center;">7,500 sq. ft.</td> <td style="text-align: center;">45%</td> </tr> <tr> <td style="text-align: center;">R-7</td> <td style="text-align: center;">Tier 1</td> <td style="text-align: center;">5,000 sq. ft.</td> <td style="text-align: center;">215%</td> </tr> <tr> <td style="text-align: center;">R-25</td> <td style="text-align: center;">Tier 2</td> <td style="text-align: center;"><3,000 sq. ft.</td> <td style="text-align: center;">35%</td> </tr> </tbody> </table> <p>The Planning Commission approved two changes to the proposal, specifically addressing sites with smaller or more constrained lots:</p> <ul style="list-style-type: none"> • Recognizing that small lots may have limited street frontage for street trees, the commission reduced the per lot minimum from 20% to 15% for Tier 1 sites, and eliminated the per lot minimum for Tier 2 and 3 sites. • The commission voted to move the R-12 district from Tier 1 to Tier 2 to be conservative since an R-12 site was not tested through the peer review. <p>Staff Recommendation: Retain the Planning Commission recommendations. As described in P1, the tiered canopy requirements were carefully tested and adjusted by Planning Commission before forwarding their recommendation to Council. They found that proposed requirements achieve the desired balance between trees and development on small infill sites as well as larger subdivisions, planned developments, and redevelopment sites. Additional testing would be beneficial to determine the implications of significant modifications to the proposed canopy requirements.</p>	<u>Zoning</u>	<u>Tier¹</u>	<u>Minimum Lot Size</u>	<u>Effective Tree Canopy Provided</u>	R-4.5	Tier 1	7,500 sq. ft.	45%	R-7	Tier 1	5,000 sq. ft.	215%	R-25	Tier 2	<3,000 sq. ft.	35%
<u>Zoning</u>	<u>Tier¹</u>	<u>Minimum Lot Size</u>	<u>Effective Tree Canopy Provided</u>														
R-4.5	Tier 1	7,500 sq. ft.	45%														
R-7	Tier 1	5,000 sq. ft.	215%														
R-25	Tier 2	<3,000 sq. ft.	35%														

P3	Issue of Interest: Should developers be required to maintain trees for two years after planting to ensure establishment?
	<p>Staff Response: In the existing code, the City requires developers to guarantee mitigation tree survival during a two year establishment period. Guarantees are not</p>

¹ Tier 1 (40% effective canopy) - R-1, R-2, R-3.5, R-4.5 and R-7 zones
Tier 2 (33% effective canopy) - R-12, R-25, R-40, C-N, C-C, C-G, C-P, MUE, MUE-1, MUE-2, MUC, MUR, and I-P zones
Tier 3 (25% effective canopy) - MU-CBD, MUC-1, I-L, I-H, and schools (18.130.050(j)) zones

	<p>currently required for the establishment of street trees, parking lot trees, and other required landscape trees. The UFCR CAC recommended and the Planning Commission concurred that the city should require a guarantee period for all required trees (street trees, parking lot trees, etc.) not just mitigation trees. Often these other required trees have more difficulty becoming established because they are planted in more challenging locations such as along streets and within parking lots.</p> <p>The proposal requires bonding for 2 years after planting for all required trees to ensure early establishment.</p> <p>Note: There is a separate provision in Title 8 of the Municipal Code that allows the removal and replacement of required trees that die within three years after planting (further explained in C3 below). This provision has been reviewed by staff and does not conflict with the provision in Title 18 that requires developers to maintain trees for two years after planting. The reason the provisions do not conflict is that the Title 8 requirement does not apply during development and the Title 18 provision only applies during periods of active development.</p> <p>Staff Recommendation: Maintain the Planning Commission recommended requirement for a two year early establishment period.</p> <p>Options to consider, based on your discussions, include an alternative to remove the maintenance period for single family residential trees on private property (i.e. backyard trees). If planted in desirable locations, these residential trees may have a higher likelihood of survival because of the care they receive from homeowners. At the same time, this alternative would allow owners more flexibility in managing their residential landscapes. However if homes do not sell soon after being built, these trees may not survive if not maintained by the builder/developer.</p>
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Tree Permit Requirements

P4	<p>Issue of Interest: Should a permit be required to remove trees that were planted or preserved with development?</p> <p>Staff Response: Trees that were required to be planted or preserved as part of past development projects are part of the approved land use permit for that development. This includes mature trees that were preserved and incorporated into development plans, as well as newly planted trees such as parking lot shade trees.</p> <p>Because there is no permit process in the existing code to address the removal and replacement of healthy trees that were required with development, applicants must amend their prior land use permits to legally remove these trees. This process is overly time consuming and expensive with fees into the thousands of dollars.</p> <p>There are many legitimate reasons as to why owners may want to remove healthy trees that were required with development. These reasons include trees with roots that have</p>
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	<p>begun damaging pavement and trees that have grown tall enough to obscure significant views.</p> <p>In order to provide more flexibility and reduce or eliminate costs, the CAC recommended, and the Planning Commission concurred with establishing a tree removal permit process for trees that were required with development in the proposed Title 8.</p>
	<p>Staff Recommendation: Retain the Planning Commission recommendation. Requiring tree permits for trees planted or preserved with development has been supported through the Citizens Advisory Committee, public involvement, and Planning Commission process.</p> <p>Options to consider, based on Council discussions, include removing this requirement for private single family residential trees. If planted or preserved in desirable locations, these residential trees may have a low probability of being removed by homeowners. At the same time, this would allow owners more flexibility in managing their residential landscapes. However, particularly with past development projects, neighbors may have an expectation that certain trees will continue to be preserved or maintained if it was required as part of that project. Also, in the proposed code, trees planted or preserved to meet the requirements receive from 100% to 200% canopy credit. Council will need to decide whether planted and/or preserved trees used to meet canopy requirements should continue to be maintained after development is complete.</p>

Hazard Trees

P5	Issue of Interest: Should hazard trees be prohibited in Tigard?
	<p>Staff Response: Hazard trees are prohibited in both the current and the proposed Tigard Municipal Code. This is similar to other code prohibitions against nuisances such as tall weeds and grass. In the proposal the definition of “hazard tree” is now consistent with the standardized rating system developed by the International Society of Arboriculture. This helps to remove subjectivity during the hazard tree evaluation process by using industry standard methods and terminology. The overall risk rating of a tree is determined by three main factors: probability of failure, size of defective part, and the target area (i.e. how often the site is occupied and the value of the target). Using this methodology, a dead tree in a natural area is unlikely to be considered a hazard because the target rating would be very low, whereas the same tree on Durham Road may be considered a hazard because there are many high value targets. The Tree Risk Assessment Form, which has been adapted from the ISA form, can be found in Volume III pages 61-65.</p> <p>As recommended by the CAC and supported by the Planning Commission, if a tree on an adjacent property is a hazard, Chapter 8.08 would allow people to file a claim with the city. The city would then utilize a third party arborist to evaluate the tree. If the</p>

	<p>arborist determines there is a hazard, abatement would be required. The city could, after obtaining a warrant, enter a property, abate a hazard tree and recover costs in cases where an owner is uncooperative. The city could abate tree hazards without a warrant when there is an imminent threat to public health or safety as is currently allowed by the existing code.</p> <p>The intent of the proposed code is to establish an objective and efficient process for the abatement of hazard trees only after complaints are verified. The intent is not to cause the wide spread removal of all trees that may or may not be hazards. Consistent with current code enforcement practices, the city would only take action in response to written complaints.</p>
	<p>Staff Recommendation: Maintain the Planning Commission recommendation.</p> <p>One policy option to consider, based on Council discussions, is to revise the proposed code to clarify that hazard trees are required to be removed only after complaints are verified using industry standard methods.</p>

P6	Issue of Interest: Should the hazard tree standards be amended to address personal liability insurance requirements?
	Staff Response: Staff will work with Council to further clarify the impact of the code on personal liability insurance requirements.
	Policy Options: Maintain the Planning Commission recommendation. Policy alternative: Council direction to address requirements.

Administrative Rules

P7	Issue of Interest: Should the Administrative Rules be eliminated and the elements moved into the Code?
	Staff Response: Administrative rules were developed for the Urban Forestry Code Revisions project to clearly document and communicate most of the city’s current administrative practices without making the code excessively long. For example, administrative items such as planting specifications, tree lists and methods for calculating tree canopy are more efficient when placed within an administrative manual rather than in the development code. Also when administrative changes are required such as adding or subtracting trees from the tree lists, the amendment process for administrative rules is more efficient while at the same time providing for adequate public notice and the opportunity for public participation.
	Staff Recommendation: Maintain the format of the Planning Commission recommendation, separating the Code elements from the administrative procedures. In developing the proposal, public input from the range of viewpoints involved wanted the specificity that the proposed administrative rules provide.

	<p>Due to the lack of specificity in the existing code, there are numerous staff interpretations and conditions of approval required to implement the code when approving development applications. The intent of the proposed administrative rules is to minimize staff discretion when implementing the code thereby increasing certainty for applicants and the public.</p> <p>Options to consider, based on Council discussions, include an opportunity to revise the Administrative Rules during the administrative rulemaking process. According to Municipal Code section 2.04.070 (Administrative Rulemaking Procedure), council shall be notified 14 days prior to public notice of any proposed administrative rules. At any time during that 14 day period, any councilmember may put the administrative rules for discussion on the next available council agenda.</p> <p>For this project, if council authorizes administrative rules when adopting the UFCR on November 27, 2012, staff anticipates formally notifying council of the administrative rules on December 13, 2012 and sending public notice of administrative rules on December 27, 2012. Therefore, any councilmember may decide between December 13 through December 27, 2012 to put the administrative rules for discussion as part of the next available council agenda. Of course, if council informs staff on October 23, 2012 that they anticipate further discussion of administrative rules, staff will begin finding time on council's early 2013 agenda for administrative rules.</p> <p>Specific items to address during the administrative rule adoption could include:</p> <ul style="list-style-type: none"> • Should the tree lists be amended? • Should the administrative rules be simplified? <p>Another option to consider is whether to eliminate the administrative rules all together. For the reasons stated above, staff does not recommend this option. However, if council does direct staff to eliminate the administrative rules, staff will need time to further amend the code. This is because as drafted, the code includes numerous cross references to administrative rules in the Urban Forestry Manual such as canopy requirements and how to calculate those requirements. If the administrative rules are eliminated, those details will need to be moved into the code.</p>
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P8	Issue of Interest: Does the proposal increase the cost of development due to the tree canopy plan and soil volume plan requirements?
	Staff Response: The proposed code places a high value on the role of urban forestry professionals in designing and implementing the conditions for sustainable urban tree canopy, which include providing adequate soil volumes. Staff acknowledges that requiring urban forestry professionals adds costs to projects, but it is consistent with the goals of the Urban Forestry Code Revisions: to distribute development costs more equitably (rather than only requiring arborists for projects with existing trees) and to focus on establishing healthy future canopy (rather than only penalties for removal).

As an example, based on interviews with local arborists the current estimated cost to develop and implement a tree plan for a Minor Land Partition is between \$4,000 and \$5,000 (this includes inventory field work, site plan, arborist report, revisions based on city review, implementation and twice monthly inspections). However, costs associated with the existing code for tree removal mitigation alone can reach \$30,000 for a Minor Land Partition (this is in addition to the cost of developing and implementing a tree plan).

The Planning Commission approved the following change to the proposal in order to lower the potential costs associated with the tree canopy and soil volume plan requirements:

- Landscape architects, in addition to arborists, are allowed to develop urban forestry plans to reduce costs by eliminating the need for hiring two urban forestry professionals.

Staff Recommendation: Maintain the Planning Commission recommendation, including the change to allow landscape architects, in addition to arborists, to develop urban forestry plans.

Soil volume plans are not a requirement, but instead an option if the applicant wishes to maximize impervious surfaces and minimize open soil areas for trees. We're not expecting to see this type of development in typical single family residential neighborhoods since there is usually so much soil space available for tree growth. This option might be utilized at non-residential sites if, for example, an applicant wants to maximize the number of parking stalls in a parking lot and provide trees with necessary soil under paved surfaces. However, applicants would need to evaluate whether it makes economic sense to invest in implementing soil volume plans on a project by project basis.

Issues for Clarification

Tree Permit Requirements

C1	Issue of Interest: Are the proposed permit requirements more restrictive than the existing permit requirements?
	<p>Staff Response: The following categories of trees are currently regulated by the city, in the proposed Title 8, these categories of trees will continue to be regulated, with no expansion of regulations to additional categories. The most notable change in this topic area is the creation of a consolidated permit system to make the permitting process clear, consistent and user friendly.</p> <ul style="list-style-type: none"> • Street and median trees, • Trees in sensitive lands, • Trees that were required with development, • Trees that were planted using the Urban Forestry Fund, and • Heritage trees. <p>In some cases, the proposed permit requirements would be less restrictive than the existing permit requirements. For example, currently if someone wants to remove a healthy tree that was required with development they may only do so by amending the prior land use permit or paying fines. Either option typically costs thousands of dollars. The proposed permit requirements create a low or no fee permit process to remove healthy trees required with development for additional reasons such as if they are causing damage or blocking views. Also, currently permits are required to remove any tree over six inch trunk diameter in sensitive lands and the proposed permit requirements would apply only to native trees over six inch trunk diameter in sensitive lands.</p>
C2	Issue of Interest: Who will serve on the board or committee that makes decisions regarding removing healthy, protected trees?
	<p>Staff Response: Section 8.04.030 authorizes the city manager to designate a city board or committee to make decisions regarding removing healthy, protected trees. This could become part of the charge of an existing board or committee or the city manager could designate a new board or committee. If the charge of an existing board or committee is amended, council would need to approve the change. If a new board or committee is formed, council would need to approve the member composition consistent with the current staff appointment process.</p>
C3	Issue of Interest: Why does the code allow the removal and replacement of trees that die within three years of planting (e.g.8.12.030)?
	<p>Staff Response: It is not uncommon for trees to die within the first three years after planting because their roots have not yet become established. The proposed code recognizes this phenomenon and allows for the removal and replacement of newly planted trees that die without requiring another permit. For example, if a property</p>

	owner receives a permit to remove and replace a street tree, and the replacement street tree dies the first summer during a heat wave, the owner could remove and replace the tree on their own without yet another city permit. This is intended to save property owners and city staff time and paperwork.
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Hazard Trees

C4	Issue of Interest: Will the hazard tree requirements be effective in requiring removal of hazard trees when there are disputes?
	Staff Response: The hazard tree requirements were developed in close collaboration with the city's risk division and attorney, and are expected to be effective in requiring hazard tree removal. If a tree on an adjacent property is disputed to be a hazard, Chapter 8.08 would allow people to file a claim with the city. The city would then utilize a third party arborist to evaluate the tree. If the arborist determines there is a hazard, abatement would be required. The city could, after obtaining a warrant, enter a property, abate a hazard tree and recover costs in cases where an owner is uncooperative. The city could abate tree hazards without a warrant when there is an imminent threat to public health or safety as is currently allowed by the existing code. These requirements would create an efficient and effective framework for addressing hazard trees while not unduly exposing the city to liability.

C5	Issue of Interest: Are there conflicts between the hazard tree requirements and the recently adopted nuisance code?
	Staff Response: Susan Hartnett, former Assistant Community Development Director, and Albert Shields, Program Development Specialist, served on the Technical Advisory Committee (TAC) for the UFCR and confirmed that the hazard tree requirements in Title 8 do not conflict with the recently adopted nuisance code requirements in Title 6. When amending the nuisance code, Code Compliance staff avoided making substantive changes to the hazard tree requirements because they were aware of the upcoming changes that would be made through the UFCR project. When substantive changes were made to the hazard tree requirements in Title 8 (section 8.02.050, Hazard Tree Related Definitions and Chapter 8.06, Hazard Trees) revisions to Title 6 (sections 6.01.020, 6.02.030 and 6.04.040) were made concurrently to ensure consistency. Adoption of Title 8 will not replace the changes that were made to Title 6.

Administrative Rules – General

C6	Issue of Interest: Do the administrative rules (Urban Forestry Manual) that implement the development code meet state land use law?
	Staff Response: The administrative rules that implement the development code were drafted in close collaboration with the City Attorney and are consistent with state land use law. The administrative rules include clear and objective standards such as tree

	<p>planting and preservation requirements which are referenced by the development code. After obtaining land use approval, an applicant must provide plans consistent with these requirements before being issued building permits. This is similar to other administrative requirements such as the pipe diameter for water service lines, and building code requirements, which are referenced by the development code rather than included as part of the code itself. Separating these administrative requirements is intended to prevent the code from becoming excessively long while at the same time providing certainty as to the city's planting and preservation standards.</p>
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C7	<p>Issue of Interest: Will the use of administrative rules lead to more appeals of development projects?</p>
	<p>Staff Response: Staff believes the use of administrative rules will reduce the likelihood of appeals by making the development code requirements more clear and objective. Due to the lack of clarity in the existing code, there are numerous staff interpretations and conditions of approval required to implement the code when approving development projects. If someone disagrees with staff's interpretations or conditions, then they may appeal staff's decision. Decisions as to compliance with the administrative rules are not intended as land use decisions. The intent of the administrative rules is to minimize staff interpretations and conditions thereby increasing certainty for applicants and the public, and reducing the likelihood of appeals.</p>

Soil Volumes

C8	<p>Issue of Interest: Are soil volume standards necessary in residential areas, and do they apply only during development?</p>
	<p>Staff Response: Trees need soil to grow and there is a direct relationship between the amount of soil provided and the mature size of trees. Soil volume standards are proposed for street trees and parking lot trees because these tree types are the most likely to not be provided adequate soil volumes. Since street trees are required as part of residential development (i.e. subdivisions, planned developments and partitions), the soil volume standards would apply in these circumstances.</p> <p>The proposed code applies soil volumes standard only during development since there is the opportunity to design the sites to provide sufficient soils for trees. Soil volumes standards would not apply, for example, in situations where an existing homeowner wants to plant a new street tree.</p> <p>The Home Builders Association (HBA) supported applying soil volume standards to residential development during the CAC process because one of the goals of the UFCR was to focus on healthy future tree canopy rather than the punitive mitigation standards for tree removal in the existing code. Another reason for HBA support was the flexibility allowed in meeting soil volume requirements through traditional, low-cost methods such as increasing the size of planter strips for street trees (see code</p>

	section 18.790.050.C.3). More expensive methods such as the use of engineered soils under pavement is one option for meeting soil volume standards, but not the preferred option in most situations.
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C9	Issue of Interest: Should parking lot canopy (and associated soil volume) be required, since it could lead to increased development costs?
	<p>Staff Response: Soil volume standards are proposed for parking lot trees because, based on a review of past projects, these tree types are often not provided adequate soil volumes to support mature canopy growth. The proposed standards are intended to support Council goals identified through the Urban Forestry Master Plan for increasing tree canopy over parking lots.</p> <p>There is flexibility allowed in meeting soil volume requirements through traditional, low-cost methods such as providing larger landscape islands for parking lot trees. This can be achieved through strategic parking lot design and/or the use of an allowed reduction of up to 20% required parking for planting trees (see code section 18.790.050.C.3). More expensive methods such as the use of engineered soils under pavement is one option for meeting soil volume standards. These engineered methods may be used if the value of parking exceeds the cost of using engineered soil designs.</p>

Funding

C10	Issue of Interest: How will funding of the Urban Forestry Program be affected by the proposal?
	<p>Staff Response: Funding of the Urban Forestry Program is not expected to be significantly affected by the proposal. Based on past Tree City USA reporting data, the staff costs associated with administering the code ranges from approximately \$100,000 to \$150,000 annually depending on the level of development. These staff costs are budgeted by the Community Development Department and supported by the city's General Fund. While the proposed code includes a shift from a tree mitigation to a tree canopy approach, the staff costs associated with administering the code are not expected to change significantly.</p> <p>Staff would like to clarify that in the "Policy Roadmap" matrix from Council's September 11, 2012 meeting, the column heading titled "Additional Cost to Implement?" may have caused some confusion. The column heading more accurately should have read "Ongoing Cost to Implement?" since the intent was to differentiate between one-time project costs versus ongoing program costs. Again, these ongoing program costs are not expected to change significantly from what is already budgeted by the Community Development Department for staff costs associated with administering the code, and we have adequately budgeted for program costs within existing resources.</p>

Proposal Development Process

C11	Issue of Interest: Is the 40% canopy goal for all private property or is it citywide?
	<p>Staff Response: The 40% canopy goal in the Urban Forestry Master Plan is a citywide canopy goal that takes into account parks, natural areas, streets, commercial, and residential areas. The Urban Forestry Master Plan seeks to achieve 40% citywide tree canopy by the year 2047. The current amount of citywide tree canopy is approximately 25% with variable distribution from 46% on City of Tigard property, 30% on private residential property, 9% on streets (public right of way), and 6% in parking lots.</p> <p>The 40% effective canopy goal in the Urban Forestry Code Revisions is for lower density residential property (Tier 1). Due to the various credits and standards for the calculations (e.g. 200% credit for preservation, 125% credit for planting native trees, and full credit for street trees) the actual canopy provided through planting and preservation ranges from 16% to 40% canopy or an of average 28% canopy for lower density residential property. There is also the option of paying a fee in lieu or receiving discretionary approval for green building or development techniques instead of providing trees. The proposed code requirements have been compared with one's effective tax rate versus their actual tax rate.</p>
C12	Issue of Interest: Should there be a review period after adoption?
	<p>Staff Response: Both the CAC and Planning Commission recommended an evaluation of the new regulations within five years of their effective date so that any necessary adjustments can be made in a timely manner. This is intended to avoid the need for a complete overhaul of the regulations which is a challenge for all participants.</p>
C13	Issue of Interest: How was the nuisance tree list developed?
	<p>Staff Response: Morgan Holen, certified arborist and forest biologist, served on the UFCR CAC. Just prior to the development of the City of Tigard's nuisance tree list, Ms. Holen was contracted by the City of Lake Oswego to develop their nuisance tree list for very similar purposes (to exempt certain species from tree permit requirements). In order to benefit from the up to date work of another expert in an adjacent city, staff utilized the City of Lake Oswego's list for the City of Tigard's purposes.</p> <p>Ms. Holen's process began with compiling nuisance tree lists from other local jurisdictions such as Clean Water Services and the City of Portland. She then researched and verified the list of tree species using additional sources such as the Native Plant Society of Oregon and the Plant Conservation Alliance.</p> <p>Finally, Ms. Holen further refined the list by contacting local ISA certified arborists and receiving additional feedback. She identified twelve local tree species as capable of spreading at such a rate that they cause harm to human health, the environment</p>

and/or economy.

These twelve species were peer reviewed and approved by Tigard's UFCR CAC and TAC (both included experts on nuisance tree species), and are proposed for inclusion in the City of Tigard's nuisance tree list.

It is important to note that the purpose of the nuisance tree list is to automatically allow the removal of nuisance trees when requested as part of the tree removal permit process. There is no requirement to remove nuisance trees if an owner wants to retain them.

C I T Y O F T I G A R D

Respect and Care | Do the Right Thing | Get it Done



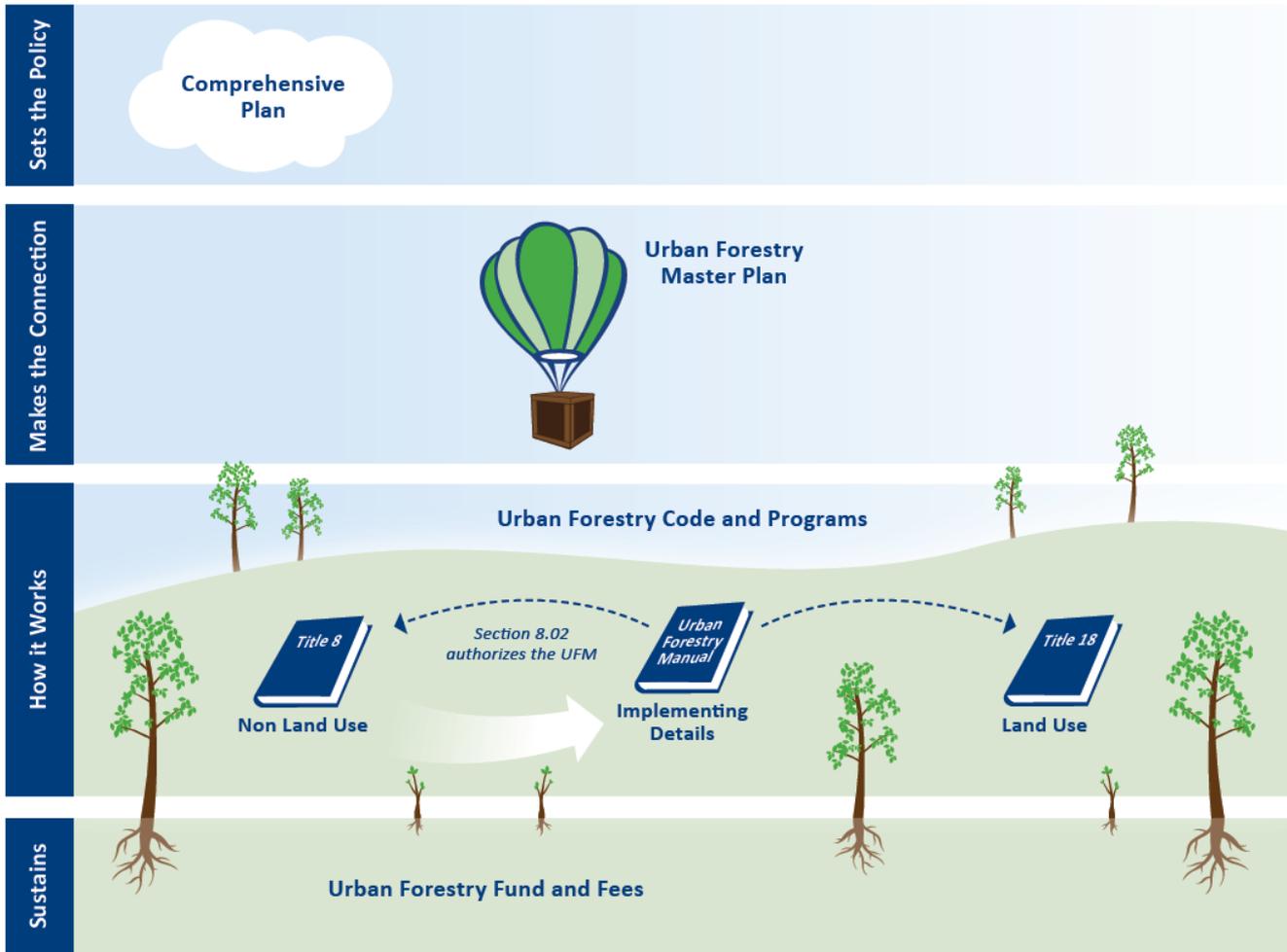
Urban Forestry Code Revisions

Council Direction on Policy Issues of Interest

Community Development

October 2012

CITY OF TIGARD



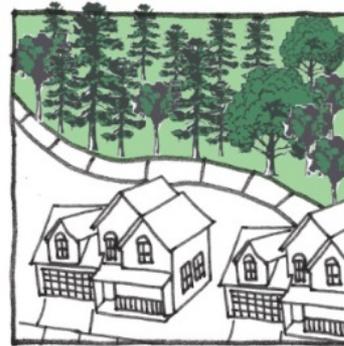
P1: Is the canopy approach an appropriate regulatory tool?



Preservation



Planting



Fee-in-lieu



Discretionary Review

Comment: Planning Commission supported the flexibility of this approach

Alternative: Council direction to develop different requirements

Standards for Development

P2: How will the requirements apply to various sites?



Preservation



Planting



Fee-in-lieu



Discretionary Review

Tier	Canopy Range	Zoning
1	16-40%	<ul style="list-style-type: none"> •Lower density residential
2	13-33%	<ul style="list-style-type: none"> •Higher density residential •Commercial •Mixed used •Industrial Park
3	10-25%	<ul style="list-style-type: none"> •Downtown •Industrial •Schools

Comment: Planning Commission recommends tiered canopy approach

Alternative: Council direction to develop new approach

Standards for Development

P3: Should developers be required to maintain trees for two years?



Comment: This is consistent with existing tree establishment requirements

Alternative: Do not require maintenance on private single family residential lots

Standards for Development

C I T Y O F T I G A R D

P4: Should permits be required to remove trees required with development?



Comment: Planning Commission found permit process increases flexibility

Alternative: Do not require permits for private single family residential lots

Tree Permit Requirements

P5: Should hazard trees be prohibited in Tigard?



Comment: The existing code prohibits hazard trees

Alternative: Clarify that removal is required only after complaints are verified

Hazard Trees

P6: Should hazard trees standards address personal liability requirements?



Comment: Further clarify the impact of the code on personal liability insurance requirements.

Alternative: Council direction to address requirements

Hazard Trees

C I T Y O F T I G A R D

P7: Should the Administrative Rules be eliminated or moved into the Code?



Comment: Admin. Rules provide certainty without making Code too long

Alternative: Revise Admin. Rules during their upcoming adoption process

Administrative Rules

CITY OF TIGARD

P8: Does the proposal increase the cost of development?



Example Costs for 2 Lot Partition			
Code	Design/ Implementation	Mitigation	Total Cost
Existing Code	\$4,000	\$30,000	\$34,000
Proposed Code	\$5,000	\$0	\$5,000

Comment: Overall costs not expected to increase

Alternative: Revise Admin. Rules during their upcoming adoption process

Administrative Rules

Discussion



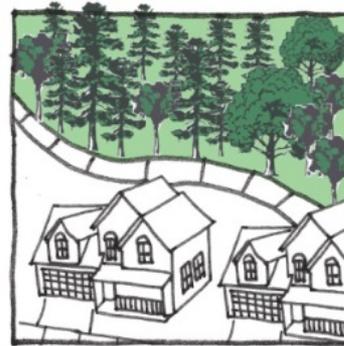
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Public Testimony



Business Meeting**Meeting Date:** 10/23/2012**Length (in minutes):** 15 Minutes**Agenda Title:** Adopt 2013 Legislative Agenda**Submitted By:** Liz Newton, City Management

Motion Requested

Resolution

Item Type: Public Hearing - Quasi-Judicial**Meeting Type:** Council Business Meeting - Main**Public Hearing:****Publication Date:****Information****ISSUE**

Adopt the city's 2013 legislative agenda

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends council adoption of the 2013 Legislative agenda attached.

KEY FACTS AND INFORMATION SUMMARY

During the September 25 study session, council discussed legislative priorities for the upcoming session. Consensus of council was to bring the following priorities forward for adoption on October 23.

- Local Control Amendment
- Maintain and strengthen the state's commitment to the State Shared Revenue funding formula
- Address tax equity issues in the context of state telecommunications laws including removing existing preemptions that have led to declining revenues.
- Allow local governments a more flexible use of transient lodging tax to meet the increased demands placed on both on essential services and infrastructure created by tourism activities.
- 9-1-1 Tax Renewal
- Jobs/Economic Development Initiative
- Downtown Brownfield Development
- Defeat legislation that would extend or make permanent the moratorium on raising existing or levying new local gas taxes and/or any legislation that proposes to restrict or preempt cities' ability to charge any transportation-related fee or tax.
- Seek additional funding, efficiencies and program support for multi-modal transit and rail projects.
- Tigard Street Trail
- Support an urban growth boundary agenda that would provide for a more efficient urban growth management system.

The priorities are described in more detail in the "2013 Legislative Agenda" attached.

OTHER ALTERNATIVES

Revise the 2013 Legislative Agenda

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

2013 Legislative Agenda

Attachments

2013 Legislative Agenda



2013 Legislative Agenda

Tigard, Oregon

"She flies with her own wings."
—Judge Jessie Quinn Thornton, 1854



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Council President Gretchen Buehner
Councilor Nick Wilson
Councilor Marland Henderson
Councilor Marc Woodard

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City of Tigard
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Economic Development/Jobs

Jobs/Economic Development Initiative

Endorse the League of Oregon Cities (LOC) Jobs/Economic Development Initiative to support three policy options in the Oregon Business Development Department's budget:

- ❑ The Brownfields Redevelopment Fund for gap funding to clean up industrial sites.
- ❑ Patient Capital for Industrial Lands Pilot Program for funding to cities to install infrastructure and conduct feasibility studies needed for sites to be "shovel ready."
- ❑ The Employment Site Re-Use/Redevelopment Pilot Program to assist communities with funding incentives to reuse/redevelop existing industrial lands.

Downtown Brownfield Development

In addition to supporting the LOC's Jobs/Economic Development Initiative, pursue available federal funding to clean brownfield sites.

Transportation

Defeat legislation that would extend or make permanent the moratorium on raising existing or levying new local gas taxes and/or any legislation that proposes to restrict or pre-empt cities' ability to charge any transportation-related fee or tax.

In 2009, legislation was adopted that prohibited local governments from enacting or amending charter provisions, ordinances or resolutions related to the collection of local motor vehicle taxes until Jan. 2, 2014. The legislation did not apply to Tigard because our local motor vehicle tax was in place. Oppose any legislation that pre-empts the city's ability to charge any transportation-related fee or tax.

Seek additional funding, efficiencies and program support for multimodal transit and rail projects.

Pursue state and federal grants and other funding sources, and regional, state and federal support for multimodal transit and rail projects.

Tigard Street Trail

Work with ODOT Rail and Portland & Western Railroad to secure the property rights for the former rail bed land paralleling Tigard Street. Pursue regional, state and federal funds for construction of a trail.

Financial Stability

■ **Local Control Amendment**

This constitutional amendment would allow local voters to consider a local option levy outside of compression and extend the duration from 5–10 years. (HJR 26 in the 2011 legislative session.)

■ **Maintain and strengthen the state's commitment to the State Shared Revenue funding formula.**

Prevent erosion of the formula for distribution of state liquor, cigarette and gas tax revenue to cities. At a minimum retain the current distribution formula.

■ **Address tax equity issues in the context of state telecommunications laws including removing existing pre-emptions that have led to declining revenues.**

The predominant system of franchising telecommunications providers has not kept pace with technology. In particular, the shift from land line telephones to wireless technologies has resulted in an erosion of telecommunications revenues in Tigard and throughout Oregon cities. Over the last three years, Tigard has seen a 45 percent decrease in telecommunications franchise revenues.

■ **Allow local governments a more flexible use of transient lodging tax to meet the increased demands placed on both essential services and infrastructure created by tourism activities.**

Current law prohibits cities from imposing new local transient lodging taxes. Cities' share of state transient lodging taxes may fund city or county services without restriction. Retain the current distribution formula of state transient tax dollars and fund city services without restriction.

■ **9-1-1 Tax Renewal**

Renew the 9-1-1 emergency tax beyond its expiration in 2014 and extend the tax to prepaid cell phones and VoIP services. As these services become a higher share of the market, the tax revenues to 9-1-1 centers is declining which shifts the financial burden for operating 9-1-1 centers to cities even though the demand for service increases. It is estimated that extension of the 9-1-1 tax would generate \$700,000 for WCCA to pay for increased service demand.

Growth and Development

■ **Support an urban growth boundary agenda that would provide for a more efficient urban growth management system.**

Support a requirement that concept and community planning for urban growth boundary expansion areas is conducted by the jurisdiction that will ultimately govern the area, and that those final plans be adopted and annexation occur prior to development.

