



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL, CITY CENTER DEVELOPMENT AGENCY & LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: September 3, 2013 - 6:30 p.m. CCDA Meeting followed by City Council 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



City of Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL, CITY CENTER DEVELOPMENT AGENCY & LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: September 3, 2013 - 6:30 p.m. CCDA Meeting followed by City Council Business Meeting

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

City Center Development Agency **6:30 pm**

- A. Call to Order - Tigard City Council, City Center Development Agency and Local Contract Review Board
 - B. Roll Call
 - C. Pledge of Allegiance
 - D. Call to Council and Staff for Non-Agenda Items
 - E. Council Communications & Liaison Reports
- **EXECUTIVE SESSION:** The Tigard City Center Development Agency will enter into Executive Session to discuss real property 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.
1. DISCUSS URBAN RENEWAL FINANCIAL MODEL - City Center Development Agency
6:50 pm estimated time

City Council Business Meeting: **7:35 pm estimated time**
 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - A. Follow-up to Previous Citizen Communication
 - B. Citizen Communication – Sign Up Sheet
 3. CONSENT AGENDA: Tigard City Council and Local Contract Review Board: These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to: **7:45 pm estimated time**

A. APPROVE CITY COUNCIL MINUTES FOR:

1. April 30, 2013 Town Hall
2. May 14, 2013
3. May 28, 2013
4. June 11, 2013
5. June 18, 2013

B. APPOINT MEMBERS TO THE PARK AND RECREATION ADVISORY BOARD

C. CONSIDER A RESOLUTION TO APPROVE THE CITY OF TIGARD NAMING AND RECOGNITION POLICY

Local Contract Review Board:

D. AWARD CONTRACT FOR UTILITY BUSINESS PLANNING SERVICES

E. AWARD CONTRACT FOR RIGHT-OF-WAY MOWING SERVICES

F. AWARD CONTRACT FOR RIGHT-OF-WAY MAINTENANCE AND IMPROVEMENTS

• 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. DISCUSS FORMATION OF A CITIZEN ADVISORY COMMITTEE FOR TIGARD TRIANGLE STRATEGIC PLAN **7:55 pm estimated time**
5. APPOINT MEMBERS TO A TIGARD TRIANGLE CITIZEN ADVISORY COMMITTEE **7:50 pm estimated time**
6. CONSIDER A RESOLUTION APPROVING THE PURCHASE OF THE STEVE STREET PROPERTY AND AUTHORIZING THE CITY MANAGER TO COMPLETE THE PROPERTY PURCHASE **8:00 pm estimated time**
7. TIGARD TRIANGLE STRATEGIC PLAN UPDATE **8:10 pm estimated time**
8. COUNCIL LIAISON REPORTS **8:30 pm estimated time**
9. NON AGENDA ITEMS
10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
11. ADJOURNMENT **8:35 pm estimated time**

AIS-1406

1.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): 45 Minutes

Agenda Title: Urban Renewal Tax Increment Revenue Forecast

Submitted By: Sean Farrelly, Community Development

Item Type: Update, Discussion, Direct Staff

Meeting Type: City Center
Development
Agency

Public Hearing: No

Publication Date:

Information

ISSUE

The Board of the CCDA will be briefed on the Urban Renewal Tax Increment Revenue Forecast by staff and consultants ECONorthwest.

STAFF RECOMMENDATION / ACTION REQUEST

No action is requested; the Board of the CCDA is asked to listen to the briefing and provide feedback.

KEY FACTS AND INFORMATION SUMMARY

The findings of ECONorthwest's August 19th memo include:

- Real property accounts for 81% of the assessed value in the district. The balance of the assessed value is utility, personal (machinery and equipment), and manufactured (mobile homes) property.
- 97% of total assessed value of real property has assessed value to real market value ratios of 90% or less. In other words, the vast majority of properties have a cushion, so that in the event real market values decline, assessed values should still see 3.0% appreciation in the short-term.
- Based on the TIF projections, ECONorthwest estimates that borrowing capacity for the URA would be about \$1,975,000 in FYE 2014.
- The City Center Urban Renewal Plan states, “No new indebtedness to be repaid with tax increment revenues may be incurred after the twentieth anniversary of the effective date of the Plan.” As the Plan was approved by voters in May of 2006, this requires all indebtedness to be incurred no later than FYE 2026. Assuming periodic borrowings over the life of the URA, the projected TIF revenues could support up to \$13,200,000 of total indebtedness to be incurred by FYE 2026.
- This is less than the \$22,000,000 maximum indebtedness allowed by the URA Plan. Thus, to fully implement the Plan, the URA will need to generate more TIF revenue than has been forecasted.

OTHER ALTERNATIVES

Not applicable

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

City Center Urban Renewal Plan

DATES OF PREVIOUS COUNCIL CONSIDERATION

June 4, 2013

Attachments

TIF Forecast Memo

PowerPoint

DATE: August 19, 2013

ECO Project #: 21466

TO: Sean Farrelly and Kenny Asher, City of Tigard

FROM: Nick Popenuk, ECONorthwest

SUBJECT: CITY CENTER URBAN RENEWAL AREA – TAX INCREMENT REVENUE FORECAST

The City of Tigard (“City”) asked ECONorthwest to forecast future tax increment finance (“TIF”) revenues that would be generated by the City Center Urban Renewal Area (“URA”). This memorandum summarizes the results of the TIF forecast.

How urban renewal works

Urban renewal is a program used by over 50 cities and counties in Oregon to help revitalize specified areas within their jurisdiction. TIF is the primary finance tool for urban renewal areas. TIF revenues are generated when a URA is established and the assessed value of all property in the area is ‘frozen’ (called the *frozen base*). Over time, the total assessed value in the area increases above the frozen base. The assessed value in the area above the frozen base is called the *incremental assessed value*. The taxing jurisdictions that overlap the urban renewal area continue to collect tax revenue from the frozen base, but tax revenue generated from the incremental assessed value goes to the URA in the form of TIF revenues.

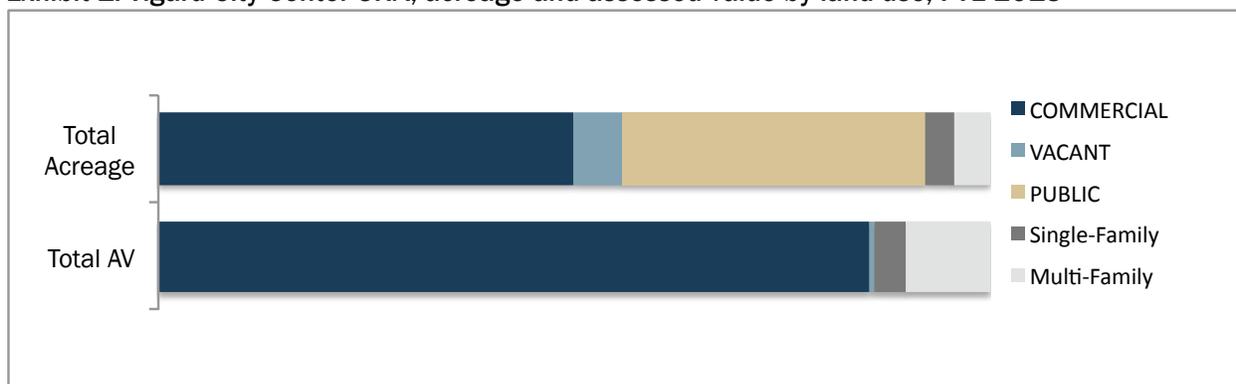
About the City Center URA

The City Center URA Plan was adopted in December 2005. The frozen base of the URA is \$69,207,308. The City Center URA Plan identifies the projects that should be carried out in the URA using TIF revenues, as well as a total limit on the amount of TIF revenues that can be spent on these projects (called the *maximum indebtedness*).¹ The maximum indebtedness limit of the City Center URA is \$22,000,000. The URA includes 193.71 acres of land. Three maps are included as attachments to this report. Each map shows the boundaries of the URA.

Exhibit 1 shows a breakdown of all parcels in the URA by land use. Commercial property is the predominant land use, including 50% of the acreage and 85% of the assessed value of the URA. Publicly-owned (tax-exempt) property is the next largest land use, with 37% of the acreage of the URA. Additionally, the area includes small amounts of single-family, multifamily, vacant, and other land uses.

¹ Note that the expenditure of TIF on interest payments for debt that finances urban renewal projects is not counted toward the maximum indebtedness limit.

Exhibit 1. Tigard City Center URA, acreage and assessed value by land use, FYE 2013



Calculated by ECONorthwest with source data from the Washington County Office of Assessment and Taxation.

Fiscal Year Ending (“FYE”) 2008 was the first year in which the URA was eligible to receive TIF revenues. Exhibit 2 shows the historical growth in assessed value and TIF revenues for FYE 2008 to FYE 2013. Assessed value of the URA grew rapidly from \$72,433,669 in FYE 2008 to \$95,604,035 in FYE 2011. There was virtually no change in assessed value from FYE 2011 to 2012, and a decline in assessed value from FYE 2012 to 2013. Average annual growth in assessed value in the URA since 2008 has been 5.1% per year. In FYE 2013 (the most recent year for which data are available), the URA received \$304,379 in TIF revenues.

Exhibit 2. City Center URA, historical assessed value and TIF revenues, FYE 2008-2013

FYE	Total AV	Frozen Base	Excess Value	Tax Rate	TIF
2008	\$ 72,433,669	\$ 69,207,378	\$ 3,226,291	13.3623	\$ 43,111
2009	\$ 78,530,005	\$ 69,207,378	\$ 9,322,627	13.3091	\$ 124,076
2010	\$ 89,594,452	\$ 69,207,378	\$ 20,387,074	13.2221	\$ 269,560
2011	\$ 95,604,035	\$ 69,207,378	\$ 26,396,657	12.9589	\$ 342,072
2012	\$ 95,335,863	\$ 69,207,378	\$ 26,128,485	12.8703	\$ 336,281
2013	\$ 92,888,162	\$ 69,207,378	\$ 23,680,784	12.8534	\$ 304,379

Compiled by ECONorthwest with source data from the Washington County Office of Assessment and Taxation.

Tax rates

The first step in forecasting TIF revenues is calculating the total consolidated tax rate (the sum total of all applicable permanent, local option levy, and general obligation bond rates for all taxing jurisdictions overlapping the URA). Because permanent rates are, by definition, permanent,² and Oregon Revised Statutes (ORS) exclude all local option levies and general obligation bonds approved after October of 2001 from the calculation of TIF revenues for URAs like the City Center URA, there is relatively little change in the consolidated tax rate for the City Center URA over time.

Generally speaking, change in the City Center URA tax rate is limited to the gradual decrease and eventual termination of tax rates for old (pre-2001) general obligation bonds. As shown

² Note that there are a few exceptions for jurisdictions that levy a tax rate less than the total amount allowed by their permanent rate limitation.

previously in Exhibit 2, this has resulted in a gradual decrease in tax rate from \$13.3623 per \$1,000 of assessed value in FYE 2008 to \$12.8534 per \$1,000 in FYE 2013.

Exhibit 3 shows the future forecast tax rates for the City Center URA through FYE 2030. The rate is anticipated to slowly decline until FYE 2019, when all pre-2001 general obligation bonds are retired, and the rate stabilizes at \$11.9692 per \$1,000 of assessed value (the sum of the permanent rates for all jurisdictions).

Exhibit 3. Tigard City Center URA, forecast of future consolidated tax rate, FYE 2013 – 2030

FYE	Tax Rate
2013	12.8534
2014	12.6796
2015	12.5433
2016	12.3559
2017	12.1717
2018	12.1717
2019	11.9692
2020	11.9692
2021	11.9692
2022	11.9692
2023	11.9692
2024	11.9692
2025	11.9692
2026	11.9692
2027	11.9692
2028	11.9692
2029	11.9692
2030	11.9692

Calculated by ECONorthwest with source data from the Washington County Office of Assessment and Taxation as well as 2013 Certified Annual Financial Reports (CAFRs) for overlapping taxing districts.

Assessed value

The forecast of assessed value is at the heart of any TIF forecast. In Oregon, there are four types of assessed value: real, personal, utility, and manufactured. Real property includes land and improvements, which is what most people traditional think of as taxable property and accounts for 80 to 90% of total assessed value in most jurisdictions. In the City Center URA, real property accounts for 81% of the total assessed value of the area, and therefore is the focus of our analysis of assessed value.

Real property

Change in assessed value of real property comes from two sources: appreciation (or depreciation) and “exception” events.

Appreciation

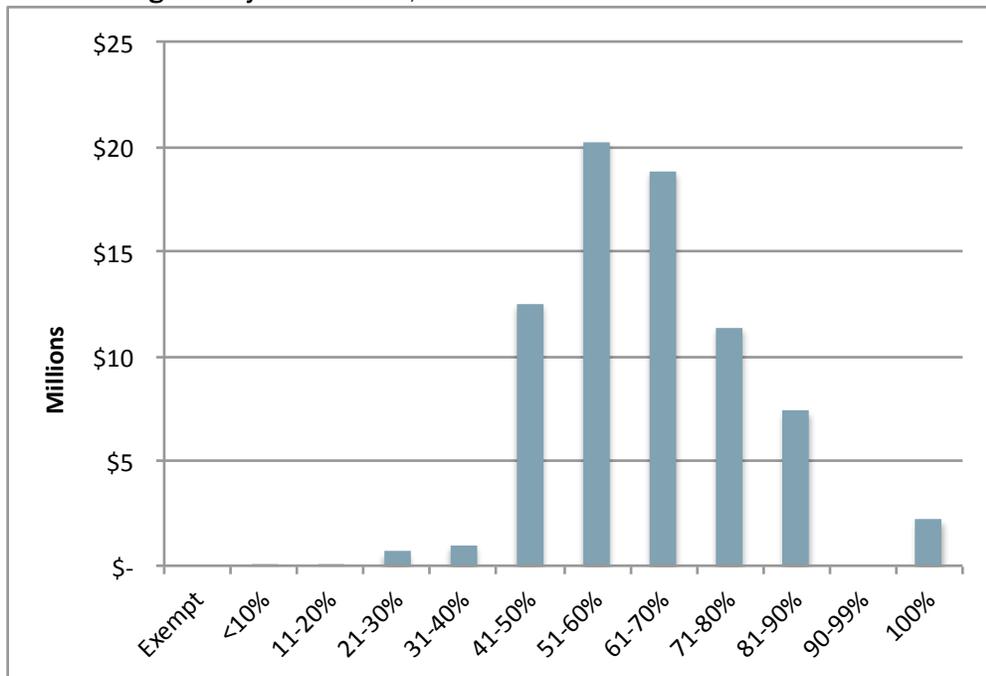
Appreciation (or depreciation) is the result of changing market values for an existing property account. Many property accounts experience large changes in their market values over time,

generally trending upward, but with cycles of appreciation and depreciation along the way. Oregon’s property tax system removes much of this volatility from taxable property values, by severing the connection between real market values and assessed values. Properties in Oregon are assessed at the lower of their real market value or “maximum assessed value.” For the vast majority of properties in Oregon, their maximum assessed value is well below their real market value, providing a cushion for any declines in real market value. The volatility of real market values has essentially been replaced by the predictability of maximum assessed values, which are limited by the Oregon constitution to a 3.0% increase each year.

In other words, the vast majority of real property in Oregon appreciates at 3.0% each year. A small subset of properties (those with maximum assessed values at or near their real market values) have the potential to experience greater volatility in their assessed value. Thus, an important metric in evaluating the likely future appreciation for an area is the ratio of assessed values to real market values in an area.

Attachment A. Map of Tigard City Center URA AV/RMV Ratios shows the relationship between assessed value and real market value for every parcel in the URA. In the City Center URA, 97% of total assessed value of real property has assessed value to real market value ratios of 90% or less. In other words the vast majority of properties have a cushion, so that in the event that real market values decline, assessed values should still see 3.0% appreciation in the short-term. Exhibit 4 illustrates the breakdown of assessed value to real market values for properties in the City Center URA.

Exhibit 4. Tigard City Center URA, ratio of assessed values to real market values, FYE 2013



Calculated by ECONorthwest with data from the Washington County Office of Assessment and Taxation.

The results shown in Exhibit 4 suggest that 97% of all properties in the URA should be expected to see 3.0% annual appreciation regardless of changes in real market value in the near future. The question remains, what appreciation or depreciation should be expected for the very small subset of properties that have assessed values equal to 100% of real market values? These properties have no cushion and are subject to market forces that determine their annual changes in real market value.

Real market values nationally and regionally have been steadily rising for the past year, and it is likely that these trends will translate into increasing real market values in the Tigard City Center URA as well. This means it is likely that these properties will see growth of 3.0% or more in the short-term. However, to be conservative, our analysis assumes that these properties experience no growth in assessed values in the next few years. This results in a weighted average appreciation rate of 2.91% for all real property in the City Center URA. We carry this assumption through FYE 2015, after which point, we assume all real properties experience the maximum-allowed 3.0% annual growth.

Exception value

Exception value refers to changes in property values resulting from forces other than general appreciation or depreciation. This can include new construction, remodeling of an existing building, the sale of a property, or the appeal of a property's valuation. We investigated all of these potential sources of exception value to forecast future changes in assessed value for the City Center URA.

For new development we examined building permit data from January 1, 2012 through June 30, 2013. Due to the lag time between real estate market activity and the release of the tax rolls, any construction that occurred during calendar year 2012 has yet to come on the tax rolls, and will first be seen for FYE 2014. Thus, recent historical building permit data gives us a very good idea of short-term trends in exception value. However, the City Center URA experienced no new development or significant redevelopment during this time period, and therefore we assume zero exception value from new development through FYE 2015.

Similarly, the County Assessor confirmed that there were no property accounts within the City Center URA that appealed their valuations in FYE 2013, which removes this as a potential cause for short-term decreases in assessed value.

Finally, we looked at recent sales data to determine if some properties may see declines in value due to recent sales prices that are lower than their current assessed values. The County Assessor reported ten properties in the City Center URA have sold since January 1, 2012. Although most of those properties sold for well above their assessed values, two of those properties sold for less than their assessed values, which will likely result in a decrease in assessed value for the URA of \$117,400 in FYE 2014.

To forecast long-term changes in assessed value from exception events, we evaluate the area's potential for new development. Attachment B. Map of Tigard City Center URA Vacant Land

shows all parcels that are officially vacant, according to data provided by Metro and the County Assessor. These maps show that other than a few large public right-of-way parcels, there are very few properties in the URA that are vacant. This limits new development in the area to redevelopment of non-vacant sites.

To determine the potential for redevelopment of non-vacant properties, we looked at the ratio of improvement to land value for properties in the URA. Attachment C. Map of Tigard City Center URA Improvement to Land Value Ratio shows each parcel's ratio of improvement to land value. Most properties in the URA have improvement values less than two times their land values, and many of those properties have improvement values less than their land values. In general, this indicates that much of the property in the URA is underutilized, which is conducive for redevelopment.

For our long-term forecast, FYE 2016 and beyond, we have assumed new development each year results in new assessed value equal to 1.0% of the prior year's valuation of real property. Combined with our appreciation assumptions discussed previously in this document, this results in a forecast of total growth in assessed value that is reasonable and conservative, given historical trends in Washington County and the City of Tigard.

Other property types

All of the analysis in the previous section was specific to real property. However, the area also includes assessed value for utility, personal (i.e., machinery and equipment), and manufactured (i.e., mobile homes). Combined, these property types account for 19% of the URA's total assessed value. These property types are less predictable than real property, as they do not have the same cushion between assessed value and real market value that real property does.

For the very small amount of manufactured property in the area (less than \$50,000 of total value), our forecast conservatively assumes that it depreciates to \$0 in FYE 2014, and remains at \$0 throughout the duration of the forecast period.

For utility and personal property, we have assumed no change in value through FYE 2015, followed by 1.0% annual appreciation for the duration of the forecast period. This is based on our experience with our urban renewal areas, in which annual changes in value for these property types can be volatile, but long-term trends exhibit slow growth.

Forecast

Exhibit 5 shows our assumed appreciation rates for all property types for all years of the forecast period.

Exhibit 5. Tigard City Center URA, property value appreciation assumptions, FYE 2013 - 2030

FYE	Appreciation Assumptions			
	R	U	P	M
2013				
2014	2.91%	0.00%	0.00%	-100.00%
2015	2.91%	0.00%	0.00%	0.00%
2016	3.00%	1.00%	1.00%	0.00%
2017	3.00%	1.00%	1.00%	0.00%
2018	3.00%	1.00%	1.00%	0.00%
2019	3.00%	1.00%	1.00%	0.00%
2020	3.00%	1.00%	1.00%	0.00%
2021	3.00%	1.00%	1.00%	0.00%
2022	3.00%	1.00%	1.00%	0.00%
2023	3.00%	1.00%	1.00%	0.00%
2024	3.00%	1.00%	1.00%	0.00%
2025	3.00%	1.00%	1.00%	0.00%
2026	3.00%	1.00%	1.00%	0.00%
2027	3.00%	1.00%	1.00%	0.00%
2028	3.00%	1.00%	1.00%	0.00%
2029	3.00%	1.00%	1.00%	0.00%
2030	3.00%	1.00%	1.00%	0.00%

Source: ECONorthwest

Exhibit 6 shows our assumed changes in assessed value from new development and other exception events for all years of the forecast period. Note that the assumptions for new development are shown in dollars per year, but are based on an underlying assumption of 1.0% of the prior year's real total real property valuation. FYE 2014 and 2015 are highlighted, because those assumptions are based on reported appeals, sales, and new development data from the City of Tigard and the Washington County Assessor.

Exhibit 6. Tigard City Center URA, assumed exception value, FYE 2014 - 2030

FYE	Appeals	Sales	New Dev	Total
2014	\$ -	\$ (117,400)	\$ -	\$ (117,400)
2015	\$ -	\$ -	\$ -	\$ -
2016	\$ -	\$ -	\$ 799,692	\$ 799,692
2017	\$ -	\$ -	\$ 831,679	\$ 831,679
2018	\$ -	\$ -	\$ 864,946	\$ 864,946
2019	\$ -	\$ -	\$ 899,544	\$ 899,544
2020	\$ -	\$ -	\$ 935,526	\$ 935,526
2021	\$ -	\$ -	\$ 972,947	\$ 972,947
2022	\$ -	\$ -	\$ 1,011,865	\$ 1,011,865
2023	\$ -	\$ -	\$ 1,052,339	\$ 1,052,339
2024	\$ -	\$ -	\$ 1,094,433	\$ 1,094,433
2025	\$ -	\$ -	\$ 1,138,210	\$ 1,138,210
2026	\$ -	\$ -	\$ 1,183,739	\$ 1,183,739
2027	\$ -	\$ -	\$ 1,231,088	\$ 1,231,088
2028	\$ -	\$ -	\$ 1,280,332	\$ 1,280,332
2029	\$ -	\$ -	\$ 1,331,545	\$ 1,331,545
2030	\$ -	\$ -	\$ 1,384,807	\$ 1,384,807

Source: ECONorthwest

Exhibit 7 combines all of our assumptions for future growth in assessed value into our final forecast of assessed value. We forecast annual growth of 2.21% in FYE 2014, which is constrained by the lack of new development and the sale of two parcels for prices below their previous assessed values. Longer-term, the area should recover from the recession to experience steady appreciation and some new development. We assume the area will be able to achieve average annual growth in assessed value of roughly 3.5% per year. It is likely, however, that this growth will not be as consistent as what is shown in Exhibit 7. New development will likely occur sporadically, and in larger increments.

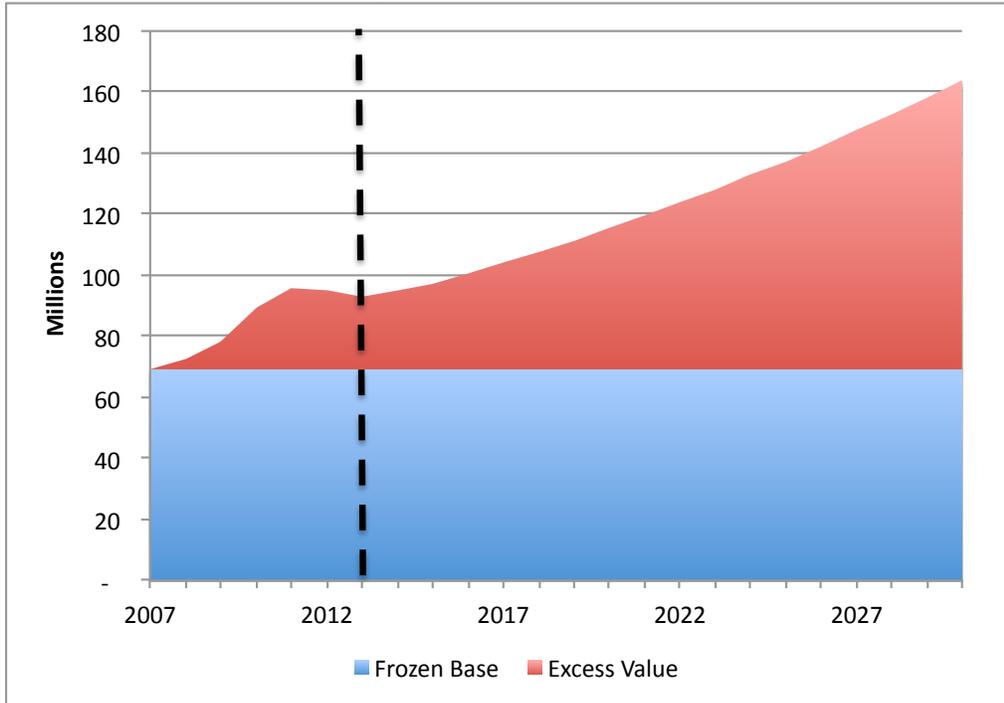
Exhibit 7. Tigard City Center URA, forecast of assessed value, FYE 2013 – 2030

FYE	Assessed Value			Annual % Growth
	Appreciation	Exception	Total	
2013			92,888,162	
2014	2,169,242	(117,400)	94,940,004	2.21%
2015	2,261,528	-	97,201,532	2.38%
2016	2,571,399	799,692	100,572,623	3.47%
2017	2,669,085	831,679	104,073,387	3.48%
2018	2,770,627	864,946	107,708,960	3.49%
2019	2,876,178	899,544	111,484,682	3.51%
2020	2,985,899	935,526	115,406,107	3.52%
2021	3,099,955	972,947	119,479,009	3.53%
2022	3,218,520	1,011,865	123,709,394	3.54%
2023	3,341,772	1,052,339	128,103,505	3.55%
2024	3,469,901	1,094,433	132,667,839	3.56%
2025	3,603,099	1,138,210	137,409,148	3.57%
2026	3,741,569	1,183,739	142,334,456	3.58%
2027	3,885,521	1,231,088	147,451,065	3.59%
2028	4,035,175	1,280,332	152,766,572	3.60%
2029	4,190,755	1,331,545	158,288,872	3.61%
2030	4,352,503	1,384,807	164,026,182	3.62%

Calculated by ECONorthwest

Exhibit 8 puts this forecast of assessed value into context, by comparing historical and forecast growth in assessed value for the City Center URA. Historical average annual growth in assessed value for the area has been about 5% per year, which is higher than the forecast growth rate of about 3.5% per year, but overall Exhibit 8 shows future growth that is generally compatible with the brief historical data for the area.

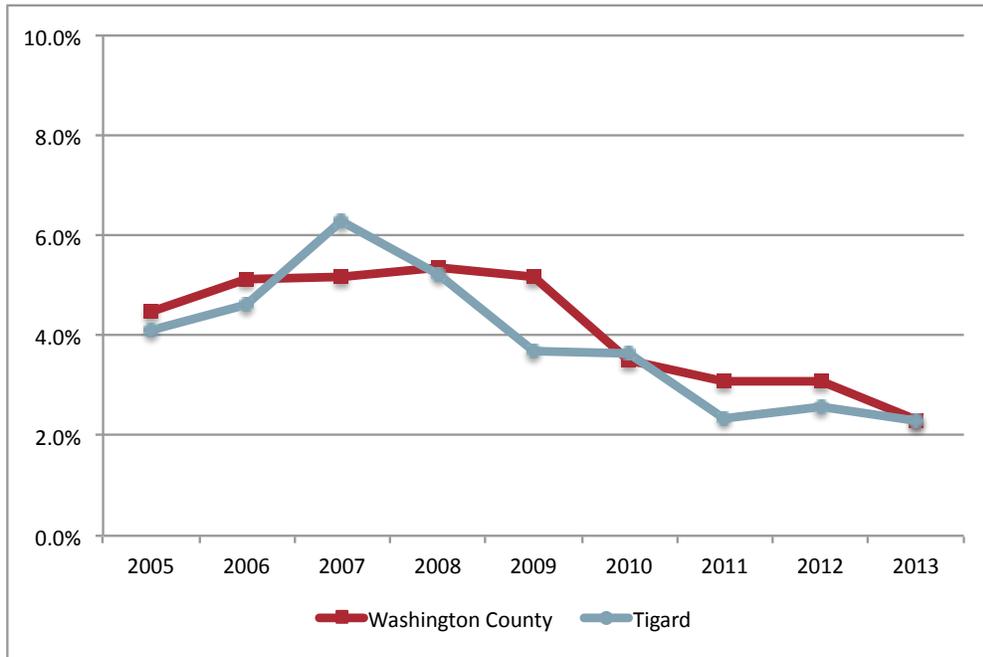
Exhibit 8. Tigard City Center URA, historical and forecast growth in assessed value (frozen base and excess value), FYE 2007 - 2030



Calculated by ECONorthwest, with historical data from the Washington County Office of Assessment and Taxation.

Exhibit 9 provides additional context for our forecast of assessed value growth for the City Center URA. Exhibit 9 shows the annual growth in assessed value for the City of Tigard and Washington County, each year from FYE 2005 to 2013. Prior to the recession, both jurisdictions routinely experienced annual growth in assessed value ranging from 4% to 6%. During the recession, this growth dropped into the 2% to 3% range. This data suggests that, on average, if the Tigard City Center URA were to receive its “fair share” of regional growth, then it would likely result in annual growth of about 4%, which is slightly higher than what we have assumed in our forecast.

Exhibit 9. Washington County and City of Tigard, annual percentage growth in assessed value, FYE 2005 - 2013



Calculated by ECONorthwest with source data from the Washington County Office of Assessment and Taxation.

TIF Revenues

After calculating the consolidated tax rate and forecasting future assessed value, the calculation of TIF revenues is straightforward. Exhibit 10 shows the forecast growth in TIF revenues from FYE 2013 to 2030. TIF revenues which were \$304,379 in FYE 2013 are expected to grow to over \$1 million per year by the end of the forecast period.

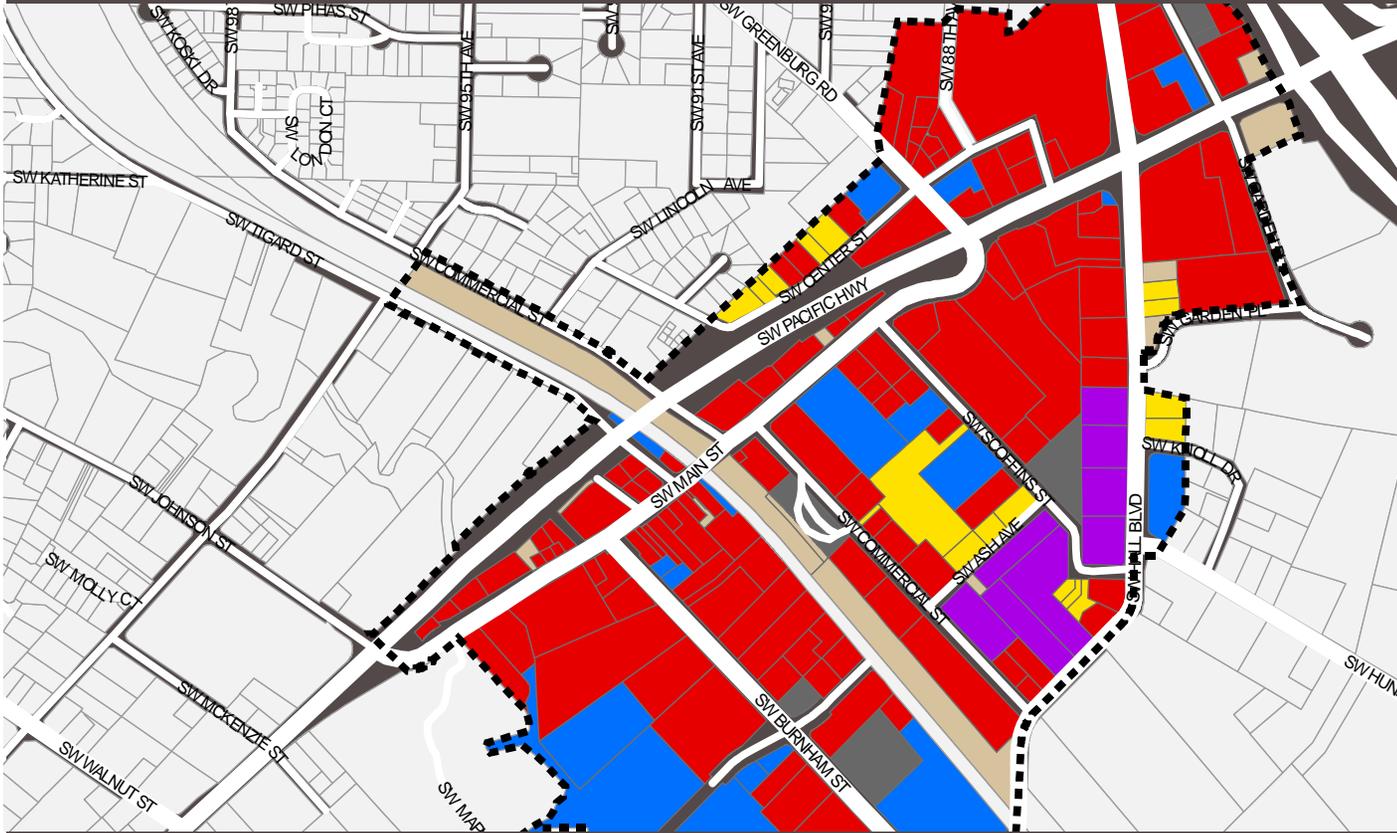
Exhibit 10. Tigard City Center URA, forecast of TIF revenues, FYE 2013 – 2030

FYE	Assessed				
	Value	Frozen Base	Excess Value	Tax Rate	TIF
2013	92,888,162	69,207,378	23,680,784	12.8534	304,379
2014	94,940,004	69,207,378	25,732,626	12.6796	326,279
2015	97,201,532	69,207,378	27,994,154	12.5433	351,139
2016	100,572,623	69,207,378	31,365,245	12.3559	387,546
2017	104,073,387	69,207,378	34,866,009	12.1717	424,379
2018	107,708,960	69,207,378	38,501,582	12.1717	468,630
2019	111,484,682	69,207,378	42,277,304	11.9692	506,026
2020	115,406,107	69,207,378	46,198,729	11.9692	552,962
2021	119,479,009	69,207,378	50,271,631	11.9692	601,711
2022	123,709,394	69,207,378	54,502,016	11.9692	652,346
2023	128,103,505	69,207,378	58,896,127	11.9692	704,940
2024	132,667,839	69,207,378	63,460,461	11.9692	759,571
2025	137,409,148	69,207,378	68,201,770	11.9692	816,321
2026	142,334,456	69,207,378	73,127,078	11.9692	875,273
2027	147,451,065	69,207,378	78,243,687	11.9692	936,514
2028	152,766,572	69,207,378	83,559,194	11.9692	1,000,137
2029	158,288,872	69,207,378	89,081,494	11.9692	1,066,234
2030	164,026,182	69,207,378	94,818,804	11.9692	1,134,905

Calculated by ECONorthwest

Based on these projections, we estimate that borrowing capacity for the URA would be about \$1,975,000 in FYE 2014. The URA Plan states, “No new indebtedness to be repaid with tax increment revenues may be incurred after the twentieth anniversary of the effective date of the Plan.” As the Plan was approved by voters in May of 2006, this requires all indebtedness to be incurred no later than FYE 2026. Assuming periodic borrowings over the life of the URA, the projected TIF revenues shown in Exhibit 10 could support up to \$13,200,000 of total indebtedness to be incurred by FYE 2026. This is less than the \$22,000,000 maximum indebtedness allowed by the URA Plan. Thus, to fully implement the Plan, the URA will need to generate more TIF revenue than we have forecast, tap into funding sources other than TIF, or extend the timeframe for incurring/retiring indebtedness.

TIGARD CITY CENTER URA

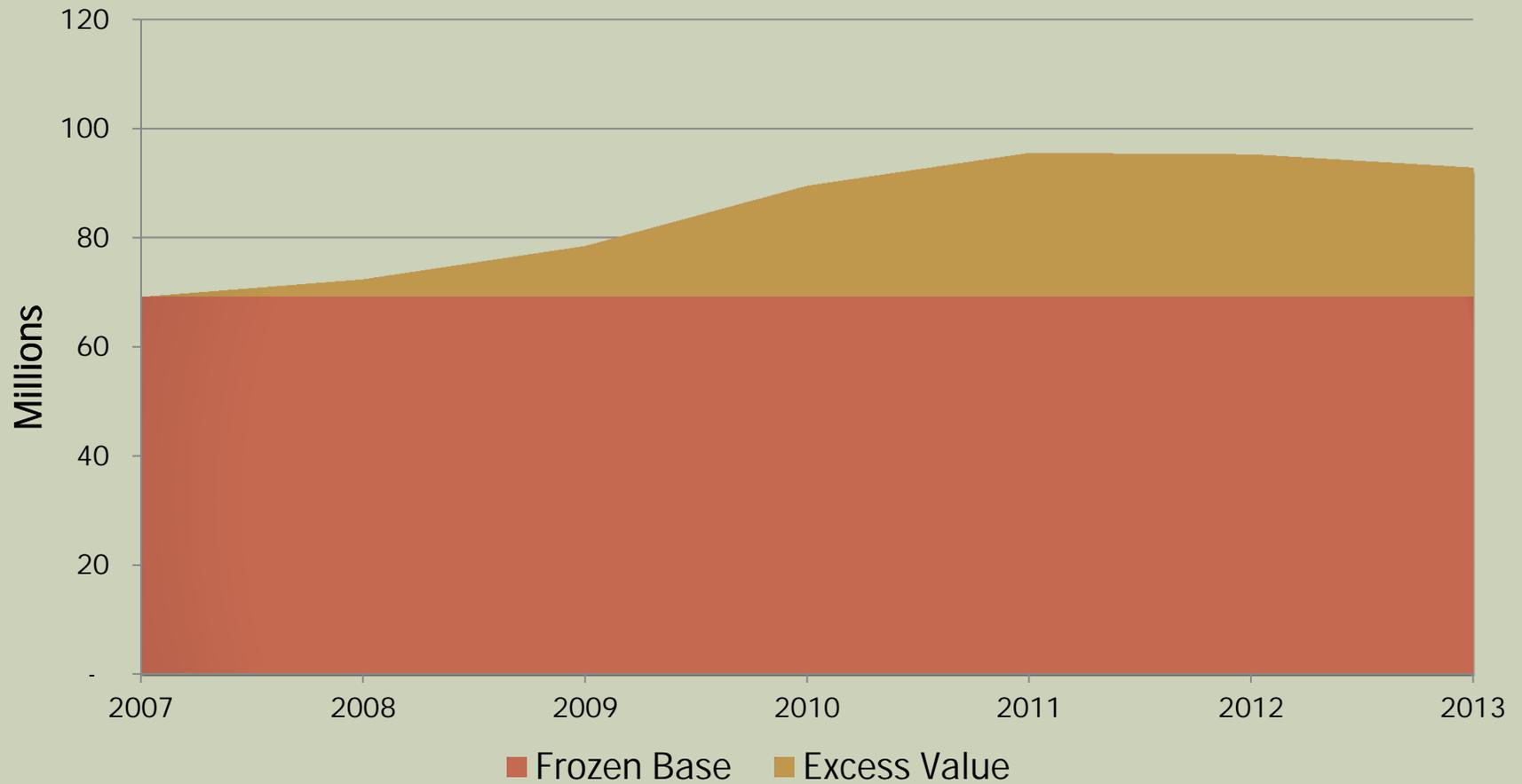


Forecast of TIF Revenues

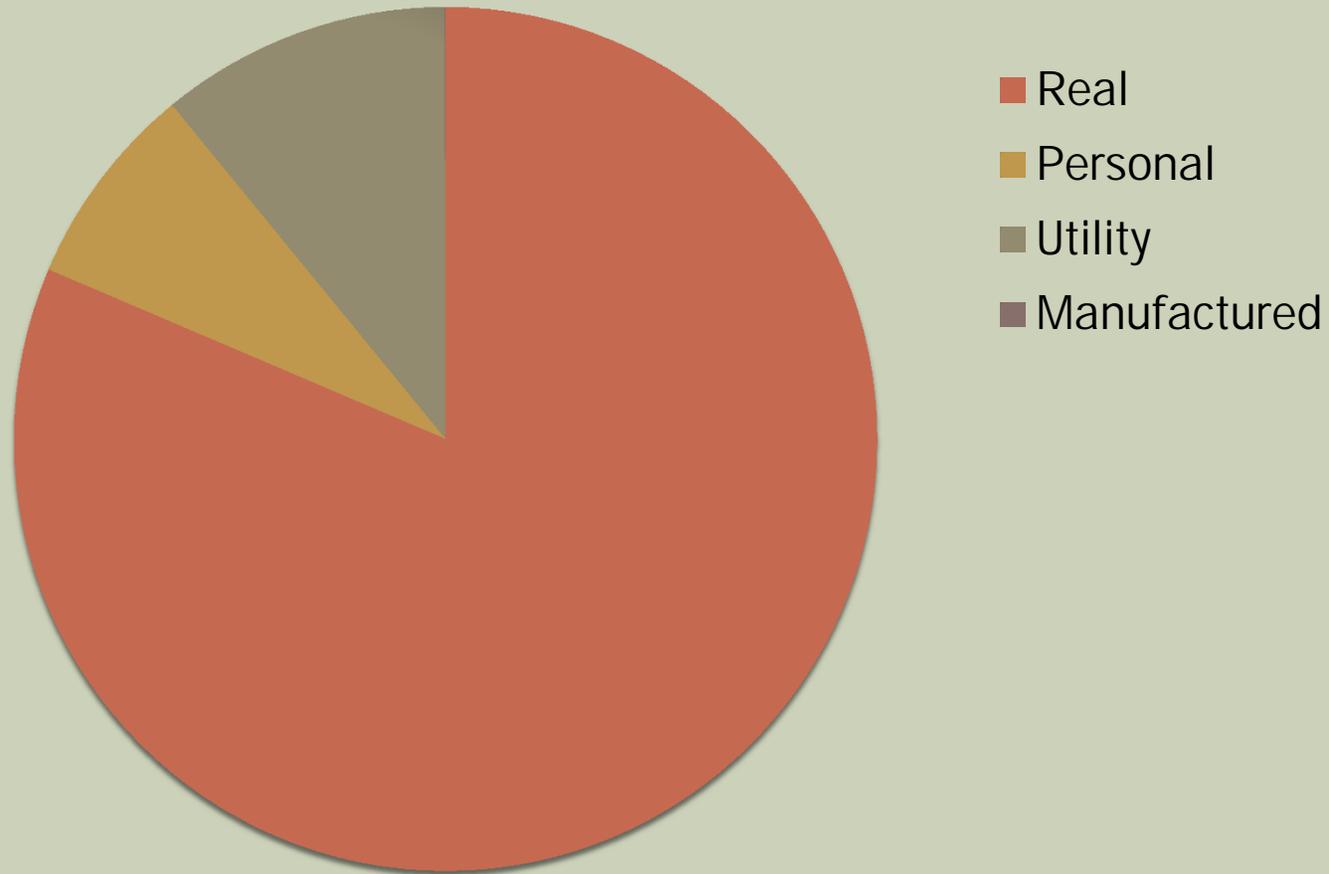
OUTLINE

- About the City Center URA
- Forecast Growth in Assessed Value
- Forecast Tax Increment Finance (TIF) Revenues
- Borrowing Capacity

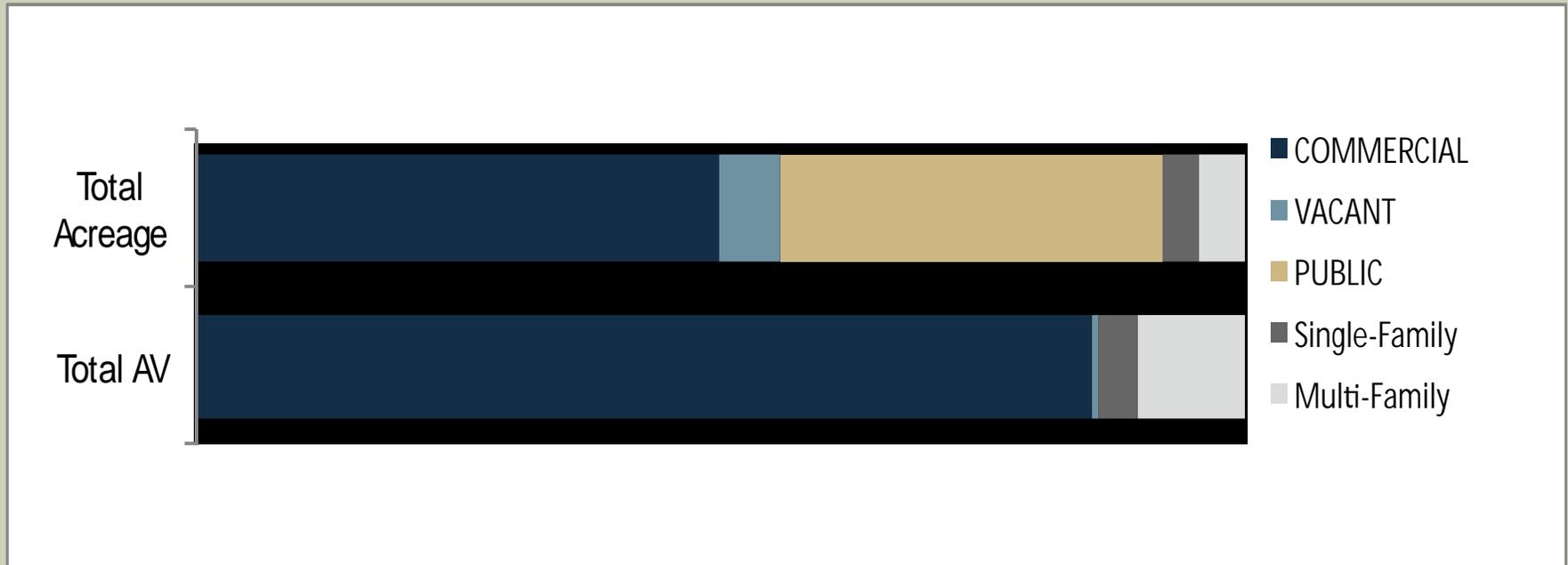
HISTORICAL TIF



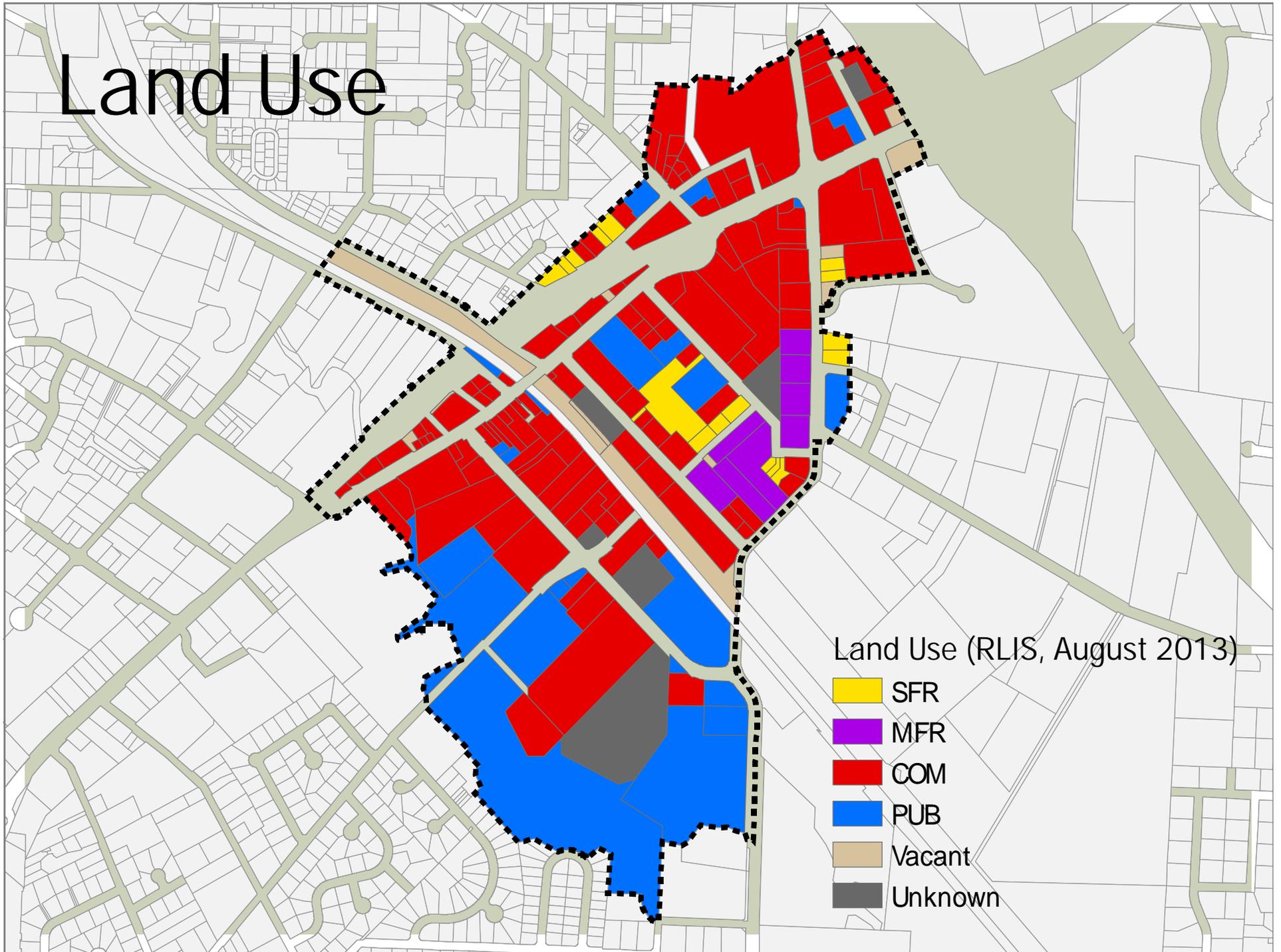
AV BY PROPERTY TYPE



LAND USE



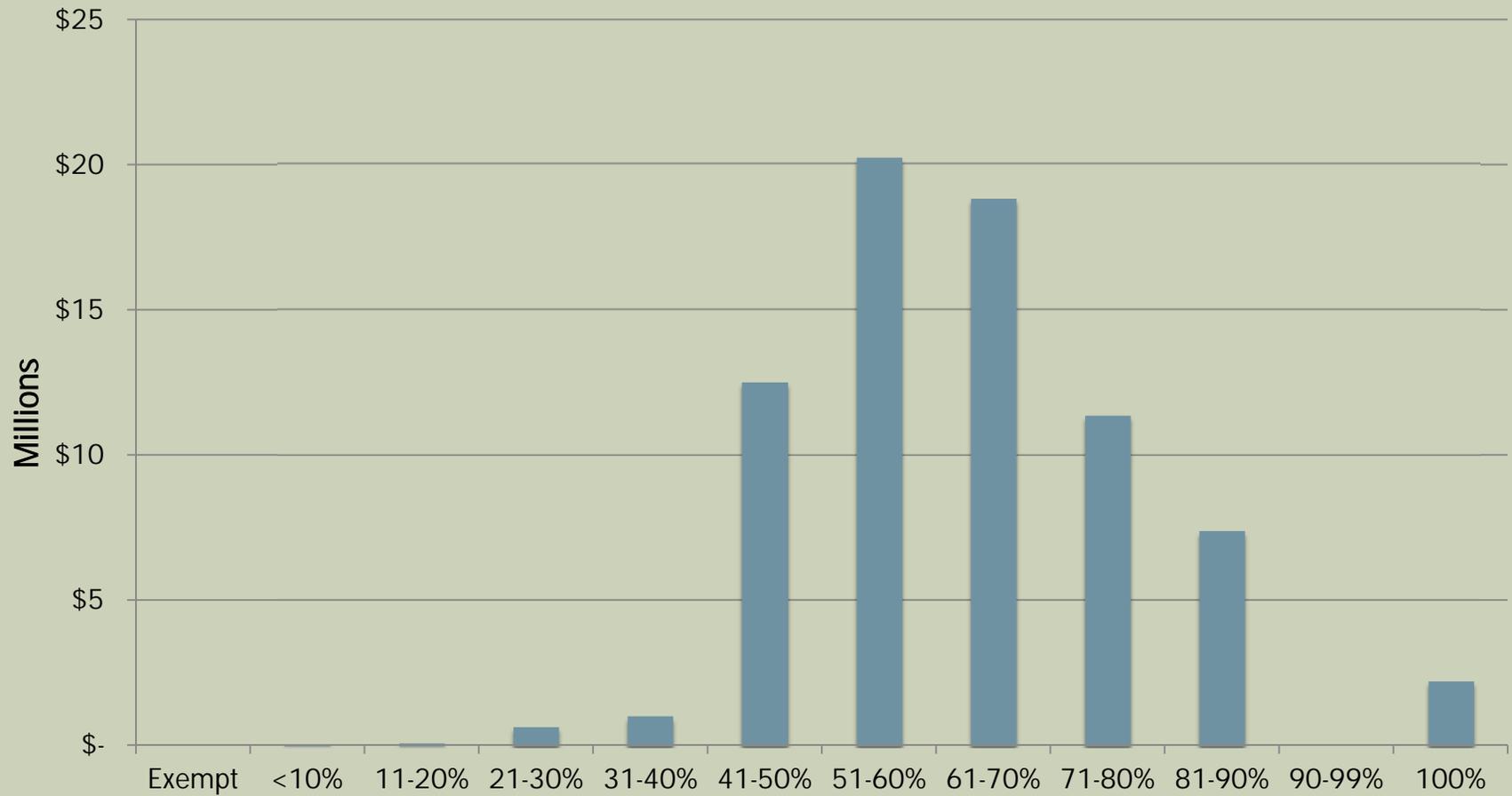
Land Use



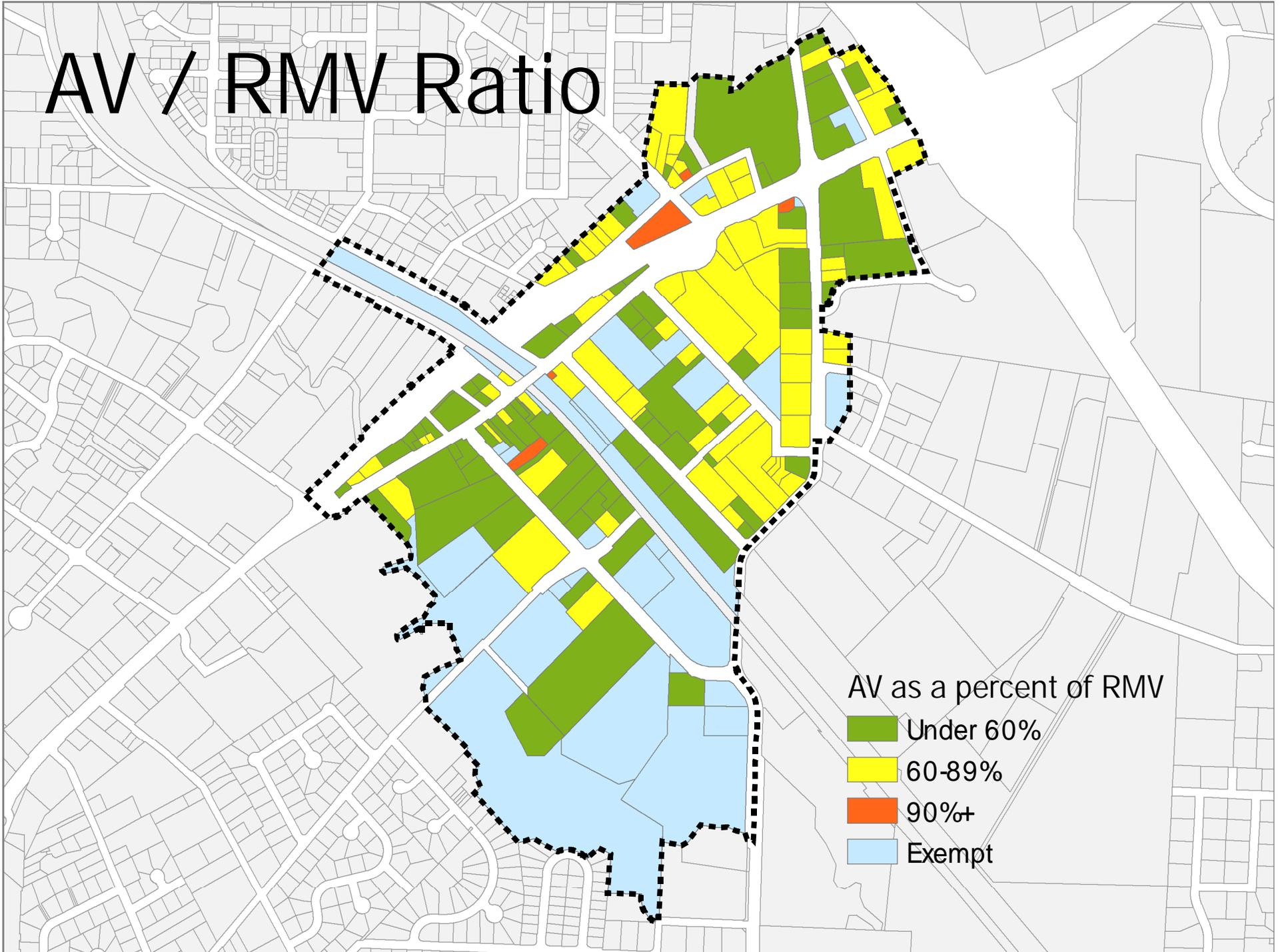
SHORT-TERM FORECAST

- No new development in area (building permits)
- No properties under appeal
- Two properties sold at below assessed value
 - Rite Aid parking lot
 - Lexie Ainge Cottle Child and Family Therapy

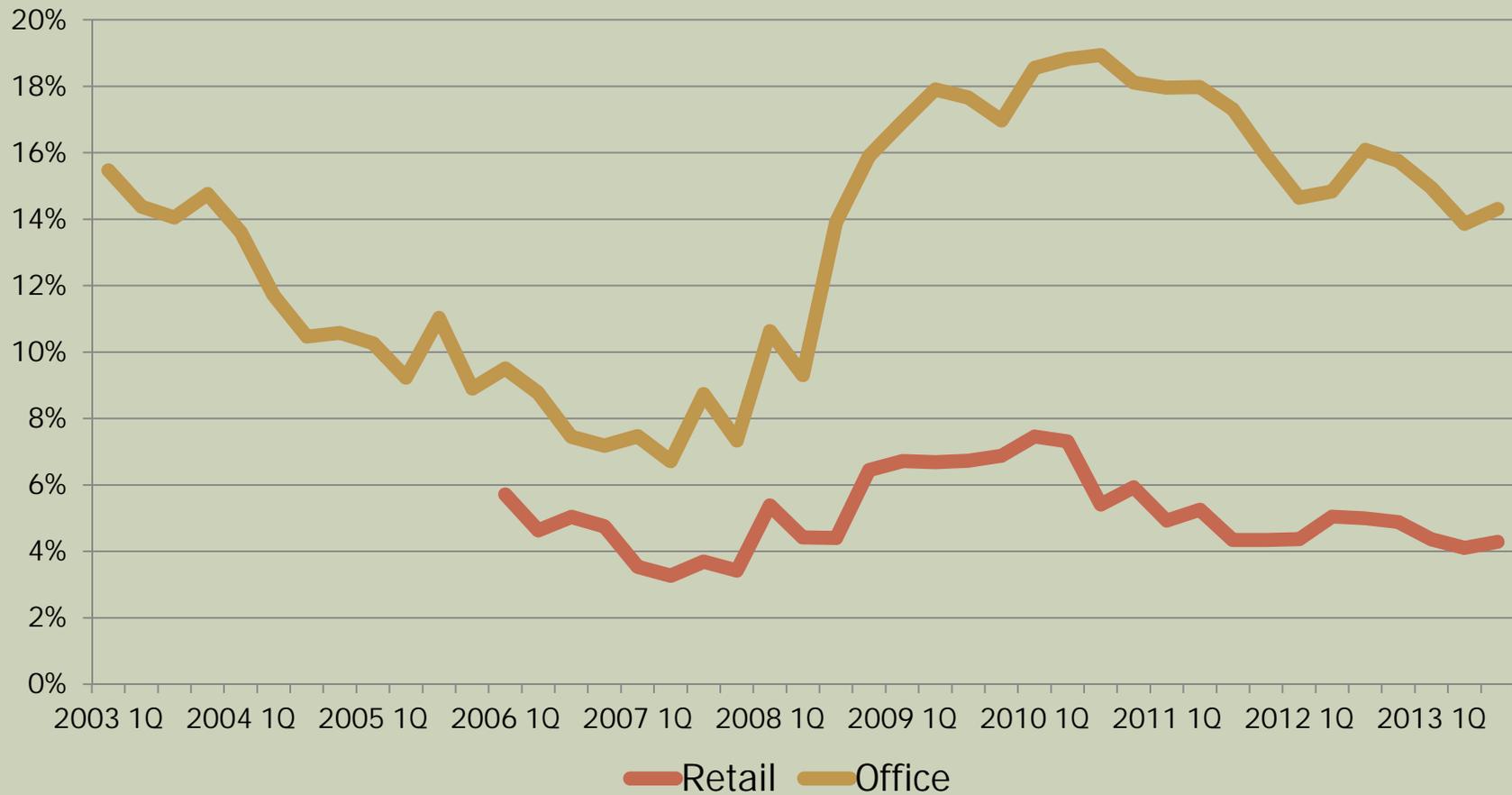
AV TO RMV RATIOS



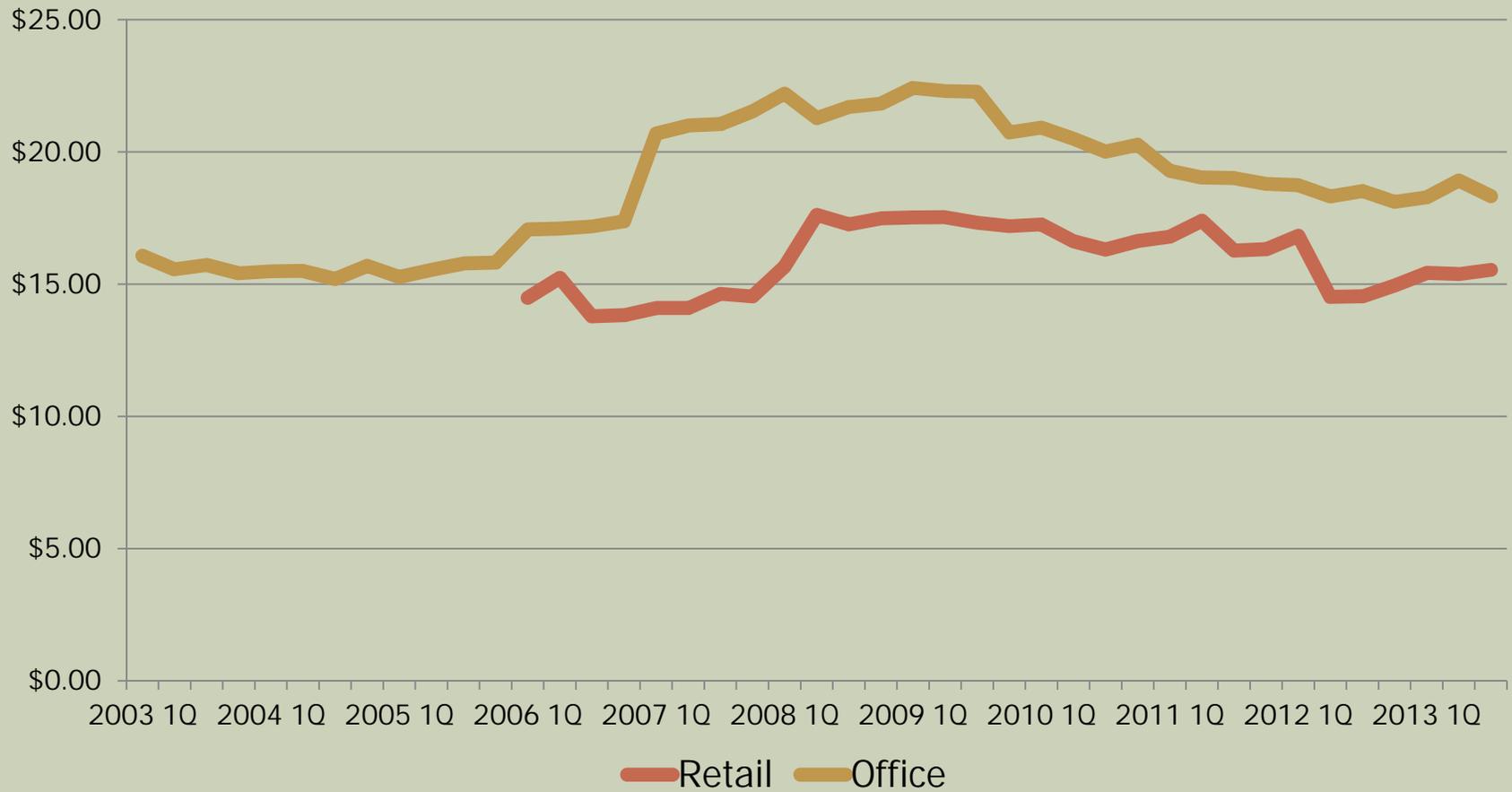
AV / RMV Ratio



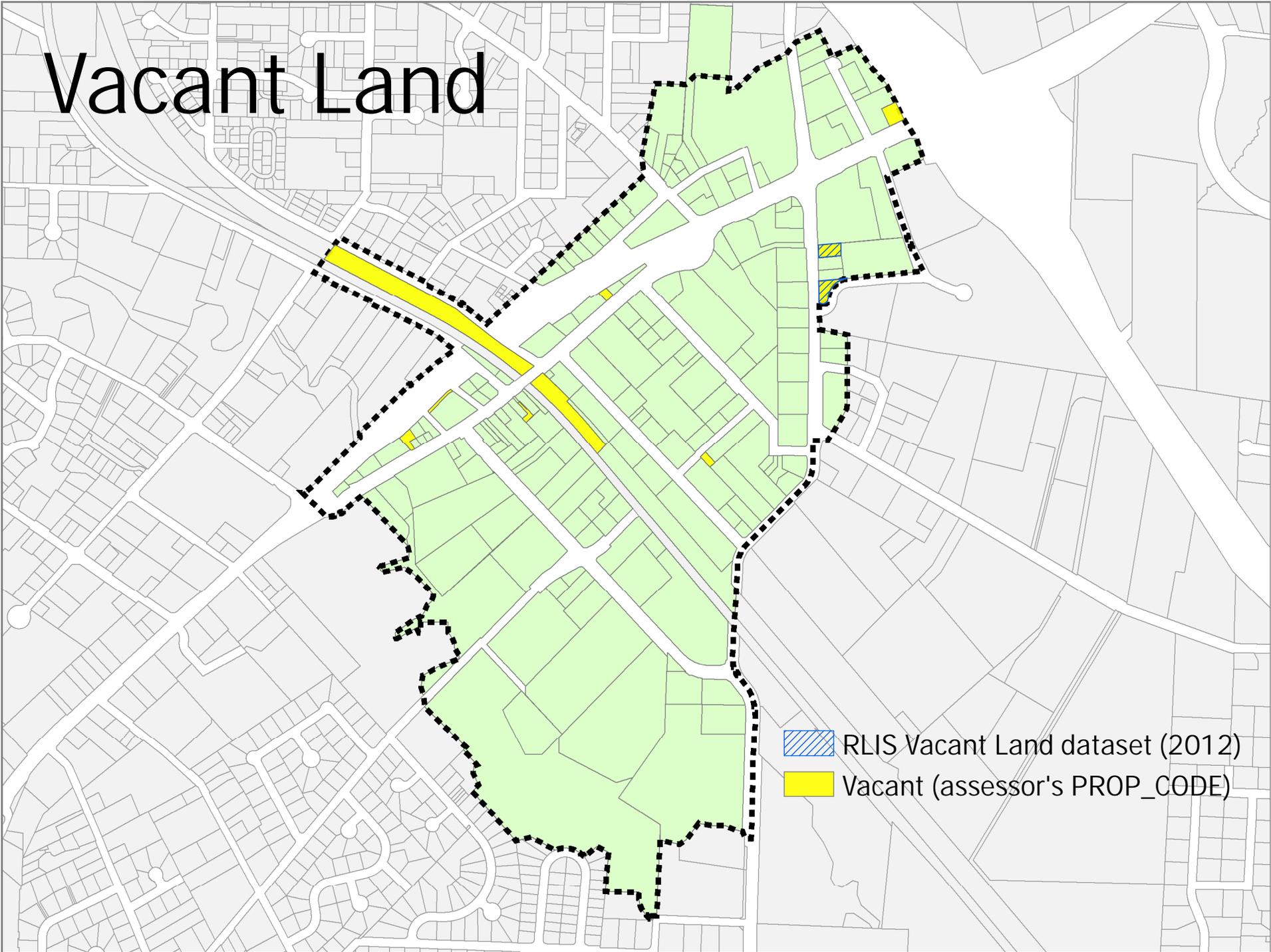
MARKET TRENDS - VACANCY



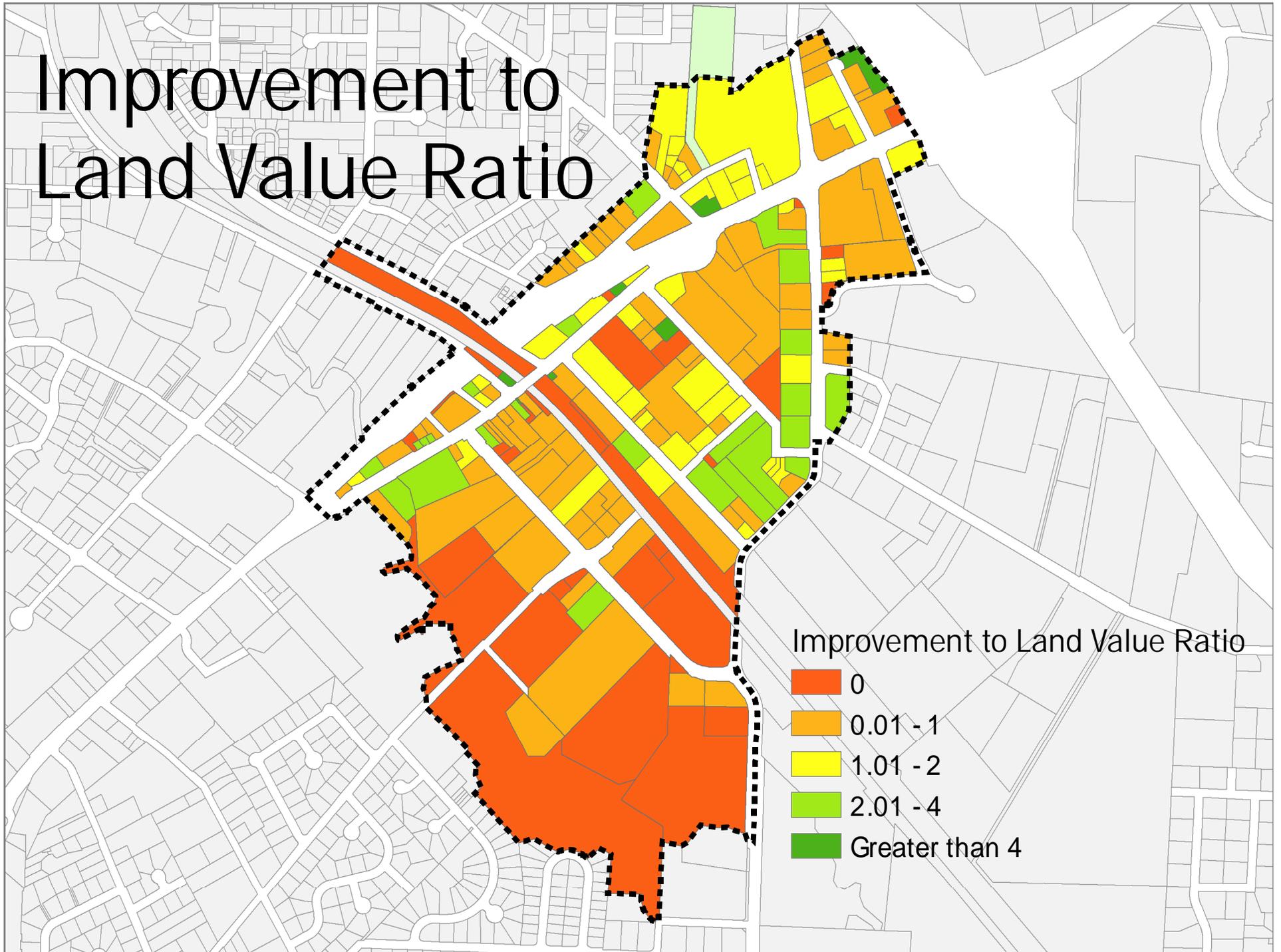
MARKET TRENDS - RENT



Vacant Land



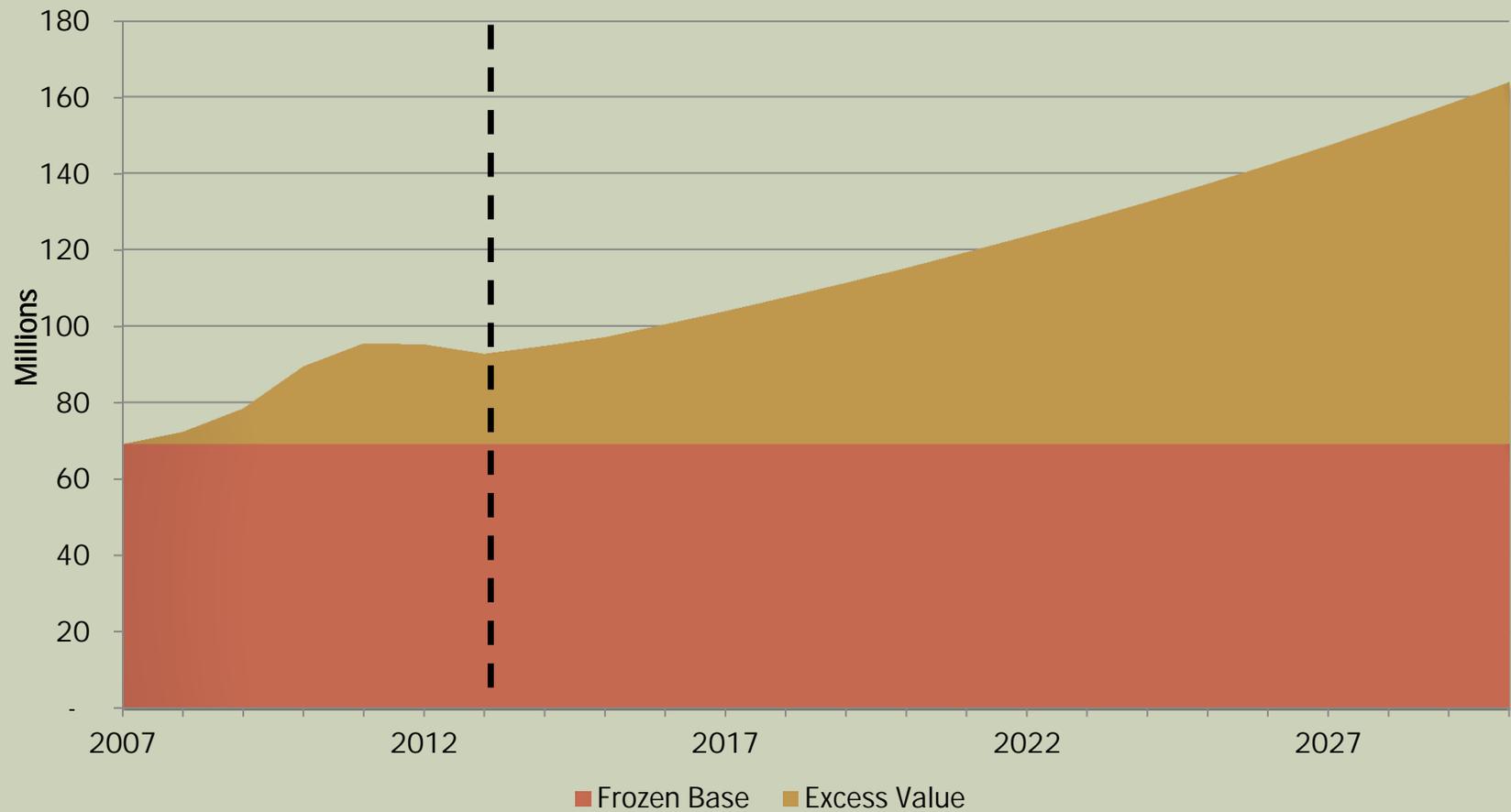
Improvement to Land Value Ratio



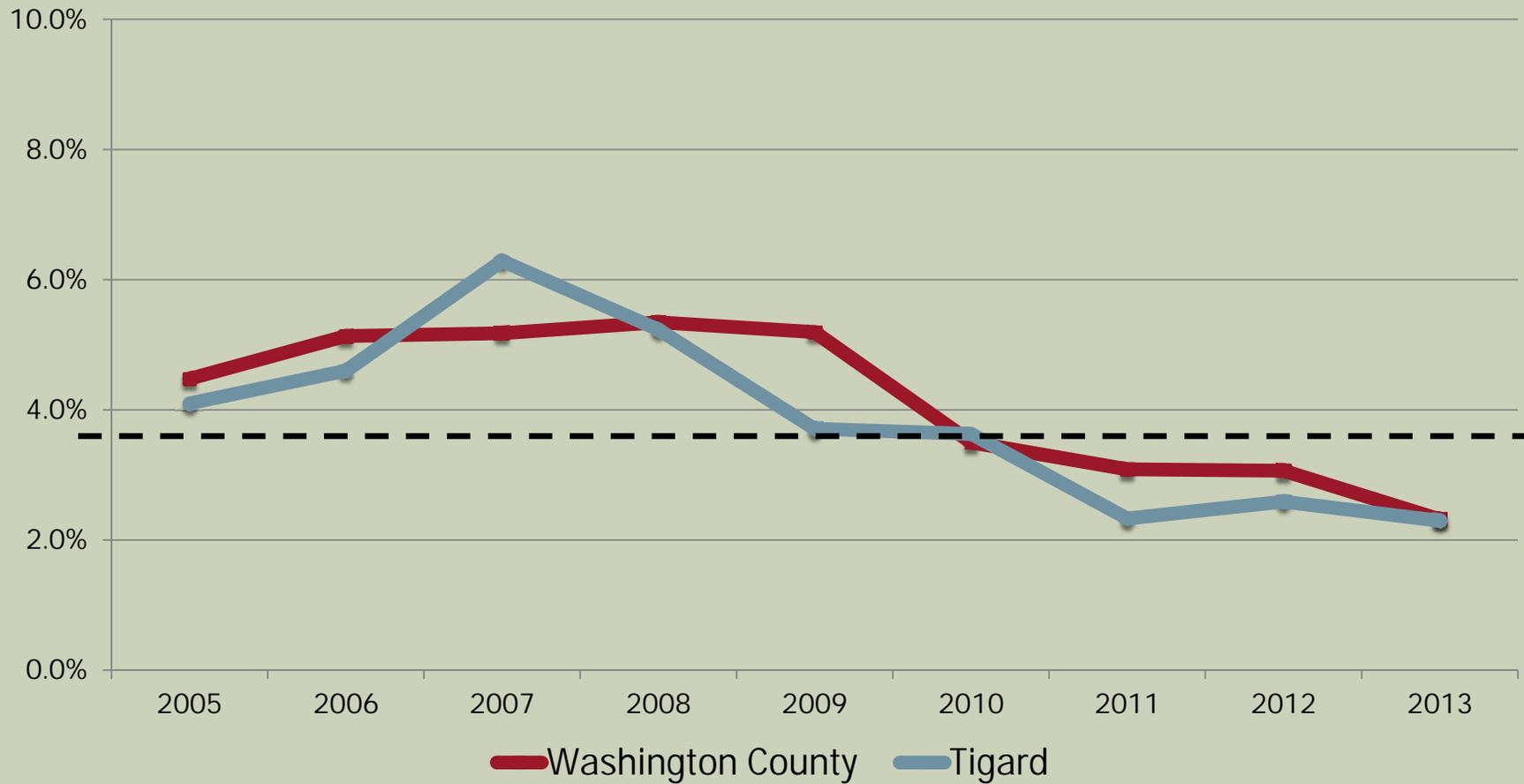
KEY ASSUMPTIONS

- Appreciation:
 - Real: 3%
 - Personal: 1%
 - Utility: 1%
- New Development: 1% of prior year Real AV
- Overall Growth Rate: 3.5% per year

ASSESSED VALUE FORECAST



HISTORICAL TRENDS



TIF FORECAST

FYE	Assessed Value	Frozen Base	Excess Value	Tax Rate	TIF
2013	92,888,162	69,207,378	23,680,784	12.8534	304,379
2014	94,940,004	69,207,378	25,732,626	12.6796	326,279
2015	97,201,532	69,207,378	27,994,154	12.5433	351,139
2016	100,572,623	69,207,378	31,365,245	12.3559	387,546
2017	104,073,387	69,207,378	34,866,009	12.1717	424,379
2018	107,708,960	69,207,378	38,501,582	12.1717	468,630
2019	111,484,682	69,207,378	42,277,304	11.9692	506,026
2020	115,406,107	69,207,378	46,198,729	11.9692	552,962
2021	119,479,009	69,207,378	50,271,631	11.9692	601,711
2022	123,709,394	69,207,378	54,502,016	11.9692	652,346
2023	128,103,505	69,207,378	58,896,127	11.9692	704,940
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2028	152,766,572	69,207,378	83,559,194	11.9692	1,000,137
2029	158,288,872	69,207,378	89,081,494	11.9692	1,066,234
2030	164,026,182	69,207,378	94,818,804	11.9692	1,134,905

BORROWING CAPACITY

- Current borrowing capacity: \$1,975,000
- Borrowing capacity through FYE 2026: \$13.2 million
- Maximum Indebtedness: \$22 million
- To achieve Maximum Indebtedness:
 - Need faster TIF growth
 - Tap into other revenue sources
 - Extend timeline for incurring debt

QUESTIONS

Nick Popenuk
ECONorthwest
503-222-6060
popenuk@econw.com

AIS-1424

3. A.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Carol Krager, City Management

Item Type: Motion Requested

Meeting Type: Consent
Agenda

Public Hearing:

Publication Date:

Information

ISSUE

Approve City Council meeting minutes.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as submitted.

KEY FACTS AND INFORMATION SUMMARY

Attached council minutes are submitted for City Council approval. (Dates of meetings are listed under "Attachments" below.)

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

[Placeholder for April 30, 2013 Town Hall Notes](#)

[May 14, 2013 Minutes](#)

[May 28, 2013 Minutes](#)

[June 11, 2013 Minutes](#)

[Placeholder for June 18, 2013 Minutes](#)



City of Tigard

Tigard City Council Town Hall Meeting Notes

April 30, 2013, 6:30 – 8:30 p.m.

- Mayor Cook convened the Town Hall Meeting at 6:30 p.m. Approximately 40 people attended the Town Hall.
- Mayor Cook welcomed everyone and asked the City Council members and attending officials to introduce themselves.

City Council attendance:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

Staff Present: City Manager Wine, Assistant City Manager Newton, Senior Transportation Planner Gray, City Recorder Wheatley, Deputy City Recorder Krager.

Also present: Metro Councilor Craig Dirksen; State Representative Margaret Doherty.

SW Corridor Study

- Mayor Cook described the scope, timeline and status of the SW Corridor Study. Current phase of this project is devoted to receiving citizen input. No decisions have been made. Mayor Cook referred to the process followed for the City of Tigard. He referred to the Citizens Advisory Committee and the city’s Comprehensive Plan. The Committee was asked to respond to the questions: What areas do you want to see grow? What areas do you want to see change? He identified the areas the Committee reviewed for possible changes or to remain the same.

- The SW Corridor plan is unique from previous plans in that the project began with a land use vision (identifying areas that have grown or have potential to grow) and determining how to get high capacity transit (HCT) where it is needed. Existing transportation infrastructure was identified and thought was given to developing connections. Previous transportation planning projects have focused more on the route and its construction rather than developing the land use plan and then creating the transportation infrastructure to best suit the needs of the types of uses.
- The type of high capacity transit (e.g., bus rapid transit or light rail) has not been determined.
- After the public input process, an environmental impact statement will be prepared and funding opportunities explored.
- Discussion followed on the pros/cons listed through the public process with regard to bus rapid transit (BRT) versus light rail when looking at up-front costs compared to long-term benefits.
- Comments from the audience and government officials during the discussion included:
 - Concern with getting transportation modes to jobs and services.
 - Concern that dollars spent on light rail would be wasteful – high costs, lack of flexibility, comparative low ridership.
 - Concerns about HCT corridors on existing neighborhoods.
 - Response to concerns about HCT impacts included a comment that experience has shown that the percentage of HCT ridership increases over a period of time.
 - There is a need to plan ahead and set aside right of way for a HCT corridor.
 - BRT or light rail each attracts a different type of riders.
 - Experiences on 99W were reviewed. Past studies show 50,000 vehicles per day travel on 99W.
 - Concerns expressed about the relationship between the City of Tigard and TriMet with speaker noting distrust of a viable future for TriMet citing recent financial difficulties.
 - Concerns with regard to the commuter rail, WES. Speaker noted TriMet is losing \$50,000 per month operating the WES system.
 - Question was asked, “Do we have to do HCT?” Could this money be better used on streets and trails?
 - Discussion held on leveraging funding with coordination among all levels of government agencies.
 - Notation made that HCT would fund system-wide improvements in and around the selected corridor to provide infrastructure for access to HCT and to mitigate impacts to neighborhoods.
 - Reference was made to our aging population and that increasing numbers of people need more transportation options. Current emphasis for future planning is to create a sustainable infrastructure in communities.
 - A member of the audience disputed that the older generation would want to ride light rail. The speaker referred to ramifications to neighborhoods and quality of life (including impacts on the school system). The Tigard community does not want to become more like Portland.
 - Representatives in opposition to light rail supported letting voters determine whether light rail should be pursued.

- A member of the audience commented on the discussion held so far and suggested that decisions should be based on data rather than anecdotal references to elicit support for one transportation mode over another.
- A member of the audience disputed the comment that primary users of HCT were low income. The speaker, who indicated she did not fall in the low-income demographic, said she and others find HCT especially attractive to travel to cultural events offered in the metro area to avoid traffic congestion and problems with finding a place to park.
- A speaker noted that Tigard is a suburban community; suburban environments do not support a light rail system.
- Metro's density requirements were discussed whereby areas within the urban growth boundary are to designate higher density areas and plan infrastructure improvements accordingly.
- Discussion followed on the disagreement whether Tigard-area citizens want the community to be reshaped from a suburban to an urban environment.
- A speaker spoke of concern about gas tax funding and how it is spent on projects other than for Tigard roads.
- There was a call from a speaker for officials to reject high density and to let voters decide what the city will look like.

Open Forum Discussion

- Walmart project in Tigard (comments offered are summarized below):
 - Officials were presented with a petition signed by people opposed to the Tigard Walmart project. (A copy of the petition is on file with the official copy of the meeting materials.)
 - Speaker outlined adverse impacts on local businesses and referred to the problems that would be caused with additional traffic congestion.
 - Discussion followed on whether citizens should have an opportunity to vote on approval of projects such as Walmart. Response from officials was that if a development, such as Walmart, complies with approval requirements, then there is nothing to present to the voters for consideration.
 - Discussion followed on the history of the parcel now being developed by the Walmart organization. The approved application was originally for a Target store. Target withdrew and Walmart stepped in to use the approved development application.
 - Discussion followed about potential options that might be available to address concerns with the Walmart project at this time.
 - Opposition representatives cited concerns with outdated traffic studies and unknown impacts to the surrounding areas. The public process followed was questioned with frustration expressed about the lack of opportunity to weigh-in on this particular project.
 - After discussion about what options might be available to address some of the concerns voiced, the mayor and council members entertained the idea of holding a study session dialogue with citizens to review options (with legal counsel input) the city might choose to pursue.

Closing Comments

- Mayor Cook invited citizens to attend his Fireside Chat meetings held on the second Thursday of each month.
- The next Town Hall meeting will be on October 29, 2013.

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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City of Tigard

Tigard City Council Meeting Minutes

May 14, 2013

• STUDY SESSION

Mayor Cook to call the meeting to order at 6:30 p.m.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

Staff Present: City Manager Wine, Assistant City Manager Newton, Finance and Information Services Department Director LaFrance, Senior Planner Wyss, Associate Planner Daniels, City Attorney Watts, City Recorder Wheatley

1. DISCUSSION ON RIVER TERRACE COMMUNITY PLAN - INFRASTRUCTURE FINANCING

Track 1

Senior Planner Wyss presented the staff report. Key points of his presentation included:

- Gave background to this point on the development of the West Bull Mountain Concept Plan. This information is summarized in the Agenda Item Summary.
- After adoption of the Concept Plan, the city annexed Area 64. Subsequently, the city signed an intergovernmental agreement with the county to move forward from the Concept Plan and implement the Community Plan to get regulations in place so development could happen.
- Since the signing of the intergovernmental agreement, the city also annexed Area 63 and the lower 50 acres, known as Roy Rogers West.
- In December 2012, the council adopted the recommended land uses, which were in the Concept Plan. These land uses are now adopted within the Tigard Comprehensive Plan.
- As project manager of the Community Plan, Mr. Wyss advised he was charged with the task of implementing the Concept Plan through an efficient and public process. Implementation includes specifying zoning and land use regulations, infrastructure master plans and a financing strategy to assist in converting the area from rural to urban land uses.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

- The plan area will accommodate approximately 2,300 housing units and a small neighborhood commercial area to service the local residents. The plan also calls for a series of parks and trails, well connected streets and a site for a future school.
- The Concept Plan went through a typical planning process, where in the beginning there was a set of goals/principles discussed with the stakeholder working group and technical advisory committee. This process led the project through to the adoption of the Concept Plan by the Board of the County Commissioners.
- Staff has begun translating the recommended land uses into Tigard's city zoning districts. Staff has also done some natural resource mapping.
- Rounds of meetings were held with the technical advisory committee. The City Council appointed a stakeholder working group for the River Terrace Community Plan process. A community meeting has been held to gather feedback on the natural resource and zoning tasks. On May 21, staff will present information on the results of the above-mentioned meetings.
- Staff is in the process of finalizing a scope of work for the consultant team chosen to assist the city with the infrastructure master planning and financing strategies. The consultant team will help outline the various tools, funding opportunities and policy choices for the council to weigh and consider when adopting the financing strategies at the end of the process to ensure successful development of the area.
- Council will be asked, as part of the process, to hold a series of public hearings to adopt different components of the plan, including the zoning and land use regulations. In addition, the city will update its Transportation System Plan, adopt the natural resource maps to outline the program in the River Terrace area, adopt the public facility plan and the infrastructure financing strategy.
- Staff will keep council updated on progress and discuss policy choices through periodic updates during the City Council study sessions. Decisions to be made include determining individual stakeholder needs vs. the entire planning area needs; land use recommendations from the Concept Plan (whether the city holds to those recommendations or will there be flexibility allowed to determine where the uses will be located); the park locations and how to fund acquisition, development and maintenance; transportation impacts (not only on-site transportation infrastructure, but the offsite impacts, and determine how to finance mitigation of those impacts through coordination with the City of Beaverton, Washington County and the Oregon Department of Transportation); infrastructure phasing since not all properties will develop at the same time; determine how to strike a balance between how much development pays for infrastructure needs vs. how much the city will subsidize.

Track 2

- Mayor Cook commented on water service and questioned how or if the infrastructure for this service would be phased in. Senior Planner Wyss said this question would be answered during the infrastructure strategies master planning. Street construction usually occurs with development and is paid for by the developer.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

Track 3

- Councilor Buehner commented whether the low density R-4.5 along Scholls Ferry Road was practical. She noted the commercial area as now shown on the map would be “perfect for low density residential.” She asked if these two areas could be traded. Senior Planner Wyss commented that, through the process, it was determined there should be a low-density buffer between the existing neighborhoods and the higher density areas. Councilor Buehner said she understood this reasoning; however, pointed out that no one would want to live in a low-density area along Scholls Ferry Road. She acknowledged issues associated with high-density housing, but reiterated her reservations about placing low-density development at this location.
- Senior Planner Wyss shared that discussions have been held about placing high-density housing near the PGE sub-station.
- Councilor Buehner said that “we put ourselves in a box, when we adopted the Fanno Creek Master Plan...specifically stating we were going to put a plaza on a particular piece of property in which case that puts the council and the staff in a really, really bad box in terms of negotiating with a seller about buying that property. I am very hesitant to be very specific about where parks will be to avoid that issue happening again. It basically made the property too expensive to buy.”
- Council President Henderson asked what types of problems would be created if the City Council were to decide to make changes to the Concept Plan.

Track 4

- Senior Planner Wyss responded to Council President Henderson that the biggest problem would be the amount of time any proposed changes might take. Many discussions have been held during the Concept Plan process, such as the location of the commercial area and the location of parks. If those topics are reopened, the entire process will need to be redone. There was a lot of time and investment made in the creation of the Concept Plan. In response to Council President Henderson, Mr. Wyss said that if changes are proposed, it is unlikely that the Community Plan will be completed by March of 2014. He explained that some changes have been agreed to by the committees that are doing work now. There has been no consensus that the commercial area should be moved.
- Discussion was held on how to approach the Community Plan. Councilor Snider agreed that identifying properties for certain purposes, as referenced by Councilor Buehner, was a problematic way of doing business. Councilor Snider said a “Concept Plan” means to him to be a relatively abstract product. Mayor Cook spoke to a question posed by City Manager Wine and said his answer would be “yes” that staff should have flexibility to suggest types of land uses in areas, without detailed specifics. Mayor Cook added the caveat that he did not want to add a year to the process to accomplish this flexibility.
- In response to a question from Councilor Snider, City Manager Wine advised the Stakeholder Working Group and the Technical Advisory Committee represent the public process for the Community Plan. Much direction flows from zoning designations to identify how areas are foreseen to be developed and where infrastructure will be extended.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

Track 5

- City Manager Wine said the Stakeholder Working Group will need some certainty to move forward.

Track 6

- Senior Planner Wyss explained further if properties are allowed to develop as they wish without identifying park locations, then there is a possibility that no parks would be developed. A balance is needed between flexibility and identifying land uses. City Manager Wine said other options might be available; for example, would the city want to proactively, before zoning is in place, begin looking at purchasing property. Councilor Buehner pointed out that at the time the Concept Plan had been completed, the city had not purchased all of the park property (about 50 acres) that it now owns on Bull Mountain. Park shortages on Bull Mountain were a concern during the Concept Plan process. Perhaps the city does not need to dedicate as much acreage to parks in the River Terrace area.
- Councilor Woodard suggested discussions about park locations might be eligible for executive session discussion. City Manager Wine said executive sessions could be held if the city was the purchaser and developer of park property.
- Mayor Cook pointed out that pocket parks are often built as part of development. Councilor Buehner suggested the city could require some of the developed land be dedicated toward small parks and give developers the flexibility to determine location. Senior Planner Wyss said that this was part of the Concept Plan with eight neighborhood parks identified (1 to 2.5 acres in size). The parks were designated toward “general locations.” The larger (10 acres) community parks were designated at a more fixed locations – the boundaries could change, but those were the locations identified. Councilor Buehner commented there has been land offered to the city that is for sale in this area.
- In response to a question from Councilor Snider, Senior Planner Wyss said the open space designations are creeks and wetlands that will be protected through the development process.

Track 7

- Mayor Cook said he is concerned about the commercial area, which he believes should be located on a busy road. If the planning is to include the goal to designate the area as a place to shop, live and work, then it would make sense to have the commercial accessible. Senior Planner Wyss advised the currently identified commercial area is about 5-6 acres. The current location was chosen after a commercial analysis was completed as part of the Concept Plan. A full-scale grocery store was considered and the determination was that there would be enough population to support it, but with the proximity of Progress Ridge, Murray/Scholls, Albertson’s and services on 99W, the configuration of the site would be problematic. It was determined that it would be better to have a smaller commercial, neighborhood-focused area to serve the weekly needs of the residents. The analysis was done 2008-2009.

Track 8

- City Manager Wine advised if the council were to explore revisiting the location of the commercial property there would be a need to consider existing conditions to obtain a market basis for deciding where to zone commercial property. There was discussion about the changes

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

in the Urban Growth Boundary and the areas designated as Urban Reserves, which should be taken into consideration for future planning.

- Councilor Woodard referred to a buffer area and noted his reservations about placing higher density in this area. Senior Planner Wyss confirmed there were no plans to move density to the buffer. The conversation about the commercial areas sliding out to Roy Rogers Road occurred during the Concept Plan process according to Senior Planner Wyss. Both the Technical Advisory Committee and the Stakeholder Working Group voted to keep the commercial at its current location to serve local needs (pedestrian/bikes). Councilor Buehner suggested another location for the commercial might be near the PGE sub-station.
- In response to a question from Councilor Snider, Senior Planner Wyss said that tonight staff was hoping to get direction from City Council as to whether or not certain issues should be revisited. These issues were “hashed out” during the Concept Plan process. The city accepted the Plan and now we are trying to move forward to put zoning in place.
- Councilor Buehner said she is not happy with the Concept Plan.

Track 9

- Councilor Woodard said he has attended the Technical Advisory Committee and Stakeholder Working Group meeting. His impression is that there is not a whole lot of flexibility potential; however, there might be the possibility of some minor amendments. He said he is compelled to go with what the majority is discussing. He recalled there was support for attaining uniformity with the existing neighborhoods with the buffer area. There was discussion about locations of parks and historical perspectives that some of the parks were last-minute add-ons. Densities were agreed upon by both of the groups. He said he was feeling comfortable with the majority decision.
- Senior Planner Wyss said he will be giving the City Council the results of the three meetings held previously by the Technical Advisory Committee and the Stakeholder Working Group.
- City Manager Wine said the staff was presenting this information to the City Council tonight to get a sense of how much flexibility and how much movement the City Council members would like to see from what was originally adopted in the Concept Plan. Settling zoning questions makes almost everything else about the plan able to move forward.
- Councilor Buehner said everything depicted on the zoning south of Bull Mountain is acceptable. She has a problem with the north end zoning and said she would not support the location of the commercial. The information about locating the commercial is outdated. In addition, she does not want specific parcels on parkland to be designated.

Track 10

- Mayor Cook said he is open to provide flexibility in the Community Plan. While he does not want the process to take a long time, he sees no problem with providing flexibility. Before he was on City Council, he recalled a City Council discussion in December 2012, wherein the City Council questioned whether they would be able to make changes and hold discussions if they adopted the recommended land uses from the Concept Plan. The time is now to hold these discussions.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

Track 11

- Councilor Snider said he needs to hear more feedback from the Technical Advisory Committee and the Stakeholder Working Group, which is scheduled for next week. Once he hears this feedback, he will be more comfortable on commenting on issues he might want to revisit as the Community Plan goes forward. He said he, too, has questions about the location of the commercial area and whether it should be neighborhood-commercial or a more broad commercial area. Depending on this determination, this will dictate the size needed for the commercial area.

Track 12

- Councilor Woodard noted his agreement with Councilor Snider. He said he was flexible to some extent.

Track 13

- Councilor Buehner said she heard that part of the reason the commercial is located where it is now was so people who had views “up on the hill” would not be able to see the flat rooftops of the commercial buildings. She said she would like to know if this was the case. Senior Planner Wyss said he has not heard this. He said the documentation indicates the location was selected so the commercial was accessible to pedestrians/bikes vs. car oriented.

Track 14

- Senior Planner Wyss went on to explain that Washington County controls Roy Rogers Road and Scholls Ferry Road and they will limit access on these roads to the five points identified in the Concept Plan. They would not allow a commercial development accessed by Roy Rogers Road. Making a change would affect the transportation analysis that was done. He explained impacts to neighborhoods. A lot of the negotiations done as part of the Concept Plan would be reopened.

Track 15

- Councilor Buehner referred to the 2008 study relating to the identified commercial area. She asked, “How much money are talking about and how long would it take for them to update this study?” Senior Planner Wyss said he did not think it would take long to update the study and he would need to determine how much it would cost.

Track 16

- Council President Henderson advised he has a concern about keeping this project moving along. He acknowledged that City Council adopted elements of the Concept Plan and the city credibility is on the line. While he is uncertain as to how much the council will be able to change, he is also anticipating there will be a lot of controversial issues brought forward over time. He would like to avoid this. He said the council accepted the Concept Plan and now has to transition to a Community Plan. He has always maintained there should be flexibility for building the community. He would like to be able to influence the type of community it becomes so it does not become just another housing project. He is concerned about timing and getting into a “spiral” where the Concept Plan completion is delayed for a long time.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

- Councilor Buehner noted agreement with walkable communities. She asked if most of the commercial was moved elsewhere, could a site for something like a 7-11 be left in the area.

Track 17

- Senior Planner Wyss responded to Council President Henderson’s comments (see Track 16). He referred to an area that was meant to be a community gathering place with the commercial circling it and residential nearby so it would be more of a mixed-use center. It was envisioned as a small community. He then pointed to the areas for higher density development to provide patrons for the commercial services.
- Councilor Buehner asked if the commercial area provided for parking for those who do not live within walking distance. Senior Planner Wyss said the area was designed to accommodate about 25,000 square feet of space and parking would be based on this square footage.
- City Manager Wine said if the Concept Plan is translated from concept to Tigard zoning designations, then parking requirements are determined through a formula based on the amount of commercial square footage.
- Councilor Snider asked about whether people, from very much of the whole area, could reasonably walk to the commercial area. Senior Planner Wyss confirmed that “yes” this is what the analysis indicated. Some areas are more than a mile away. The Concept Plan area went all the way to Beef Bend Road, where there was another small commercial area.
- City Manager Wine said the goal tonight was to give the City Council a preview. Some of these issues will be discussed at next week’s council meeting.
- Councilor Buehner commented that there needs to be joint work sessions with the Planning Commission. Senior Planner Wyss said he will be updating the commission next Monday followed by a meeting with the council on Tuesday.

Track 18

ADMINISTRATIVE ITEMS:

City Manager Wine reviewed:

- Updates for tonight’s business meeting:
 - Revised April 16, 2013 minutes per Deputy Recorder Krager’s May 14, 2013 email.
 - Proposed resolution for the LCRB Item No. 8 – memorializing the LCRB granting an exemption from the competitive screening and selection process for the 72nd and Dartmouth Project.
- Façade Improvement Subcommittee – Councilor Buehner will replace Councilor Woodard on this subcommittee.
- Council Stipends Payment Schedule – City Council is currently paid quarterly; however if members choose, the payments could be issued bi-weekly. Council members commented the payments could be made based on whatever was easiest to administer.
- Council Calendar:
 - May 21 – Workshop Meeting, 6:30 p.m.
 - May 27 – Memorial Day – City Hall offices closed
 - May 28 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

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- EXECUTIVE SESSION: Not held.

Study Session concluded at 7:21 p.m.

2. BUSINESS MEETING

A.  Mayor Cook called the meeting to order at 7:31 p.m.

B. City Recorder Wheatley called the roll:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

C. Pledge of Allegiance

D. Council Communications & Liaison Reports – Mayor Cook asked for communications and reports from the council.

 Councilor Buehner advised she would give a report at the end of the business meeting.

 Councilor Woodard reported on a recent Park and Recreation Advisory Board meeting he attended. The Tigard Transportation Advisory Committee requested some support for bicycling. There was discussion about a small dog containment area in the dog park. He advised requests are beginning to come forward about a potential city recreation program. Projects in recently acquired parks are continuing to move forward. Scouts and Tigard High School students are working on placing bark chips on trails within the East Bull Mountain Park (also known as the former Paull property).



E. Call to Council and Staff for Non-Agenda Items – Mayor Cook called for non-agenda items. There were none.

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

- A. Follow-up to Previous Citizen Communication – There was no follow up to report.
- B. Tigard High School Student Envoy – Next year’s Associated Student Body President EJ Albaugh presented the report. A copy of his report is on file in the council meeting packet.



- C. Tigard Area Chamber of Commerce – Chief Executive Officer Debi Mollahan presented a report on recent Chamber activities. A copy of the highlights of her report is on file in the council meeting packet.



D. Citizen Communication – Sign Up Sheet

- Chris Garsteck – 11774 SW 125th Court, Tigard, OR 97223 spoke to the City Council to ask for consideration, when looking at the River Terrace property, to include a dog park. She said she looks forward to working with the city staff and council members to bring about another “fantastic” dog park. She referred to the popularity of the Ash Street Dog Park.

Ms. Garsteck presented information about the latest trends in how dog parks are developed. Discussion followed on elements desirable in a dog park including how to develop so they are useable in the winter, parking requirements and a separate area for small dogs. The dog park is often used as a community gathering place.



4. PROCLAIM MAY 19-25, 2013, AS EMERGENCY MEDICAL SERVICES (EMS) WEEK

Mayor Cook read the proclamation naming May 19-25, 2013 as Emergency Medical Week.



Kristen Hoover, manager of Metro West Ambulance shared some background on the history of Metro West. A copy of her remarks is on file in the council meeting packet. She thanked the city for the acknowledgement represented by this proclamation.

Mayor Cook called for consideration of the Consent Agenda:



5. CONSENT AGENDA: (Tigard City Council)

- A. Receive and File:

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1. Council Calendar
2. Council Tentative Agenda for Future Meeting Topics

B. Approve City Council Meeting Minutes for:

1. March 19, 2013
2. March 26, 2013
3. April 9, 2013
4. April 16, 2013
5. April 23, 2013

C. AUTHORIZE EXECUTION OF A RIVER TERRACE UTILITY IMPROVEMENT INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON COUNTY

D. APPROVE TIGARD/TRIMET GRANT APPLICATION FOR NEW TRANSIT SERVICE ON 72ND AVENUE

Councilor Buehner requested the April 16, 2013, City Council minutes be considered separately as she did not attend this meeting.

Motion by Councilor Woodard, seconded by Councilor Snider, to approve the April 16, 2013, City Council Minutes.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Abstained
Councilor Snider	Yes
Councilor Woodard	Yes

Motion by Councilor Buehner, seconded by Councilor Snider, to approve all remaining Consent Agenda items (excluding the April 16, 2013 City Council Minutes).

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes



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6. AWARD THE 2013 "IF I WERE MAYOR" CONTEST PRIZE

Mayor Cook recognized and awarded a gift certificate to student artist, Max Plaster, for his winning poster entry in the Oregon Mayor’s Association annual “If I were Mayor” contest. The Tigard prize is a \$50 gift card. Mr. Plaster’s poster has been entered into the statewide contest for a chance to win one of three new laptop computers from the Oregon Mayor’s Association.



7. CONSIDER A RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY FOR THE 72ND AVENUE/DARTMOUTH STREET INTERSECTION IMPROVEMENT PROJECT

Engineering Manager McMillan presented the staff report. The city needs to acquire right of way for the street improvement. She referred to the need to follow the federal process, which includes the requirement of a resolution of necessity for rights of way or easements. Because the project is being expanded the costs have increased from approximately \$100,000 to \$600,000.



Motion by Councilor Buehner, seconded by Councilor Woodard, to adopt Resolution No. 13-19.

RESOLUTION NO. 13-19 - A RESOLUTION DECLARING THE NEED TO ACQUIRE RIGHTS OF WAY AND EASEMENTS ON PROPERTIES FOR THE PURPOSE OF CONSTRUCTING STREET IMPROVEMENTS ALONG 72ND AVENUE AND DARTMOUTH STREET AND AUTHORIZING IMMEDIATE POSSESSION OF THE PROPERTY

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

Mayor Cook announced the following item to be considered by the Local Contract Review Board:

LOCAL CONTRACT REVIEW BOARD

8. INFORMATIONAL PUBLIC HEARING TO GRANT AN EXEMPTION FROM THE COMPETITIVE SCREENING AND SELECTION PROCESS FOR THE 72ND AND DARTMOUTH PROJECT

- Mayor Cook opened the public hearing.

- Hearing procedures: This was an informational public hearing. For such a hearing, any person shall be given the opportunity to testify on this item.
-  Senior Management Analyst Barrett presented the staff report outlining the key facts, which are stated within the Agenda Item Summary on file in the council meeting packet.
- There was no public testimony.
- Mayor Cook closed the public hearing.

Motion by Board Member Snider, seconded by Board Member Buehner, to adopt LCRB Resolution No. 13-02.

LCRB RESOLUTION NO. 13-02 – A RESOLUTION GRANTING AN INDIVIDUAL EXEMPTION FROM THE COMPETITIVE SCREENING & SELECTION PROCESS FOR ENGINEERING SERVICES ON THE 72ND AND DARTMOUTH TRAFFIC SIGNAL AND STREET IMPROVEMENT PROJECT

Motion was approved by a unanimous vote of the LCRB board members present:

Chair Cook	Yes
Board Member Henderson	Yes
Board Member Buehner	Yes
Board Member Snider	Yes
Board Member Woodard	Yes

Chair Cook adjourned the Local Contract Review Board meeting.
Mayor Cook reconvened the City Council meeting.



9. LEGISLATIVE PUBLIC HEARING ON RIVER TERRACE STREET MAINTENANCE FEE

Purpose of the hearing is for the City Council to consider the deferral of street maintenance fees for River Terrace until July 1, 2016.

- Mayor Cook opened the public hearing.
- Hearing Procedures – This was a legislative public hearing. For such a hearing, any person shall be given the opportunity to testify on this item.
- Finance and Information Services Department Director LaFrance presented a staff report. A written summary of the key facts is stated within the Agenda Item Summary on file in the council meeting packet. The proposed resolution is to clarify that all street maintenance fees will be deferred for River Terrace properties until July 1, 2016.

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- Brief City Council discussion followed wherein it was the consensus that the proposed resolution would honor the City Council’s intention that the River Terrace properties would not be charged urban level fees until their properties are able to be developed.
- There was no public testimony.
- Mayor Cook closed the public hearing.
- Consideration by City Council:

Motion by Councilor Buehner, seconded by Council President Henderson, to adopt Resolution No. 13-20.

RESOLUTION NO. 13-20 - A RESOLUTION TO DEFER STREET MAINTENANCE FEE CHARGES UNTIL COMPLETION OF THE RIVER TERRACE COMMUNITY PLAN

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes



10. LEGISLATIVE PUBLIC HEARING - COMMUNITY DEVELOPMENT CODE AMENDMENT FOR PARKING REQUIREMENT MODIFICATIONS

The purpose of the hearing is for the City Council to consider the applicant’s request (Killian Pacific) to lower minimum parking ratio requirements for certain uses (Eating and Drinking Establishments, Sale-Oriented Retail and Personal Services – banks with drive through) and lower the minimum percentages required for primary, secondary, etc. uses in mixed-use of multi-tenant developments. This will allow greater opportunities for the leasing or expansion of existing structures and businesses.

-  Mayor Cook opened the public hearing.
-  Staff Report: Associate Planner Caines and Senior Transportation Planner Gray presented the staff report.

Associate Planner Caines reviewed the staff report and referred to a slide presentation on file in the record copy of the meeting packet. The application for the proposed code amendment came to the City of Tigard from an outside applicant who is requesting to lower the parking minimum ratios for restaurants, sales-oriented retail and banks with drive-through. In addition, the applicant also proposes to lower the minimum percentages for primary, secondary and tertiary uses in mix-used and multi-tenant developments.

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Associate Planner Caines explained the proposed amendment would be citywide and would apply to all commercial, industrial and multi-family residential zones in the City of Tigard.

Associate Planner Caines gave background information:

- The city adopted the current minimum ratios in the parking chapter of the Community Development Code based upon the minimum ratios established by Metro in 1998. These minimums are applied to new construction, redevelopment and changes of use.
- The applicant owns property in the City of Tigard and he is not the only property owner who has been confronted with the situation of wanting to expand an existing development but unable to do so because he could not meet the minimum parking standards. This has created an economic development issue for some City of Tigard property owners.
- In 2012 the city received complaints from a residential neighborhood adjacent to a multi-tenant development where uses had changed over a period of time resulting in spillover parking into a residential neighborhood.
- Staff viewed the issues and considered perspectives from the economic development and the interests of the adjacent property owners' viewpoints. Staff then endeavored to strike a balance to determine the "right" numbers for parking requirements in the City of Tigard. Metro's numbers seemed high and the applicant's proposals seemed a little too low. Staff proposed numbers to provide a "bridge" and recommended changes to the code until there could be a comprehensive review of parking standards in the future.
- The Transportation System Plan adopted in 2010 recommends looking at parking ratios to determine if these need to be changed, possibly lowered. The recommendation proposes this review to be done in a comprehensive manner. This comprehensive review is not on the schedule of Community Development Department projects, which is why the staff is proposing the "bridge" to allow economic development to occur in the meantime.
- The information provided by the applicant on parking standards was reviewed.
- Many of the area jurisdictions adopted the Metro minimum parking ratios.
- A chart showing proposed or recommended parking standards was reviewed and included the "TTE Peak," "City of Tigard Minimum," "Applicant's proposal," and the "Staff proposal."
- Staff thought the numbers proposed by the applicant were too low based on the ITE information and requirements in place by other jurisdictions. Staff has proposed minimum parking requirements based on being somewhat "in the middle" and to avoid creating unforeseen problems.

Senior Transportation Planner Gray provided the following information:

- Prior to coming on staff for the City of Tigard, Ms. Gray was a transportation consultant for Kittelson & Associates and her specialty area was parking.
- The application before the City Council is unusual in that it is rare for a private developer/property owner to seek a code change affecting the entire city. Citywide code

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changes are most often initiated by the city. If the city were proposing changes in parking, the approach would be to have quite a lot of data collection and public outreach.

- The materials provided by the applicant are not as extensive as what the city would like; however, staff appreciates that this proposal moves the city toward a direction it wants to go.
- Ms. Gray reviewed the table showing the proposed or recommended parking standards comparisons. She referred to the abundance of data that is available that could be analyzed when considering this type of code change. There is no “one right number” to select on the chart – there are trade-offs to consider – it is about trying to find the right balance for the community.
- The benefit of the proposal before the City Council is that it provides for some benefit for economic development that cannot occur because of current code constraints.
- While the applicant’s proposal does not provide as much data as what is typically preferred, the impacts are relatively minor because it is reducing the minimum and not changing the maximum numbers. The effects, with the staff proposal, would be fairly narrow.
- The current situation with the parking standards is not unique to Tigard in that many cities adopted parking requirements in the 60’s and 70’s, which have not been updated on a regular basis.

c. Council/Staff Discussion

- In response to questions from Mayor Cook and Councilor Snider, Senior Transportation Planner Gray reviewed the differences between what the applicant was requesting and the staff’s proposal. She confirmed that the staff recommendation was based more on experience with ramifications of setting certain minimum requirements since the data depth is not available at this time. The nexus of requiring parking spaces in relation to the square area of the building was discussed and questioned since the amount of space devoted to kitchen area and storage was not factored. Ms. Gray said restaurants have a higher demand for parking than many other commercial uses but acknowledged that the current requirements for restaurant parking could pose a hardship especially when there are so many vacant commercial spaces. She said, as an interim step, taking a moderate reduction would be a good idea.
- Councilor Buehner referred to the recent City of Portland negative experiences when it eliminated certain parking requirements. She said she wanted to avoid a similar situation in Tigard.
- In response to a question from Councilor Snider, Associate Planner Caines advised the applicant is aware of and supports the staff recommendation.
- Mayor Cook asked about the triggers for changes in parking requirements. Associate Planner Caines gave an example: If a building houses a retail shop, the parking requirement is 3.7 spaces per 1,000 square feet. If a restaurant wants to move into this space, the parking requirement is 9.9 spaces per 1,000 square feet. This is a huge difference in the number of parking spaces required and if the property owner cannot show that the spaces are available or can be provided on the site, then staff cannot approve the use change. The reality is that sometimes the amount of parking required is not needed.

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-  Councilor Woodard referred to the Nimbus development and the circumstance whereby two commercial spaces are vacant because of the parking requirements. He asked if the staff proposal would make a difference for this development. Associate Planner Caines advised the applicant is the owner of the Nimbus Center. With the reductions recommended by staff, the minimums would not be met; however, the applicant could apply for an adjustment, which would get them to the point where they could go ahead with the mix of uses they were considering. Councilor Woodard referred to numbers contained in the attachments to the Agenda Item Summary for this matter noting that it appears, even during peak times, that parking lots are only 50-60 percent full. He questioned whether the amendments proposed by staff are adequate, especially with the changes now apparent in how people do business; i.e., online banking. He would like to see the most flexibility possible to assist with economic development, which appears to be supported by the data. While Councilor Woodard acknowledged taking a more cautious approach, he would rather see the requirements support economic development and more flexibility would appear to be closer to “doing it right.”
-  Senior Transportation Planner Gray commented that in many cities, if a developer wanted to get an adjustment to the parking requirement for a new fast food restaurant, to support a site-specific adjustment, they would take counts on three to five similar sites. The proposal before the City Council represents a citywide change, which is why she felt the data submitted by the applicant was not quite enough to support a citywide change. She added that the information provided does indicate a direction to ease up on minimum parking requirements. If additional ease is warranted, it can be allowed if a property owner justifies the need.
-  Council President Henderson agreed the data supports the direction proposed by the applicant and staff with regard to helping business. However, he is concerned that a property owner would still need to go through an expensive review process. He referred to his office complex and the fact that it was too expensive to have a restaurant. He has a fast food establishment at this complex and he rents 20 additional parking spaces at an adjacent church for \$450/month. He said lowering the minimum parking standards would send a signal that Tigard is “open for business.” He acknowledged this type of code change would affect the road maintenance fee calculations. Council President Henderson said he would prefer to get this done correctly the first time; that is, do not settle for mediocre. In response to a question from Councilor Snider, Council President Henderson indicated his preference was for the applicant’s proposal. During his comments he would like to see a review of how square footage areas for businesses are calculated. He said the Papa John’s establishment in his complex is 1,500 square feet and requires 20 parking spots because there is an extra 600 square feet of overhang on the building that is included in the calculation for parking requirements.
-  Councilor Woodard responded to Council President Henderson’s suggestion that the applicant’s proposal was acceptable and he said he prefers a proposal that would set minimum parking requirements at numbers representing a compromise between the applicant’s proposal and the staff’s recommendation.

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d. Public Testimony



Applicant representative from Killian Pacific, Vice President/Head of Development Noel Johnson, 500 East Broadway, Vancouver, Washington offered testimony:

- His company owns several properties in Tigard including the Nimbus Retail Center at Scholls Ferry Road and Nimbus. There are a number of vacancies at this center due solely to the “challenge that is before us.”
- A significant component of his company comprises large and small retail developments.
- For a number of years the Nimbus Center has had problems and after talking to Tigard staff, they decided to attempt to resolve the issues, which are keeping the center from developing to its potential. They decided that rather than simply to pursue a solution that would only benefit this one center, they would pursue a solution that would benefit other properties in the city.
- Killian Pacific has spent about \$55,000 on this effort to create the data to support their application working with Kittelson & Associates and other firms and experts. While the result is not ideal, it gives a good indication on where to go.
- While the applicant continues to prefer the numbers proposed in their application, they accept staff’s recommendation. He acknowledged the capabilities of Tigard staff and especially noted the expertise in this area possessed by Senior Transportation Planner Gray. He agreed that if Ms. Gray said this was worth more study, then it probably should be studied more. He added the applicant would appreciate the change to happen now so they could work towards getting the Nimbus Center vibrant. They would have an opportunity to apply for an adjustment to meet their business needs.
- Mr. Johnson said they supported and encouraged continued study of this area of the code to adjust to the changing realities of how business is being conducted.



Councilor Buehner said she appreciated Mr. Johnson’s words of support for the expertise possessed by Senior Transportation Planner Gray in this area of the code.



In response to a question from Council President Henderson, Mr. Johnson said further study would be enlightening and allow additional consideration of how to address parking demands for parking in different settings including urban development. The proposal tonight represents a first step to strike a balance between more and less urban types of development. His company does not want parking spillover to neighborhoods to become a problem.



Councilor Snider thanked Mr. Johnson for his company’s approach to this matter to take a more global look toward finding solutions. Killian Pacific has done more than its part to analyze this situation and bringing the matter forward because of the legitimate concerns adversely affecting Tigard businesses.

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 In response to a comment from Councilor Buehner, Mr. Johnson agreed that the proposed code change would make a difference for his company by allowing more flexibility. Once approved, his company will immediately move forward so they can completely fill up the Nimbus Center with tenants.

 Councilor Snider asked about how the staff proposal would be of benefit to the applicant. Mr. Johnson said they would be able to move forward without further process toward filling up vacancies in the center if the applicant's proposal was approved. They would need to apply for an adjustment if the staff's recommendation was approved. He said this has been a multiple month process and no one is certain about "what the right numbers are." While the experts employed by the Killian Pacific firm are in support of what the applicant proposes, Mr. Johnson said he defers to Senior Transportation Planner Gray's (staff's) recommendation.

 Councilor Snider summarized that it appears the council is being asked to make a big change based on a relatively incomplete study. Ms. Gray said the data is very limited to go forward with a citywide code amendment, which is why the staff made the recommendation that is now before the City Council.

 Mr. Johnson again noted support for the staff's recommendation as well as doing more study at a later date to determine if additional changes are warranted.

 Richard Shavey, 11371 SW Sycamore, Tigard, OR 97223 advised he has been working with downtown landowners. Parking is the biggest issue in the downtown, which he sees is more of a matter of how the existing parking is being used. He said the downtown landowners need to resolve this issue, not the city. Mr. Shavey said he has a great deal of respect for any property owner who initiates the action to make a recommendation to the city. He said economic development is a big issue for him. His concern with the proposal before the City Council is that it is a "bridge approach" to spur economic development based on less than thorough information. He referred to the proposal for a comprehensive study and questioned when such a study could be undertaken and analyzed. In this case "we don't know the answers" and he would prefer having the information before proceeding.

 Senior Transportation Planner Gray responded to Mr. Shavey's comments and noted she would defer response to Assistant Community Development Director McGuire with regard to the Community Development Department work program and budget. Mr. McGuire advised that next month he will be brief the City Council and Planning Commission on upcoming legislative projects to update/revise various sections of the code. The parking issue is scheduled for review in the fall of 2014. Mr. Shavey acknowledged the workload of existing staff; however, noted his dismay that it would take this long to review this matter. Discussion followed about whether reprioritization should occur. Councilor Buehner noted the city's priority to complete the River Terrace Community Planning.

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- d. Associate Planner Caines said staff's recommendation is to include the proposed changes recommended by the Planning Commission at its hearing and further amended by staff.
- e. Mayor Cook closed the public hearing.
- f. Council consideration/discussion.

City Attorney Watts addressed Council President Henderson's announcement that he would recuse himself from voting on this matter. Mr. Watts said he heard Council President Henderson announce earlier that he might be financially impacted by a decision of the City Council on this matter. He said that Council President Henderson has disclosed this to the public and his advice would be for Council President Henderson to abstain on this issue. Council President Henderson said he would "abstain with comment."

Council President Henderson said that, "I really think that if we don't take the most conservative stand on this that we will be looking at problems down the line. I still come back and say this is going to trigger the road maintenance fee and we have been promised every year that we would have thorough investigation of this. I still think that we need to do that in total. I don't think we understand what is actually going to happen to us when we do this."

 Councilor Snider asked Council President Henderson what he means by taking a conservative approach. Council President Henderson said he would rather we "pull this back as far as we can rather than taking a higher level and saying 'well, we're going to cut later when the information finally gets to us.'" Councilor Snider asked if Council President Henderson was recommending that the council adopt the applicant's recommendations. Council President Henderson said, "Correct." He said from an economic development perspective, he thinks the applicant's proposal is the best. Staff admits there is a problem.

 Councilor Woodard said he was considering adjusting the proposed numbers lower. He said he did not think the city has ever addressed the policy with "overhang." He said he is unsure whether square footage is a true representation of the facility. He has not reviewed this policy but said such a review might change his decision-making process. It makes it difficult for him to say the staff recommendation is the best.

 City Manager Wine asked for staff to respond to the question of how square footage is determined in relation to the requirements for parking. Associate Planner Caines said that parking ratios are based on floor area. The definition of floor area includes any area that is under a roof. There were comments from council that this definition is "wrong." Councilor Woodard said this is a problem for him and because of this, he would lean more toward "the minimum."

 City Manager Wine reiterated Assistant Community Development Director McGuire's earlier comments to the City Council that through an upcoming regulatory reform process, the Community Development Department staff regularly collects issues with the code that cause problems or affect leasable area. When the City Council reviews the projects on the work plan,

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this issue being discussed by the council will be included. To address the point about the street maintenance fee and to address how council is troubled about how square footage is calculated; those issues can be addressed at the time these sections of the code are scheduled for review.

 Discussion followed on how these code adjustments can be made.

 City Manager Wine explained how the street maintenance fees are calculated. While exact predictions of the magnitude on the overall fees cannot be made, if the council reduces the minimum requirements for parking spaces, then those spaces would be removed from the street maintenance fee calculations. It appears that the proposed changes are not so radical that it would greatly affect the total street maintenance fee revenue. Every five years the city reviews the street maintenance fee calculations. These issues are not before the City Council tonight; however, if council wants to review the street maintenance fee, then staff can bring this forward. Given the number of properties that would be affected by the proposed amendment, City Manager Wine said the impact to the street maintenance fee should not be significant. Staff was bringing this information to the council so it would understand that parking spaces are included in the street maintenance fee as a proxy for vehicle trips and as soon as you start taking parking spaces out of the calculation, it can affect the fee level.

 Councilor Buehner said she thinks the council should defer to the point that a major overhaul of the code is coming and the code should not be rewritten in total this evening. Councilor Buehner made a motion to approve Ordinance No. 13-07 using the recommendation of staff, particularly since “we have the parking guru on staff” and it would be foolish to ignore her recommendation. She said she would add to the motion that “these items be included in the review as we move forward.” This change is going to make a big difference to businesses. Councilor Buehner said “I don’t want to be trying to make citywide major changes without having all of the data.”

 Councilor Snider asked for an opportunity to ask some additional questions and was not ready for a second to the motion. Councilor Woodard said he also was not ready for a second to the motion.

 Councilor Snider said he did not like to make big changes on short notice. He said it appears the council has struck upon an issue as they are struggling with the staff recommendation and balancing it with economic development and the applicant’s testimony. He referred to the calculations and the issues brought up with how square footage is considered. His question on the table is whether it is written in code with regard to how the calculations are done or is it prescribed in administrative rules. A code change takes 18 months while an administrative rule could be more easily amended. He said he has not heard testimony regarding the confidence in any of the proposed options for parking and it appears that council has the opportunity to take action on this policy issue for purposes relating to parking.

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 Assistant Community Development Director McGuire responded to Councilor Snider that the calculations are prescribed in the code; it is not based on interpretation. He said he was not making a recommendation one way or another, but would caution the City Council that complaints are made that the code is too complex. He said if changes are made to calculations so that some things are calculated one way and others another way, then it is more likely for errors and omissions to occur and adds to the code’s complexity.

 Councilor Woodard said he sees three options available to the City Council:

- Option 1 – The proposed amendments as recommended by staff.
- Option 2 – A median approach (between Option 1 and 2).
- Option 3 – The proposed amendments submitted by the applicant.

Councilor Woodard proposed Option 2, which would mean the proposed code numbers would appear as follows:

Use	Minimums		
	Current	Proposed	Amended by Staff Council
Eating and Drinking Establishments ^[8]	Fast Food: 9.9/1,000 Other: 15.3/1,000	6.0/1,000 8.0/1,000	7.0 8.0/1,000 9.0 10.0/1,000
Sales-Oriented Retail	3.7/1,000	<u>3.0/1,000</u>	3.0/1,000
Personal Services (Bank with drive-through)	4.3/1,000	2.7/1,000	3.0 4.3 /1,000 (no change)
<i>^[8] Fast food designation includes all eating and drinking establishments with a “walk up counter” or less than ten (10) tables in the dining area.</i>			

In response to a question from Councilor Snider, City Attorney Watts said the council has the ability to choose the staff’s proposal, the applicant’s request or for the council to “make your own path.” He said there has been public notice on the parking requirements, there has been no notice regarding the calculation of the square footage nor has there been a notice about changes to the calculation of the street maintenance fees. These two topics would likely be of great interest to many business owners and individuals in the city and cautioned the council not to take positions on these topics tonight.

 Councilor Woodard said his changes only relate to the numbers per 1,000 square feet.

 Council President Henderson said he would like to have staff look into the two topics referred to by City Attorney Watts.

 Mayor Cook noted that the proposed amendments only affect a few establishments now. The entire code will need to be reviewed at a later date after further study.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 14, 2013

 Councilor Snider proposed the council go forward with Councilor Woodard’s recommendations of “7, 9, 3 and 3.” After confirmation of these numbers by Councilor Woodard, Councilor Snider said his proposal as stated above is a motion.

 Councilor Woodard seconded the motion.

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

Mayor Cook	Yes
Council President Henderson	Abstain
Councilor Buehner	No
Councilor Snider	Yes
Councilor Woodard	Yes

 Later in the meeting proceedings Mayor Cook asked for the City Recorder to read the number and title of the proposed ordinance:

City Recorder Wheatley read the following:

ORDINANCE NO. 13-07 - AN ORDINANCE AMENDING THE TIGARD COMMUNITY DEVELOPMENT CODE CHAPTER 18.765, TO REDUCE MINIMUM PARKING RATIOS FOR EATING AND DRINKING ESTABLISHMENTS, SALES-ORIENTED RETAIL AND PERSONAL SERVICES – BANK WITH DRIVE-THROUGH USES AND REDUCE THE MINIMUM PARKING PERCENTAGES WITHIN MIXED USE AND MULTI-TENANT DEVELOPMENTS (DCA2013-00001) AS AMENDED.

A roll call vote was taken and the ordinance was adopted by a majority vote of the City Council:

Mayor Cook	Yes
Council President Henderson	Abstain
Councilor Buehner	No
Councilor Snider	Yes
Councilor Woodard	Yes



11. LEGISLATIVE PUBLIC HEARING - APPROVAL OF FISCAL YEAR 2013 MAY BUDGET SUPPLEMENTAL

Purpose of the hearing is for the City Council to consider approval of a 0.8 FTE Records Technician in Administrative Services to last no more than two years.

- Mayor Cook opened the public hearing.

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- This is a legislative public hearing. For this type of hearing, any person is given the opportunity to comment.
- Finance and Information Services Department Director LaFrance presented the staff report. If the proposed resolution is approved, a Records Technician position would be created in the Administrative Services Department for a two-year period to bring the city's electronic record management system (Laserfiche) current.
- There was brief council discussion where consensus was reached to support the proposed resolution.
- Mayor Cook closed the public hearing.
- Council consideration:

Motion by Councilor Buehner, seconded by Councilor Snider, to adopt Resolution No. 13-21.

RESOLUTION NO. 13-21 - A RESOLUTION TO ADOPT A MAY SUPPLEMENTAL BUDGET AMENDMENT TO FY 2013 TO ACHIEVE THE FOLLOWING: ADD 0.8 FTE RECORDS TECHNICIAN IN THE ADMINISTRATIVE SERVICES DEPARTMENT

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

12. EXECUTIVE SESSION: Not held.

13. COUNCIL LIAISON REPORTS

 Councilor Buehner presented a report on the Water Oversight Committee meeting of May 13, 2013. She reported Tigard's share of the budget had no changes; however, Lake Oswego's share had some adjustments. There was discussion regarding about the bid process. It is anticipated that there will be several bid openings over the next 60 days. The Lake Oswego Council will be making the decisions on bid awards. Permit statuses were discussed at the Oversight Committee meeting. The majority of the meeting related to the evaluation of where the project was financially and identifying the contingencies for several of the project areas.

Councilor Snider also attended the meeting and advised that members of the Lake Oswego City Council have asked for a report with financial summaries of the project. This report was helpful and the Committee will review this report monthly as it gives a high-level look at how the project is going pertaining to the key financial information.

Councilor Buehner reported that the Lake Oswego City Council members of the Oversight Committee are endeavoring to gain an understanding on the potential risks of the project. Much of

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this information will become evident once the bids have been let and will affect the cost contingencies. She reported the plans to report project costs to the Oversight Committee in the coming months.

Councilor Snider asked that the monthly reports be distributed to the entire City Council. After a comment by Councilor Buehner, Councilor Snider suggested that City Council members call either Councilor Buehner or him if they have questions.

14. NON AGENDA ITEMS – None.

15. ADJOURNMENT: 9:36 p.m.

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

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
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

May 28, 2013

Mayor Cook to call the meeting to order at 6:30 p.m. and advised the City Council would be meeting in Executive Session.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard		✓

Staff Present: City Manager Wine, Assistant City Manager Newton, Community Development Director Asher, City Attorney Ramis, City Recorder Wheatley

The mayor read the following citation and information regarding the purpose of the Executive Session. The Executive Session scheduled for the discussion of labor negotiations was cancelled; this matter will be rescheduled.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. for consultation with legal counsel about litigation likely to be filed under ORS 192.660(2) (h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

Executive Session concluded at 7:12 p.m. and the City Council study session convened.

- STUDY SESSION
Track 3
City Manager Wine reviewed the following administrative items:
 - The Tigard Chamber requested scheduling a *Meet Your City Council* event on either September 23 or 30 (both are Monday nights) from 6-7 p.m. Appetizers will be served at this event. Council members advised that either date is all right.

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- City Council members were asked to contact staff if there was interest in participation in the League of Oregon Cities City Awards program.

Council Calendar:

June

4	Tuesday	City Center Development Agency – 6:30 p.m., Red Rock Creek Conference Room
11*	Tuesday	Council Business Meeting—6:30 p.m., Town Hall
18*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
25*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall

- In response to a question from Council President Henderson, City Manager Wine confirmed the city will be applying for Community Development Block Grants.

Study Session concluded at 7:19 p.m.

1. BUSINESS MEETING - May 28, 2013

- A.  Mayor Cook called the meeting to order at 7:31 p.m.
- B. Mayor Cook asked City Recorder Wheatley to call the roll:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard		✓

- C. Mayor Cook asked everyone to stand and join him in the Pledge of Allegiance
- D. Council Communications & Liaison Reports – Mayor Cook asked for communications and reports from the council.  Councilor Buehner advised she would give a report at the end of the business meeting.
- E.  Mayor Cook called for non-agenda items. There were none.

2. CITIZEN COMMUNICATION

- A. Consider a Resolution Acknowledging and Commending Megan Risinger for Her Service as Tigard High School Student Envoy to the City of Tigard.

TIGARD CITY COUNCIL MEETING MINUTES – MAY 28, 2013

Mayor Cook introduced this agenda item and read the proposed resolution thanking Student Envoy Risinger for her communications to the City Council about Tigard High School during the 2012-2013 school year.

Motion by Councilor Buehner, seconded by Councilor Snider, to approve Resolution No. 13-22.

RESOLUTION NO. 13-22 - A RESOLUTION ACKNOWLEDGING AND COMMENDING MEGAN RISINGER FOR HER SERVICE AS THE TIGARD HIGH SCHOOL STUDENT ENVOY TO THE CITY OF TIGARD

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Absent



B. Honor the 2013 State Championship Tigard High School Speech and Debate Team

Mayor Cook announced the City of Tigard's desire to honor the 2013 State Championship Tigard High School Speech and Debate Team.

The Tigard High School Speech and Debate team won the Oregon School Activities (OSAA) 2013 Speech State Championship. This year's contest was held at Western Oregon University on April 18-20. 440 students from 63 schools in Oregon competed.

This is the second time in four years that Tigard has taken the top prize. The team has finished in the top three for the last 4 years: 2010 - 1st, 2011-3rd, 2012-2nd and 2013-1st. Tigard Speech and Debate qualified 22 students to the State Championship, resulting in:

- State Champion (1st place) Dual Interpretation Team - Olivia Cordell and Tristy Retzlaff
- State Champion (1st place) Cross Examination Debate Team - Courtney Bither and Narin Luangrath
- 3 of the top 16 Parliamentary Debate teams in Oregon, including the 3rd place team of Kevin Jiang and Zach Bigej
- 1 of the state's top 16 Lincoln Douglas debaters - Paul Altotsky
- 2 semi-finalists in Humorous Interpretation - Kyle Novy Riley and Tristy Retzlaff
- A finalist in Dramatic Interpretation - Kyle Novy Riley
- A finalist in Impromptu Speaking - Max Redman
- Second place finisher in Extemporaneous Speaking - Kevin Jiang

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The head coach is Matthew Compton and assistant coach is Amber Manning.

Three students qualified for the National Forensics Tournament, to be held in Alabama this summer - Kyle Novy Riley, Tristy Retzlaff and Olivia Cordell.



C. Follow-up to Previous Citizen Communication

Announcement was made that follow-up on some pending items will be reviewed during the non-agenda segment of the meeting. (See Item No. 8)

D. Citizen Communication – Sign Up Sheet



Jim Long, Chair of Citizens Participation Organization 4M (CPO4M), 10730 SW 72nd Avenue, Tigard, Oregon 97223 distributed a document, *Questions to ask Walmart and the City of Tigard*.

He advised he was in Salem earlier today where Governor Kitzhaber signed a proclamation recognizing Patricia Whiting who served in the past as a chair of CPO4M.

He advised Walmart had been invited to send representatives to CPO4M meetings in April and May. When Walmart was unable to send a representative during these months, he said Assistant City Manager Newton suggested the CPO develop questions related to Walmart development. At last Wednesday's CPO meeting, the attendees submitted questions which are listed in the document distributed to the City Council. Mr. Long drew attention to a few of the questions on the list:

1. Requested the Walmart topic be placed on the next City Council agenda.
2. People were wondering about lack of transparency on the city's part noting the Walmart project was reviewed and approved with the application showing "un-named applicant."
3. Why is the City Council approving gas tax usage for a non-priority project such as Walmart to the detriment of previously designated priority projects?
4. Due to the sensitivity of the current gun debate, is it prudent for the city to approve development for the nation's largest retailer of firearms?
5. How many vehicle trips will there be per day and what will be done to prevent traffic from spilling onto residential areas?
6. What will the tax subsidies be from the city, county, state and federal governments for the Walmart store?
7. What type of annual taxes will Walmart pay to the City of Tigard?
8. Where will all the wastewater be deposited during construction?

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Mr. Long reviewed a list of comments and requests outlined on the last page of the document he submitted to the City Council.

 Steven Schafer, 11200 SW 83rd Avenue, Tigard, Oregon 97223 advised he started an online petition to keep Walmart out of Tigard. Since the Town Hall meeting last month, there have been a total 503 signatures collected. Of this number, about 242 are from Tigard citizens who are angry and have spoken out and want to know what the City Council is doing to keep Walmart out of Tigard. He said he is reaching out to Representative Doherty for her support and she would like the council's support also. Mr. Shafer said he would like to know, on the public record, if each council member is individually willing to sign the petition and, if not, why. He said due to the exponential growth of traffic in the area since the original traffic study was done, he requested a new traffic impact analysis with updated information for growth projections for the next 20 years. He requested assistance on how to formally request the traffic impact analysis if it is not through the City Council.

 Steve Bintliff, 13520 SW 122nd Avenue, Tigard, Oregon 97223 referred to comments written by former State Representative Larry Galizio noting people in Tigard have legitimate concerns "...about this massive facility. They want to know what it will do to our traffic and our environment. They have serious worries about the impact on small businesses and local retailers, quality jobs with decent benefits and the overall quality of life in our community."

Mr. Bintliff advised that in 2006, Representative Galizio formed a group called "Tigard First" to oppose a development of Walmart at the Tigard current site. The group, with support from then Mayor Dirksen, ultimately succeeded in stopping that development. Since 2006 the plan remained intact with only minor modifications. It has been three years since there has been any opportunity for public input through a city sanctioned hearing. Today the groundbreaking on the site is only days away; however, there are still concerns about traffic, wetlands on the site and impacts on small businesses. None of the questions have been adequately answered.

Despite vehement opposition by Tigard citizens of the Walmart development in the past, the city continues with its preparation for this project with no attempt to get citizen input. Two weeks ago the City Council gave an engineering firm \$108,000 to finish the site and granted them an exemption from the city's competitive bidding regulations. The council approved the use of the city's eminent domain powers to condemn the land needed for intersection improvements. The council has agreed to an ambitious street improvement plan with funding of up to \$1 million from the city's gas tax fund – at the expense of much-needed improvements in neighborhoods such as his. He said the commitment of these funds represent a partial back-door subsidy of the Walmart development at the expense of most neighborhoods in the city. He urged the city to have a dialogue with its citizens about this

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project and what it will mean. He requested the city hold some town hall meetings and council meetings for the specific purpose of reviewing this issue to give the citizens a voice/say in what is to happen.

 Jennifer Vasicek, 11010 SW Eschman Way, Tigard, OR 97223 shared her account of her opposition to the proposed Walmart at 72nd and Dartmouth. She became involved with this issue when she attended the April 30 Tigard Town Hall meeting. During the Town Hall meeting, the mayor and council agreed to hold a study session on this topic. The citizens in opposition have been told repeatedly that the city attorney is reviewing the subject and may or may not recommend the council hold the proposed study session. Meanwhile, groundbreaking on the new Walmart could happen any day. There is also an unsubstantiated rumor in the community that the mayor and council have been advised to not discuss the Walmart project without a Walmart representative present.

Ms. Vasicek said that Walmart has operated under a such a cloak of secrecy that she soon came to realize that she was not the only one finding out about this project in the 11th hour. It became her goal to educate as many people as possible. On May 4, she sent an email to the Tigard area website administrators asking if a message could be conveyed to the readers of these websites that community members had come together to oppose the new Walmart. Two days later an email was sent to the administrators reminding them that program guidelines prohibit advertising on the blog. Tigard Area 3 currently has a post titled, *Walmart announces plans to open a store in Tigard*, which links directly to Walmart's website. No mention of the community opposition group was ever made on any of the neighborhood websites.

On May 4, Ms. Vasicek sent an email to the Downtown Tigard Business District asking for support. She received no response. She said she later learned that this group is administered by the Tigard Area Chamber of Commerce.

She said that on May 19, a group opposing the Walmart project gathered on the public sidewalk outside the Tigard Farmer's Market and the police were called in an attempt to remove them. She said the Market is run by the Chamber of Commerce.

Ms. Vasicek reported that in March of 2012, the Chamber of Commerce Director went on record with the Portland Tribune stating she was excited about the 300 jobs that Walmart will bring to the area.

On May 16, Ms. Vasicek submitted a public information request to the City of Tigard. She requested any and all emails relating to Walmart between the dates of May 1 – 16. She was told the estimated cost for 80 emails would be between \$320-475 and they would need to be reviewed by the city attorney before being released. She said she also learned that fee

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waivers are rarely, if ever, granted and that her private dollars would be needed to fund her request.

She said the petition in opposition to Walmart has more than 500 signatures. At the last City Council meeting, she said a City Council member asked the question, “How do we get engagement from the community?” She noted the community is now engaged and questioned how the City Council plans to respond.

Ms. Vasicek said she has been met with resistance from “those who are supposed to be my advocates and claim to be proponents of small business in this community.”

She asked the council to be mindful of what its constituency is saying both here at this meeting and through the petition and take direct action to stop the Tigard Walmart development.

 Deborah Norton, 10425 SW 43rd Avenue, Portland, which is near the proposed Walmart site. She said she was before the council as a representative for human rights all across the country. She referred to an industrial disaster at the Rana Plaza building in Bangladesh (April 23, 2013) where 1,120 workers who sewed clothes for Walmart perished in the rubble. She said putting a Walmart in any city after such a tragedy is a “...bad place to be for any politician.” She said she has spoken to many Tigard residents who are “...shocked and sad and they are also giving up...that means they have given up on you because you let the beast in...” She said this is a direct betrayal to the companies on Main Street, which has been undergoing revitalization efforts by the city. She said she hopes the council considers the serious impacts that Walmart places on this planet and the tragic loss of lives in the effort for us to look good to buy more and pay less.

 Justin Kertson said he lives in SW Portland on SW 43rd Avenue. He said he hears people talking about the 300 jobs the Walmart store will create for the City of Tigard. While that might sound great, he said he thinks it is important to ask what kind of jobs are these. According to a Bloomberg study the average Walmart associate makes only \$8.81 per hour. An employee who works at Walmart 34 hours per week makes \$15,000 per year – less than \$1,300 per month – this is below the poverty line. In this area, the average cost of a one-bedroom apartment is around \$700 per month. He questioned how a family is expected to survive on such a wage.

Mr. Kertson referred to the effects on taxpayers because of Walmart’s low wages. He said in communities where there are Walmarts, they create tax burdens. He said major studies in the states of Georgia, California and Massachusetts found that Walmart employees cost taxpayers an average of \$420,000 per store per year for food stamps, Medicaid and other state health insurance programs. In some stores, as many as 80 percent of Walmart’s

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workers are on food stamps, costing US taxpayers annually over \$1 billion. Walmart's low prices are taxpayer subsidized. He said, "They get away with it because we let them. Are Tigard residents really willing to pay an additional \$420,000 per year in taxes to subsidize Walmart's low wages and low prices. As of last year, January 2012, Walmart no longer offers health benefits to who work less than 24 hours per week. And, they raised the premiums of their eligible workers by up to 120 percent, making even eligible employees unable to afford the benefits, so they turn to state programs instead."

Mr. Kerston said in 2002, over 400 employees from 24 of 27 stores in Oregon sued Walmart for several million dollars in stolen back pay. There were similar lawsuits pending in 30 other states. Between July 2005 and June 2011, Walmart settled an estimated 70 state and federal class-action wage and hour lawsuits, costing them over \$1 billion.

Mr. Kerston asked, "Is this the kind of company, are these the kinds of jobs that we really want to bring to this community? Is this the kind economic development that the Mayor and the City Council really want to be remembered for?"

 Mayor Cook reported on follow up from the Town Hall meeting. He said the council agreed to ask the city attorney's office to prepare information listing options on this issue for council review. The City Council received comments from the city attorney tonight. The mayor said he has not had a chance to look at the city attorney's comments and was not prepared to comment on any of the testimony tonight.

 Councilor Snider clarified council promised to look at other policy options, which was the subject matter of the document received by the council from the city attorney this evening. It is important to note that from a land use perspective, the process is over for the Walmart project. The application as it came in was not proposed as Walmart. The application was approved, with conditions. As long as the conditions are met, there is no opportunity to follow up with the community because there is nothing up for consideration (from a land use perspective). The council will review the options outlined by the city attorney and consider whether there should be a future discussion.

 Mayor Cook asked Assistant City Manager Newton for an update about her meeting with Walmart representatives today. Ms. Newton said Walmart has selected a contractor. The city staff met with the contractor today. A timeline is being developed. There must be a preconstruction meeting with the Oregon Department of Transportation (ODOT) because many of the off-site requirements are ODOT requirements. Walmart has significant requirements to protect the wetlands and all of those protections must be installed and approved before "they can turn any dirt on the site." She said citizens might see some fencing going up – and this could start fairly soon. Information will be posted on the city's website by next Monday regarding what citizens should expect with regard to activity on the site.

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City Manager Wine said some assertions have been made about some city projects; i.e., 72nd and Dartmouth. City officials would be happy to be part of public meetings to discuss projects related to the city. She referred to a condition of one of Walmart’s permits requiring Walmart to have public meetings about the project. City officials want Walmart to speak directly about their project. She called attention to the distinction about participation on the part of the city – city officials will gladly answer questions about city projects including those that are related to the Walmart project. These projects will improve our transportation system and are changes the city would have made in any event.



- 3. LEGISLATIVE PUBLIC HEARING: TIGARD GOAL 10 POPULATION AND HOUSING REVIEW - COMPREHENSIVE PLAN AMENDMENT (CPA) 2013-00001 AND DEVELOPMENT CODE AMENDMENT (DCA) 2013-00002
7:50 p.m. - estimated time

REQUEST: To adopt the Population and Housing Review as a component of Tigard Comprehensive Plan Goal 10: Housing; to amend the current Tigard Comprehensive Plan Goal 10: Housing goals, policies, and recommended action measures; to amend Tigard Development Code section 18.360; and to amend the current Tigard Comprehensive Plan Goal 2: Land Use Planning

LOCATION: Citywide.
 ZONE: All City Zoning Districts.
 APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.360; Comprehensive Plan Goals 9; Comprehensive Goal 2; and Statewide Planning Goals 1, 2, 10 and 14.

- a.  Mayor Cook opened the public hearing.
- b.  Associate Planner Daniels presented the staff report. The City of Tigard is currently undertaking the Comprehensive Plan periodic review. One of the work tasks is to conduct a population and housing review. The city received grant funds from the Oregon Department of Land Conservation and Development for technical consultant assistance to complete this work. The project meets the state requirements for Goal 10, Population and Housing Analysis and it acts as a resource for staff decision makers and the public.

Ms. Daniels said there are four components of the proposal and she reviewed them. The end result will be for a list of potential strategies that the city can take to meet its future demand for housing to implement the city’s aspirations and the state

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requirements. The key points that will occur if the proposed ordinance is adopted are listed below:

- Adopt the population and housing review as a component of Tigard's Comprehensive Plan Goal 10: Housing
- Amend the Tigard Comprehensive Goal 10: Housing to reflect current conditions and trends
- Amend the Tigard Comprehensive Plan Goal 2: Land Use Planning
- Amend Tigard Development Code Section 18.360 to ensure the city's standards related to housing are clear and objective.

Ms. Daniels noted the housing strategies report recommends additional Development Code amendments to further the city's vision for future housing. These amendments will be included as part of an action plan and addressed as part of the Community Development Department's future work program.

c. Council questions/comments:

Councilor Snider recalled this matter was on a study session agenda previously. He asked if any changes were incorporated based on input provided at this session. Ms. Daniels said no direction was given to staff for changes. However, she received comments from Justin Wood of the Homebuilders Association and those comments were distributed to the City Council.

Mayor Cook asked how often the Comprehensive Plan is updated. Senior Planner Wyss said the Oregon's Land Use Planning Rules recommend periodic review for cities and counties to occur every seven years; however, due to staffing and budget issues with the Department of Land Conservation and Development, the review has not been conducted for almost 20 years. Tigard's entire Comprehensive Plan was updated recently; the Goal 10 housing section was one of the components updated. In response to a comment from Mayor Cook, the Comprehensive Plan can be reviewed and updated by the City Council at any time.



d. Public Testimony – There was none.

e. Staff Recommendation – Ms. Daniels advised that staff recommends that the Tigard City Council adopt the proposal as determined through the hearing process.

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f. Mayor Cook closed the public hearing.



g. Council Discussion and Consideration: Ordinance No. 13-08

Mayor Cook referred to the Housing Strategies Report, under No. 2 in the first paragraph. There is a statement that Tigard is the 13th largest city in Oregon. He understands that Tigard is the 12th largest city, but is the 13th largest if some unincorporated areas (i.e., Aloha) are included.



Councilor Buehner said it has been her experience that the population forecasting provided by Metro has been inaccurate; population estimates tend to be too high for Multnomah County and too low for Washington County in general and the cities within Washington County. When she was involved in the urban reserve process a few years ago, she was unable to ascertain Metro's methodology for population forecasting. In 1980, Metro projected Tigard's population to be 40,000 by 2020; however, Tigard's current population is almost 50,000. Councilor Buehner advised that staff and the consultant have done a good job on this project; however, the state requires use of the Metro population projections and this will cause a problem with the final product. She said she will vote no on this since she believes the numbers are flawed and will not serve our population with regard to the Comprehensive Plan.



Council President Henderson said he thinks the information gathered from this project is of great value for how we continue to grow in Tigard. He indicated he was glad this section of the Comprehensive Plan is being updated.



Councilor Snider asked if the methodology concern raised by Councilor Buehner is a statutory requirement. Senior Planner Wyss clarified that the population estimate that was done for the Goal 10 Housing Study uses census data and the average annual rate of growth. The Metro growth forecast was not used for this study.



In response to a question from Mayor Cook, Senior Planner Wyss said Metro is tasked by the state to do the growth forecast for the Portland metropolitan region, which is how urban growth boundary expansion decisions get made. Transportation planning for Tigard's Transportation System Plan also utilizes the Metro numbers. Mayor Cook referred to testimony supplied by Justin Wood of the Homebuilders Association whereby he was accepting of the forecasting numbers with the caveat

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that the numbers could be inaccurate depending on how development occurs. Mayor Cook noted the city should have the opportunity to review and adjust its forecast if circumstances change.

 Motion by Councilor Snider, seconded by Council President Henderson, to adopt Ordinance No. 13-08.

City Recorder Wheatley read the title and number of the proposed ordinance:

ORDINANCE NO. 13-08- AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA 2013-00001 AND DCA 2013-00002 TO ADOPT THE POPULATION AND HOUSING REVIEW AS A COMPONENT OF TIGARD COMPREHENSIVE PLAN GOAL 10: HOUSING; TO AMEND TIGARD COMPREHENSIVE PLAN GOAL 10: HOUSING; TO AMEND TIGARD DEVELOPMENT CODE SECTION 18.360; AND TO AMEND TIGARD COMPREHENSIVE PLAN GOAL 2: LAND USE PLANNING

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	No
Councilor Snider	Yes
Councilor Woodard	Absent



Mayor announced Agenda Item No. 4:

4. ADOPT AN UPDATED 10-YEAR FRANCHISE AGREEMENT WITH PORTLAND GENERAL ELECTRIC

Assistant to the City Manager Mills presented the staff report. Highlights of the proposed updated agreement are outlined in the staff report on file with the council packet materials.

PGE Local Government Affairs Representative Mark Fryburg spoke highly of the negotiation teams who worked on coming to agreement.

Motion by Councilor Buehner, seconded by Councilor Snider to approve Ordinance No. 13-09.

ORDINANCE NO. 13-09 - AN ORDINANCE GRANTING A RENEWAL OF THE NON-EXCLUSIVE FRANCHISE WITH PORTLAND GENERAL ELECTRIC COMPANY (PGE) TO OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF TIGARD, OREGON, INCLUDING THE RIGHT TO PLACE AND OPERATE THIS SYSTEM IN THE PUBLIC

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RIGHTS-OF-WAY; FIXING THE TERMS AND CONDITIONS FOR SAID FRANCHISE, REPEALING ORDINANCE NO. 93-07, AUTHORIZING THE MAYOR TO SIGN THIS AGREEMENT, AND DECLARING AN EMERGENCY.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Absent



Mayor Cook announced Agenda Item No. 5:

5 LEGISLATIVE PUBLIC HEARING: MASCO DEVELOPMENT CODE AMENDMENT - (DCA) 2012-00003

REQUEST: The amendment would alter Land Use Table 18.530.1 (Industrial Zones) to change Industrial Services from a prohibited land use to a restricted land use within the I-P: Industrial Park Zoning District.

LOCATION: All properties located within the I-P: Industrial Park Zoning District

ZONES: I-P: Industrial Park Zoning District

COMP PLAN: Light Industrial

APPLICABLE REVIEW CRITERIA: Statewide Planning Goals 1, 2, & 9; Metro Title 4; Comprehensive Plan Policies 2.1.3, 2.1.7, 9.1.2, 9.1.3, & 9.1.7; and Community Development Code Chapters 18.380, 18.390, & 18.530.

- a. Mayor Cook opened the public hearing.
- b. Associate Planner Floyd presented the staff report. He reviewed the Planning Commission recommendation on the proposed amendment to Table 18.530.1 of the Tigard Development Code. This amendment was initiated by a property owner. The effect of the amendment would be to allow industrial services as a restricted land use within the Industrial Park Zoning District. He reviewed the key points of the proposed amendment highlighted in the written staff report.

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In response to a question by Councilor Snider, Associate Planner Floyd advised staff had no concerns or reservations about the request.

- c. Mr. Lans Stout, 7650 SW Beveland, Tigard, Oregon was present to represent the applicant, MASCO. His client felt it was worthwhile to go through this process to restore their conformity to the zoning code and correct a problem that exists for them and other property owners in the City of Tigard.

Mayor Cook noted appreciation for the applicant's work to come forward to go through the process and pay the costs to propose this amendment with which the staff supports. The benefits derived from this action that will improve the code.

Councilor Snider disclosed what could be perceived as a conflict. Councilor Snider said he does not believe he has an actual conflict but advised that his father handled litigation on behalf of MASCO many years ago.

There were no proponents or opponents to present testimony.

- d. Associate Planner Floyd advised staff recommends that the council find in favor of the Planning Commission's recommendation and adopt the proposed ordinance.
- e. Mayor Cook closed the public hearing.
- f. Motion by Councilor Buehner, seconded by Council President Henderson, to adopt Ordinance No. 13-10.

ORDINANCE NO. 13-10 - AN ORDINANCE AMENDING TABLE 18.530.1 OF THE TIGARD COMMUNITY DEVELOPMENT CODE TO CHANGE INDUSTRIAL SERVICES FROM A PROHIBITED LAND USE TO A RESTRICTED LAND USE WITHIN THE I-P: INDUSTRIAL PARK ZONING DISTRICT (DCA2012-00003).

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Absent

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Mayor Cook announced Agenda Item No. 6:

6. CONSIDER FEE WAIVER FOR CREATIVE HANDS COOPERATIVE PRESCHOOL

Assistant City Manager Newton presented the staff report. Approval of the request would allow a nonprofit cooperative preschool in Calvin Presbyterian Church at 10445 SW Canterbury Lane. The church is located in a residential zone as churches are allowed in residential zones as a conditional use. The preschool would go into the space previously occupied by Mitch. Preschools that are church sponsored are allowed as an accessory use to the primary use and the fee for such preschools is calculated as an accessory use or as part of the original conditional use. There are not many situations similar to the situation being experienced by Creative Hands. A conditional use fee is \$5,722.

The council is authorized to waive the charge for an application for a non-profit organization if they request the waiver in writing. Council's responsibility is to determine whether there are community benefits offered by the proposed activity that outweigh the financial burden on the city. Attached in the council packet materials is information provided by Creative Hands stating what they think are the community benefits of the preschool.

Staff review included an evaluation of whether granting such a waiver would establish a precedent. Ms. Newton reviewed and looked at potential preschool iterations. Most of the preschools in Tigard are home-based, part of an existing church or they are a commercial entity. There are 19 churches located in residential zones where this might come up. There are a few churches that have preschools; however, most of them do not. It is staff's opinion that it is unlikely that granting this fee waiver would set a precedent where the city would forego a large amount of revenue. Staff recommends that the City Council make a motion to approve the request for the fee waiver for this use.



Councilor Snider said it is his understanding that fees are set to recoup the costs of providing the service. The \$5,722 seems excessive. Ms. Newton said the fee is set based on an average for processing all conditional use applications. Generally such aspects include examination of traffic impacts, noise, etc. The preschool in the matter before the council is a compatible use in an existing church in a neighborhood. Later, Ms. Newton advised that the conditional use review for the preschool would not be as extensive as some other conditional use reviews.



Council President Henderson referred to the Mitch Charter School that was at this location previously – so there is history for such a use. He asked if this information could be used. Ms. Newton said this was reviewed and Mitch was defined in the conditional use as a “school,” and this preschool is defined as a “daycare.”

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 Councilor Buehner commented on the preschool issue noting her church had a preschool located within it. She said she is unclear as on the distinction between a private preschool located in a church versus a church-sponsored preschool. Ms. Newton said the primary difference is if a use is church sponsored, then it is considered an accessory use to the church.

 Councilor Snider asked what the charge would be for an accessory use permit. Ms. Newton said \$672.

President Melissa Parmelee spoke to the council on the number of children and the mission of the preschool.

Discussion followed and council members weighed in on their support for a reduced fee amount. Staff reviewed the approximate costs to process this request, including this being reviewed by the Hearings Officer.

Motion by Councilor Snider, seconded by Councilor Buehner, to reduce the fee for the conditional use permit to \$672.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Absent

7. COUNCIL LIAISON REPORTS

 Councilor Buehner gave a report on a recent Metropolitan Policy Advisory Committee. School facility planning schools were discussed and a related senate bill, SB540. City Manager Wine said the last update she received was that this bill was not moving forward. Councilor Buehner advised that a group of consultants compiled information regarding various ways you could improve infrastructure to develop a variety of skills in children. The proposed bill would have provided funding for infrastructure development. A pilot program was conducted among seven school districts in the metro area and Councilor Buehner said she was concerned that the Tigard-Tualatin School District did not participate in the program.

Another topic discussed at the MPAC meeting was a report on community investment initiatives, *Development-Ready Communities Pilot Program*. Councilor Buehner provided a copy of the PowerPoint presentation given during the MPAC meeting and asked that a copy be provided to the mayor and council members. A copy of the presentation is filed with the packet materials for this meeting.

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Mayor Cook advised that Tigard is participating in the pilot program. Former Mayor Dirksen was on the mayor's committee for this program and Mayor Cook attended a meeting last week. Additional follow up is scheduled.

8. NON AGENDA ITEMS

 City Manager Wine advised that the City Council received, through its weekly council mail packet, information from staff about the Scholls Ferry Road undercrossing and the beaver dam. Clean Water Services is in the lead on this situation. She reported there was a replacement water-leveling system that was installed in mid-May. Clean Water Services is working on a longer term solution, which includes eventually raising the pathway. If council members have questions about this situation, she asked that they contact her.

 City Manager Wine followed up on a question raised a couple of weeks ago about the Metro Natural Areas and Parks Levy. Metro has reached out to elected officials and city managers to confirm that with the passage of the levy, they will be putting together detailed work plans. While there was not a portion of the levy identified to be passed onto cities, there is still the Nature in Neighborhoods Grant Program. Tigard has qualified for grants in the past and these will be available again.

9. EXECUTIVE SESSION: Not held

10. ADJOURNMENT – 9:08 p.m.

 Motion by Councilor Buehner, seconded by Councilor Snider, to adjourn the meeting.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Absent

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date:_____

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City of Tigard

Tigard City Council/City Center Development Agency and Local Contract Review Board Meeting Minutes - June 11, 2013

 Mayor Cook called the study session meeting to order at 6:31 p.m.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

- STUDY SESSION

- A. Follow Up Discussion from April 30, 2013 Town Hall - Walmart Project

Mayor Cook announced the following: *This is the study session portion of the City Council meeting tonight. One of the two topics for tonight’s study session is to hold a follow-up discussion on comments and concerns expressed by citizens regarding the Walmart project received during the April 30, 2013, Town Hall Meeting.*

Council holds study sessions in a workshop-type of setting and the session is usually held in the Red Rock Creek Conference Room. To accommodate an anticipated larger audience, this open-to-the-public discussion was moved to the Town Hall.

Study session time is used by the council to give the mayor and council an opportunity to discuss and weigh-in on matters before the city. If the majority of council gives direction to staff that it would like to formally consider this matter, a public process would be scheduled including a hearing or hearings, properly noticed, so all interested persons could participate and offer written or oral testimony. For tonight, due to time constraints and the nature of this portion of the meeting, no public testimony will be received.

A staff report will be given on the issue:

- “Council discussion on regulatory “tool box” that would affect existing “big box” retailers.

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After the staff report, council members will ask questions and discuss the agenda topic. The council might choose to give guidance on the desired next steps.

If any person attending tonight would like to speak on this issue or any other issue, a “Citizen Communications” time is available on the business agenda, which starts at 7:30 p.m. Depending on the number of people who have signed in to speak, the mayor may ask that comments be limited to two to five minutes per person. If there are several persons who sign in to speak on the same issue, this group of like-minded citizens might want to consider selecting one spokesperson to speak on everyone’s behalf; the mayor will allot this person additional time to speak. To manage the agendas to allow council time to consider the remaining agenda items scheduled for the business meeting, the “Citizen Communications” agenda item is allotted a maximum of 20 minutes.

- Staff report.

 City Attorney Hall referred to his May 28, 2013 memorandum to the City Council regarding “Regulatory Options to Impact Retailers within the City.” The memo outlines some of the regulatory tools that the city has within its authority. The memo also provides a brief, initial analysis of potential regulatory tool options. The memo does not explore land use options; rather, the memo assumes the regulations would apply to existing, approved land uses.

 Attorney Hall talked about the limitations of the city’s authority. The city has a fairly broad authority; however, laws adopted by the city must have a rational basis – a legitimate legal reason for making these laws. The more laws that are implemented to apply to smaller groups of the population, the more difficult it becomes to articulate the rational, legitimate basis/intention of the law.

 Attorney Hall distributed a chart prepared by the Community Development Department. The chart was derived from the city’s street maintenance fee data showing the square footage of large format retailers (big box) in the City of Tigard. The businesses listed on this chart are businesses that have the potential to be impacted with laws created to impact “big box” retailers.

 Attorney Hall reviewed regulatory concepts (summarized in his May 28 memo) pertaining to the following aspects of big box retailers:

- Hours of operation.

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- Employee wage and hour standards.
- Employee benefits standards.
- Business license fees.
- Sales tax.

 Attorney Hall said he would be glad to assist the City Council by answering questions to determine whether its policy intentions can be achieved.

 Councilor Snider noted his appreciation for Attorney Hall's summary on options with regard to regulating big box businesses and advised this summary has been shared with the community. He asked Attorney Hall if there was a reason why these options could be applied on a phase-in basis for new businesses or do they have to be applied to all businesses in a similar circumstance now and in the future. Attorney Hall said there is no clear-cut yes or no answer. The regulation must have the foundation of a rational basis; i.e., if the city has a legitimate purpose for regulating new businesses forward. The more narrowly applicable, leaves more opportunities for challenges. He confirmed Councilor Snider's comment that the more narrowly defined the less "rational" and "defensible" the regulation becomes. Attorney Hall said all of the policies in his May 28 memo are very defensible if applied to every employer within the City of Tigard. With the exception of the sales tax, all of these policies are very defensible if applied to every big box retailer within the City of Tigard. The more brackets placed within the policy, the more difficult it becomes to explain why there are more impacts associated with new retailers versus old retailers.

 In response to a question from Councilor Snider, City Attorney Hall advised that he has viewed some of the email traffic from members in the community about regulations. He noted sometimes there is a question between what is land use and what is not. We have our land use system in the State of Oregon with what is called the "goal post rule." Once an applicant receives an approval, then there is a right to operate within the realm of that approval. To the question of regulating parking, City Attorney Hall said such regulation could be established to the extent whether or not an approval was granted to allow the parking beyond the hours established by any new regulation. A thorough legal review of the approvals would be needed.

 City Manager Wine advised the purpose of tonight's discussion was to respond to the council's request to explore some options and to ask if there is council guidance to explore specific options further. Staff would return with additional information upon council request.

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 Councilor Buehner asked City Attorney Hall a question whether a land use approval could be limited to a certain facility and applicant. City Attorney Hall advised that yes, if there were such provisions in the code or if there was a condition of approval. Typically, an applicant will be looking to get land use approval for a retail building and the owner is looking to find a tenant; they will not be amenable to restrictions on tenants. Once the approval is in place, it runs with the land. If there is a land use approval that doesn't prescribe a limitation on the users, that land use approval can be transferred between companies and potential occupants of a piece of property.

 Councilor Buehner asked a follow up question: “Could we rewrite the code to provide that it will be within the discretion of the Planning Commission or the Hearings Officer...whether they want to include a condition of approval that would limit it to that particular applicant?” City Attorney Hall said there could probably be such a code provision that basically says approvals are not transferrable.

 Councilor Woodard commented on the option to increase business fees. He noted the fee schedule stops after a certain number of employees. A big box establishment could translate into more wear and tear on facilities. A second look at the fee schedule might be deserved. He said he understands the City of Portland has a similar fee and would like information on their policy and how it is applied.

 Council President Henderson said it was his understanding that Target went through a process, paid money and received credit. He asked about how this financial transaction transpired. After a brief discussion, City Manager Wine agreed with Councilor Buehner's comment that fees are not paid until a building permit is issued; City Manager Wine said she would confirm this.

 Councilor Snider referred to the options on the table and comments from a segment of the community about concerns with a current situation regarding a retailer planning to move into the city. He said he was reluctant to adopt something that would impact a number of operating businesses in the city. Councilor Snider noted his concern of the city attorney's description about how it becomes difficult to explain, defend and describe the policy rationale for doing something that appears to be singling out one entity. He said he is unsure of what the entire community desires when compared to the number of Tigard residents who have signed the online petition. It concerns him to pursue the more “draconian” options without additional community input or a public vote due to the significant impact they could have. He said there are things the council could review; i.e., parking requirements and hours of operation. If there is broad community concern, the

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initiative process available, but he cautioned that any regulations will need to be defensible and not focused on an individual entity.

 Councilor Buehner commented on her earlier comment presented to the city attorney regarding a condition that the land use approval cannot be transferred to another applicant. She said she sees this as the only possible future limitation that the city could legally apply. With regard to the opposition to a particular business, she said she is not a fan of this company and suggests those who are concerned to not shop at this store. She said the city must treat all businesses the same way.

 Councilor Snider brought up whether the council would like to consider options on regulations for hours of operation and firearm sales. He asked if the city has the authority to regulate the hours of firearm sales. City Attorney Hall said he could review this option. Mayor Cook said he has talked to number of businesses, large and small, over the last couple of months. Most of them told him this matter should be considered within the context of a free enterprise system. Business owners said that they did not want the government, whether it is the city, county or state, telling them how long they can keep their business open, what they pay employees or offer for benefits. The state and federal governments now regulate many aspects of business operations (wages, hours, benefits). The mayor reported that, essentially, the business owners he talked to said they prefer to work within the free enterprise system and have latitude to decide how to work against competitors. These owners do not want the city passing laws affecting their decisions about how to compete.  At the same time, Mayor Cook noted concerns on impacts on city services, such as policing. While he would not want to limit business hours, he would like to review possible parking requirement limitations.

 Councilor Buehner brought up the Black Friday annual sales with stores opening for expanded hours. She asked if it would be reasonable to limit hours of this activity because of the need for police coverage. Later during the meeting she noted there have been issues with crime incidents, traffic jams and accidents during Black Friday activities

 Councilor Snider offered that it is important to think about why government regulates certain things – one reason might be a market failure and, in this particular case, what is good for business, might not be good for neighbors around the business. These are the times to consider doing something different. He asked that the other members of the City Council consider this. Councilor Snider said he thinks there might options to regulate hours that would be palatable.

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 Councilor Woodard said he would be willing to look at parking regulations (overnight parking). He commented that if he was a business owner, he personally would not want to be limited with regard to hours of operation. He noted the clustering of businesses, some of which might depend on late-night traffic to draw business. His preference would be to take a look at a regulation if there appears to be impact on police services. Given the size of the community and anticipated growth, at this time he does not see a need to change hours of operation. With regard to the Black Friday issue raised by Councilor Buehner, Councilor Woodard asked if there is statistical information on the impact to the Police Department. City Manager Wine said she could check on the availability of this information. Councilor Woodard said he would like to see if there was additional police staffing required during this event. City Manager Wine advised extra staffing would occur if requested by Washington Square Mall or one of the Triangle retailers. She said the Chief would likely expand staffing supporting the Commercial Crimes Unit and have additional patrol during targeted times – she said she would confirm this.

 Councilor Snider asked for a check on the council's desire to explore any other regulatory options.

 Councilor Buehner said she would be interested to hear if there was support from any other councilors to look at, for future reference, limiting land use decisions on large commercial projects to the applicant. Council consensus was to support this review.

 Councilor Woodard said he was only interested in the business license fees although he has reservations about whether this would be good policy. He said it might be interesting to look at some comparisons. He conceded that this review is outside of the scope of what the City Council is now considering.

 City Manager Wine summarized the direction from the City Council:

Options to explore (going forward):

- A code amendment providing conditions specific to an applicant.
- Review overnight parking regulations.
- Review regulations on firearm sales.*

*Information brought back to council on firearm sales would be to dispense information about regulations in place by the state and federal governments.

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B. Discussion of Council Travel Policy and Travel Budget

Finance and Information Services Department Director LaFrance summarized the information presented in the written staff report. He reviewed the current allotments for travel and training budgets for the mayor and council members. Discussion among council members and staff followed regarding how the current procedures are functioning. Advantages of per diem over reimbursement with receipts were discussed. In response to a comment from Mayor Cook, Finance and Information Services Department Director LaFrance agreed that per diem checks could be cut in advance of the travel. If expenses exceed the per diem amount, then the individual would personally pay the amount in excess.

Assistant City Manager Newton summarized how staff is recommending travel/training payments would be administered. Staff would reserve hotel accommodations. Conference hotel charges are typically more expensive than the allowed "GSA" hotel rates; but with documentation, it is permissible to cover the expense in this manner. Travel (airline costs) would also be administered and paid as an administrative function by staff for the traveling mayor/council member. The advanced per diem check would be issued to cover costs for meals and incidental expenditures.

Council President Henderson asked a question about costs to pay for luggage when traveling by air. After discussion, Mayor Cook explained that this expense could be covered by using the city-issued purchasing card (p-card) and the receipt should be turned in to staff for documentation. The cost for luggage would not come out of the amount issued from the per diem check.

Finance and Information Services Department Director LaFrance said if a council member chooses to use the p-card for travel/training, itemized receipts are required to be turned into staff. A council member could also choose to use his or her own credit card; itemized receipts would be required for this method of payment as well.

The per diem check approach was recommended by staff. Council consensus was for a per diem check to be issued to cover meals and incidentals when traveling. If p-cards are used, itemized receipts are required. During discussion, council members noted the difficulty of obtaining receipts for taxi fare or subway charges. Assistant City Manager Newton said staff could look at developing a policy for covering cab and subway expenses when receipts are not obtainable.

Meals provided at the conference and paid for with the conference fee will be deducted from the per diem check.

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City Manager Wine said staff would be bringing back a description of how the travel/training reimbursements and payments will be administered.

Council discussed the past practice of a councilor donating his or her unused training allotment to another council member. Assistant City Manager Newton explained that all council members are allocated a certain dollar amount and staff keeps track of amounts spent during the fiscal year. If a council member wants to attend training and has an insufficient amount of training funds remaining, a fellow council member can agree to allow the use of his or her funds that will go unused. This request can be handled through email communications. Council consensus was that the request/donation practices worked well and should continue.

When a new mayor/council member begins his or her term, the balance of the travel/training budget is inherited from the mayor/council person who left office.

City Manager Wine summarized the discussion:

- The per diem model will be used for reimbursing council for travel.
- If council members choose to share training funds, this should be documented so staff can track for monitoring the budget.

C. Administrative Items – Council Calendar. Wine reviewed the calendar with the City Council. She noted she and Mayor Cook reviewed the schedule of items for the August meetings and it appears that some meetings might be cancelled.

June		
18*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
25*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
July		
2	Tuesday	<i>City Center Development Agency Meeting Cancelled</i>
4	Thursday	Independence Day Holiday – City Hall offices closed
9*		Tuesday Council Business Meeting—6:30 p.m., Town Hall
16*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
23*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall

- EXECUTIVE SESSION: Not held.

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1. BUSINESS MEETING – June 11, 2013

- A. Mayor Cook called the meeting to order at 7:32 p.m.
- B. City Recorder Wheatley called the roll:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

- C. Pledge of Allegiance – Mayor Cook asked everyone to stand and join him in the Pledge of Allegiance
- D. Council Communications & Liaison Reports – Mayor Cook asked for communications and reports from the council. Reports were given during Agenda Item No. 12.
- E. Call to Council and Staff for Non-Agenda Items – Mayor Cook called for non-agenda items. There were none.



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

- A. Follow-up to Previous Citizen Communication – There was no follow-up report.



- B. Tigard High School Student Envoy – EJ Albaugh, next year’s THS Associated Student Body President, presented an update on Tigard High School activities:

- June 12 is the last day of school.
- Graduation was last week. The senior class received more than \$3 million in scholarships this year.
- He reviewed upcoming fall sports and related activities.



- C. Tigard Area Chamber of Commerce – Chamber CEO Debi Mollahan updated the council on Chamber activities:

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- Farmers Market is underway in the downtown and is going well. The market is open on Sundays.
- On June 12 the “Lunch Local” event will be held at Symposium Coffee.
- On June 26 the “Lunch Local” event will be held at Bridge City Café.
- On June 13, Good Morning Tigard will be hosted by Tigard-Tualatin Relay for Life.
- Next week, the Chamber’s networking event will be held at the Festival of Balloons.
- Tigard Young Professionals will be hosting their Breakfast of Champions on June 25.
- On the third Thursday of each month, 9 a.m. – noon, the Chamber has partnered with Portland Community College’s Small Development Business Center to provide small business advising.
- On the third Friday of this month is Tigard’s Night Out in downtown.
- The second annual Street Fair will be held in downtown on August 17, 2013.

D. Citizen Communication – Sign Up Sheet.



Kim Kelleher, 16535 SW Greenland Drive, Tigard, OR advised she is the current president of Tigard Little League. She said the council, at next week’s workshop meeting, would be discussing whether Tigard Little League and Southside Soccer should be considered differently than other Tigard non-profit organizations when it comes to scheduling priority and financial considerations regarding Cook Park Fields. Last October, she realized the final payment in a 15-year agreement would be taking place during her presidency. She contacted the city to determine what would happen next, which resulted in a series of meetings with city staff. In February Assistant Public Works Director Rager announced the city’s intention to terminate the agreement that has been in place since 1998 with the expectation that Tigard Little League and Southside Soccer would begin paying for fields at the \$10 per hour rate and have the same priority status as other Tigard non-profit organizations. She and Southside Soccer representatives expressed grave concern and advised Mr. Rager that they felt they should be viewed differently than other groups because through their agreement they have made more than \$500,000 to jointly purchase and develop (in partnership with the city) the east side of Cook Park. Mr. Rager told them that a decision such as this needed to be made at a higher level.

Ms. Kelleher said she understands the public does not have a forum to speak at a workshop meeting such as the meeting being held by the council next Tuesday. Therefore, she is before the City Council tonight to make members aware of their interest in this subject and to provide the council with a set of materials. These materials are in the record copy of the meeting packet for tonight:

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- Document Timeline – Agreement between City of Tigard and Tigard Little League/Southside Soccer.
- Agreement, dated February 2, 1998, between City of Tigard and the Atfalati Recreation District (comprised of Tigard Soccer Club and Tigard Little League) – Exhibit A to Ordinance No. 98-02.
- Amendment to Agreement Dated February 2, 1998 between the City of Tigard and Atfalati Recreation District.
- Second Amendment to Agreement between the City of Tigard and Atfalati Recreation District, Inc.
- Assignment and Third Amendment of Agreement between the City of Tigard and Atfalati Recreation District.
- Tigard Little League and Southside Soccer Coordination Meeting Notes – February 21, 2013.
- March 6, 2013, letter from Brian Rager to Southside Soccer Club and Tigard Little League regarding Notice of Termination of Agreement.
- May 2, 2013 letter from Kim Kelleher and Yvonne Sera regarding Tigard Little League and Southside Soccer/Cook Park.
- June 3, 2013, letter from Brian Rager to Southside Soccer Club and Tigard Little League regarding Termination of City Agreement with Tigard Little League and Southside Soccer Club.
- Kim Kelleher Speech to City Council, June 11, 2013.
- Discussion Points.



Kibwe Cuffie, 13569 SW Macbeth Drive, King City, Oregon advised he is a representative of the Southside Soccer Club. He said he has been involved with the soccer club for 12 years. His experience has been that the relationship between Cook Park, Tigard Little League and Southside Soccer has been excellent. On many occasions, they received calls from the city asking for assistance and they had responded.

Southside currently has more than 1,400 members and Tigard Little League has more than 800 members. He would like to see the relationship continued where these two clubs have priority for accessing the fields. Without this priority, he was concerned the programs offered by these two clubs would fail. He said the effects of failure would be felt by the business community noting their annual tournaments draw benefits to the area. This is not just a sports activity, but is a community effort. He said the relationship of the clubs with the city is important and should continue to go forward.

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Dave Nicoli, 4175 South Shore Boulevard, Lake Oswego, Oregon advised he was part of the original team to put the agreement together. He gave some history noting that Bob Gray had purchased the property adjacent to Cook Park. Mr. Gray wanted the city to have the property; his vision was for four baseball fields. When Mr. Nicoli's brother became Tigard Mayor (Jim Nicoli), Mr. Gray said he would hold onto the property until the city could find a way to purchase it. Mr. Nicoli said his understanding was that the city needed and wanted more park space. The city received \$100,000 for the butterfly garden area. The two clubs' motivation was that they wanted more fields and a guaranteed place to schedule teams during their seasons. The Tualatin Riverkeepers became involved and were adamant about protecting the river and preserving wetlands. Unified Sewerage Agency (now Clean Water Services) wanted a sewage treatment plan and they purchased the dairy farm in the area. Metro wanted more space along the river and the communities of Tigard, Tualatin and Durham wanted to tie nearby parks together with trails so this would be the largest park area in the tri-counties. The fireworks group wanted to secure a place to shoot the fireworks. Mr. Nicoli pointed out that there were a lot of things that came together to get everyone to partner up.



The main thing for the Soccer and Little League clubs was to determine who should own the property. It made sense for the city to own the property. While the clubs did not want to own the property, they wanted a way to secure rights for their teams to play during their seasons. The rest of the year the area would be available for the city to do what it wanted – it was there for the public. The city had some money, but not enough. The clubs also had some money so the decision was made to enter into a partnership. A few years later, the city received a grant that allowed the fields to be completed earlier than anticipated resulting in one of the amendments to the agreement. At the time the contract was written (attorney Bob Furrer) the question came up about what would happen with the contract term is up. The decision was made that the decision would be made by the City Council as far as the ownership question.



Mr. Nicoli said that the clubs have paid for improvements in lieu of being charged fees. He suggested there needs to be a memorandum outlining how this arrangement came about and that these two clubs should continue to have priority. He said he thinks the staff needs to have some direction because the contract is now up.



Mayor Cook advised the council will be discussing this matter at next week's workshop meeting with the intent of giving direction to staff to bring back information to the

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council on any additional information needed and advise staff as to the direction the City Council is favoring.



Steve Bintliff, 13520 SW 122nd Avenue, Tigard, Oregon, referred to the April 30, 2013, Town Hall meeting where issues with the Walmart project were discussed with the council. He said he was disappointed in the discussion held in tonight's study session because the essence of what the city attorney identified in his letter was that the council had the authority to implement substantial regulations and rules to apply to a big box store. However, it appears the council does not want to proceed with much of what the attorney identified.

Mr. Bintliff said he heard comments from council members that not much can be done, but nationwide, cities and towns have adopted "big box ordinances" regulating working hours, what can be sold, what can be sold during certain hours, whether parking lots can be open 24 hours per day, wages, benefits, etc. Store sizes can be restricted and restrictions for granting licenses.



Mr. Bintliff referred to Mayor Cook's comment about letting the free-enterprise system work, based on conversations the mayor had with business owners. His question was that if "we are going to let the market decide, is the city prepared to deal with the consequences." He wondered how many small business owners would be out of business in a year. He questioned how many big box stores were needed in the community and what is their economic impact.



Mr. Bintliff said the impacts of big box stores on a community are unknown. A lot of the more progressive city ordinances he has seen require (in the zoning and development hearing process) an economic impact analysis. He said "We should not be legislating by anecdote at this point. We should know what the economic impact of a Walmart or a Lowe's or a Fred Meyer should be at this point when it is over 100,000 square feet."



Mr. Bintliff urged the City Council to consider some changes to the process for big box stores.



Mr. Bintliff said the traffic study done for the vicinity of the Walmart location is more than seven years old. This point was raised in the last public hearing almost three years ago, but nothing was done about it. He said it could be that the city's investment for \$2.7 million in street improvements would fix the traffic of 2007. This should be revisited.

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 Mr. Bintliff referred to an email message to the council outlining ideas for an ordinance to protect the city's investment and city services as well as leveling the playing field to make it competitive for anyone who does business in the City of Tigard regardless of size. He said a proposed ordinance will be shared with the council in the future.

 Mr. Bintliff reiterated that based on the city attorney's analysis, the council has within its powers to take proactive action and he urged the council to do so.

 Steven Shafer, 11200 SW 83rd Avenue, Tigard, Oregon noted his appreciation for the council's study session discussion earlier this evening and noted it was great to hear the information from the city attorney. He agreed with Mr. Bintliff in the disappointing outcome of the council discussion. Mr. Shafer referred to the proposal to consider a change to the land use regulations. He was disappointed that this is being proposed now.

Mr. Shafer called attention to the online petition opposing the Tigard Walmart project. As of a few minutes ago, they are close to having 1,000 signatures on the petition. He said that he heard many comments from people that they were unaware that Walmart is coming to Tigard. He advised people are outraged.

 Mr. Shaffer noted his disappointment that he has not received a response since the last council meeting from any council member to respond to his request for an argument for or against a Walmart coming Tigard.

 Based on a comment by Councilor Snider, Mr. Shaffer questioned the percentage of people who cast votes in the City of Tigard. He thinks the value of the number of people who signed the petition should be compared to the statistics on votes cast.

 Mr. Shaffer asked for another public hearing. If residents did not come forward if given an opportunity to attend this hearing, then he "would gladly stop coming to council meetings..."

 Mr. Shaffer requested the 2006 traffic study be updated and the impacts of the project projected to 2018.

 Mr. Shaffer shared information with regard to tax subsidies "common with Walmart stores." He said approximately \$420,000 per year per Walmart super store are

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sucked out of the local community and economy in tax subsidies. This would come to \$1400 per Walmart employee in tax subsidies from individual taxpayers in the city.



Jennifer Vasicek, 11010 SW Eschman Way, Tigard, Oregon distributed information to the council presenting several news media articles regarding Walmart. A copy of this information is filed with the record copy of the council packet. She reviewed these articles during her testimony.

Ms. Vasicek referred to her public records request and accompanying fee waiver request. The fee waiver request was denied earlier this week on the grounds that her justification did not satisfy the standard that it will primarily benefit the general public. She shared the city attorney's opinion: "The text of the submitted waiver justification recognizes that there is division in the community regarding the matter at issue and further indicates that the purpose of the records request is to support the efforts of only one side of the issue rather than benefitting all." She said she would contact the attorney general to appeal this decision.

She reviewed the news articles submitted to the council members as noted above. One of the articles was submitted because she is aware that the Tigard Walmart is adjacent to a wetland area and she maintained that Walmart does not care about wetlands nor does it have to comply with Clean Water Act regulations because of their ability to simply write a check for \$81 million and "call it a day."



Ms. Vasicek referred to the article about a Walmart restraining order against protesting labor groups. She mentioned Walmart's history of disregarding employee rights and going after community leaders.



Ms. Vasicek called attention to the article regarding a California legislative effort to levy a fine on employers like Walmart for every full-time employee that ends up on the state's Medi-Cal program. She suggested the tide was turning on "this company and its practices." She urged the council to be "bold and go down in history as one of the first and few that have protected their citizens from this predatory company."



Ms. Vasicek said articles, such as the ones she referred to this evening, are not uncommon. She said that "Either this council doesn't know what kind of a company this is or it doesn't care. As a taxpayer and a voter, I would like to know which it is. I respectfully second Mr. Shafer's request that each of you go on record as for against the Tigard Walmart development."

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 Norma Harris, 10700 SW 72nd Avenue, Tigard, Oregon, testified against the Walmart project. She said she thinks part of the reason people are upset is because “you people went in behind us and didn’t let us know what was happening until it was a done deal.”

 Councilor Buehner commented that she received a mailing from Walmart about three months ago. Ms. Harris said she received this mailing as well. During discussion there was dispute about whether all Tigard residents received this mailing.

 Jim Long, 10730 SW 72nd Avenue, Tigard, Oregon, referred to his testimony at the last meeting when he submitted a list of questions from the CPO to the City Council. He said he has since received more questions. The topic will be discussed again at the next CPO meeting. He said for the third month in a row, he will be asking City of Tigard representatives to come to the meeting and be available to respond to questions. He noted appreciation for the open discussion today and hoped the council would follow through on some of the ideas proposed.

 City Manager Wine said that it is the intention for city staff members to attend next month’s CPO meeting. The previous list of 69 questions is under review by staff members and staff will be prepared to discuss the responses at the next CPO meeting. If the questions are for Walmart, then staff will ask Walmart representative to respond. In response to a question from Mr. Long, City Manager Wine said Walmart is required to have an open house; it has not yet been scheduled.

 Dr. Gene Davis, 10875 SW 89th Avenue, Tigard, Oregon 97223 distributed a map to refer to during his testimony about Tigard’s trail system around the Washington Square Regional Center greenbelt. He referred to the trail in this area at Ash Creek, around a golf course and then into the Fanno Creek system. He said this is a five-mile trail, which cannot be completed unless there is an overpass or tunnel over/under Hwy. 217. He said there are two, 12-foot wide, 9-foot high box culverts and said this would be adequate with some inexpensive lighting.

Dr. Davis referred to a photograph clipped to the map, which shows Ash Creek turning to the left and going up to a 52-inch culvert that the whole of Ash Creek has to go through. When the culvert gets full, water spreads out. He said he has talked to the owners of the land and he would like to lower that culvert. There is a permitted fish culvert, which he would like to see installed. He mentioned a nearby city water main. He referred to his 2008 activity on this property for which he “got into big trouble.” He would like to secure permission from “state fisheries” for the fish culvert so the water will flow as it did before the road was built in 2003.

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He noted when he was serving on CPO4 in 2005, Reid Iford made a video, *Ash Creek – Failure of a Drainage System* (a copy of the CD is on file with the meeting packet materials). He said at the time the video was made, they had no idea the problems were due to the road.

Dr. Davis said he was asking to have permission to lower a culvert. He said he is negotiating with the present owners to get the trail system going. He offered that this would be the best trail system Tigard could possibly have – it wouldn't have to go onto streets and would serve a developed community. He said he would like very much for some of the council members/staff to walk the trail with him and let him know the steps he needs to take to “make this happen.”

Mayor Cook thanked Dr. Davis and said staff would look into this matter. He assured Dr. Davis that he could talk to staff when Dr. Davis indicated he understood that about five years ago, staff was given notice by the city attorney not to talk to him. Mayor Cook said the City Manager would determine who on staff should follow up with Dr. Davis.



Noreen Gibbons also spoke after the Consent Agenda was reviewed by the City Council (see below, following the Consent Agenda item).



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

- A. Receive and File:
 - 1. Council Calendar
 - 2. Council Tentative Agenda for Future Meeting Topics

- B. Amend Resolution 10-36 and Set City Council and Mayor Compensation - Resolution

RESOLUTION NO. 13-23 - A RESOLUTION ESTABLISHING MAYOR AND COUNCIL COMPENSATION WHICH SUPERSEDES RESOLUTION NO 10-36.

- C. Local Contract Review Board:
 - 1. Award Contract for Construction of the Fanno Creek House Site Improvements Project to Casserly Landscape, Inc.

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Motion by Councilor Buehner, seconded by Councilor Snider, to approve the Consent Agenda.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

 Note: Citizen Noreen Gibbons, 10730 SW 72nd Avenue, Tigard, Oregon requested to speak at this time. (Citizen Communications). Ms. Gibbons spoke in opposition to the Walmart project. She wears an anti-Walmart button and says she has heard from numerous people who are outraged that a Walmart is coming. She reported that not everyone has been notified and many are unaware that this store coming to Tigard. She said people have expressed extreme dissatisfaction and anger. Ms. Gibbons commented that Walmart is “no good for any community...Walmart is no good for my community.” She referred to a YouTube video entitled *The High Cost of Low Prices* and encouraged everyone to see this video. She said she feels let down by the City Council that the people of Tigard have not been involved in this process and the decision making. She was critical of the manner this project went forward with the project presented with an un-named applicant.


4. STATE OF THE TUALATIN VALLEY FIRE AND RESCUE (TVF&R) DISTRICT PRESENTATION - CHIEF MIKE DUYCK

TVF&R Fire Chief Mike Duyck presented an update on the status of the Fire District. A copy of his presentation is on file with the original packet material.

 Agenda Item Nos. 5-8 – Finance and Information Services Department Director LaFrance gave an overview of the entire budget process. This overview pertained to council action requested for these agenda items.

5. CERTIFY THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE-SHARED REVENUES - RESOLUTION

After presentation of the staff report City Council considered Resolution No. 13-24.

Motion by Councilor Buehner, seconded by Councilor Snider, to adopt Resolution No. 13-24.

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RESOLUTION NO. 13-24 - A RESOLUTION CERTIFYING THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE SHARED REVENUES.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

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6. PUBLIC HEARING - DECLARE THE CITY OF TIGARD'S ELECTION TO RECEIVE STATE REVENUE FUNDING - RESOLUTION

- a. Mayor Cook opened the public hearing.
- b. Finance and Information Services Department Director LaFrance presented the staff report.
- c. There was no public testimony.
- d.  Mayor Cook closed the public hearing.
- e. Council consideration:

Motion by Councilor Buehner, seconded by Councilor Woodard, to adopt Resolution No. 13-25.

RESOLUTION NO. 13-25 - A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE SHARING

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes



7. ADOPT CITYWIDE MASTER FEES AND CHARGES SCHEDULE REPLACING RESOLUTION NO. 12-22 AND ALL SUBSEQUENT AMENDMENTS TO DATE AND ADOPT MISCELLANEOUS SOLID WASTE RATES TO BE INCLUDED IN THE SOLID WASTE RATE SCHEDULE ADOPTED BY RESOLUTION NO. 13-18 - TWO RESOLUTIONS

- Finance and Information Services Department Director LaFrance and Senior Analyst Collins were present to summarize the staff report and answer council questions. Ms. Collins referred to a correction on Page 26 pertaining to the street maintenance fees for FY 13/14. Two resolutions were before the City Council:
 - Master Fees and Charges Schedule (replacing Resolution No. 12-22 and subsequent amendments)
 - Miscellaneous Solid Waste Rates to be included in the Solid Waste Rate Schedule adopted by Resolution No. 13-18.

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 Council President Henderson referred to the street maintenance fee. Senior Analyst Collins confirmed Council President Henderson's observation that this is a two-year adjustment. He referred to the use of indices to calculate changes proposed in fees. Finance and Information Services Department Director LaFrance said that last year, when the master fees and charges were before the City Council, the charge reflected the increase that went into effect on January 1, 2013, which is the \$5.56 fee (a 2 percent increase).

 The street maintenance fee increase that will take effect in January 2013 uses the new index and calls for a 4.94 percent increase. Mayor Cook asked if the increase was due to the new index or have costs increased that much. Finance and Information Services Department Director LaFrance said the fees were increased due to the new index.

 Council President Henderson said he was anxious to review the street maintenance fee program.

 Council President Henderson referred to the special event permit fees on Page 26. He asked about a new category dealing with each additional hour of event permits. Senior Analyst Collins confirmed this is a new fee charged to recover costs for services when an event goes over the limit of three hours. Mayor Cook asked for an example of what events would be charged this fee. Ms. Collins said she would provide this information.

 Councilor Snider noted a detail on the schedule that needs to be corrected. If someone said they would have exactly 2001 people attending an event, there is no charge listed for this circumstance.

 Council President Henderson referred to Page 34, Community Development Service and Planning. He found it interesting dates were stricken with a new 7/1/2013 being shown. He noted a total increase for a single-family unit from \$4,871 to \$5,996 – a 19 percent increase. Ms. Collins said the change relates to park SDC's increase. There was no corresponding increase with the Washington County residential tract land value; a 6 percent increase (additional) was added on top of what the city's increase proposal was.

 In response to a question from Council President Henderson, Senior Analyst Collins said the parks SDC schedule is based on the parks SDC update recently authorized in 2012. Councilor Buehner pointed out the update will be phased in, so another increase will be shown next year. This phase-in increase will be in addition to the increase prompted by the index used for this fee.

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 Council President Henderson noted concern about the total amount of new income proposed in the fee schedule. He said some of the revenue will “just go into a fund” rather than becoming working capital. In response to his observation about the assignment of revenue, Senior Analyst Collins said that as far as the non-budgeted items are concerned, these are items that are infrequent and are not a significant source of revenue. Budgeted items are significant because they are attached to an index. Councilor Snider observed that fees are collected to recover city costs that are going up and, typically, the rationale behind the use of the index.

 Mayor Cook advised he reviewed the increased fees which were included in the budget numbers and projected as income to allow for the expenses discussed during the budget process. He noted the indices used can range; some fees will increase 2 percent, 4 percent, etc. Overall, the fee increases have been accounted for within the city budget (revenue matching to expenditures). Finance and Information Services Department Director LaFrance said budgeted items were reviewed by the presiding council to set the policy determining the index to be used.

Discussion followed about whether the council wants to review the indices used for the master fees and charges prior to the budget process. Councilor Buehner said it has been her experience that Tigard’s fees have, in general, increased less than surrounding cities. She is pleased with the way Tigard has kept its fee structure down.

Finance and Information Services Department Director LaFrance addressed Council President Henderson’s comment on new revenues. Indexed fees are existing fees that have been collected for a long time for specific purposes. The index being used has at some point received approval from a presiding council. The index allows the city to increase the revenue stream along with the increases in its expenditures. At the time that an index is considered, the program is reviewed to determine the index that will best allow the city to keep up with the costs for that program. The index allows the council to provide attention to specific programs. For example, with the implementation of a program such as a street maintenance fee to be reviewed every five years, use of an index allows the city to cover any increases in costs in the five-year gap.

Council President Henderson observed that without exception all fees increased. During discussion Finance and Information Services Department Director LaFrance noted that for a couple of years the parks SDC amount decreased because the price of land (an index) was going down.

Councilor Snider supported the practice of using a variety of indices to assure alignment of revenues with costs.

 Council President Henderson responded to Councilor Snider using the street maintenance fee as an example. From 2004 to 2008, “we created ourselves a huge problem,” that was corrected in 2010 by use of an index. He questioned the validity of the street maintenance fee numbers. Discussion followed among council members. City Manager Wine reminded the

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council that several weeks ago a code amendment was approved for minimum parking requirements. At that time, questions were raised about the street maintenance fee and whether and in-depth review was needed for the capacity of the revenue, the adequacy of the index, the funds needed from this fee, and how the program was going. The council requested this review be scheduled.

 Councilor Buehner recalled one of the compromises made by council. There was a policy in place for streets to be at a qualified level of “70.” The compromise was to reduce the quality level because funding was not available to even get to “67.”

 Mayor Cook advised he and City Manager Wine have discussed this matter and it is scheduled for the September workshop meeting.

 Councilor Woodard referred to Page 4 regarding the business license and cited Ordinance No. 88-13. He requested a copy of this ordinance.

Councilor Woodard said he was in support of the proposed resolution. He commented that the council needs to identify areas of interest and concern for review in the future. He noted his personal interest is with provisions on the business licenses – he said he doesn’t understand why the fee schedule stops at 51 employees. He commented on the use of indices as a mechanism to achieve some parity with increasing costs associated with providing city services at a certain level. To improve on service-level aspirations, creative solutions might be required so efforts are made to assure everyone is paying a fair share.

- Council consideration:

Motion by Councilor Woodard, seconded by Councilor Buehner, to adopt Resolution No. 13-26.

RESOLUTION NO. 13-26 - A RESOLUTION ADOPTING THE CITYWIDE MASTER FEES AND CHARGES SCHEDULE WHICH REPLACES RESOLUTION NO. 12-22 AND ALL SUBSEQUENT AMENDMENTS TO DATE.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

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Motion by Councilor Buehner, seconded by Councilor Woodard, to adopt Resolution No. 13-27.

There was brief discussion between Councilor Snider and City Attorney Hall regarding Councilor Snider's vote on the original solid waste rate resolution. City Attorney Hall said Councilor Snider is not bound by his original vote; he is free to vote independently on the proposed scope of the resolution before the City Council.

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

RESOLUTION NO. 13-27 – A RESOLUTION AMENDING RESOLUTION NO. 13-18 TO INCLUDE SOLID WASTE MISCELLANEOUS SERVICE RATES.

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes



8. PUBLIC HEARING - ADOPT THE CITY OF TIGARD FISCAL YEAR 2014 BUDGET, MAKE APPROPRIATIONS, DECLARE THE AD VALOREM TAX LEVY AND CLASSIFY THE LEVY AS PROVIDED BY- ORS 310.060(2) - RESOLUTION

- a. Mayor Cook opened the public hearing.
- b. Finance and Information Services Department Director LaFrance presented a summary of the staff report. The proposed resolution would adopt the FY 2014, with the adjustments, identified in an attachment to the resolution.
- c. There was no public testimony.
- d. Mayor Cook closed the public hearing.
- e. Council consideration:



Motion by Councilor Buehner, seconded by Councilor Snider, to adopt Resolution No. 13-28.

RESOLUTION NO. 13-28 - A RESOLUTION OF THE CITY OF TIGARD ADOPTING THE APPROVED BUDGET, WITH ADJUSTMENTS, MAKING APPROPRIATIONS, DECLARING THE AD VALOREM TAX LEVY, AND

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CLASSIFYING THE LEVY AS PROVIDED BY ORS 310.060(2) FOR FISCAL YEAR 2014.

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

Tigard City Council meeting recessed and the City Center Development Agency meeting convened.



9. PUBLIC HEARING - ADOPT THE CITY CENTER DEVELOPMENT AGENCY FISCAL YEAR 2014 BUDGET WITH ADJUSTMENTS, MAKE APPROPRIATIONS, AND IMPOSE AND CATEGORIZE TAXES - RESOLUTION

- a. Chair Cook opened the public hearing
- b. Finance and Information Services Department Director LaFrance summarized the staff report and called attention to one technical adjustment identified in an attachment to the proposed resolution.
- c. There was no public testimony
- d. Chair Cook closed the public hearing.
- e. City Center Development Agency consideration:

Motion by Director Buehner, seconded by Director Snider, to approve CCDA Resolution No. 13-02.

CCDA RESOLUTION NO. 13-02- A RESOLUTION ADOPTING THE FISCAL YEAR 2013-2014 BUDGET, WITH ADJUSTMENTS, MAKING APPROPRIATIONS, AND IMPOSING AND CATEGORIZING TAXES

The motion was approved by a unanimous vote of City Center Development Agency board members present.

Chair Cook	Yes
Director Henderson	Yes
Director Buehner	Yes
Director Snider	Yes
Director Woodard	Yes

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The City Center Development Agency meeting adjourned and the Tigard City Council meeting reconvened.



10. PARKS ZONE PROJECT BRIEFING

Associate Planner Floyd summarized the staff report and updated the City Council on the creation of a new Parks Zone. The purpose of the project is to remove administrative barriers to the efficient development of existing and future parks while providing enhanced protections for neighboring residents and other parties who may be negatively impacted.

The main goal is to create a new zone, which will be a new chapter in the zoning code and shown on the zoning map. The new regulations would create more appropriate levels of review depending on the size of a project. Presently only one process is available for reviewing park projects regardless of the project scope. Staff will propose regulations to streamline the review process and to provide better protections for Tigard citizens living near parks; that is, mitigate issues with noise, light and traffic.

Current development standards for parks are scattered throughout the code. For example, parking regulations for parks are not in the “parking chapter,” but are addressed in the “conditional use chapter.” Associate Planner Floyd spoke of the issues that have developed because of incremental changes in the code over the years.

Generally speaking, parks are regulated through the conditional use provisions. Any new park or major updates must be administered and processed as a conditional use, which takes six months and is costly (staff time and materials). The conditional use process is appropriate for large projects such as ballparks and swimming pools – circumstances where it is best to go through a robust public process. This same process is overkill for a pocket park and small projects.

Associate Planner Floyd reviewed how the staff proposes to present the new regulations. The new zone would only apply to city-owned property. Approximately 85 properties consisting of about 500 acres (300 acres of parkland, 200 acres of green space) would be included in the new zone. No changes will be proposed for sensitive lands regulations (wetlands, floodplains, streams, habitats, etc.)

Associate Planner Floyd said he would be reviewing this project with the Planning Commission next week. Public outreach will be pursued this summer.

Staff plans to have the proposed changes ready for the Planning Commission’s review during the summer and then before the City Council this fall.

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 In response to a question by Councilor Snider, City Attorney Hall advised the city has broad power for zoning designations and also has the benefit of being the property owner for the proposed zoning changes. The proposal as outlined by staff poses no legal concerns.

 Councilor Buehner noted her concern with the current Community Development Department workload. Associate Planner Floyd commented that this work would support and assist the Parks Division to efficiently manage resources.



11. UPCOMING DEVELOPMENT CODE UPDATE PROJECTS BRIEFING

Assistant Community Development Director McGuire summarized the staff report and briefed the council on upcoming Tigard Development Code update projects.

Staff has kept a running database of issues with the code that come up as staff works with code provisions. There are 98 items listed in the database. The majority of the items are to clarifying code language, i.e., outdated references, consistency updates with current land use law and procedures, including current administrative practices not specified in the code, and correct conflicting regulations among chapters.

The goals are to improve the efficiency and consistency of the code; eliminate unnecessary and unintended barriers to development; and create a clear, concise code.

 Assistant Community Development Director McGuire referred to and reviewed the work program timeline attached to the staff report in the council packet.

Assistant Community Development Director McGuire asked council members to send responses to him on two questions:

1. Do the mayor/council members have specific code issues to add?
2. What and how much does the council want to read? He explained when staff comes to the council with code packages, the process and procedures will consist of a “large chunk” of information. Staff has been presenting information in “~~strike through~~” and underline format with the code on one page and the commentary describing the change on the opposite page.

Councilor Snider said he would prefer to see summary information describing what the problem was, what the language said and identifying the recommended change.

Councilor Buehner said her preference is to have detailed information showing changes proposed.

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In response to a question from Council President Henderson, Assistant Community Development Director McGuire said the parks-based zone was started in response to a request from the Public Works Department for a more efficient, less expensive process. Council President Henderson mentioned the River Terrace area would benefit from this section of new code language and Assistant Community Development Director McGuire agreed that this would likely be helpful. Assistant Community Development Director McGuire concurred with Council President Henderson that it would be beneficial to get this started right away.

Councilor Buehner noted disappointment about the late timing of the sign code review, which has been a long-standing area of concern for her. The proposed schedule has this area of the code done after her term is up on the City Council. She hoped the timing could be moved for an earlier review. If this a priority for the majority of City Council, Assistant Community Development Director McGuire said the priorities could be rearranged/doubled up. Council members discussed moving the sign code review to the time slot now shown for sensitive lands review; sensitive lands would be reprioritized to a later time. City Manager Wine said staff would take the potential reprioritization under advisement on the draft schedule.

12. COUNCIL LIAISON REPORTS

Due to the lateness of the hour, reports will be presented at a future meeting.

13. NON AGENDA ITEMS: None.

14. EXECUTIVE SESSION: Not held.

15. ADJOURNMENT: 10:04 p.m.

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

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

TIGARD CITY COUNCIL MEETING MINUTES – JUNE 11, 2013

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – JUNE 11, 2013

**June 18, 2013 City Council
Minutes will be available on
August 29, 2013.**

AIS-1400

3. B.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): Consent Item

Agenda Title: Adopt a Resolution Appointing Members and Alternates to the Park and Recreation Advisory Board

Prepared For: Steve Martin

Submitted By: Steve Martin,
Public Works

Item Type: Resolution

Meeting Type: Consent
Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

Shall the council adopt a resolution appointing Holly Polivka and Claudia Ciobanu as members and Gary Romans and Paul Drechsler as alternate members to the Park and Recreation Advisory Board (PRAB)?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

There are currently two member vacancies and up to two alternate member vacancies on the PRAB.

In July, the Mayor's Appointment Advisory Committee interviewed eight people who submitted applications to serve on the board. The applicants included PRAB member, Holly Polivka, and alternate member, Gary Romans, whose terms expired at the end of June.

The committee recommended appointing Holly Polivka and Claudia Ciobanu as members and Gary Romans and Paul Drechsler as alternate members of the PRAB. A resolution appointing these members and alternates is attached for council consideration.

A short biography of the recommended members and alternates is attached.

OTHER ALTERNATIVES

The council could choose not to approve the resolution and provide staff with direction on filling the vacancies.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Council Priorities for Six-month Focus

Other initiatives - Evaluate options and resources to create a pilot recreation program

- Use recreation inventory to match with program demands/service gaps
- Determine options for future programming (including partnerships)

The PRAB continues to explore recreation program options in the City of Tigard.

DATES OF PREVIOUS COUNCIL CONSIDERATION

This the first time these appointments have come before the council. The council last appointed members to the PRAB in 2011.

Attachments

Resolution

Appointee Biographical Information

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION APPOINTING HOLLY POLIVKA AND CLAUDIA CIOBANU AS MEMBERS AND GARY ROMANS AND PAUL DRECHSLER AS ALTERNATE MEMBERS OF THE PARK AND RECREATION ADVISORY BOARD (PRAB)

WHEREAS, there are currently two member vacancies and up to two alternate member vacancies on the PRAB; and

WHEREAS, the Mayor's Appointment Advisory Committee interviewed eight applicants who expressed an interest in serving on the board; and

WHEREAS, the committee recommended Holly Polivka and Claudia Ciobanu be appointed as members to the PRAB; and

WHEREAS, the committee recommended Gary Romans and Paul Drechsler be appointed as alternate members to the PRAB.

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

SECTION 1: Holly Polivka and Claudia Ciobanu are appointed to serve as members of the PRAB. These appointees will serve four-year terms, ending June 30, 2017.

SECTION 2: Gary Romans and Paul Drechsler are appointed to serve as alternates members of the PRAB. These appointees will serve one-year terms, ending June 30, 2014.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Park and Recreation Advisory Board (PRAB)
Recommended Appointees
Biographical Information

Members

Holly Polivka

- M.A., Counseling
- Master of Library Science
- Youth services librarian at Tigard Public Library
- Tigard resident for 12 years
- Served one term as PRAB member

Claudia Ciobanu

- B.S., Business Administration and Journalism
- Masters, Business Administration
- Certificate in Public Management
- Senior policy advisor at Oregon Parks and Recreation Department
- Tigard Resident for 1.5 years

Alternate Members

Gary Romans

- Retired – former high tech and sales manager
- Part time tour guide at Portland Walking Tours
- Volunteer DJ – KMHD – host of “What is Jazz”
- Tigard resident for 15 years
- Served one term as PRAB alternate member

Paul Drechsler

- B. S., Communications
- Vice president branch manager at a Tigard bank
- Board member, treasurer at Rockwood Business Coalition
- Portland resident, employed in Tigard

AIS-1385

3. C.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): Consent Item

Agenda Title: Adopt a Resolution Approving the City of Tigard Naming & Recognition Policy

Prepared For: Brian Rager

Submitted By: Greer
Gaston,
Public Works

Item Type: Resolution

Meeting Type: Consent
Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

Shall the council adopt a resolution approving the City of Tigard Naming & Recognition Policy?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

The city does not have an all-encompassing policy to name key features (open-air shelters, sports fields, gardens, rooms, trails, etc.), buildings and property, including parks.

Two documents, the memorial policy (adopted via Resolution No. 99-37) and the Property Acquisition Workbook, touch on the naming issue. However, the memorial policy is technically limited to names that honor someone who is deceased. The workbook only discusses naming in the context of a property seller's desire to have naming rights. Neither of these documents address other scenarios (like naming an existing park or feature after a living individual), nor do they outline a request/approval process, or identify who has naming authority.

In 2012 the council provided direction on a naming policy and asked staff to create such a policy; staff developed the attached Naming & Recognition Policy. The council was briefed on that policy at its June 18, 2013, workshop meeting.

The Naming & Recognition Policy establishes:

- The council as the decision-making body to name key city features, buildings and property, including parks.
- A procedure to consider city-initiated and non-city-initiated naming requests for key city features, buildings and property.
- How naming requests will be handled during the property acquisition process.
- A procedure to consider requests to install recognition items such as benches, picnic tables, trees, etc., on city property.

If the council adopts the attached resolution:

- The Naming & Recognition Policy will go into effect immediately. Staff recently received two

non-city-initiated naming requests. Per the new policy, staff will schedule an informal discussion of these requests at an upcoming council meeting.

- The resolution establishing the memorial policy will be rescinded; all naming requests, including memorials, will be processed via the new policy.

OTHER ALTERNATIVES

The council could choose not to approve the policy or could propose changes to the policy.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Not applicable

DATES OF PREVIOUS COUNCIL CONSIDERATION

The council was briefed on the Naming & Recognition Policy at its June 18, 2013, meeting.

Attachments

Resolution

Naming & Recognition Policy (Attachment to Resolution)

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION APPROVING THE CITY OF TIGARD NAMING & RECOGNITION POLICY AND RESCINDING RESOLUTION NO. 99-37 WHICH ESTABLISHED A POLICY ON PLACING MEMORIALS IN PARKS

WHEREAS, the city does not have an all-encompassing policy to name key features (open-air shelters, sports fields, gardens, rooms, trails, etc.), buildings and property including parks; and

WHEREAS, in 2012 the council provided direction on a naming policy and asked staff to create such a policy; and

WHEREAS, staff developed the attached Naming & Recognition Policy that establishes:

- The council as the decision-making body to name key city features, buildings and property, including parks.
- A procedure to consider city-initiated and non-city-initiated naming requests for key city features, buildings and property.
- How naming requests will be handled during the property acquisition process.
- A procedure to consider requests to install recognition items such as benches, picnic tables, trees, etc., on city property.

WHEREAS, the council reviewed the policy on June, 18, 2013; and

WHEREAS, the city will use the new Naming & Recognition Policy in lieu of the memorial policy established by Resolution No. 99-37 which should now be rescinded.

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

SECTION 1: The attached City of Tigard Naming & Recognition Policy is hereby approved.

SECTION 2: Resolution No. 99-37, a resolution establishing a policy of the City Council on placing memorials in parks, is hereby rescinded.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard



City of Tigard Naming & Recognition Policy

Effective September 3, 2013

A. Purpose

The purpose of this policy is to provide consistent standards and procedures to:

- Name city key features, buildings and property.
- Install items on city property to recognize an individual, group or event.

B. Naming Criteria for City Key Features, (such as open-air shelters, sports fields, gardens, rooms, trails, etc.), Buildings and Existing Property, Including Parks

1. All requests to name city key features, buildings and existing property must be reviewed by the parks manager and approved by formal action of the City Council.
2. To assist the public in identifying and locating key features, buildings and property, proposed names should be descriptive in nature or should contain a descriptive element, such as the Fanno Creek House, Dirksen Nature Park, Woodruff Bridge or John Anderson Baseball Fields.
3. Proposed names shall recognize one or more of the following:
 - A physical, historical, or unique characteristic of the key feature, building or existing property.
 - An event that had a significant impact to the city.
 - An individual or individuals, living or dead (memorial), who made a significant contribution to the city, either historically, financially or through civic duty.
 - A group or groups that made a significant contribution to the city, either historically, financially or through civic duty.
 - A property owner(s) who donates or sells property to the city.

C. City-Initiated Requests to Name City Key Features, (such as open-air shelters, sports fields, gardens, rooms, trails, etc.), Buildings and Existing Property, Including Parks

1. The process to consider a city-initiated request is as follows:
 - a. A city councilor or designee, city board or committee, or city staff member, "City Requestee," interested in naming a key feature, building or property must submit a written request—including specific information as to the purpose, proposed location (if applicable) and significance of the name—to the parks manager.
 - b. The parks manager will prepare a recommendation, including a cost estimate to implement the name.
 - c. The request and recommendation will be placed on a council agenda for informal discussion by the City Council.
 - d. At the discussion the council will either:
 - Direct the parks manager to prepare a resolution to formally adopt the name. If applicable, staff will assist the council in identifying and selecting a city funding source to implement the name.

- Determine that a majority of the city councilors do not support the name, and the request will not move forward.
- e. With council support, a resolution naming the feature, building or property will come before council for formal action.
- f. If the resolution is adopted, the parks manager will implement the name.

D. Non-City-Initiated Requests to Name City Key Features, (such as open-air shelters, sports fields, gardens, rooms, trails, etc.), Buildings and Existing Property, Including Parks

1. The process to consider a non-city-initiated request is as follows:

- a. An individual or organization, “Requestee,” interested in naming a key feature, building or property must submit a written request—including specific information as to the purpose, proposed location (if applicable) and significance of the name—to the parks manager at the following address:
 - Parks Manager
 - City of Tigard
 - 13125 SW Hall Blvd.
 - Tigard, OR 97223
- b. When applicable, and if the name is intended to recognize an individual(s), group(s) or event, the parks manager will attempt to verify that the recognition is acceptable to the individual(s), group(s) or event, or the appropriate representative of the individual(s), group(s) or event.
- c. The parks manager will review the request and prepare a recommendation and cost estimate to implement the name.
- d. The request and recommendation will be placed on a council agenda for informal discussion by the City Council.
- e. At the discussion the council will either:
 - Direct the parks manager to prepare a resolution to formally adopt the name. Under this option, the council will also need to determine whether the Requestee or the city will be financially responsible for the costs to implement the name, including a plaque or signage (if desired). If the city assumes the costs, staff will assist the council in identifying and selecting a city funding source to implement the name.
 - Determine that a majority of the city councilors do not support the name, and the request will not move forward.
- f. With council support, a resolution naming the feature, building or property will come before council for formal action.
- g. If the resolution is adopted, the parks manager will work with the Requestee to implement the name.

E. Changing the Name of City Key Features, (such as open-air shelters, sports fields, gardens, rooms, trails, etc.), Buildings and Existing Property, Including Parks

- 1. Irrespective of how the existing name was initiated or funded (city/non-city), the City Council has the authority to change the name of any city key feature, building or property.**

2. The process to change the name of a previously named key feature, building or property is as follows:
 - a. A city councilor or designee, city board or committee, or city staff member, “City Requestee,” interested in changing the name of a key feature, building or property must submit a written request—including specific information as to why the name should be changed and the purpose and significance of the new name—to the parks manager.
 - b. The parks manager will prepare a recommendation, including a cost estimate to implement the name change.
 - c. The request and recommendation will be placed on a council agenda for informal discussion by the City Council.
 - d. At the discussion, the council will either:
 - Direct the parks manager to prepare a resolution to formally change the name; if applicable, staff will assist the council in identifying and selecting a city funding source to implement the name change.
 - Determine that a majority of the city councilors do not support the name change, and the name will not be changed.
 - e. With council support, a resolution changing the name will come before council for formal action.
 - f. If the resolution is adopted, the parks manager will implement the name change.

F. Naming Requests for Properties under Acquisition, Including Parks

1. For tracking and record keeping purposes, the City Council recognizes it is preferable to name a property early in the acquisition process, typically as a part of the real property transaction discussed in executive session.
2. The city’s Property Acquisition Workbook acknowledges that naming rights are frequently desired by those selling property to the city. After consulting council, staff may use naming rights as a non-monetary negotiation tool when attempting to purchase property.
3. During acquisition, the process to name a property is as follows:
 - a. The parks manager will prepare a list of potential names for council consideration. The names will be generated by city staff involved in the acquisition and—when feasible as part of an executive session discussion on real property transactions—by:
 - The Park and Recreation Advisory Board (for park and open space properties).
 - The City Center Development Agency (for Downtown or urban renewal properties).
 - Other appropriate city agencies, boards or committees that play a role in the acquisition of city property.
 - b. In correspondence or as part of the City Council’s executive session discussion on real property transactions to purchase the property, the parks manager will provide the council with a list of potential names developed under this section. City councilors may also propose names for the property.
 - c. During the City Council’s executive session discussion on real property transactions to purchase the property, the City Council will direct staff to

- incorporate a property name into the purchase agreement (or comparable document).
- d. The council will take formal action on the name when it takes action on the purchase agreement (or comparable document) at a council business meeting.
 - e. If the purchase agreement (or comparable document) is approved by council, the parks manager will implement the name.

G. City-Initiated Requests to Install Recognition Items, (such as benches, picnic tables, trees and shrubs)

1. The process to consider a city-initiated request is as follows:
 - a. A city councilor or designee, city board or committee, or city staff member, "City Requestee," interested in having the city install an item must submit a written request—including specific information as to the purpose, proposed location, significance and type of item requested—to the parks manager.
 - b. The parks manager will prepare a recommendation, including a cost estimate to purchase and install the item.
 - c. The request and recommendation will be placed on a council agenda for informal discussion by the City Council.
 - d. At the discussion, the City Council will either:
 - Direct the parks manager to install the item on behalf of the city. (No formal council action required.) If applicable, staff will assist the council in identifying and selecting a city funding source.
 - Determine that a majority of the councilors do not support the request, and the item will not be installed.
 - e. If so directed, the parks manager will install the item.

H. Non-City-Initiated Requests to Install Recognition Items (such as benches, picnic tables, trees and shrubs)

1. All items installed on city property must be approved in advance by the parks manager. The parks manager has sole discretion regarding the approval of the installation of all items submitted under this section.
2. The process to consider a non-city-initiated request is as follows:
 - a. An individual or organization, "Requestee," interested in installing an item must submit a written request—including specific information as to the purpose, proposed location, significance and type of item requested—to the parks manager at the following address:

Parks Manager
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223
 - b. When applicable, and if the item is intended to recognize an individual(s), group(s) or event, the parks manager will attempt to verify that the recognition is acceptable to the individual(s), group(s) or event, or the appropriate representative of the individual(s), group(s) or event.
 - c. The parks manager will review and approve or decline the request.
 - d. If the request is approved, the parks manager will:

- Notify the Requestee.
 - Collect payment from the Requestee to purchase and install the item. Requestees are financially responsible for all costs associated the item, including a recognition plaque (if desired). Specific information on plaques is outlined below.
 - Will work with the Requestee to install the item.
- e. If the request is declined, the parks manager will attempt work with the Requestee to amend the request so it is acceptable to both parties. If no agreement can be reached, the item will not be installed.
3. The parks manager will allow the following types of items:
- a. Benches must be contoured style or another approved style, designed for outdoor use and constructed of materials approved by the parks manager. Once approved, benches must be purchased through a Parks Division-approved manufacturer. A brass or bronze plaque, no larger than 2 ½ x 6 inches, may be affixed to the bench.
 - b. Picnic Tables must be an approved style, designed for outdoor use and constructed of materials approved by the parks manager. Once approved, tables must be purchased through a Parks Division-approved manufacturer. A brass or bronze plaque, no larger than 2 ½ x 6 inches, may be affixed to the table.
 - c. Trees and Shrubs must be a size and species approved by the parks manager.
Plaques for trees and shrubs:
 - Must be made of bronze.
 - Can be no larger than 8 ½ x 11 inches.
 - Cannot be free standing, but must be affixed to a concrete, aggregate rock or boulder foundation. The parks manager will review the design of the proposed plaque and foundation and can provide examples of acceptable plaques.
4. The installation of comparable items, (other than those specifically mentioned listed in this section), may be proposed by the Requestee and will be considered by parks manager.
5. The parks manager may alter the proposed location of the item to ensure ease of maintenance and to prevent conflicts with other park features.

AIS-1414

3. D.

Business Meeting

Meeting Date: 09/03/2013
Length (in minutes): Consent Item
Agenda Title: Contract Award - Utility Business Planning Services
Prepared For: Joseph Barrett
Submitted By: Joseph Barrett, Financial and Information Services
Item Type: Motion Requested
Meeting Type: Consent
Agenda -
LCRB

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall the Local Contract Review Board award a contract for utility business planning services to both HDR, Inc. and CH2M-Hill?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board award the contract for the city's utility business planning service needs to both HDR, Inc. and CH2M-Hill in combined amount of \$250,000 and authorize the City Manager to take all necessary steps to execute the contracts.

KEY FACTS AND INFORMATION SUMMARY

The city's Public Works Department operates and maintains water, sanitary, and storm water systems. The department occasionally requires utility business professional services to help facilitate and solve complex issues or problems relating to the technical, managerial, and financial aspects of operating and maintaining these systems that deliver water, sanitary, and storm water services.

The city will utilize consultant(s) to provide the city with utility business professional services and project-specific services related to technical, managerial, and financial continuous improvement, tactical planning, benchmarking and performance measurement, privatization and outsourcing, optimization and staff utilization, and organizational restructuring. This work may include updates to technical and financial planning tools.

The city issued a Request for Proposal for the work in late May of this year. Upon closing, the city received proposals from the following firms:

- CH2M Hill
- HDR Engineering, Inc.
- FCS Group

A review and selection team was assembled and scored the received proposal based on the following criteria

that were in the Request for Proposal:

- Project Approach 20%
- Project Experience 20%
- Project Team Experience 20%
- Rates 20%
- References 20%

Based on the selection team's recommendation staff recommends both HDR, Inc. and CH2M-Hill be awarded contracts as they are both very qualified to perform the work. The contracts will be for a possible five years with a combined estimate \$50,000 per year for a total not to exceed of \$250,000.

Staff requests that council approve the two firms selected to provide utility business professional services for the city as an annual contract, renewable for up to 5 years. However, the qualified firm or consultant(s) providing professional services will be required to negotiate individual scopes of work and budgets reviewed by the staff during the course of the contract.

OTHER ALTERNATIVES

The Local Contract Review Board may reject all proposals and direct staff to reissue the Request for Proposal.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time the Local Contract Review Board has been presented this contract award.

Fiscal Impact

Cost: \$250,000

Budgeted (yes or no): Yes

Where budgeted?: Water/Water CIP

Additional Fiscal Notes:

The contract will be for an average of \$50,000 per year over five years for a not to exceed total of \$250,000. The work may be billed to individual projects in Water or Water CIP funds. If appropriations are not granted in future years the City is able to cancel the contract.

Attachments

No file(s) attached.

AIS-1411

3. E.

Business Meeting

Meeting Date: 09/03/2013
Length (in minutes): Consent Item
Agenda Title: Contract Award - Right-of-Way Mowing Services
Prepared For: Joseph Barrett
Submitted By: Joseph Barrett, Financial and Information Services
Item Type: Motion Requested
Meeting Type: Consent
Agenda -
LCRB

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall the Local Contract Review Board award a contract for right-of-way mowing services to Chorak Mowing?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board award the contract for the city's right-of-way mowing service needs to Chorak Mowing in the amount of \$225,000 and authorize the City Manager to take all necessary steps to execute the contract.

KEY FACTS AND INFORMATION SUMMARY

The city has approximately 33,000 linear feet of right-of-way areas along ditch lines, railroad tracks, etc. that require maintenance, including mowing and general weed removal. These areas are typically mowed and weeded five or six times per year via contracted services.

The city issued a Request for Proposal for this work in late May. Upon closing, the city received a single proposal, from a firm, Chorak Mowing, that the city has used for nearly the past ten years.

A review and selection team was assembled and scored the received proposal based on the following criteria that were in the Request for Proposal:

- Firm and Team Qualifications 40%
- Project Understanding and Approach 30%
- Cost Structure 30%

Based on the selection team's recommendation (an average score of 86%), staff recommends Chorak Mowing be awarded the contract as the best and most responsible firm for the work. The contract will be for a possible five years with an estimate \$45,000 per year for a total not to exceed of \$225,000.

OTHER ALTERNATIVES

The Local Contract Review Board may reject all proposals and direct staff to reissue the Request for Proposal.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time the Local Contract Review Board has been presented this contract award.

Fiscal Impact

Cost: 225,000

Budgeted (yes or no): Yes

Where budgeted?: Streets

Additional Fiscal Notes:

This contract is for \$45,000 annually and will be budget in the Street Division operating budget. If in any year the budget allocation is not approved the City may terminate the contract.

Attachments

No file(s) attached.

for an amount not to exceed of \$125,000 with \$90,433 for maintenance and \$26,787 for improvements.

OTHER ALTERNATIVES

The Local Contract Review Board may reject all proposals and direct staff to reissue the Request for Proposal.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time the Local Contract Review Board has been presented this contract award.

Fiscal Impact

Cost: \$125,000

Budgeted (yes or no): Yes

Where budgeted?: Street Maintenance/Stormwater

Additional Fiscal Notes:

This contract is not to exceed \$125,000, with \$90,433 for maintenance of improved rights-of-way and \$26,787 for improving degraded areas.

Attachments

No file(s) attached.

AIS-1295

4.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): 5 Minutes

Agenda Title: Citizen Advisory Committee - Tigard Triangle Strategic Plan

Submitted By: Cheryl Caines, Community Development

Item Type: Resolution

Meeting Type: Council Business Meeting - Main

Public Hearing: No

Publication Date:

Information

ISSUE

A resolution to form a Citizen Advisory Committee for the Tigard Triangle Strategic Plan.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that Council approve the resolution forming the Tigard Triangle Citizen Advisory Committee.

KEY FACTS AND INFORMATION SUMMARY

The Tigard Comprehensive Plan outlines goals, policies and recommended action measures for economic development in the city. These goals include developing a strong economy and making Tigard a prosperous and desirable place to live and do business. Some of the policies and action measures to achieve these goals are related to the Tigard Triangle. For example, one policy is to focus a significant portion of future employment growth and high-density housing development in the Tigard Triangle and developing a comprehensive “Area Plan” for the Tigard Triangle to promote its full development.

In addition the Comprehensive Plan transportation goals speak to developing mutually supportive land use and transportation plans and enhancing transportation functionality by enhancing multi-modal options. The City has been exploring and planning for potential high capacity transit by participating in SW Corridor and completing the Tigard High Capacity Land Use Plan.

Tigard was awarded a Transportation Growth Management Grant to develop a strategic redevelopment plan for the Tigard Triangle. The statement of work for the plan includes a citizen advisory committee that will advise staff during the development of this plan known as the Tigard Triangle Strategic Plan.

Resolution 08-47 establishes procedures to form and appoint limited duration citizen advisory committees. Step one of the two-step process includes approval of a purpose and charge statement, a list of stakeholder groups to be represented and a meeting protocol. The proposed purpose, charge and meeting protocol for this advisory group are part of the appended proposed resolution (Attachment 1).

Staff proposes a 13 member committee that will include representatives from government agencies, community organizations, Tigard Triangle area businesses and property owners and residents of Tigard. The second resolution to Council will be for the appointment of specific citizens to fill the slots listed above.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2012 City Council Goals

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

2013 citywide priorities are not finalized but key topics include progress on major projects such as the Tigard Triangle and community engagement.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

Resolution

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION ESTABLISHING A CITIZEN ADVISORY COMMITTEE TO ADVISE STAFF DURING THE COMPLETION OF THE TIGARD TRIANGLE STRATEGIC PLAN.

WHEREAS, the City Council adopted the 2027 Comprehensive Plan that represents the land use vision and values of the Tigard community; and

WHEREAS, the Comprehensive Plan outlines goals, policies and recommended action measures for Economic Development; and

WHEREAS, these goals include developing and maintaining a strong, diverse, sustainable local economy and making Tigard a prosperous and desirable place to live and do business; and

WHEREAS, these policies and action measures include focusing focus a significant portion of future employment growth and high-density housing development in the Tigard Triangle and developing a comprehensive "Area Plan" for the Tigard Triangle to promote its full development; and

WHEREAS, the Comprehensive Plan goals related to transportation include developing mutually supportive land use and transportation plans and enhancing transportation functionality with multi-modal options; and

WHEREAS, City Council Goals in 2008 - 2010 have included the exploration, lobbying and planning for 99W Corridor light rail as a means to reduce traffic congestion in the area; and

WHEREAS, in 2010 City Council prioritized the Southwest Corridor for potential high capacity transit investment; and

WHEREAS, in 2011 City Council set a goal to implement the Comprehensive Plan by participating in the Southwest Corridor Study; and

WHEREAS, in 2012 City Council set a goal of taking the next step contributing to the SW Corridor Plan by adopting land use policies and designations, identifying priorities for high capacity transit (HCT) station location alternatives, and determining the economic development opportunities, development plan, city policies and regulations needed to position the Tigard Triangle as an HCT station location; and

WHEREAS, in May 2012 the City of Tigard completed the Tigard High Capacity Land Use plan that developed preferred concepts for potential station communities, one of which was the Tigard Triangle; and

WHEREAS, in September 2012 the City was awarded a Transportation Growth Management Grant to develop a strategic redevelopment plan for the Tigard Triangle building upon a station community concept created through the Tigard High Capacity Land Use Plan; and

WHEREAS, the Citizen Advisory Committee will advise staff during the development of this plan known as the Tigard Triangle Strategic Plan.

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

SECTION 1: The Tigard Triangle Citizen Advisory Committee is hereby established to review and comment on draft materials, and to ensure that the Tigard Triangle Strategic Plan is consistent with and supportive of applicable goals. Its membership shall include representatives for the categories listed below:

1. Government Agencies and Community Organizations
2. Tigard Triangle Area Businesses
3. Tigard Triangle Property Owners
4. Tigard Residents

SECTION 2: The mission of the Citizen Advisory Committee is to:

1. Create an environment conducive to multiple and diverse opinions and ideas;
2. Review and comment on draft materials prepared by staff and consultants;
3. Ensure the strategic plan is consistent with and supportive of the applicable goals, policies, and action measures of the Comprehensive Plan and recommendations in the High Capacity Land Use Plan;
4. Promote public understanding of the Tigard Triangle Strategic Plan.

SECTION 3: The Citizen Advisory Committee shall:

1. Convene at least five meetings conducted by a third party project facilitator;
2. Promote public understanding and identify ways to inform other community members;
3. Consider all written and oral input received by the public;
4. Seek to achieve general consensus on the strategic plan, if consensus cannot be reached then decisions will be made by a majority vote;
5. Assure respect and consideration of the viewpoints of others; and
6. Recommend Council removal and replacement of members unwilling or unable to adhere to the protocol described above.

SECTION 4: The City's Tigard Triangle Strategic Plan project manager is assigned as staff liaison to the Citizen Advisory Committee. Other city staff will be used to support the Committee's activities as deemed necessary throughout the entire process.

SECTION 5: The term of service for the members of the Citizen Advisory Committee shall expire after acceptance of the Tigard Triangle Strategic Plan and adoption of implementing ordinances. The Committee itself shall also be disbanded at that point.

SECTION 6: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

AIS-1296

5.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): 5 Minutes

Agenda Title: Appoint Members of Tigard Triangle Citizen Advisory Committee

Submitted By: Cheryl Caines, Community
Development

Item Type: Resolution

Meeting Type: Council Business Meeting
- Main

Public Hearing: No

Publication Date:

Information

ISSUE

Resolution appointing members to the Tigard Triangle Strategic Plan Citizen Advisory Committee (CAC).

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that Council approve the resolution appointing members to the Tigard Triangle Strategic Plan Citizen Advisory Committee.

KEY FACTS AND INFORMATION SUMMARY

The Tigard Comprehensive Plan outlines goals, policies and recommended action measures for economic development in the city. These goals include developing a strong economy and making Tigard a prosperous and desirable place to live and do business. Some of the policies and action measures to achieve these goals are related to the Tigard Triangle. For example, one policy is to focus a significant portion of future employment growth and high-density housing development in the Tigard Triangle and developing a comprehensive "Area Plan" for the Tigard Triangle to promote its full development.

In addition the Comprehensive Plan transportation goals speak to developing mutually supportive land use and transportation plans and enhancing transportation functionality by enhancing multi-modal options. The City has been exploring and planning for potential high capacity transit by participating in the planning process for SW Corridor and completing the Tigard High Capacity Land Use Plan. Tigard was awarded a Transportation Growth Management Grant to develop a strategic redevelopment plan for the Tigard Triangle. The statement of work for the plan includes a citizen advisory committee that will advise staff during the development of this plan known as the Tigard Triangle Strategic Plan.

Resolution 08-47 establishes procedures to form and appoint limited duration citizen advisory committees. Step one of the two-step process includes approval of a purpose and charge statement, a list of stakeholder groups to be represented and a meeting protocol. The proposed purpose, charge and meeting protocol for this advisory group are part of the appended proposed resolution (Attachment 1).

Staff proposes a 13 member committee that will include representatives from government agencies, community organizations, Tigard Triangle area businesses and property owners and residents of Tigard. A resolution for Council consideration is for the appointment of specific citizens to fill the 13 committee member slots.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2012 City Council Goals

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

2013 citywide priorities are not finalized but key topics include progress on major projects such as the Tigard Triangle and community engagement.

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

Appoint Tigard Triangle TAC

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION APPOINTING MEMBERS OF THE TIGARD TRIANGLE STRATEGIC PLAN
CITIZEN ADVISORY COMMITTEE

WHEREAS, the Tigard Comprehensive Plan represents the land use vision and values of the Tigard community; and

WHEREAS, the Comprehensive Plan includes economic development goals and policies that identify future growth in the Tigard Triangle; and

WHEREAS, the Comprehensive Plan includes transportation goals that emphasize the necessity of providing multi-modal transportation options and linking land use and transportation planning; and

WHEREAS, in 2012 City Council set a goal of taking the next step on contributing to the SW Corridor Plan by adopting land use policies and designations, identifying priorities for high capacity transit (HCT) station location alternatives, and determining the economic development opportunities, development plan, city policies and regulations needed to position the Tigard Triangle as an HCT station location; and

WHEREAS, in May 2012 the City of Tigard completed the Tigard High Capacity Land Use plan that developed preferred concepts for potential station communities, one of which was the Tigard Triangle; and

WHEREAS, in September 2012 the City was awarded a Transportation Growth Management Grant to develop a strategic redevelopment plan for the Tigard Triangle building upon a station community concept created through the Tigard High Capacity Land Use Plan; and

WHEREAS, the grant statement of work requires the formation of a Citizen Advisory Committee to advise staff during the development of this plan known as the Tigard Triangle Strategic Plan; and

WHEREAS, Council Resolution 08-47 amended the process to establish and appoint members to limited duration citizen advisory committees; and

WHEREAS, on September 3, 2013 in Resolution 13- ____, Council authorized the establishment of a limited citizen advisory committee, (known as the Tigard Triangle Strategic Citizen Advisory Committee), to advise staff during the development of the Tigard Triangle Strategic Plan and define the membership of the committee; and

WHEREAS, the aforementioned authorization identified the Tigard Triangle Strategic Plan Citizen Advisory Committee as consisting of up to 13 members;

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

SECTION 1: As established in Resolution 13-____, the Citizen Advisory Committee membership shall include representatives from the categories listed below:

Representatives from government agencies and community organizations (4)

Representatives from Tigard Triangle Area businesses/universities (4)

Representatives from the Tigard Triangle Area - residents and property owners (3)
Representatives from the Tigard community – (3)

SECTION 2: The membership of the Tigard Triangle Strategic Plan Citizen Advisory Committee shall consist of those individuals listed on Exhibit A.

SECTION 3: The term of service for the members of the Citizen Advisory Committee shall expire after adoption of the Tigard Triangle Strategic Plan and implementing ordinances. The Committee itself shall also be disbanded at that point.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

John L. Cook
Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Tigard Triangle Strategic Plan Citizen Advisory Committee

Representatives from government agencies and community organizations

- Lysa Vattimo, Tualatin Valley Fire & Rescue
- Calista Fitzgerald, Planning Commission
- Sheila-Greenlaw Fink, Community Partners for Affordable Housing
- Elise Shearer, Central City Advisory Committee

Representatives from Tigard Triangle area businesses

- George Hetu, Fred Meyer
- Gene Mildren, Mildren Design
- Chris Weiss, Clear Channel

Representatives of Tigard Triangle property owners

- D J Heffernan, Specht Development
- Steve Martin
- Carole Rovig

Tigard residents

- Sam Tilley
- Tracy Dulin
- David Otto

AIS-1371

6.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): 10 Minutes

Agenda Title: Consider a Resolution Approving the Purchase of the Steve Street Property and Authorizing the City Manager to Complete the Property Purchase

Prepared For: Steve Martin

Submitted By: Steve Martin,
Public Works

Item Type: Resolution

Meeting Type: Council Business Meeting - Main

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall the council consider a resolution:

- Approving the purchase of the Steve Street property from the Japanese International Baptist Church as outlined in the Purchase Agreement and Escrow Instructions?
- Authorizing the the city manager to take all necessary action to complete the property purchase on behalf of the city?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

In November 2010 Tigard voters passed a \$17 million park bond measure. Eighty percent of bond proceeds were dedicated to acquiring park land and open space.

In late 2010 the Park and Recreation Advisory Board (PRAB) was tasked with evaluating more than 60 potential park properties. The Steve Street property ranked near the top of the PRAB's acquisition list.

The 1.37-acre property is located near the end of Steve Street and at the north end of 84th Avenue off Pfaffle Street. The property is south of the existing Japanese International Baptist Church, the owner of the vacant parcel. The property was appraised at \$225,000; only about one-tenth of an acre cannot be developed. The rest of the property is suitable for residential development.

In conjunction with the property purchase, the city would also purchase an easement from the church; that easement will enable people to access the park from Steve Street.

If purchased, this property would be earmarked as a neighborhood park, in an area that does not have parks. Access would be from 84th Avenue on the south and Steve Street on the north.

If the resolution is adopted:

- The property will become a publicly-owned park and open space.
- The city will purchase the property for \$225,000 per the terms of the Purchase Agreement and Escrow Instructions. This document is fairly standard and has been reviewed by the city's real estate attorney.
- The city will also purchase a pedestrian easement for \$1,250 per the terms of the Purchase Agreement and Escrow Instructions. The easement will allow the public to access the park from Steve Street.

OTHER ALTERNATIVES

The council could choose not to adopt the resolution; the city would not purchase the property.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Acquisition of this property is consistent with the goals of the 2009 Park System Master Plan.

DATES OF PREVIOUS CONSIDERATION

The council authorized staff to negotiate the purchase of the Steve Street property at its January 22, 2013, executive session.

Fiscal Impact

Cost: \$226,250
Budgeted (yes or no): Yes
Where Budgeted (department/program): Park Bond Funds

Additional Fiscal Notes:

Based on council direction, the city negotiated the purchase of the property and the easement with the seller. The city and seller have agreed to a purchase price of \$225,000 for the property and \$1,250 for the pedestrian easement—subject to council approval. Park bond dollars will be used to purchase the property and easement; park land acquisition is included in the 2013-2014 Capital Improvement Plan (CIP).

Attachments

[Resolution](#)

[Purchase Agreement and Escrow Instructions](#)

[Steve St. Vicinity Map](#)

[Steve St. Aerial Map](#)

[Steve St. Photos](#)

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION APPROVING THE PURCHASE OF THE STEVE STREET PROPERTY, (TAX LOT 1S136CB04402), AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTION TO COMPLETE THE PROPERTY PURCHASE ON BEHALF OF THE CITY

WHEREAS, in November 2010 Tigard voters passed a \$17 million park bond measure whereby 80 percent of bond proceeds were dedicated to acquiring open space and park land such as the Steve Street property; and

WHEREAS, the Park and Recreation Advisory Board (PRAB) was tasked with evaluating more than 60 potential park properties, and the Steve Street property ranked in the top third of the PRAB's acquisition list; and

WHEREAS, the city would like to acquire the property to create a publicly-owned neighborhood park and open space, in an area that needs parks; and

WHEREAS, the council authorized staff to negotiate the purchase of the Steve Street property on January 22, 2013; and

WHEREAS, the property is located at the end of SW 84th Avenue within Tigard city limits; and

WHEREAS, the city and property owner have reached a tentative agreement to purchase/sell the property and to purchase/sell a pedestrian easement from Steve Street to the property; and

WHEREAS, this agreement is subject to City Council approval.

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

SECTION 1: The City Council agrees to the terms of the attached Purchase Agreement and Escrow Instructions, including the purchase price of \$225,000 for the Steve Street property.

SECTION 2: The City Council agrees to the terms of the Easement Agreement, (Exhibit D to the Purchase Agreement and Escrow Instructions), including the purchase price of \$1,250 for the pedestrian easement from Steve Street to the property.

SECTION 3: The City Council authorizes the city manager to take all necessary action to complete the Steve Street property purchase on behalf of the city. This includes, but is not limited to, execution of the Purchase Agreement and Escrow Instructions, Easement Agreement and closing documents.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

**PURCHASE AGREEMENT
AND
ESCROW INSTRUCTIONS**

BETWEEN: Japanese International Baptist Church, (‘‘Seller’’)
an Oregon nonprofit corporation
800 SW Spruce St.
Tigard, OR 97223

And: City of Tigard, (‘‘Purchaser’’)
a Municipal corporation

DATED: August_____, 2013 (‘‘Effective Date’’)

RECITALS

A. Seller owns certain real property in the city of Tigard, county of Washington, Oregon, which is more fully described on the attached and incorporated **Exhibit A** (the ‘‘Property’’).

B. Seller desires to sell the Property, and Purchaser desires to purchase the Property pursuant to the terms set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as set forth below.

**ARTICLE 1
DEFINED TERMS**

1.1 **Cash.** The term ‘‘Cash’’ means (i) United States currency, (ii) a check currently dated and payable to Escrow Holder, or (iii) U.S. funds credited by wire transfer into Escrow Holder’s bank account.

1.2 **Closing.** The process described in Article 9 of this Agreement.

1.3 **Closing Date.** Closing shall occur on the date that is thirty (30) days after the expiration of the Contingency Period, or on such other date as the parties may agree upon in writing.

1.4 **Contingency Period.** The period that ends on the date that all of the conditions precedent to Closing are waived by Purchaser or satisfied.

1.5 **Deed.** A statutory warranty deed in the form of **Exhibit B** attached hereto which shall be used to convey the Property from Seller to Purchaser.

1.6 **Earnest Money.** The cash payable to Seller pursuant to Section 2.2 of this Agreement in the amount of Five Thousand and No/100 Dollars (\$5,000.00), plus all interest which accrues thereon.

1.7 **Easement.** The document granting Purchaser a twenty-five (25) foot wide pedestrian, bicycle and access easement to the Property over Seller's adjoining Property, a copy of which is attached and incorporated as **Exhibit D**.

1.8 **Environmental Laws.** Any federal, state, or local laws, ordinances, codes, statutes, regulations, administrative rules, policies and orders, and other authority existing now or in the future that classify, regulate, list, or define Hazardous Materials.

1.9 **Escrow Holder.** First American Title, located at 9200 SE Sunnybrook Blvd, Suite 400, Clackamas, Oregon, 97015, Phone: (503) 659-0069.

1.10 **Escrow.** The escrow opened by Escrow Holder pursuant to this Agreement.

1.11 **Hazardous Materials.** Any toxic or hazardous substance, material, waste, pollutant, contaminant, or infectious or radioactive material, including but not limited to those substances, materials, waste, chemicals, or mixtures that are (or that contain any) substances, chemicals, compounds, or mixtures regulated, either now or in the future, under any law, rule, regulation, code or ordinance.

1.12 **Property.** The term "Property" as defined in this Agreement, includes land described in Exhibit A, together with all improvements, rights, privileges, servitudes and appurtenances thereunto belonging or appertaining, including all right, title, and interest of Seller, if any, in and to the streets, alleys, and rights-of-way adjacent to the land, which will be transferred to Purchaser at Closing.

1.13 **Property Documents.** Any and all documents in Seller's possession or control relating to or affecting the Property, including without limitation, conditional use permits, land use approvals, land use applications, permits, licenses, any agreements related to the Property that will survive Closing, maps, development agreements, surveys and studies relating to the Property prepared by third parties.

1.14 **Purchase Price.** Cash in the amount of Two Hundred Twenty-Five Thousand and No/100 Dollars (\$225,000.00).

ARTICLE 2 EARNEST MONEY AND PURCHASE PRICE

2.1 **Sale of Property.** Subject to the terms and conditions in this Agreement, Seller agrees to sell the Property to Purchaser, and Purchaser agrees to buy the Property from Seller.

2.2 **Earnest Money.** Within ten (10) days after the opening of Escrow as set forth in Section 3.1, Purchaser shall deposit the Earnest Money into Escrow. Escrow Holder shall hold the Earnest Money in an interest-bearing account that is FDIC insured, unless the parties approve

holding the Earnest Money in a non-interest bearing account. The Earnest Money shall be refundable to Buyer until the Study Period expires or the conditions precedent to Closing set forth in Section 4 of this Agreement are waived in writing by Buyer; thereafter, the Earnest Money shall not be refundable except (i) in the event of a Seller default or (ii) if at Closing Seller shall have failed to cure a disapproved exception to title as provided in Section 4.6 or shall have failed to clear the Property of any tenancies as required by Section 4.8.2. The Earnest Money shall be applicable to the Purchase Price at closing.

2.3 **Purchase Price.** The Purchase Price shall be paid by Purchaser in Cash to Seller at the Closing. The Earnest Money shall be applied to the Purchase Price.

ARTICLE 3 DELIVERIES TO ESCROW HOLDER

3.1 **Opening of Escrow.**

3.1.1 Within three (3) days after the Effective Date, Purchaser and Seller shall open Escrow by depositing with Escrow Holder a fully executed photocopy of this Agreement for use as escrow instructions. Escrow Holder shall execute the Consent of Escrow Holder which appears at the end of this Agreement and deliver a fully executed consent to Purchaser and Seller.

3.1.2 Purchaser and Seller hereby authorize Escrow Holder to take necessary steps for the Closing of this transaction pursuant to the terms of this Agreement.

3.1.3 Purchaser and Seller may jointly or separately prepare additional escrow instructions. Escrow Holder may also provide general instructions. If there is any inconsistency between the provisions of any of these instructions and this Agreement, the provisions of this Agreement shall control.

3.2 **Purchaser's Deliveries.** At or before Closing, Purchaser shall deposit into Escrow (i) the Earnest Money, (ii) the balance of the Purchase Price, (iii) a signed counterpart of the Easement, (iv) an executed and acknowledged acceptance of the Deed, and (v) all other documents and instruments reasonably requested by Escrow Holder for Closing.

3.3 **Seller's Deliveries.** At or before Closing, Seller shall deliver into Escrow (i) an executed and acknowledged Deed, (ii) an executed Certificate of Non-Foreign Status, pursuant to Section 1445(b)(2) of the Internal Revenue Code, certifying that Seller is a non-foreign person, (iii) a signed counterpart of the Easement, and (iv) all other documents and instruments reasonably requested by Escrow Holder for Closing. At Closing, Seller shall deliver possession of the Property to Purchaser.

ARTICLE 4 CONDITIONS PRECEDENT TO CLOSING

4.1 **Purchaser's Right to Analyze Property Documents.** Within ten (10) days after the Effective Date, Seller shall deliver all Property Documents to Purchaser. During the Study

Period (as defined in Section 4.2 below), Purchaser shall have the right to analyze the Property Documents and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use.

4.2 Purchaser's Right to Analyze Property. For a period of sixty (60) days after the Effective Date, Purchaser shall have the right to analyze the Property and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use (the "Study Period"). Purchaser shall have the right to enter onto the Property to conduct any and all tests, investigations, and inspections deemed necessary by Purchaser. Such investigations and/or studies shall be conducted by Purchaser at its sole expense. Purchaser shall defend, indemnify and hold Seller harmless for, from, and against any claim, loss, or liability, or any claim of lien or damage which arises in connection with any entry on the Property by Purchaser or any activities on the Property by Purchaser, its agents, employees, and independent contractors; provided, however, that Purchaser shall have no obligation to indemnify, defend, or hold harmless Seller from any condition of the Property discovered by Purchaser, or from any loss of marketability of the Property as a consequence of such discovery.

4.3 Notice of Termination; Failure to Notify. If Purchaser determines, in Purchaser's sole, absolute, and arbitrary discretion, the Property is not suitable, Purchaser may terminate this Agreement and cancel Escrow by delivering written notice of termination to Seller prior to the expiration of the Study Period, in which case this Agreement shall immediately terminate and Escrow Holder shall immediately return the Earnest Money to Purchaser.

4.4 Review of Preliminary Report. Within ten (10) days after the Effective Date, Seller shall provide Purchaser with a preliminary title report issued by the Escrow Holder, describing title to the Property, and including legible copies of all recorded documents described in the preliminary report and plotted easements (collectively, the "Preliminary Report"). On or before ten (10) days after Purchaser's receipt of the Preliminary Report, Purchaser shall deliver written notice of approval or disapproval of matters disclosed in the Preliminary Report, which approval or disapproval shall be in Purchaser's sole and absolute discretion. Unless waived pursuant to Section 4.6, the approved matters disclosed in the Preliminary Report along with the standard printed exceptions on a form of title insurance policy, shall be the "Permitted Exceptions" included as exceptions in the Title Policy, defined in Section 4.7.

4.5 Right to Cure Disapproval of Preliminary Report. If Purchaser delivers notice of disapproval pursuant to Section 4.4 above, Seller may elect in writing, within five (5) days thereafter, to agree to remove or otherwise cure, to Purchaser's reasonable satisfaction, any disapproved item(s) prior to Closing. Notwithstanding any provision in this Agreement to the contrary, Seller shall be obligated to remove any deeds of trust and other monetary liens (other than liens for non-delinquent taxes and assessments) and any exceptions to title caused by Seller.

4.6 Failure to Cure Disapproval of Preliminary Report. If Seller fails to agree to cure a disapproved item, or agrees to cure and thereafter fails to cure a disapproved item prior to Closing, Purchaser shall have the right to (i) terminate this Agreement and receive a full refund of the Earnest Money, (ii) suspend performance of its obligations under this Agreement at no

cost to Purchaser and extend the Closing Date until that removal of the disapproved exception has occurred or (iii) waive in writing its prior disapproval of such item and accept title subject to such previously disapproved item, by delivering written notice of Purchaser's election to Seller prior to Closing.

4.7 **Title Policy.** Seller shall be unconditionally committed to procure from Escrow Holder upon the Closing, an ALTA standard coverage owner's policy of title insurance for the Property, with a liability limit in the amount of the Purchase Price, and insuring fee title vests in Purchaser subject only to the Permitted Exceptions (collectively, the "Title Policy"). At Purchaser's option, Purchaser may elect to have the Title Policy issued with endorsements and/or in an ALTA extended coverage form, provided that Purchaser pays any additional costs associated with issuance of such policy and pursuant to section 8.4 of this Agreement.

4.8 **Approval of Leases & Estoppel Certificates.**

4.8.1 **Leases.** Within ten (10) days of the Effective Date, Seller will provide to Purchaser copies of all current leases affecting the Property, and copies any and all documents other than leases which provide for or discuss any matters affecting the occupancy of the Property by tenants, including but not limited to options to lease, relocation rights, termination rights, and/or expansion or contraction rights (collectively, the "Lease Documents"). Purchaser may terminate this Agreement at any time during the Study Period if Purchaser shall determine in the exercise of its sole discretion that the documents described in Section 4.1 or the Lease Documents are not satisfactory.

4.8.2 **No Tenancies.** At least five (5) days prior to the Closing Date, Seller shall have terminated any tenancy provided for in the Lease Documents and rendered the Property free of any occupants whatsoever.

4.9 **Contingency Failure.** If Buyer fails to notify Seller by the end of the Study Period that the conditions set forth in this Article 4 have been satisfied or waived, this Agreement and the rights and obligations of the Purchaser and the Seller shall automatically terminate, and the Escrow Holder shall immediately return the Earnest Money to Purchaser.

ARTICLE 5 COVENANTS AND AGREEMENTS

5.1 **Damage or Destruction; Eminent Domain.** If, prior to the Closing, all or a material part of the Property is damaged or destroyed, or taken or appropriated by any public or quasi-public authority under the power of eminent domain or such an eminent domain action is threatened pursuant to a resolution of intention to condemn filed by any public entity, Purchaser may either (i) terminate this Agreement and receive a refund of the Earnest Money, or (ii) elect to receive an assignment from Seller in lieu of the part of the Property that has been so damaged or taken of all of Seller's rights to any award and/or proceeds attributable to said damaged or taken part of the Property, and the parties shall proceed to Closing pursuant to this Agreement.

5.2 **Easement.** At Closing, Seller agrees to grant to Purchaser an Easement, in substantially the same form as that set forth in the attached and incorporated Exhibit D, for bicycle and pedestrian access over the portion of Seller's additional property depicted on the attached and incorporated Exhibit E ("Easement Area"). The provisions of this Section 5.2 shall survive Closing.

ARTICLE 6 SELLER'S REPRESENTATIONS AND WARRANTIES

6.1 **Representations and Warranties of Seller.** Seller represents and warrants that, as of the Effective Date, the end of the Contingency Period, and the Closing, that all of the representations and warranties contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Seller's representations and warranties is material to and is being relied upon by Purchaser and the continuing truth thereof shall constitute a condition precedent to Purchaser's obligations hereunder. Seller represents and warrants to Purchaser as follows:

6.1.1 **Proof of Authority.** Seller has authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, and shall deliver such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of the Seller to act for or bind the Seller, as may be reasonably required by the Escrow Holder and/or the Purchaser.

6.1.2 **Title to the Property.** Seller has sole legal and beneficial fee title to the Property, and has not granted any person or entity any right or interest in the Property except as set forth in this Agreement and in the Preliminary Report. Seller agrees to transfer to Purchaser, via Deed, the Property, subject only to the Permitted Exceptions.

6.1.3 **Property Documents, Lease Documents; No Defaults.** To Seller's knowledge, the Property Documents and Lease Documents delivered by Seller to Purchaser are true, correct and complete copies and there are no other documents or instruments, in Seller's possession and control, that would constitute Property Documents or Lease Documents that have not been delivered by Seller or otherwise made available to Purchaser. Seller has no knowledge of any default by Seller under any Property Documents or Lease Documents. Seller warrants that the services associated with the Property Documents and Lease Documents, have been, or will be, paid for by Seller no later than Closing.

6.1.4 **Pending Transactions, Suits or Proceedings.** To Seller's knowledge, there are no transactions, suits, proceedings, litigation (including zoning or other land use regulation proceedings), condemnation, or investigations pending or threatened against or affecting the Property or Seller as the owner of the Property in any court at law or in equity, or before or by any governmental department, commission, board, agency or instrumentality.

6.1.5 **Defects.** To Seller's knowledge, there are no latent or other defects or conditions on or about the Property which would cause injury or damage to persons or property, or which would have a material adverse effect on lawful uses of the Property.

6.1.6 No Further Encumbrances. As long as this Agreement remains in force, Seller will not lease, transfer, option, mortgage, pledge, or convey its interest in the Property or any portion thereof nor any right therein, nor shall Seller enter into any agreement granting to any person or entity any option to purchase or rights superior to Purchaser with respect to the Property or any part thereof.

6.1.7 Hazardous Materials. To Seller's knowledge, no Hazardous Materials have been generated, disposed of, deposited or released (or caused to be generated, disposed of or released) on, within, under, about or from the Property. To Seller's knowledge, no other party or person has used, stored, transported, generated, disposed of or released on, within, under, about or from the Property any Hazardous Materials. Without limiting the foregoing, neither Seller nor, to Seller's knowledge, any other party, has installed, operated or maintained any underground storage tanks on or adjacent to the Property, and the Property is not now, and has never been, in violation and is not currently under investigation for the violation of any Environmental Laws. To Seller's knowledge, there is no asbestos or lead paint on the Property. Seller hereby assigns to Purchaser as of the Closing, to the extent assignable, all claims, counterclaims, defenses or actions, whether at common law or pursuant to any other applicable federal or state or other laws, if any, that Seller may have against third parties to the extent relating to the existence of Hazardous Materials in, at, on, under or about the Property.

6.1.8 Access; Possession. The Property has legal and physical access to a publicly-dedicated street or road. Except as reflected in the Lease Documents, there are no leases or tenancies in effect on the Property and possession thereof can and will be delivered to Purchaser upon Closing.

6.1.9 Construction or Other Liens. Seller warrants that, at the time of Closing, no work, labor or materials have been expended, bestowed or placed upon the Property, adjacent thereto or within any existing or proposed assessment district which will remain unpaid at close of escrow or upon which a lien may be filed.

6.1.10 No Option or Right of First Refusal to Acquire Premises. Seller represents that no person or entity has any right of first refusal or option to acquire any interest in the property or any part thereof.

6.1.11 Conduct Pending Full Payment; Covenants.

6.1.11.1 Conduct of Property. Seller hereby agrees that Seller will not modify, cancel, extend or otherwise change in any material manner any of the terms, covenants or conditions of the Property Documents or Lease Documents, nor enter into any additional leases as to the Property without Purchaser's written consent, nor enter into any other agreements having a material effect on the Property without the prior written consent of Purchaser, which Purchaser shall not unreasonably withhold.

6.1.11.2 No Alterations. Seller will not make any material alterations to the Property prior to the Closing.

6.1.11.3 Condition of the Property Through Closing. Seller shall, between the Effective Date and the Closing Date: (i) maintain the Property in substantially the same condition as it was on the Effective Date, with no tree cutting, timber harvesting or altering of the Property in any way, (ii) keep all existing insurance policies affecting the Property in full force and effect, (iii) make all regular payments of interest and principal on any existing financing, (iv) pay all real property taxes and assessments against the Property prior to delinquency, (v) comply with all government regulations, and (vi) keep Purchaser timely advised of any repair or improvement required to keep the Property in substantially the same condition as it was on the Effective Date.

ARTICLE 7 PURCHASER'S REPRESENTATIONS AND WARRANTIES

7.1 Purchaser's Representation and Warranties. Purchaser represents and warrants that, as of the Effective Date, the end of the Contingency Period, and Closing, all of the representations and warranties of Purchaser contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Purchaser's representations and warranties is material to and is being relied upon by Seller and the continuing truth thereof shall constitute a condition precedent to Seller's obligations hereunder. Purchaser represents and warrants to Seller as follows:

7.1.1 Authority. The execution and delivery of this Agreement has been duly authorized and approved by all requisite action of Purchaser, and the consummation of the transactions contemplated hereby will be duly authorized and approved by all requisite action of Purchaser, and no other authorizations or approvals will be necessary in order to enable Purchaser to enter into or to comply with the terms of this Agreement.

7.1.2 Binding Effect of Documents. This Agreement and the other documents to be executed by Purchaser hereunder, upon execution and delivery thereof by Purchaser, will have been duly entered into by Purchaser, and will constitute legal, valid and binding obligations of Purchaser. To Purchaser's actual knowledge, neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement or instrument to which Purchaser is a party or by which it is bound.

ARTICLE 8 PRORATED FEES AND COSTS

8.1 Prorations. Escrow Holder will prorate between the parties, based on the latest information available to Escrow Holder, all taxes, bonds and assessments ("Taxes") for the Property, except as provided in Section 8.2 below. If, after the Closing, either party receives a bill for any Taxes, the parties agree that the Taxes shall be prorated between the parties to the Closing Date. The party receiving the bill for the Taxes shall notify the other party in writing of the amount of such Taxes and the party receiving that notice shall pay its prorated share of such Taxes within thirty (30) days of demand therefore, but not later than ten (10) days prior to delinquency. The parties' obligations under this Section shall survive Closing.

8.2 **Penalties.** Any penalties that would be due as a result of removal of the Property from any tax deferral program shall be charged to Seller as though the Property were removed from such program on the Closing Date. Seller's obligations under this Section shall survive Closing.

8.3 **Seller's Fees and Costs.** Seller shall pay: (i) the costs for the Title Policy; (ii) Seller's recording charges; (iii) one-half of Escrow Holder's escrow fee; and (iv) one-half of any transfer taxes.

8.4 **Purchaser's Fees and Costs.** Purchaser shall pay (i) one-half of the Escrow Holder's escrow fee, (ii) Purchaser's recording charges; (iii) if requested by Purchaser, any extended coverage and endorsements for the Title Policy; and (iv) one-half of any transfer taxes.

8.5 **Other Costs.** Except as otherwise provided in this Agreement, each party shall bear and pay the expense of its own attorneys, accountants and other professionals incurred in negotiating this Agreement.

ARTICLE 9 CLOSING

9.1 **Closing.** Escrow Holder shall close Escrow by (i) recording the Deed; (ii) confirming execution of all documents necessary for Closing; (iii) recording the Easement; and (iv) delivering funds and documents as set forth herein, when and only when all terms and conditions of this Agreement have been met and each of the conditions set forth below have been satisfied:

9.1.1 **Funds and Instruments.** All funds and instruments required pursuant to this Agreement have been delivered to Escrow Holder.

9.1.2 **Satisfaction of Conditions Precedent.** Each of the conditions precedent set forth in the Agreement have been either satisfied or waived.

9.1.3 **Liens and Encumbrances.** All liens and encumbrances required to be paid by Seller have been paid and satisfied at Seller's sole expense, including without limitation any trust deed or mortgage affecting the Property. The Property shall be conveyed free of encumbrances, except for the Permitted Exceptions and those expressly accepted or waived by Purchaser pursuant to the terms of this Agreement.

9.1.4 **Assignment of Lease Documents.** If necessary, Seller shall have executed the Assignment of Leases attached to this Agreement as Exhibit C ("Assignment of Leases").

ARTICLE 10 RECORDATION AND DISTRIBUTION OF FUNDS AND DOCUMENTS

10.1 **Recorded Documents.** Escrow Holder shall cause the County Recorder of Washington County to mail the Deed and the Easement.

10.2 **Conformed Copies.** Escrow Holder shall at Closing deliver to Seller and Purchaser (i) a copy of the Deed, conformed to show recording date, and conformed copies of each document recorded to place title in the condition required by this Agreement, (ii) a copy of each non-recorded document received hereunder by Escrow Holder, and (iii) copies of all documents deposited into Escrow to the parties herein.

10.3 **Payment of Funds at Closing.** Escrow Holder shall deliver at Closing all amounts as set forth in the final, approved closing statement.

10.4 **Original Documents.** Escrow Holder shall at Closing deliver to Purchaser the Original Assignment of Leases.

ARTICLE 11
DEFAULT AND REMEDIES

11.1 **Purchaser's Default.** If Purchaser breaches this Agreement, which breach Purchaser fails to cure within thirty (30) days after receipt of written notice thereof from Seller, Purchaser shall be in default hereunder and Seller is entitled, as Seller's sole and exclusive remedy, to liquidated damages pursuant to this Article. If Escrow fails to close due to Purchaser's default, Purchaser shall pay all Escrow cancellation charges.

11.2 **Seller's Remedies.** In the event of Purchaser's default under this Agreement, the Earnest Money shall be forfeited by Purchaser and retained by Seller as liquidated damages. Such amount has been agreed by the parties to be reasonable compensation and the exclusive remedy for Purchaser's default, since the precise amount of such compensation would be difficult to determine. Seller shall have no right to any other damages, claims or actions against Purchaser. By initialing this provision in the spaces below, Seller and Purchaser each specifically affirm their respective agreement to this liquidated damages provision as Seller's sole and exclusive remedy for Purchaser's default, and agreement that the sum is a reasonable sum.

Purchaser's Initials

Seller's Initials

11.3 **Seller's Default.** If Seller breaches this Agreement, which breach Seller fails to cure within thirty (30) days after receipt of written notice thereof from Purchaser, Seller shall be in default of this Agreement. If Escrow fails to close due to Seller's default, Seller shall pay all Escrow cancellation charges.

11.4 **Purchaser's Remedies.** In the event of Seller's default under this Agreement, Purchaser shall have the right to either (i) terminate this Agreement, and upon such event the Earnest Money shall be immediately refunded to Purchaser, or (ii) seek an action for specific performance in order to enforce Purchaser's rights hereunder. No provision of this Agreement shall be construed as waiving any of Purchaser's rights regarding eminent domain.

ARTICLE 12
ASSIGNMENT

12.1 **Assignment by Purchaser.** Purchaser may not assign or otherwise transfer any of its rights or obligations under this Agreement.

ARTICLE 13
GENERAL PROVISIONS

13.1 **Attorneys Fees.** If any action is instituted between Seller and Purchaser in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs of action, including, without limitation, attorneys' fees and costs as fixed by the court therein.

13.2 **Construction of Agreement.** The agreements contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement.

13.3 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect the validity of any instruments executed by the parties in the form of the exhibits attached to this Agreement.

13.4 **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Oregon.

13.5 **Joint and Several Liability.** If any party consists of more than one person or entity, the liability of each such person or entity signing this Agreement shall be joint and several.

13.6 **Modification.** No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by all signatories hereto.

13.7 **Real Estate Brokerage Commission.** Seller and Purchaser represent and warrant that no real estate agent or broker was involved in negotiating the transaction contemplated herein. In the event any claims for real estate commissions, fees or compensation arise in connection with this transaction, the party so incurring or causing such claims shall indemnify, defend and hold harmless the other party from any loss or damage, including attorneys' fees, that said other party suffers because of said claims. The obligations of the parties in the prior sentence shall survive Closing or the termination of this Agreement.

13.8 **Notice and Payments.** Any notice or document to be given pursuant to this Agreement must be delivered either in person, deposited in the United States mail duly certified or registered, return receipt requested with postage prepaid, by electronic mail, or by Federal Express or other similar overnight delivery service marked for next business day delivery.

Notices shall be effective upon receipt if delivered personally, upon confirmation of receipt if sent by electronic mail, on the next day if sent by overnight courier, or two (2) days after deposit in the mail if mailed. Any party listed below may designate a different address, which shall be substituted for the one specified below, by written notice to the others.

If to Seller: Japanese International Baptist Church
8500 SW Spruce St.
Tigard, OR 97223
Fax: _____

If to Purchaser: City of Tigard
Attn: Marty Wine, City Manager
City Hall
13125 SW Hall Blvd
Tigard, OR 97223
Fax: (503) 684-7297

with a copy to : Jeff Bennett
Jordan Ramis PC
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035
Fax: (503) 598-7373

13.9 **Remedies Cumulative.** Except as specifically set forth herein, all rights and remedies of Purchaser and Seller contained in this Agreement shall be construed and held to be cumulative.

13.10 **Severability.** In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

13.11 **Successors and Assigns.** Subject to limitations expressed in this Agreement, each and all of the covenants and conditions of this Agreement shall inure to the benefit of and shall be binding upon the successors-in-interest, assigns, and representatives of the parties hereto. As used in the foregoing, "successors" shall refer to the parties' interest in the Property and to the successors to all or substantially all of their assets and to their successors by merger or consolidation.

13.12 **Time of the Essence.** Time is of the essence of each and every provision of this Agreement.

13.13 **Legal Representation.** Seller acknowledges that this is a legal document and that Seller has been advised to obtain the advice of legal counsel in connection with its review and execution of this Agreement. Seller covenants that it will not deny the enforceability of this

Agreement on the basis that Seller elects not to obtain legal counsel to review and approve this Agreement.

13.14 **Waiver.** No waiver by Purchaser or Seller of a breach of any of the terms, covenants or conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by Purchaser or Seller hereunder shall be implied from any omission by the other party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by Purchaser or Seller to or of any act by the other party requiring the consent or approval of the first party shall not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar acts by the other party.

13.15 **Negation of Agency and Partnership.** Any agreement by either party to cooperate with the other in connection with any provision of this Agreement shall not be construed as making either party an agent or partner of the other party.

13.16 **Calculation of Time.** All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or such holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or such holiday.

13.17 **Statutory Disclaimer.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

13.18 **Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER

PURCHASER

Japanese International Baptist Church

City of Tigard, an Oregon municipal corporation

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

APPROVED AS TO FORM:

By: _____
City Attorney

- Exhibit A - Property
- Exhibit B – Deed
- Exhibit C – Assignment of Leases
- Exhibit D - Easement

CONSENT OF ESCROW HOLDER

The undersigned Escrow Holder hereby agrees to (i) accept the foregoing Agreement, (ii) be the Escrow Holder under said Agreement, and (iii) be bound by said Agreement in the performance of its duties as Escrow Holder; provided, however, the undersigned shall have no obligations, liability or responsibility under this Consent or otherwise unless and until said Agreement, fully signed by the parties, has been delivered to the undersigned.

DATED: _____, 20__.

By: _____
Name: _____
Title: _____

EXHIBIT A

Real property in the County of Washington , State of Oregon, described as follows:

A tract of land in the Southwest one-quarter of Section 36, Township 1 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington and State of Oregon, being a portion of Parcel III of that tract of land conveyed to Japanese International Baptist Church by Warranty Deed recorded December 16, 1998 as Recording No. 98142256, Washington County Deed Records, and being more particularly described as follows:

Beginning at a 2-inch brass disk marking the Northwest corner of the George Richardson Donation Land Claim No. 55; thence South 00°13'34" West 474.47 feet to the Northwest corner of that tract of land conveyed to Gatehouse LLC as Parcel 2 of Deed Document No. 2006-085868; thence, along the North line of said Gatehouse Tract, South 88°58'05" East 158.33 feet to a found 5/8 inch iron rod at the Northeast corner of said Gatehouse tract and the true point of beginning; thence South 86°36'18" East 158.66 feet to a 5/8 inch iron rod with yellow plastic cap marked "SR Design" set on the Southerly right-of-way line of SW Steve Street at the Northwest corner of Lot 12 of the plat of STEVE & HUGHIE'S PLACE; thence, along the West line of said plat of STEVE & HUGHIE'S PLACE, South 00°11'00" West 374.76 feet to a found 5/8 inch iron rod with yellow plastic cap marked "Marx & Assoc." at the Northeast corner of Tract "A" of the plat of ASH CREEK MEADOWS; thence, along the North line of said plat of ASH CREEK MEADOWS, North 87°51'34" West 158.62 feet to a found 5/8 inch iron rod with yellow plastic cap marked "Marx & Assoc." at the Northwest corner of said plat of ASH CREEK MEADOWS and the East line of said Gatehouse tract; thence, along the East line of said Gatehouse tract, North 00°12'03" East 378.23 feet to the point of beginning.

EXHIBIT B

AFTER RECORDING RETURN TO:

City of Tigard
Attn: City Manager
City Hall
13125 SW Hall Blvd
Tigard OR 97223

UNTIL A CHANGE IS REQUESTED
SEND TAX STATEMENTS TO:

City of Tigard
Attn: City Manager
City Hall
13125 SW Hall Blvd
Tigard OR 97223

This space is reserved for recorder's use.

STATUTORY WARRANTY DEED

Japanese International Baptist Church, Grantor, whose address is 8500 SW Spruce St., Tigard, OR 97223, conveys and warrants to CITY OF TIGARD, an Oregon municipal corporation, Grantee, whose address is 13125 SW Hall Blvd, Tigard, OR 97223 the following described real property free of encumbrances except as specifically set forth herein:

See Exhibit A attached hereto.

The true consideration for this conveyance is Two Hundred Twenty-Five Thousand and No/100 Dollars. This conveyance is made subject to the matters set forth on Exhibit B attached hereto.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO

VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this _____ day of _____, 2013.

Japanese International Baptist Church

By: _____

Name: _____

Its: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2013 by _____ as _____ of the Japanese International Baptist Church.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

ACCEPTED:

GRANTEE

CITY OF TIGARD, an Oregon municipal corporation

By: _____

Name: _____

Its: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2013, by _____ as _____ of the City of Tigard, an Oregon municipal corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

Exhibit A
[to be provided by Escrow Holder]

Exhibit B
[to be provided after review of preliminary report]

Exhibit C
Assignment of Leases

Exhibit D

AFTER RECORDING RETURN TO:

City of Tigard
Attn: City Manager, City Hall
13125 SW Hall Blvd.
Tigard, OR 97223

UNTIL A CHANGE IS REQUESTED
SEND TAX STATEMENTS TO:

City of Tigard
Attn: City Manager, City Hall
13125 SW Hall Blvd.
Tigard, OR 97223

This space provided for recorder's use.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into on the _____ day of _____, 2013 (“Effective Date”) by and between Japanese International Baptist Church, an Oregon nonprofit (“Grantor”) and the City of Tigard an Oregon municipal corporation (“Grantee”).

RECITALS

A. Grantor and Grantee are parties to a Purchase and Sale Agreement executed on or about _____, 2013 (the “Purchase Agreement”) in which Grantee agreed to purchase from Grantor the property described in **Exhibit A**. Grantor is the record owner of the real property located in the City of Tigard, Oregon, described on the attached and incorporated **Exhibit B** (“Grantor’s Property”).

B. Section 5.2 of the Purchase Agreement specifies that the Parties shall execute this Agreement to provide for an easement across Grantor’s Property to allow for bicycle and pedestrian access to Grantee’s property. The purpose of this Easement Agreement is to satisfy the requirements of Section 5.2 of the Purchase Agreement, as it relates to the easement.

C. Grantor agrees to grant and City agrees to accept the easement pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the performance of Grantor and Grantee pursuant to the Purchase Agreement, and of performance of the mutual covenants, agreements, conditions and stipulations contained herein, it is mutually agreed by and between the Parties as follows:

SECTION 1. DEFINITIONS

1.1 **Easement Area.** “Easement Area” shall be that area described and depicted on the attached and incorporated **Exhibit C**.

1.2 **Party or Parties.** “Party” or “Parties” shall mean Grantor and Grantee, together with their successors and permitted assigns.

SECTION 2. EASEMENTS

2.1 **Scope of Easement.** Grantor grants to Grantee an exclusive easement over the Easement Area, which includes the right, privilege, and authority to the Grantee to construct, build, patrol, operate, replace, and maintain thereon permanent pedestrian, and bicycle pathway access, with all appurtenances incident thereto or necessary therewith for the use by Grantee and the public, including such renewals, repairs, replacements, and removals as may from time to time be required. It also includes incidental vehicle access for authorized service vehicles.

2.2 **Consideration.** The Purchase Price, to be paid on the same day as the Effective Date is One Thousand, two hundred fifty and no/100 dollars (\$1,250.00). The Parties contemplate entering into an additional purchase agreement where Grantor would purchase additional property from Grantee, including the Easement Area. The Parties agree that the easement Purchase Price will be applied to any purchase price for any sale from Grantor to Grantee of additional property that includes the Easement Area.

2.3 **Fence.** The Parties agree that, within ninety (90) days of the Effective Date, Grantee shall build a fence along the north boundary of the Steve Street right-of-way as depicted on the attached and incorporated Exhibit D. The fence will be a 6 foot high, chain link fence (“Fence”).

SECTION 3. **LIENS.** Grantee shall keep the Easement Area free from any and all liens arising out of any work performed, materials furnished to or obligations incurred in connection with this Agreement. If a lien is filed, Grantee shall, within thirty (30) days after the date of the imposition of any such lien, pay the lien claim in full, unless it desires to contest any such lien claim, in which case the Party shall, within such thirty (30)-day period and as a condition precedent to its right to so contest, record a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the principal on the bond shall pay the amount of the claim and all costs and attorney fees that are awarded against the land on account of the lien. The bond shall be in such amount as may be required by Oregon law (*see* ORS 87.076(1)) to release the lien from the affected Property.

SECTION 4. **INDEMNIFICATION.** Grantee hereby indemnifies and saves the other Party harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its use of the Easement Area.

SECTION 5. **INSURANCE.** Grantee shall maintain at all times, at its expense, comprehensive public liability insurance and property damage liability insurance in respect of

the Lot with Two Million and No/100 Dollars (\$2,000,000.00) minimum combined single limit coverage, or its equivalent.

SECTION 6. MISCELLANEOUS

6.1 **Severability.** If any provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision, to any other person or circumstance shall not be affected thereby. The remainder of this Agreement shall be given effect as if such invalid or inoperative portion had not been included. It shall not be deemed that any such invalid provision affects the consideration for this Agreement and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

6.2 **Oregon Law.** This Agreement shall be construed in accordance with the laws of the State of Oregon. Venue shall be in Washington County Circuit Court.

6.3 **Notices.** All notices, approvals, consents or requests given or made pursuant to this Agreement shall be (a) upon receipt by personal delivery when written acknowledgment of receipt thereof is given, (b) if given by United States mail, certified mail, return receipt requested, with postage prepaid, two (2) days after it is deposited in the mail, or (c) if given by a nationally recognized overnight carrier prepaid for next business day delivery. Notices shall be addressed as follows until a new address for notices shall be designated by notice in the manner provided in this paragraph to all other Parties:

If to Grantor: Japanese International Baptist Church
800 SW Spruce St.
Tigard, OR 97223
Fax: (_____) ____-____

If to Grantee: City of Tigard
Attn: Marty Wine, City Manager
City Hall
13125 SW Hall Blvd
Tigard, OR 97223
Fax: (503) 684-7297

with a copy to: Jeff Bennett
Jordan Ramis PC
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035
Fax: (503) 598-7373

6.4 **Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

6.5 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto in regard to the subject matter stated herein. The Parties do not rely upon any

statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered by the Parties hereto, or their successors or assigns.

6.6 **Duration.** Unless otherwise canceled or terminated, the easement and rights granted in this Agreement, and the obligations herein, shall continue in perpetuity.

6.7 **Recording.** The fully executed original of this Agreement will be duly recorded in the Deed Records of Washington County.

6.8 **Termination.** In the event Grantee determines this Agreement will no longer serve a public purpose, Grantee may terminate this Easement Agreement by recording a Termination of Easement with the Washington County Recorder.

6.9 **Legal Effect and Assignment.** This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assigns. This Easement Agreement may be enforced by an action at law or in equity.

6.10 **Legal Action/Attorney Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party will be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law.

6.11 **Nonwaiver.** Any failure to enforce any provision of this Agreement will not be deemed a waiver of the right to enforce that provision or any other provision of this Agreement.

6.12 **Severability.** If any provision of this Agreement is found to be void or unenforceable, it is the intent of the Parties that the rest of the Agreement will remain in full force and effect, to the greatest extent allowed by law.

6.13 **Modification.** This Agreement may not be modified unless signed by Grantor and Grantee and the modification is recorded.

6.14 **Runs with the Land.** This Easement Agreement and the rights and obligations contained herein will be perpetual and will run with the land.

6.15 **Time of the Essence.** Time is of the essence in performance of this Agreement.

6.16 **Representations & Authority.** The individual executing this Agreement on behalf of Grantor represents and warrants to Grantee that he/she has the full power and authority to do so on behalf of the Grantor, who is the legal owner of Grantor's Property and to bind said owner to the terms of this Agreement.

[Signature and Acknowledgments Follow on Next Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first written above.

Japanese International Baptist Church

By: _____

Name: _____

Its: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2013 by _____ as _____ of the Japanese International Baptist Church.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

GRANTEE

CITY OF TIGARD, an Oregon municipal corporation

By: _____

Name: _____

Its: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2013, by _____ as _____ of the City of Tigard, an Oregon municipal corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A

Grantor's Property

Real property in the County of Washington , State of Oregon, described as follows:

A tract of land in the Southwest one-quarter of Section 36, Township 1 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington and State of Oregon, being a portion of Parcel III of that tract of land conveyed to Japanese International Baptist Church by Warranty Deed recorded December 16, 1998 as Recording No. 98142256, Washington County Deed Records, and being more particularly described as follows:

Beginning at a 2-inch brass disk marking the Northwest corner of the George Richardson Donation Land Claim No. 55; thence South 00°13'34" West 474.47 feet to the Northwest corner of that tract of land conveyed to Gatehouse LLC as Parcel 2 of Deed Document No. 2006-085868; thence, along the North line of said Gatehouse Tract, South 88°58'05" East 158.33 feet to a found 5/8 inch iron rod at the Northeast corner of said Gatehouse tract and the true point of beginning; thence South 86°36'18" East 158.66 feet to a 5/8 inch iron rod with yellow plastic cap marked "SR Design" set on the Southerly right-of-way line of SW Steve Street at the Northwest corner of Lot 12 of the plat of STEVE & HUGHIE'S PLACE; thence, along the West line of said plat of STEVE & HUGHIE'S PLACE, South 00°11'00" West 374.76 feet to a found 5/8 inch iron rod with yellow plastic cap marked "Marx & Assoc." at the Northeast corner of Tract "A" of the plat of ASH CREEK MEADOWS; thence, along the North line of said plat of ASH CREEK MEADOWS, North 87°51'34" West 158.62 feet to a found 5/8 inch iron rod with yellow plastic cap marked "Marx & Assoc." at the Northwest corner of said plat of ASH CREEK MEADOWS and the East line of said Gatehouse tract; thence, along the East line of said Gatehouse tract, North 00°12'03" East 378.23 feet to the point of beginning.

EXHIBIT B

Description of Grantor's Property

Order No: 192595

LEGAL DESCRIPTION

PARCEL I:

A tract of land in the Southwest quarter of Section 36, Township 1 South, Range 1 West Willamette Meridian, in the County of Washington and State of Oregon, being more particularly described as follows:

BEGINNING at the Northwest corner of the George Richardson Donation Land Claim No. 38 and 55 in Township 1 South, Range 1 West of the Willamette Meridian, running thence East on the North boundary line of said Donation Land Claim 2.40 1/4 chains; thence South parallel with the West boundary line of said Donation Land Claim 7.19 3/4 chains; thence West 2.40 1/4 chains; thence North 7.19 3/4 chains to the place of beginning.

PARCEL II:

The East 85 feet of Block M. METZGER ACRE TRACTS, in the County of Washington and State of Oregon.

PARCEL III:

A tract of land situated in the Northwest one-quarter of the Southwest one-quarter of Section 36, Township 1 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, being more particularly described as follows:

BEGINNING at the Northeast corner of that certain tract of land conveyed to Robert L. Comella, et ux, by deed recorded and described by Recorder's Fee No. 79-29716 Deed Records of said County; said point of beginning bears North 0°11'00" East, 1059.50 feet from the initial point of the duly recorded plat of STEVE & HUGHIE'S PLACE; thence South 0°11'00" West, along the East line of said Comella Tract (and it's Southerly extension), a distance of 581.46 feet to an iron rod and the Southeast corner of the Japanese International Baptist Church Tract as described in deed recorded as Recorder's Fee No. 90027061; thence North 87°53'04" West, parallel with the South line of said Comella Tract, and along the South line of said Japanese International Tract, a distance of 158.64 feet to an iron rod in the Southerly extension of the West line thereof; thence North 0°11'00" East, along said Southerly extension, (and said West line), a distance of 578.18 feet to the Northwest corner of said Comella Tract; thence South 89°05'00" East, along the North line thereof, a distance of 158.56 feet to the point of beginning.

EXHIBIT C

Easement Area

EXHIBIT 'A'

A PORTION OF THOSE LANDS DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 2008-044503. LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON. AS SHOWN ON THE ATTACHED EXHIBIT 'A.1' AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 12 OF THE PLAT "STEVE & HUGHIE'S PLACE", SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF S.W. STEVE STREET (COUNTY ROAD 2386); THENCE ALONG THE NORTH LINE OF PARCEL 3, AS DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 2008-044503, NORTH 86°36'18" WEST, 25.04 FEET; THENCE ALONG A LINE PARALLEL WITH AND 25.00 FEET WESTERLY OF THE WEST LINE OF SAID PLAT "STEVE & HUGHIE'S PLACE", NORTH 00°11'00" EAST, 25.04 FEET; THENCE ALONG A LINE PARALLEL WITH AND 25.00 FEET NORTHERLY OF SAID NORTH LINE, SOUTH 86°36'18" EAST, 25.04 FEET TO A POINT ON SAID WEST LINE; THENCE SOUTH 00°11'00" WEST, 25.04 FEET TO THE POINT OF **BEGINNING**.

CONTAINING 626 SQUARE FEET MORE OR LESS.

PREPARED BY CESNW, INC.

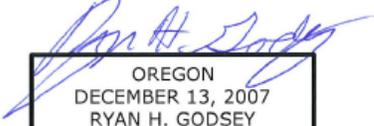


RENEWS: 6/30/13

EXHIBIT 'A.1'

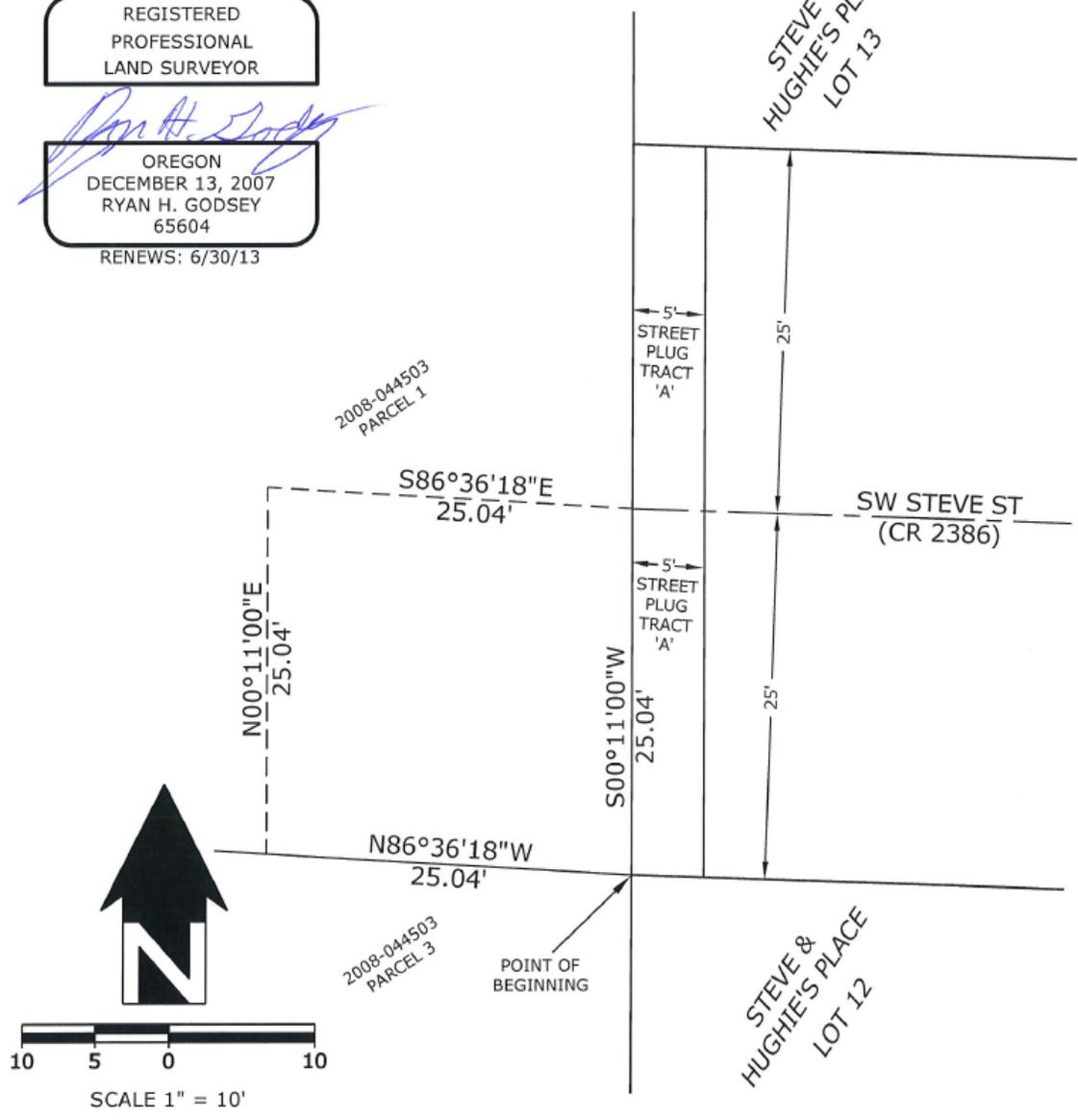
LOCATED IN THE SOUTHWEST 1/4 OF SECTION
36, TOWNSHIP 1 SOUTH, RANGE 1 WEST,
WILLAMETTE MERIDIAN, CITY OF TIGARD,
WASHINGTON COUNTY, OREGON

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
DECEMBER 13, 2007
RYAN H. GODSEY
65604

RENEWS: 6/30/13



SCALE 1" = 10'

CES | NW 13190 SW 68th Parkway, Suite 150
Tigard, Oregon 97223
503.968.6655 www.cesnw.com

DATE
06-05-13

Steve St. (Japanese Baptist Church)



Approx. Scale 1:8,000 - 1 in = 667 ft
Map printed at 09:16 AM on 04-Jan-13

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TIGARD MAPS

City of Tigard
13125 SW Hall Blvd
Tigard, OR 97223
503 639-4171
www.tigard-or.gov





Steve St. (Japanese Baptist Church)



Approx. Scale 1:1,000 - 1 in = 83 ft
Map printed at 09:07 AM on 04-Jan-13

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SUBJECT PROPERTY PHOTOGRAPHS



Looking east along the subject's southern end



Looking north from subject's southern end



Looking north from subject's southern end



Looking north at northern end into adjacent parcel



Looking south at subject



Looking south at subject from adjacent parcel

AIS-1410

7.

Business Meeting

Meeting Date: 09/03/2013

Length (in minutes): 20 Minutes

Agenda Title: Tigard Triangle Strategic Plan Update

Submitted By: Cheryl Caines, Community
Development

Item Type: Update, Discussion, Direct Staff

Meeting Type: Council Business Meeting
- Main

Public Hearing: No

Publication Date:

Information

ISSUE

Update City Council about the Tigard Triangle Strategic Plan.

STAFF RECOMMENDATION / ACTION REQUEST

Receive information about the progress of the Tigard Triangle Strategic Plan.

KEY FACTS AND INFORMATION SUMMARY

Project Update

The project team is currently working on Tasks 1 (Public Involvement/Interagency Coordination) and 2 (Existing Conditions). Attachment 1 provides a brief description of each task from the Tigard Triangle Strategic Plan.

David Evans & Associates, Inc. (DEA) was awarded the contract to develop the Tigard Triangle Strategic Plan. Other plans completed by DEA include the Hayden Island Plan: City of Portland, the Fuller Road Station Area and TOD Strategy: Clackamas County, and the Park Avenue Neighborhood and Station Area Plan: Clackamas County. The consultant, Alex Dupey, will prepare an Existing Conditions report that reviews current city plans, policies and regulations along with existing infrastructure, market conditions and physical features that impact development within the Triangle. Interviews will also be conducted with developers of mixed use projects, brokers and those in the finance field in order to understand what regulations, incentives and densities work best for redevelopment in suburban settings.

In addition, the City has contracted with Jean Lawson Associates (JLA) to facilitate the Citizen Advisory Committee (CAC) meetings, conduct stakeholder interviews, and assist with public information materials, including videos for the project website (www.tigard-or.gov/triangle). Our JLA project manager, Eryn Kehe, is currently conducting the stakeholder interviews and is getting good feedback from these interviews. After all of the interviews are completed, she will put together a summary report. The first CAC meeting will be held in mid to late September to discuss the project background, meeting guidelines, member roles and review of the Existing Conditions Report. The resolution to establish the CAC and appoint members is on tonight's agenda (September 3rd) for Council consideration.

Next City Council Update

The next Council update will be in mid October to present the following work products:

1. Existing Conditions Report and Maps
2. Expert Interview Summary

3. Stakeholder Interview Summary

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2012 City Council Goals

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

2013 citywide priorities are not finalized but key topics include progress on major projects such as the Tigard Triangle, economic development, and community engagement.

DATES OF PREVIOUS COUNCIL CONSIDERATION

The last update was March 19, 2013.

Attachments

Scope of Work Summary

Tigard Triangle Strategic Redevelopment Plan

Statement of Work Summary

Task 1: Public Involvement and Interagency Coordination

Implement a public involvement plan that includes Citizen and Technical Advisory Committee meetings and public open houses that will happen throughout the process.

Task 2: Existing Conditions (October 2013)

Consultant will prepare an existing conditions report that looks at physical conditions, market information, previous planning efforts, current city policies such as Transportation System Plan, Comprehensive Plan, and Community Development Code.

Task 3: Needs/Opportunities/Constraints and Tools Analysis (November 2013)

Analysis of the information gathered in Task 2 to determine opportunities for improved transportation and constraints for redevelopment of the Tigard Triangle. The consultant will identify tools to overcome these constraints (including funding options) and develop criteria to evaluate the land use and transportation options developed in Task 4.

Task 4: Options Development (February 2014)

The consultant will develop land use and transportation redevelopment options for the study area considering objectives, opportunities, constraints and public input.

Task 5: Options Evaluation and Refinement (May 2014)

Evaluation of the land use and transportation options developed in Task 4, including costs for needed infrastructure.

Task 6: Final Preferred Plan and Report (June/July 2014)

The consultant will develop a preferred option, prepare adoptable regulatory implementation measures (zoning designation, development standards, "floating" zoning requirements, site design requirements, street layout and cross sections and development phasing and incentives, etc.) necessary to implement the preferred option, and complete a report that identifies next steps and issues for further refinement.