



City of Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL & LOCAL CONTRACT REVIEW BOARD

MEETING DATE AND TIME: July 8, 2014 - 6:30 p.m. Business Meeting

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

PUBLIC NOTICE:

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

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

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

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

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

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

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:

<http://live.tigard-or.gov>

CABLE VIEWERS: The regular City Council meeting is shown live on Channel 28 at 6:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday 6:00 p.m. Sunday 11:00 a.m.

Friday 10:00 p.m. Monday 6:00 a.m.



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6:30 PM

1. BUSINESS MEETING
 - A. Call to Order
 - B. Roll Call
 - C. Pledge of Allegiance
 - D. Council Communications & Liaison Reports
 - E. Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - A. Follow-up to Previous Citizen Communication
 - B. Tigard Area Chamber of Commerce
 - C. 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: **6:35 pm estimated time**
 - A. APPROVE CITY COUNCIL MINUTES:
 - May 13, 2014 City Council Meeting Minutes
 - May 20, 2014 City Council Meeting Minutes
 - June 17, 2014 City Council Meeting Minutes
 - B. CONSIDER APPROVING WORKERS' COMPENSATION INSURANCE FOR CITY VOLUNTEERS

• 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. DISCUSSION ON INFRASTRUCTURE SYSTEM FINANCING FOR RIVER TERRACE AND CITYWIDE **6:40 p.m. estimated time**
5. APPOINT NEW MEMBERS AND ALTERNATES TO THE PARK AND RECREATION ADVISORY BOARD **7:25 p.m. estimated time**
6. CONSIDER A RESOLUTION DESIGNATING A VERTICAL HOUSING DEVELOPMENT ZONE **7:30 p.m. estimated time**
7. LEGISLATIVE PUBLIC HEARING: CONSIDER AMENDMENTS TO TIGARD MUNICIPAL CODE 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS **7:40 p.m. estimated time**
8. DISCUSSION ON UPCOMING CONTRACTS **7:55 p.m. estimated time**
9. BRIEFING ON AN AGREEMENT WITH WASHINGTON COUNTY FOR TECHNOLOGICAL IMPROVEMENTS TO TRAFFIC SIGNALS ALONG DURHAM AND UPPER BOONES FERRY ROADS **8:05 p.m. estimated time**
10. BRIEFING ON AN AGREEMENT WITH CWS AND BEAVERTON REGARDING THE CONSTRUCTION OF WATER AND SEWER LINES TO SERVE RIVER TERRACE **8:15 p.m. estimated time**
 - EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or 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. **8:25 p.m. estimated time**
11. COUNCIL LIAISON REPORTS **8:40 p.m. estimated time**
12. NON AGENDA ITEMS
13. ADJOURNMENT **8:50 p.m. estimated time**

AIS-1831

3. A.

Business Meeting

Meeting Date: 07/08/2014

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.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

[May 13, 2014 Minutes](#)

[May 20, 2014 City Council Minutes](#)

[June 17, 2014 City Council Minutes](#)



City of Tigard

Tigard City Council Meeting Minutes

May 13, 2014

6:30 PM STUDY SESSION

Council Present: Mayor Cook, Council President Henderson, Councilor Snider and Councilor Woodard (by telephone). Councilor Buehner was absent.

Staff Present: City Manager Wine, Assistant City Manager Newton, Police Chief Orr, Assistant Police Chief de Sully, LOTWP Project Director Koellermeier, Police Business Manager Shaw, Public Contracts Manager Barrett and Deputy City Recorder Krager.

A. DISCUSSION WITH METRO COUNCILOR CRAIG DIRKSEN

Councilor Dirksen said his staff received a list of topics from council and would address them all, but noted that he hoped to learn more about the Vertical Housing Development Zone application from Tigard's council.

- Westside Trail Master Plan – Metro Councilor Dirksen noted that council would be considering approval of this item later in this meeting on their business agenda. He said the trail would create new connections from the Willamette River in south Washington County to the Willamette River below Portland's Forest Park. The master plan is complete and has been approved by King City, Washington County, Multnomah County, Portland and Tualatin Hills Park and Recreation District.

City Manager Wine said council considered the Westside Trail Master Plan at a previous meeting, and questions were raised about whether CPO4B had been consulted and discussion was held on Tigard's board and committee involvement. Since then, both Metro and city staff have worked with the CPO4B Chair and Vice Chair and established that the Vice Chair was on a committee for the Westside Trail and the CPO is supportive of it moving forward. Tigard's Park and Recreation Board (PRAB) met last night and endorsed the plan.

In response to a question from Councilor Snider, Council President Henderson said Councilor Woodard had concerns earlier but is now in favor of this. He said his own question was regarding the lack of PRAB involvement but now he understands that trails were under a previous employee in Community Development, Associate Planner Roberts. City Manager Wine noted that the responsibility for trails was transferred to Public Works. Council President Henderson said the PRAB has accepted future

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responsibility for trail matters and is very excited about the connections this particular trail will bring to the area.

Accessibility concerns related to the elevation and slope of the Power Line Trail were discussed and Council President Henderson noted that there are five trail alternatives that can be used for access, so he was satisfied.

- Status of Climate Smart Communities – Councilor Dirksen reported on a joint JPACT and MPAC meeting where options were examined. He distributed a copy of the report which contains information on each option. He said with Option B, the area will meet state mandated reductions in greenhouse gasses of 24 percent, if money is spent to do all of the adopted plans. The next step is to look at ways to make adjustments in Plan B, doing more in some cases and less in others, to meet the goal in ways that can be more easily funded. Consideration will be given on how to more closely meet the goals of cities and counties in the region. He said the success of the plan is tied to the ability to fund projects at a level that was envisioned when the plan was created in the 1990s. Mayor Cook asked council if they approved the committees taking these plans to Salem and asking questions regarding funding this mandate.

Councilor Dirksen said all JPACT and MPAC members were asked to vote on the options or combinations thereof. The results of the vote are in the materials he provided. These have been added to the packet for this meeting. Mayor Cook said Councilor Buehner will be attending the May 30 meeting and asked that questions or comments be routed to her prior to that meeting. After receiving the responses at the May 30 meeting, Councilor Dirksen will ask his staff to prepare the draft plan. The state requires adoption of a preferred plan by the end of the year.

- Continuation of Construction Excise Tax Program – Councilor Dirksen noted that the current community development grant process expires in 2014. A stakeholder advisory group will review the program, make recommendations for improvement and consider allowing the program to sunset. Councilor Dirksen said there is no question that this tool has been valuable but the Metro Council wants to make sure they do their due diligence. The recommendation received is that it should be extended until 2020. Councilor Snider asked if Councilor Dirksen was in favor of the extension and he replied that he was in favor of it because it is an existing tax and not a new tax.
- SW Corridor – Councilor Dirksen said the majority of the SW Corridor Plan has already been approved, with the exception of the high capacity transit portion. He said they are moving forward to reduce options to a point where the plan can enter the federal program. The Environmental Impact Statement (EIS) is due at the time it enters the federal process. Dozens of options, alignments and ideas were considered with many being removed from consideration due to community feedback or because the technical committee felt they would be difficult or impossible to build. Some concepts the technical group would have preferred to remove from consideration remain because the citizen group appealed to leave them in. This includes the idea of a tunnel from the south waterfront to the Barbur Transit Center, which would have little construction or

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surface traffic impact, but does not support the City of Portland's Barbur Concept Plan. He said the federal process requires examining any viable option so everything must be considered.

Councilor Snider asked if Councilor Dirksen was aware of efforts the Tigard council is making to receive broader community input on what was meant by the passage of the ballot measure passage in Tigard. Mayor Cook mentioned that he updated Councilor Dirksen about the 3X5X10 meetings and Councilor Dirksen also attended a session last week. Councilor Snider said, "We are not hearing anybody so far, that we are interacting with, who is saying that they voted for the measure because they want us to not plan, not participate and they want to kill the project."

- Vertical Housing Development Zone Application

Metro Councilor Dirksen said he understands there are two issues with VHDZ. One is creating the zoning and other is the ability to provide tax credits to people willing to use this in their development zoning and cities need buy-in from the state and from other district taxing authorities. Councilor Snider agreed and said the rationale for this zoning is to promote development that would not happen otherwise. He said the city is looking at it as a tool in the toolbox to assist with redevelopment. Councilor Dirksen said he thought it was a great idea, especially in an area where mixed-use development is desired. City Manager Wine said the city is on course to hold discussions with each of the taxing districts to address any of their concerns prior to moving forward.

- Metro Councilor Dirksen said there will be a Metro charter amendment on the November ballot. This is to revise a provision that says Metro is prohibited from requiring certain densities increases in existing neighborhoods. The current provision will sunset in 2015 unless it is renewed this year. Councilor Snider asked if there was any anticipated opposition and Councilor Dirksen said he knew of none; Metro hears frequently that people want this. He noted that this does not prohibit local jurisdictions from increasing density; it just keeps Metro from requiring it.

Councilor Dirksen offered to bring a more formal presentation to council occasionally so that Tigard viewers can be updated on what is happening at Metro. Council said both the study session discussion and Metro update with PowerPoint were useful.

- B. DISCUSSION OF UPCOMING CONTRACTS – Public Contracts Manager Barrett discussed a contract for the three-year lease of new mobile data computers for police cars. He said it is mandatory to update their mobile data computers to enable police to use the new regional data management system. The total is \$227,919 with a one dollar buyout at the end of the lease to own the equipment. The equipment has a five-year live span. Councilor Snider noted that this is more of a financed purchase than a lease and Mayor Cook said it is a capital versus operating lease and is a financing option for purchase. City Manager Wine said this will be placed on the LCRB agenda on May 27, 2014, and Public Contracts Manager Barrett will present details of this fiscal year's payment, if any.

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In response to a question from Council President Henderson on the benefits of this equipment, Assistant Chief de Sully said the equipment will operate as a fully functioning computer in the police vehicles, enabling report writing, citation writing, access to information and will be a true mobile office. Councilor Snider said police officers being able to write reports while remaining in their districts is valuable. He said spending time driving back and forth to the station to write reports is not the best use of their time. Chief Orr said writing and routing reports via computer will allow better departmental reviews, communication within the region and crime analysis.

- C. BRIEFING ON AN AGREEMENT REGARDING THE CONSTRUCTION OF WATER PARTNERSHIP PROJECTS IN THE CITY OF GLADSTONE – Lake Oswego-Tigard Water Partnership Project Director Koellermeier said this agreement grew out of the process of giving land use approval at the city manager level in the different jurisdictions. The agreement defines who will do what and who will pay for it. Mayor Cook commented that this states that the Water Partnership will pay for the general items but if cities want add-ons they will need to pay for them. He said this will come back to council for approval.

Councilor Woodard had a question on amounts listed on Page A-3, and Mr. Koellermeier responded that the original number was miscalculated so it was increased by the City of Gladstone. Mr. Koellermeier said this item is something they have notified the partnership they no longer want to do, so it will be deducted from the agreement. There were no further questions.

Admin Items:

Town Hall Dates Selected:

Saturday, May 31, 9:30-11:30 a.m., TVF&R Walnut Station Community Room

Tuesday, October 7, 2014 – Time and location to be determined. The CCDA meeting is cancelled.

City Recorder Recruitment Discussion:

City Manager Wine said City Recorder Wheatley was retiring in July and asked council for their input on desired skills and attributes they wanted to see in her replacement for that position. She noted that Mayor Cook will be asked to be on the interview panel.

Councilor Snider said key skills are good communication, organization, the ability to manage the agenda, accurate and timely minutes and also the ability to handle all the non-council responsibilities.

Mayor Cook mentioned elections and supervisory skills.

Council President Henderson mentioned Ms. Wheatley's longevity with the city and her excellent ability to locate documents and provide historical perspective.

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Councilor Woodard said he hoped the records system is coded appropriately so whoever takes this position will also be able to locate documents easily. City Manager Wine said the city has an electronic document management system (Laserfiche) and she could arrange a training for council and “tour” of what is available and how to access it. She noted that many documents are already in electronic form and available through the city’s website.

- EXECUTIVE SESSION – None held.

7:30 PM

1.  BUSINESS MEETING – MAY 13, 2014

- A. At 7:34 p.m. Mayor Cook called the meeting to order
- B. Deputy City Recorder called the roll.

	Present	Absent
Councilor Snider	✓	
Councilor Woodard (participated by phone)	✓	
Mayor Cook	✓	
Councilor Buehner		✓
Council President Henderson	✓	

- C. Mayor Cook asked everyone to join him in the Pledge of Allegiance.
- D. Council Communications & Liaison Reports – Councilor Snider said he had a report to give at the end of the meeting.
- E. Call to Council and Staff for Non-Agenda Items – None

2. CITIZEN COMMUNICATION

- A. Follow-up to Previous Citizen Communication – None
- B. Tigard High School Student Envoy – Associated Student Body President EJ Albaugh presented a report on current activities at Tigard High School. A copy of his report has been added to the packet for this meeting. Spring sports are in full swing. THS thespians presented the play, Guys and Dolls. The prom was held on May 10. Tigard High graduation will be held on June 6, 2014. A distinguished alumni wall was debuted at the high school. Six names were added and Mayor Cook referenced a newspaper article on the alumni honorees.

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Mr. Albaugh introduced next year's Associated Student Body President, Carter Kruse. Mayor Cook welcomed him and gave him a City of Tigard pin.

C. Mayor Cook presented THS Envoy Albaugh with a special resolution expressing council's appreciation for his exemplary service.

D.  Tigard Area Chamber of Commerce – Chamber CEO Debi Mollahan gave a report on Chamber activities including weekly Thursday morning networking which is held at different locations. Young Professional events are held on the first and fourth Tuesdays of each month. The Chamber's annual meeting will be held at the Broadway Rose Theater on June 23, 2014. The Tigard Farmers Market opened last Sunday. New to the market is a specialty basket vendor, and Whole Foods has a presence at the market this year. The Downtown Art Walk runs from June 2-22 and features the work of local artists displayed inside downtown businesses. The Downtown Street Fair date is Saturday, August 16, and Timber Joey is scheduled to be there. In response to a question from Councilor Woodard, Ms. Mollahan said the Shining Stars banquet was a success.

E.  Citizen Communication – Sign up Sheet

Steve Bintliff, 13520 SW 122nd Avenue, Tigard, OR, said he was making a formal complaint on behalf of Tigard First regarding the street widening project on 72nd Avenue and Dartmouth Street, scheduled for consideration later in this meeting. He said they believe by allocating city gas taxes for this project the city is in violation of Tigard Municipal Code which states that gas tax money will be spent according to a priority list determined by the Tigard Transportation Advisory Committee (TTAC). This project was not on the list for this fiscal year and by going ahead with this project the city is depriving neighborhoods of needed improvements. This project is another cave in to WalMart, helping to ensure that the 7,000 additional cars visiting the store each day will find their way into the parking lot with a minimum of inconvenience. Meanwhile, people have to walk in ditches or on roads for lack of sidewalks. He said they are asking the city attorney to investigate the allegations and take corrective action to bring the city into compliance with the code. They are also asking for an audit on how city gas tax funds have been used since this program was implemented. He said they are asking the city council to do their jobs and act in the best interests of the city's tax payers. He said full details of their complaint were sent to each councilor and are also available on their website at Tigardfirst.org. A copy of his testimony has been added to the packet for this meeting.

Mayor Cook acknowledged that the council received this information at 6:00 p.m. and the city attorney will respond to Mr. Bintliff.

 City Manager Wine said the city has not had a chance to review the allegations yet but she had two comments. She said role of the city attorney is to advise and act as counsel to the city, not to conduct audits or investigations of current operations. She said the 72nd Avenue and Dartmouth Street intersection project was approved in the 2011 Capital Improvement Program (CIP) and the process is that if a current project is funded and underway, there is not a separate process under the Tigard Municipal Code for the TTAC to

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prioritize it that year. There is an opportunity for the city to expand an intersection in any event, and it would like to invest in completion of the street project concurrent with Walmart's improvements. She offered to meet with him to discuss historical uses of the gas tax and said she did not think there is anything improper in the way the city is using gas tax funds.



Councilor Snider clarified that once funded in the CIP, a project does not go back through the TTAC prioritization process. He commented that the language in the code may seem unclear and City Manager Wine said it is worthy of review once the concerns raised are understood.



Jim Long, 10730 SW 72nd Avenue, Tigard, OR said he is the Chair of CPO4M which serves Durham, East Tigard and Metzger areas. He spoke on safety issues. He said the city is being remiss in not widening 72nd Avenue between Dartmouth Street and Pacific Highway. He said this is the location where the homeless camp was disbanded recently. He said there are no sidewalks or streetlights and it is extremely dangerous for pedestrians and bicyclists. He noted that Tigard is spending \$1.5 million on improvements to 72nd Avenue south of Dartmouth, but is not spending anything north of Dartmouth.

Mr. Long said 50 residents attended a neighborhood meeting about the armory development now called Oak Street Estates. He noted that the acoustics at the neighborhood meeting were not very good and some people left because they could not hear the developers' responses. He took minutes and provided minutes to Associate Planner Kowacz. He summarized the comments and concerns and said they will be submitting the questions and comments to staff by the May 15, 2014 administrative deadline. A copy of his statement has been added to the packet for this meeting.

3.  Mayor Cook proclaimed May 18-24, 2014, as Emergency Medical Services Week. He read the proclamation and noted that several providers of these services were in the audience. He thanked TVF&R and Metro West for their service to the community.

4. CONSENT AGENDA:

- A. Receive and File:
1. Council Calendar
 2. Council Tentative Agenda for Future Meeting Topics
- B. Approve City Council Minutes for:
- March 11, 2014
 - March 25, 2014
- C. First Quarter Council Goal Update

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- D. Authorize the Mayor to Execute an Agreement with ODOT to include a Water Line Replacement in the Main Street Green Street Project

No items were removed for separate discussion. Councilor Snider moved to approve the consent agenda and Councilor Woodard seconded the motion. The motion passed unanimously.

	Yes	No
Councilor Snider	✓	
Councilor Woodard (by phone)	✓	
Mayor Cook	✓	
Councilor Buehner (absent)		
Council President Henderson	✓	

Mayor Cook announced that the next three agenda items were for consideration by the Local Contract Review Board.

5. AWARD CONTRACT FOR PLANNING, DESIGN AND CONSTRUCTION MANAGEMENT SERVICES FOR EAST TIGARD SEWER PROJECT



Public Contracts Manager Barrett introduced this agenda item and said the project consists of pipe replacement southwest of Hunziker Road and a new alignment that moves a sanitary sewer pipe closer to the edge of a Clean Water Services vegetative corridor. It includes a new main extension south to Wall Street. This contract includes topographic surveying, wetlands and sensitive lands permitting, engineering, design, construction permitting and construction management services. The intermediate qualification based solicitation (IQBS) process was used and two responses were received. The most responsive was from CESNW and staff entered into negotiations with them with a dollar figure of \$130,000. The final price is \$129,160. Funds are appropriated in this year’s budget in the sanitary sewer fund for this project.

LCRB Member Woodard moved to approve the contract and his motion was seconded by LCRB Member Henderson. The motion passed unanimously.

	Yes	No
LCRB Member Snider	✓	
LCRB Member Woodard (by phone)	✓	
LCRB Chair Cook	✓	
LCRB Member Buehner (absent)		
LCRB Member Henderson	✓	

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6. AWARD CONTRACT FOR 72nd AVENUE/DARTMOUTH STREET INTERSECTION & WIDENING PROJECT

 Public Contracts Manager Barrett said 72nd Avenue south of the Dartmouth intersection is a narrow street without sidewalks and bike lanes. The intersection is currently configured as an “all-way stop” which results in traffic congestion, especially during peak commute hours. Adjacent proposed private developments have been conditioned to install a traffic signal at this intersection but these conditions do not include all of the elements necessary to complete the intersection and widen the street. Mr. Barrett said WalMart will be constructing many street improvements but this does not cover all of the work needed to improve that area.

Public Contracts Manager Barrett said this agreement includes contract management, construction management and support, monitoring and inspection, and survey verification and as-built preparation as needed. This was an intermediate QBS process and of the two firms responding, staff recommends awarding the contract to WHPacific. Staff held negotiations and the amount of the contract is \$160,000. This amount is budgeted in the gas tax, city gas tax, TIF (traffic impact fee) and TDT funds.

LCRB Member Henderson asked if this was time sensitive. He said his questions relate to concerns raised earlier by citizens. LCRB Member Snider said he agreed with the question. Mr. Barrett said the city is limited to a 60-day window to award the contract and the bids were opened on March 24, 2014.

 City Engineer Stone commented that good weather provides the best conditions for road construction. He said if the contracts are not awarded tonight the city will be at least two weeks behind in the construction schedule to get these projects done before WalMart opens.

LCRB Chair Cook expressed concerns about impacts to the area if this work is not completed prior to the WalMart opening. LCRB Member Snider asked for clarity in what the city is constructing and why it has chosen to move forward with this tonight. He said he has been critical of WalMart in the past, but understands that the land use approval for their development had many requirements. The city’s choice is to build something now that WalMart was not required to do at the same time they are working on the street. He said he supported this for two reasons: 1) It is cheaper to coordinate construction; and 2) We only disrupt the area for citizens once, not twice.

Engineering Manager McMillan said that as far back as 2007 staff knew that whenever someone developed that property it would trigger the signalization, due to the size of the property and the zoning. Costco put in the first signal but PacTrust is required to do three others. The widening of the intersection was not added to the land use requirements. The widening project had already been designed but was not built. If the signals are installed before the city widens the road, the mast arms and lights will be constructed in the wrong place and will need to be moved, at the city’s expense.

LCRB Member Snider asked how much money would be wasted if everything has to be taken out and redone. City Engineer Stone said all the wiring, signal poles and loops would be junked. A rough estimate on removing the light poles, installation of new bases, poles and mast arms is

\$500,000. LCRB Member Snider commented that it does not even include the disruption and inconvenience to the public. He said he had no further questions and was satisfied with the need for both contracts.



LCRB Member Henderson asked how the project is being funded. City Engineer Stone said in the past the project had gas tax, city gas tax, Transportation Development Tax (TDT), traffic impact fund and utility undergrounding fund dollars, or five separate funding sources. LCRB Member Henderson asked what the amount of city gas tax is being used for the project.

City Manager Wine read Tigard Municipal Code Section 3.165.270.3 which states that all funds collected pursuant to this chapter (City Gas Tax) shall be maintained in the Tigard city gas tax fund until such time as the Transportation Advisory Committee designates a priority project for the use of such funds. She said each year the TTAC creates a priority list of projects as part of the budget process. Councilor Snider asked if TTAC prioritized this project in 2010-11 and City Manager Wine said it was designated as a priority project in 2011 for the 2012 fiscal year and became a funded project at that point.

LCRB Member Henderson said he would like to pause for consideration on this issue due to concerns raised earlier. City Manager Wine highlighted issues with delaying the contract because the WalMart development traffic impacts are significant enough to warrant the signalization. She said if the project is delayed, there is no leverage to ask WalMart to delay its opening and the traffic impacts will occur without the benefit of having these projects completed.

LCRB Member Woodard commented that this is a lot of money. He said he would prefer using city gas taxes to put in sidewalks on the north end of 72nd Avenue. He suggested trying to negotiate with WalMart for more funding if possible, to help with construction. He said the city should look at preserving the city gas tax and designate it for specific projects. He mentioned that the TTAC prioritized this in 2010-11, long before WalMart, and the city had to be ready for whatever development came in. He said, "This was our "skin in the game" at that point." He said he did not like it, but a commitment was made. City Manager Wine said the developer has no obligation to meet a such a request.

Chair Cook said there are two more corners that are undeveloped. Engineering Manager McMillan said some property owners have conditions and have worked with the city on obtaining right of way for the signal poles. She said this project puts sidewalks along the Martin properties and the bank-owned property up into the retail property. LCRB Member Snider asked about recouping city investment in the signalization from other area property owners. Ms. McMillan replied that there is a reimbursement district for the signal fund on 68th and 72nd Avenues but only one-quarter of what is necessary has been captured.

LCRB Member Woodard asked for the linear foot measurement of sidewalk needed to connect Pacific Highway with 72nd Avenue. Engineering Manager McMillan estimated it was one-half mile. He asked if this additional sidewalk could be a topic of discussion with WalMart, and though they have committed a lot of money already to this area, thought it worth a try to ask for help constructing this last half-mile of sidewalk. LCRB Chair Cook said the sidewalk is listed in the future Transportation System Plan but they could approach WalMart about it.

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LCRB Member Snider moved for approval of awarding the contract for the 72nd Avenue and Dartmouth Street intersection and widening project. LCRB Member Woodard seconded the motion. LCRB Chair Cook announced that the motion passed unanimously.

	Yes	No
LCRB Member Snider	✓	
LCRB Member Woodard (by phone)	✓	
Chair Cook	✓	
LCRB Member Buehner (absent)		
LCRB Member Henderson	✓	

7. AWARD CONTRACT FOR 72nd AVENUE/DARTMOUTH STREET INTERSECTION IMPROVEMENTS

LCRB Member Henderson asked if any other funds, including the general fund, could be used for this project. City Manager Wine said the city attempts to leverage every dollar and constantly balances the use of city and state gas taxes to maximize the amount of money available for transportation priorities. She asked Finance and Information Services Director LaFrance to respond to LCRB Member Henderson’s question.

 Finance and Information Services Director LaFrance addressed other funding sources and said the general fund is currently in a stable state, but taking a large one-time expenditure for an expensive project might jeopardize that stability. He said Tigard has a few different funds for transportation funding. The TIF fund has been replaced by the Transportation Development Tax, paid by developers to increase road capacity. Remaining TIF funds will be used up with the approved CIP in the next year. The state and county gas taxes are maximized by paying for the street maintenance crew and street light and signal electric bills. Gas taxes also help pay for a portion of the Hall Boulevard/Pacific Highway intersection bond. The city gas tax was originally put in place for the Greenburg Road/Pacific Highway/Main Street intersection. Senate Bill 2001 had a quirk in its language that said cities cannot change their local gas tax ordinances. Tigard’s gas tax language included a change which paying off the intersection would have triggered. Council elected to remove the sunset provision and added language requiring TTAC designation and recommendation of projects eligible for city gas tax funding. As part of the budget process staff asked TTAC to designate the 72nd Avenue/Dartmouth Street project for \$1 million of the accumulated fund balance. The TTAC unanimously approved this designation.

LCRB Member Snider commented that there is not a lot of money in the general fund not spent on the library and police departments and he asked LCRB Member Henderson what he thought could be used for this project. LCRB Member Henderson said he appreciated Mr. LaFrance’s clarification and thought it was a good explanation for the public to hear.

LCRB Member Snider moved for approval of the contract award and LCRB Member Woodard seconded the motion. Chair Cook announced that the motion passed unanimously.

	Yes	No
LCRB Member Snider	✓	
LCRB Member Woodard (by phone)	✓	
Chair Cook	✓	
LCRB Member Buehner (absent)		
LCRB Member Henderson	✓	

8. CONSIDER ORDINANCE TO REVISE TMC 11.08 ALARM SYSTEMS

 Chief Orr and Confidential Executive Assistant Jewett were present to discuss proposed changes to Tigard Municipal Code Section 11.08 Alarm Systems. Chief Orr said changes include a new title, formatting for easier readability, updated definitions and the addition of two new sections. The first new section covers enhanced call verification, requiring an alarm company to make two phone calls before police are dispatched. The other new section covers protective sweeps. A homeowner will be able to sign a form granting police permission to enter into their home through an open door and inspect the area when responding to an alarm. If they have not signed the form, police responding to an alarm call would secure the door, but could not go inside. This is based on a court of appeals ruling regarding a case in Lake Oswego.

Councilor Snider asked if the police will leave an open door if there is no signed form. Chief Orr said they would secure the door in that situation but would not enter.

Mayor Cook gave a scenario where the second phone call is a great addition and will prevent false alarms. Police Chief Orr said it will be a requirement of the alarm company to make the two phone calls.

Councilor Woodard asked if the boarding up of an unsecured door should be detailed in the code or an administrative rule. Chief Orr responded that police responding to an alarm where there is no waiver, will secure an open or damaged door but not enter. If there is a signed waiver, police will enter the premises and make sure there is no one inside. He confirmed that this is part of their procedure and did not require further clarification in the code or in an administrative rule.

Councilor Woodard moved for adoption of Ordinance No. 14-09. Council President Henderson seconded the motion. Deputy City Recorder Krager read the number and title of the ordinance.

ORDINANCE NO. 14-09 - AN ORDINANCE AMENDING CHAPTER 11.08 OF THE TIGARD MUNICIPAL CODE BURGLARY AND ROBBERY ALARM SYSTEMS TO RENAME THIS CHAPTER AS “ALARM SYSTEMS” WITH UPDATED DEFINITIONS AND ADDITIONAL LANGUAGE

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A roll call vote was taken and the motion passed unanimously.

	Yes	No
Councilor Snider	✓	
Councilor Woodard (by phone)	✓	
Mayor Cook	✓	
Councilor Buehner (absent)		
Council President Henderson	✓	

9. ADOPT ORDINANCE ADOPTING TVF&R FIRE CODE ORDINANCE NO. 14-01

 Building Official Van Domelen was present with TVF&R Fire Marshall Forster and TVF&R Deputy Fire Marshall Wolff. He said state law requires cities to adopt new fire code ordinances when the state code changes. This ordinance adopts the Tualatin Valley Fire & Rescue Ordinance No. 14-01, which adopted the most recent edition of the Oregon Fire Code and allows TVF&R to provide fire prevention and firefighting services to the City of Tigard. He said this was last considered in 2010. There is a movement in Oregon to move to a six-year period for code changes, so there may be a longer cycle with mid-term amendments.

In response to a question from Council President Henderson, Fire Marshall Forster said both the fire district and the city adopt the same fire code and the city building department oversees building permits. The ordinance clarifies authority and the city's building and official retains authority over all aspects of building construction with two exceptions - fire department access and firefighting water supplies. The fire marshalls perform maintenance inspections based on risk, hazard and incident history. Low risk occupancy buildings, such as offices do not require regular inspections but places where people assemble to meet, live or eat are inspected more frequently. There are no fees to the business community for inspections.

Building Official Van Domelen said the city's building department has the authority to enforce the fire code up until the certificate of occupancy is issued. He said the city's liaison is Deputy Fire Marshall Wolff and he attends pre-application conferences and consults with building division on other issues.

Council President Henderson described a scenario of an assisted living center with blocked egress and asked how this would be resolved. TVF&R Fire Marshall Forster said inspections generally go well, but there are legal avenues if compliance is not reached. He said they frequently work with city or county code enforcement personnel on these types of issues. Councilor Snider commented that the level of integration between the city and TVF&R is higher than he realized.

TVF&R Fire Marshall Forster said TVF&R has a good relationship with Tigard's Building Division and Building Official Van Domelen. He said there is an integrated approach and they appreciate the help they receive at the policy and staff levels.

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Councilor Snider moved for adoption of Ordinance No. 14-10. Council President Henderson seconded the motion. Deputy City Recorder Krager read the number and title of the ordinance.

ORDINANCE NO. 14-10 - AN ORDINANCE ADOPTING TUALATIN VALLEY FIRE & RESCUE ORDINANCE NO. 14-01 ADOPTING THE 2014 OREGON FIRE CODE AND REPEALING CITY OF TIGARD ORDINANCE NO. 10-14

A roll-call vote of council was taken and the motion passed by a unanimous vote of Council members present.

	Yes	No
Councilor Snider	✓	
Councilor Woodard (by phone)	✓	
Mayor Cook	✓	
Councilor Buehner (absent)		
Council President Henderson	✓	

10. ADOPT A RESOLUTION APPROVING THE WESTSIDE TRAIL MASTER PLAN AND ADDING THAT PLAN TO THE TIGARD GREENWAYS TRAIL SYSTEM MASTER PLAN

Parks and Facilities Manager Martin, Metro Project Manager Spurlock and Stakeholder Committee Member Doug Vorwaller attended to discuss the Westside Trail Master Plan. Mayor Cook commented that Mr. Vorwaller also acts as a photographer for the city.

Councilor Woodard said the committee has done a good job and it was a matter for him of being advised about what happened historically with trail oversight. He said it was a great plan and he had no further concerns. Mayor Cook commented that this was originally vetted by the TTAC Bike/Pedestrian subcommittee and council recommended adding another citizen advisory group to be involved in the future. Councilor Woodard thanked everyone for their work on this trail and asked them to remember the value of cross-pollination between committees

Council President Henderson moved for approval of Resolution No. 14-22. Councilor Woodard seconded the motion and all voted in favor.

	Yes	No
Councilor Snider	✓	
Councilor Woodard (by phone)	✓	
Mayor Cook	✓	
Councilor Buehner (absent)		
Council President Henderson	✓	

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11. RECEIVE UPDATE ON TIGARD TRIANGLE STRATEGIC PLAN

Mayor Cook announced that due to the late hour, staff has been advised that this item is postponed to a future council meeting.

12. COUNCIL LIAISON REPORTS Councilor Snider provided an update on the Lake Oswego/Tigard Water Partnership construction. The oversight group met and heard that everything is progressing well including the situation at the intake pump station. The coffer dam will be decommissioned sooner than expected. Pipeline bids for the horizontal-directional drilling (HDD) will allow the partnership to move ahead as originally planned. There will be additional impacts and permitting required to put the pipe around Lake Oswego.

Councilor Snider noted that discussions were held on impacts to West Linn neighbors, which continue to be a topic. The oversight committee asked staff to prepare a mitigation plan with methods to minimize the amount of disruption. Construction of the pipelines, river intake pump stations and the water treatment plant are all on schedule. The project is on time and on budget. In response to a question from Council President Henderson regarding the coffer dam, Councilor Snider said they had not planned to decommission until it started to fail. Nothing was damaged and it had no impact on construction.

13. NON AGENDA ITEMS – None.

14. EXECUTIVE SESSION – None.

15. ADJOURNMENT – At 9:17 p.m. Councilor Snider moved for adjournment. The motion was seconded by Council President Henderson and passed unanimously.

	Yes	No
Councilor Snider	✓	
Councilor Woodard (by phone)	✓	
Mayor Cook	✓	
Councilor Buehner (absent)		
Council President Henderson	✓	

Carol A. Krager, Deputy City Recorder

Attest:

John L. Cook, Mayor

Date

TIGARD CITY COUNCIL MEETING MINUTES– May 13, 2014



City of Tigard
Tigard City Council Meeting Minutes
May 20, 2014

1. WORKSHOP MEETING

A.  Mayor Cook called the City Council meeting to order at 6:31 p.m.

B. City Recorder Wheatley called roll:

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

C. Mayor Cook led the Pledge of Allegiance.

D. Mayor Cook asked Council for any Communications & Liaison Reports

 Councilor Buehner reported she attended an Intergovernmental Water Board meeting last week. Two new members of the IWB were present so there was discussion about how the system works and some training information regarding budgeting. Additional training will be made available to new members of the board.

 Councilor Buehner advised she is a member of the League of Oregon Cities (LOC) Transportation Committee. Policy committees meet in the spring before the legislative session to recommend legislative priorities to LOC. She explained how priorities are established with input from member cities. Councilor Buehner will make the policy report available to council when it is ready. There is a shortage of funding at the federal level. The federal transportation trust fund will run out of money between July and September. This means that projects will stop. Funding will consist only of remaining gas tax dollars. ODOT has been proactive through their actions so they will have enough money available to finish projects they have started. ODOT is very concerned about getting a new transportation bill passed at the federal level.

Mayor Cook noted the federal transportation situation means a delay for some of the grants anticipated.

Councilor Buehner noted a priority of the LOC Transportation Committee was for highway funding/policy. The committee was held back somewhat because the Governor is working

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on his transportation tax proposal to take to the legislature next year. The Committee does not want to see rules changed on how transportation dollars are distributed to the state, counties and cities. The Committee called for a review of rate increases for areas such as city gas taxes and license fees. There has been discussion of whether there should be an inflation factor attached to gas taxes. The Committee would like to see the VMT program expanded which is a tax based on mileage rather than gasoline consumption.

The Committee wants to take a look at continuing funding for the Connect Oregon program.

 Council President Henderson attended the Willamette River Water Coalition (WRWC) last week along with Councilor Buehner. Next week they will discuss the future direction of the WRWC. Wilsonville, Beaverton and Hillsboro will be joining the WRWC.



2. RIVER TERRACE FINANCE STRATEGIES UPDATE

Councilor Buehner advised she has clients in the River Terrace area. She recused herself from participating in this discussion and left the meeting.



- Finance and Information Services Director LaFrance introduced the staff and consultant team working on the River Terrace Community Plan:
 - Brian Ginter and Brian Casey from Murray Smith and Associates (MSA)
 - Susan Shanks, City of Tigard Senior Planner
 - Todd Chase, consultant to review financing strategies.
 - Debbie Smith-Wagar, City of Tigard Asst. Finance and Information Services Director

 Finance and Information Services Department Director LaFrance advised council this is the first of a series of monthly meetings to review the River Terrace project. The purpose of tonight's discussion is to talk about the water and sewer portion of the infrastructure for this area, including amendments to the Water and Sewer Master Plans.

-  Senior Planner Shanks distributed a schedule, "River Terrace Adoption Process (Draft), 5/20/14" and reviewed the upcoming meetings planned for updates to the City Council. She reviewed the process established to receive public comments including those from stakeholders. Two sets of comments were received for tonight's briefing:
 - A consultant associated with a developer who is a member of the stakeholder working group commented on the water and sewer plans. He commented on allowing temporary pump stations (sewer plan). Senior Planner Shanks said this is a policy decision that Clean Water Services would make and would not be included in Tigard's Master Plan. She will communicate this to the person who offered the

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comment. The second comment on the Water Master Plan was more about implementation and she will communicate this to the commenter.

- Clean Water Services commented on the Sewer Master Plan. Brian Casey of MSW will be going over these comments with the City Council to discuss how these might change the Master Plan in a slight way.
- At a future meeting, after the briefings and council questions are satisfied, council will be asked to approve amendments to the master plans by resolution.

Water System Master Plan Addendum

- Brian Ginter of MSA reviewed the Water System Master Plan Addendum:
 - The 2010 City Water System Master Plan considered the River Terrace community area (West Bull Mountain concept plan area); however, it did not include an evaluation of specific water system infrastructure that would be needed. The addendum before the City Council addresses how to serve the River Terrace customers.
 - He reviewed the basis for planning, which is to estimate how much water customers would be using on the hottest day in the summer. This area is estimated to need about 1.4 million gallons per day (mgd) on a peak day; this is a little more than 10 percent of the amount of water used by existing city customers on a peak day.
 - Using the basis, they looked at water supply, pressure zones, storage needs and transmission needs.
 - The partnership with Lake Oswego addresses the water supply needs for the long term.
 - Pressure zones and how they function were reviewed. The city is divided into three major pressure zones: 410 Zone, 550 Zone and 713 Zone. All three zones extend into the River Terrace area, so there is a need for infrastructure in each zone.
 - Storage is provided for three purposes – operational, fire suppression and emergency. There is adequate storage now for the 410 and 713 Zones in River Terrace. There is need for additional storage in the 550 Zone.

 Councilor Snider inquired about the issues for the 550 Zone. Mr. Ginter confirmed that this zone could be served with water from the 713 Zone and a number of the locations in the 550 Zone will be served from the 713 Zone. Mr. Ginter advised River Terrace has a very small area in the 713 Zone (about 10 percent). The River Terrace 550 Zone is about 50 percent of the area.

 Discussion followed about the economics of building water infrastructure to closely match the elevation of the area. The big issue is a lot of energy is expended to pump water to a higher elevation.

 Mr. Ginter reviewed the alternatives for the 550 Zone. The recommendation is for Alternative 2 – construct 550 pump station and reservoir to deliver water from

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existing 410 Menlor Reservoir and connect River Terrace transmission piping to existing 550 Zone transmission.

 Mr. Ginter reviewed the improvements needed for the three zones.

 Mr. Ginter reviewed estimated improvement costs:

- 410 Zone - \$7.6 million (two piping improvements and a pressure reducing valve).
- 550 Zone - \$10 million (pump station, reservoir and transmission piping). This will also benefit existing city customers.

Mayor Cook asked about the phasing on infrastructure improvements based on where development will start. The assumption is the north area of River Terrace will start first. Most of the 550 Zone is southerly. Mr. Ginter said there are existing connections and piping to the 550 Zone. In the short-term, it is possible to make connections and continue to serve the same way as is done now for existing 550 Zone customers. As the area starts to develop more (especially the school property), there will be a need for the additional storage and pump station.

 Mr. Ginter confirmed for Councilor Woodard that the 550 Zone is the Cach property. There is no existing water infrastructure on that property. For the foreseeable future, the 550 Zone would be served by the Cach Reservoir. The rest of the 550 Zone would be served by the Price reservoir.

Sewer System Master Plan Addendum

- Brian Casey of MSA reviewed the Sanitary Sewer System Master Plan Addendum:
 - He referred to Figure 4 in the addendum taking advantage of gravity flow to minimize operational issues. The area is broken into River Terrace North and River Terrace South.
 - It is recommended that the River Terrace Community be divided along SW Bull Mountain Road (Alternative 1) since the average pipe depth and lengths are more practical compared to the depth and lengths from Alternative 2.
 - He reviewed Figure 5, River Terrace North Sub-Basin Sewer Service, citing topography and natural drainage to the west and south. All of the city's sewer services need to send flow to Clean Water Services. The available trunks that Clean Water Services has are on the north end of Bull Mountain. Along the south end, there are no facilities going up and over the hill. A pump station will be needed at the low points. The pump station is a regional facility and will not serve just the City of Tigard. Most of the flow will come from the South Cooper Mountain development area (9 mgd). Major trunk lines are identified on Figure 5. A small pump station will also be located in the South Cooper Mountain area.

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- He reviewed Figure 6, River Terrace South Sub-Areas. The topography is such that it is more challenging for a gravity system. This area is broken into several sub-areas. He described how these systems would work by maximizing the use of existing infrastructure. In response to a question from Council President Henderson, Mr. Casey said gravity structures will be built as development occurs.
- He reported that pump stations are affected by land use laws. Above-ground stations would alter the land-use category; therefore (as shown on Figure 9) in the southwest corner of Urban Reserve Area 6C (South) a proposed pump station is shown in an area that is currently zoned for exclusive farm use. They have been successful in obtaining permits for pipelines across these areas because the land can still be used for farming. In response to a question from Mayor Cook, Mr. Casey said the city would want to make sure the gravity sewers are at a proper depth so flow could be sent to the south to avoid needing a pump station.
- Discussion followed on the design of the system and how to size the system for build-out flows.
- Comments were received from Clean Water Services (CWS):
 - Additional checking is required on an existing 8-inch line, which is inadequate and might have to be an addition to the project.
 - All comments will be reviewed with city staff to determine the comments that will need to be addressed and incorporated into the addendum. The addendum is for the city's use and does not require approval by CWS; however, the city will make every effort to coordinate with CWS and will continue to work with them.
- Senior Planner Shanks said two things will change before the council is asked to approve the addendum:
 - Addition of a project.
 - Size of one of the pump stations.
- Councilor Snider said when it comes time to consider shared facilities, he will have questions about how South Cooper Mountain will be contributing towards the costs.

Water and Sewer Financing Strategy

-  Todd Chase of FCS Group presented information on water and sewer infrastructure financing.
 - His firm has been working on an independent review of the city's enterprise funds for water and sewer.
 - Water – the city has already been working hard on the potential funding required to build all of the projects associated with the Lake Oswego/Tigard Water Partnership. Rates have been designed appropriately in advance of the bond issues that are going to be required. Because of the way the water rates are structured that when accompanied by the connection and SDC fees, the

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water fund should be in good shape to take on the additional capacity of the bond proceeds. SDC fund balances should be experienced in the next few years that would allow the city to be proactive in investing in trunk line improvements in River Terrace. Developments can take a long time to “get going” and occur in different sections. There is some capacity available to handle some growth; however, the city will need to move forward on the design and construction of the new reservoir and the pressure reducing valve. He mentioned other components of the system that will need to be constructed. Some of the infrastructure cannot be constructed until it is known where development will occur. He spoke to developers advancing payment for some of the infrastructure; this upfront expenditure could be offset with SDC fee credits.

-  Sewer – with or without the River Terrace development, the city has significant capital improvement projects (\$8.5 million) over the next five years. The operating and maintenance requirements for the sewer system are increasing. The city maintains about 167 miles of sanitary sewer lines that require periodic inspections. The sewer fund is projected to shrink and could have a negative fund balance by fiscal year 2017/18. The city needs to consider a local sewer surcharge that many Washington County cities have.

Finance and Information Services Department Director LaFrance confirmed for Councilor Snider that the sewer fund situation has been reviewed by Tigard’s Budget Committee and the city is already working on addressing it.

- River Terrace development will not affect fund balances significantly. SDCs are virtually nil; sewer connection fees are nominal. The good news is that Clean Water Services would be taking on the majority of the investments for the pump stations and the pressure main lines that connect to them. The only other cost to the city would be the gravity mains that feed into those trunk lines. Those tend to be provided by the developers and are eligible for SDC credits.

In response to a question from Councilor Snider, Asst. Finance and Information Services Director Smith-Wagar advised she has talked extensively to Clean Water Services about their plans to keep pace with the area’s sewer needs. CWS has the north River Terrace pump station on their capital improvement project list. This station is currently in the design stage. The south pump station will be included in the CWS CIP list. CWS has participated in the planning meetings for the River Terrace area.

Finance and Information Services Department Director LaFrance noted council directed, at a January 2014 meeting, the focus should be on what will be needed for the first five years. The list of facilities in the master plan addendum represents what will be needed in the first five years and whether or not financing has been identified. When financing strategies are discussed later this

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year, five-year needs will be discussed as well as River Terrace as wholly developed.

Senior Planner Shanks referred to Tables 11 and 12 listing total cost estimates. Not all of the \$16 million (approximate) of costs for sewer service will be borne by the City of Tigard. The financing strategy to be discussed later will identify projects and costs that will be the city's responsibility.

 Discussion followed about the planning and coordination activities to date among all stakeholders, including CWS.

 Senior Planner Shanks referred to the one-page funding analysis summaries. She asked council members if this level of information is adequate. Mayor Cook said the summaries give the essential information contained in the larger master plan addendum documents. Councilor Snider suggested placing this summary information in front of the master plan addendums.

3. COUNCIL LIAISON REPORTS: None.
4. NON AGENDA ITEMS: None.
5. EXECUTIVE SESSION: Not held.
6. ADJOURNMENT – 7:39 p.m.

 Motion by Councilor Snider, 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	Absent
Councilor Snider	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – MAY 20, 2014



City of Tigard Tigard City Council Meeting Minutes June 17, 2014

1. WORKSHOP MEETING

A. Mayor Cook called the City Council meeting to order at 6:33 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. Mayor Cook led the Pledge of Allegiance.

D. Mayor Cook asked Council for Communications & Liaison Reports to be heard as Agenda Item 7.  None.

E. Mayor Cook to ask Council and Staff for any Non-Agenda Items to be heard as Agenda Item 8. City Manager Wine advised she have a report on non-agenda items.

2. BRIEFING ON CAPITAL IMPROVEMENT (CIP) PROJECTS

 City Engineer Stone presented the information for this agenda item.

A chart showing the status of the CIP projects is on file with the agenda item summary for this agenda item.

Council held discussion on the phasing of projects, some of which were allocated among more than one fiscal year.

During review of the parks CIP projects, Financial and Information Technology Director LaFrance confirmed that all of the parks bond funding will be allocated to projects.

City Manager Wine reported that Tigard is not on the list for funding for any project under the Connect Oregon grant program.

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3. RIVER TERRACE PARKS AND TRANSPORTATION MASTER PLAN ADDENDA AND FINANCING STRATEGIES

Financial and Information Technology Director LaFrance introduced this agenda item. Present to give support and input on the discussion were Senior Transportation Planner Gray, River Terrace Project Manager Shanks, Parks and Streets Manager Martin, City Engineer Stone, Todd Chase with FCS Group, Assistant Financial and Information Services Director Smith-Wagar.

River Terrace Project Manager Shanks distributed a copy of the project schedule entitled “River Terrace Community Action Plan – Adoption Process.” She reviewed the schedule.

The transportation plan will need to go through a legislative hearing process and will be conducted when the River Terrace Community Plan is presented as a whole in a legislative hearing process. The parks plan, mostly because of trail connections, is integral to the transportation plan so this plan will also be considered by the council when the hearing is held on the entire community plan.



Parks and Streets Manager Martin reviewed elements of the parks plan. In 2009, the council adopted the Tigard Parks System Master Plan and after that the West Bull Mountain Concept Plan was drawn up. The proposed parks plan is similar to the West Bull Mountain Concept Plan. Major differences include a reduction of the large green way along Roy Roger Road primarily because the River Terrace Trail is now a larger, more important trail traversing through the middle of the River Terrace area. Park properties are in a designated area; however, specific properties for parks have not been identified. This plan was presented to the Parks and Recreation Advisory Board (PRAB) on May 12 and the board was agreeable to the plan. Parks and Streets Manager Martin reviewed a few key elements of the plan. Two large community and six neighborhood parks are planned. A lot of open space is also planned that is not counted in the park acreage.

Council discussion followed on the elements of the park plan including plans for trail connections.



River Terrace Project Manager Shanks reviewed that the transportation planning documents were created similarly to the plans formed for the water and sewer plans. Eventually River Terrace transportation plan information will augment Tigard’s Transportation System Plan. River Terrace Project Manager Shanks distributed a June 17, 2014, memorandum from her to the City Council. This memo summarized the public involvement activities and the input received from the stakeholder working group, the technical advisory committee, Tigard Transportation Committee, Parks and Recreation Advisory Board and community comments received by email. Community input centered on two topics:

- Signal at the new Scholls Ferry Road and River Terrace Boulevard intersection – with most comments siding in favor of its installation.
- Luke Lane street extension – most of the residents who live on Luke Lane are opposed to the future extension of the street (see June 17, 2014 memo for a summary and the document

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entitled, “Draft River Terrace Transportation System Plan, Public Comment Period June 2-16”).

Council discussed the transportation planning and consideration given to infrastructure needs and impacts to Bull Mountain as a collector street (county designation).

 Financial and Information Technology Director LaFrance introduced Consultant Chase who reviewed the preliminary funding analysis for River Terrace’s parks and transportation plans. (See tables included with the staff report entitled, “Preliminary Funding Analysis” (Parks) and “Preliminary Funding Analysis” (Transportation). Key points included:

- Parks
 - The city’s general fund is the primary source for parks funding other than the voter-approved bond that occurred a few years ago.
 - Tigard only has about \$800,000 in undedicated funds available for new parks development through the year 2020. The anticipated costs for park development in the River Terrace area are about \$20 million.
 - Funding strategies include:
 - Revisiting system development charges (SDCs) for parks. The council could consider sub-district parks SDC for the River Terrace.
 - Parks utility fee (amount offered for consideration was \$5.50 – \$6 per month per utility account).
 - Leverage grants.
 - A service district charge (local and through the county), which could be presented for approval by the voters of River Terrace.
 - Dedication of land for neighborhood parks by developers.
- Transportation
 - The city is fortunate in that it has some local funding sources for transportation that some cities do not: i.e., local city gas tax fund, county transportation system development tax (TDT).
 - There is an un-programmed \$1.5 million dollars available by fiscal year 2020/21, but these funds will also be needed to address citywide needs.
 - River Terrace calls for about \$68 million in collector and arterial facilities.
 - Additional funding sources could include:
 - Supplemental SDCs (similar to North Bethany).
 - Formation of an urban renewal district in the River Terrace area.
 - Formation of a service district (as recommended for the parks funding above).
 - Seek voter-approval of a larger transportation project for something like a “River Terrace Boulevard.”
 - Know there might be other options to pursue in the future; i.e., potential urban reserve areas that would come into Tigard and could contribute to funding improvements.

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- Developers would likely fund some right-of-way and land purchases needed for future street improvements.
- Developers contributing to SDCs and providing half-street improvements or interim improvements to serve their developments.

Council discussion followed about the ideas presented along with the upcoming schedule to review the infrastructure recommendations to proceed with the development of the River Terrace community.



4. UPDATE ON ECONOMIC DEVELOPMENT ACTIVITY

Economic Development Manager Purdy presented the staff report for this item. Key points:

- The program focus is on three core areas: groundwork, business assistance and innovation.
- New data resources are continually being developed.
- Continue to work with partners such as Greater Portland, Inc., small cities, Chamber of Commerce and the Westside Economic Alliance.
- Tigard has now exceeded the 50,000 population level and is now eligible to become a more active partner in Greater Portland, Inc. at an increased membership fee of \$25,000.
- Building capacity through meetings with the Tigard Downtown Alliance. TDA continues to evolve and is now set up with a board of directors and representatives are meeting with the State of Oregon Main Street Coordinator.
- Information, through regular communications, shared with entrepreneurs throughout the city about programs or opportunities. Businesses are given an opportunity to sign up to receive this information when they renew their business licenses. Once the city's website is updated, people can sign up to receive this information. Mr. Purdy also, when he meets business owners, asks if they want to sign up to receive this communication.
- Economic Development Manager Purdy distributed information on two programs: Code Oregon and Grow Oregon.
- Preliminary conceptual alignments for roads, water, sewer and storm infrastructure have been reviewed for the Fields Infrastructure Finance Plan project (aka Hunziker Industrial Core). The next step will be to share this information with commercial property owners in the area to gather input on which scenarios best support private sector investment and redevelopment.
- In two weeks, council will be considering a proposed resolution to apply to the state for a Vertical Housing Development Zone. All other taxing authorities have been notified. The deadline is imminent for other taxing authorities to opt out of the zone. Councilor Snider and City Manager Wine accompanied Economic Development Manager Purdy to meet with officials from TVF&R. The school district has not commented or contacted the city about the zone. Councilor Snider pointed out if the school district would choose to opt out of the district, much of the tax benefit to business owners would be lost. Discussion followed on when taxing

TIGARD CITY COUNCIL MEETING MINUTES – JUNE 17, 2014

districts can opt out. Economic Development Manager Purdy explained that district must opt out at the time the zone is formed and not when individual projects within the zone go forward.

- A potential new business will be looking at possible locations to site in Tigard.
- Reviewed raw data broken by employment sector with the council.



5. DEMONSTRATION OF THE PUBLIC WORKS DEPARTMENT'S NEW COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM (CMMS) SOFTWARE

Interim Public Works Director Rager introduced this agenda item. He introduced Michelle Wright the Public Works Business Manager and Utility Division Manager Goodrich. Ms. Wright demonstrated the capabilities of the computerized maintenance management system (CMMS) software.

Public Works began implementing MainStar CMMS software two years ago. CMMS offers modules for asset maintenance and management needs. Ms. Wright demonstrated the capabilities of the software to track information pertaining to infrastructure assets such as streets, sewer and storm water systems, potable water, signs, bridges, paving facilities and projects. Use of the system will aid staff in planning for routine maintenance work, track asset costs, record important inspection findings, track repair histories, and plan work for eventual rehabilitation or replacement. CMMS is also a tool to track costs and contribute to better, more finely tuned budgeting. Citizens can use an application to easily report issues using their cell phones to take pictures and identifying locations in need of attention or repair.

6. REVIEW COMMENT CARDS AND FEEDBACK FROM CITY COUNCIL'S 5X3X10 EVENTS

Item No. 6 was set over to June 24, 2014.

7. COUNCIL LIAISON REPORTS: None.

8. NON AGENDA ITEMS



City Manager Wine reported on the following:

- What it means for the City of Tigard to exceed a population of 50,000. Two main points:
 - Tigard, if it so chooses, could become an entitlement community through the Community Development Block Grant program. This should be evaluated on an annual basis.
 - For certain organizations this 50,000 threshold of population might mean a different tier of membership; i.e., Greater Portland, Inc.

TIGARD CITY COUNCIL MEETING MINUTES – JUNE 17, 2014

- Tigard is the 12th largest city in the state.
- Tigard received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association for the fiscal year ending 2013.

9. EXECUTIVE SESSION: Not held.

10. ADJOURNMENT  9:26 p.m.

Motion by Councilor Snider, 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	Absent
Councilor Snider	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – JUNE 17, 2014

AIS-1807

3. B.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): Consent Item

Agenda Title: Approve Workers' Compensation Insurance for City Volunteers

Prepared For: Kent Wyatt

Submitted By: Kent Wyatt,
City
Management

Item Type: Resolution

Meeting Type: Consent
Agenda

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Should Tigard continue to provide workers' compensation insurance for city volunteers to protect them if they are injured during their volunteer work time?

STAFF RECOMMENDATION / ACTION REQUEST

Approve resolution to provide workers' compensation insurance to city volunteers 7/1/14 through 6/30/15.

KEY FACTS AND INFORMATION SUMMARY

Oregon law allows cities to elect coverage for various classes of volunteers. We define a volunteer as "any person who donates approved service without pay or reimbursement other than approved incidental expenses for those services rendered." For several years the City Council has elected to provide injury coverage.

The City has volunteers working in most of its departments. Volunteers support city departments and expand services to the public. Although volunteer assistance is not free, it is a valuable tool to involve the public in service delivery and understanding of their local government.

The proposed resolution will allow the City to continue to provide workers' compensation to all City volunteers.

OTHER ALTERNATIVES

1. Elect to not provide workers' compensation coverage to City volunteers.
2. Consider offering accident coverage for some volunteer classes.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

N/A

DATES OF PREVIOUS CONSIDERATION

On 7/9/13, City Council approved volunteer workers' comp coverage for FY14.

Fiscal Impact

Cost: 13,788
Budgeted (yes or no): Yes
Where Budgeted (department/program): All departments

Additional Fiscal Notes:

For FY15, the City would pay \$13,788 to cover City volunteers for workers' compensation. This is slightly lower than last fiscal year because there are fewer volunteers.

Attachments

Resolution

Exhibit A Volunteer Roster

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 14-**

A RESOLUTION EXTENDING CITY OF TIGARD'S WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY.

WHEREAS, the City of Tigard acknowledges the valuable service rendered by City of Tigard volunteers; and

WHEREAS, the City of Tigard strives to offer volunteers a safe and pleasant place to volunteer; and

WHEREAS, Oregon law allows cities to elect coverage for various classes of volunteers; and

WHEREAS, the City of Tigard participates in the City County Insurance Services (CIS) Group Self-Insurance Program, which requires a resolution be adopted annually by the Tigard City Council to elect Workers' Compensation Insurance coverage to City of Tigard volunteers.

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

SECTION 1: Pursuant to ORS 656.031, Workers' Compensation coverage will be provided to classifications listed on the attached Volunteer Program Worksheet (Exhibit A). Assumed wages for police reserve officers, boards and commissions, and the Mayor and Council are provided on attached Exhibit A. An assumed hourly wage of \$9.10 will be used for all other volunteers.

SECTION 2: A roster of active volunteers is updated monthly for reporting purposes. It is acknowledged that CIS may request copies of these rosters during year-end audit.

SECTION 3: Unanticipated volunteer projects or exposures not addressed herein might be added to the City of Tigard's coverage agreement by endorsement and advance notice to CIS, allowing at least two weeks for processing. It is hereby acknowledged that Worker's Compensation for unanticipated volunteer projects cannot be backdated.

SECTION 4: This resolution will be updated annually as long as Tigard is a member of the CIS Workers' Compensation Self-Insurance Services Group and chooses to provide Workers' Compensation Insurance for City volunteers.

SECTION 5: The coverage affected by this resolution is for the 2014/2015 coverage year (July 1, 2014 through June 30, 2015) with the City's membership in the CIS Workers' Compensation Self-Insurance Services Group.

SECTION 6: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2014.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Exhibit A
City of Tigard Volunteers, Workers' Comp Program
FY 2014/15

Position Title	WC Code	Volunteers Anticipated	Volunteer Time Anticipated (in hours)	Assumed Wage (per hour unless otherwise marked)	Notes	Estimated Payroll
Photographer	4361V	2	25	\$9.10	Photographer indoors and outdoors - can use ladder	\$228
Painting Services (Interior)	5474V	1	40	\$9.10	Bldg. interiors with latex paint & ladders	\$364
Traffic & Accident Data Coord.	5506V	1	150	\$9.10	Office work and work within the ROW. Minimal traffic control & will require flagging training from certified COT staff member.	\$1,365
Library Volunteers (Traveling)	7380V	10	400	\$9.10	Driving personal vehicles to homes of "shut ins" deliver materials - Friendly Visitor Program	\$3,640
Community Service Supervisors	7720V	0	0	\$9.10	Supervision of community service, PEER Court & Municipal Court work crews/individuals	\$0
Juvenile Court Offenders	7720V	0	0	\$9.10	Juveniles from Municipal Court providing community service	\$0
CERT Volunteers Training/Activation	8411V	50	3,200	\$800/month/member	Training & activation. Estimated hours represent training only.	\$480,000
Police Cadet Volunteers	8411V	11	1,700	\$800 month/member	Police Explorers are now called Cadets	\$105,600
Reserve Police Officers	8411V	5	1,920	\$5,085/month/member	Note: Assumed wage is mid-range police officer salary	\$289,860
Police Chaplain	8742V	1	328	\$9.10	Chaplain	\$2,985
Boards & Committees	8742V	See membership listing below	N/A	\$2,500/ board /yr.	8 boards & commissions (see list @ bottom of page 2). Meetings & limited travel to view field sites.	\$20,000
Grant Writer Assistants (Indoors Only)	8810V	1	40	\$9.10	Working in office setting or in the home.	\$364
Library Volunteers (No travel)	8810V	500	27,000	\$9.10	All tasks in-house; check-in materials, shelving, data entry, processing new materials, translation, etc.	\$245,700
Office Assistance	8810V	5	250	\$9.10	Clerical type work assignments in administrative offices	\$2,275
Home Web Updates	8810V	12	150	\$9.10	Maintain websites for Neighborhood Networks	\$1,820
Translators	8810V	2	80	\$9.10	Working in office setting or in the home translating information from one language to another.	\$728
PEER Court Service	8820V	17	450	\$9.10	Teenagers serving as attorneys, jurors, clerks in court room. Adults serving as judges and facilitation of process.	\$4,095
Building Maintenance	9015V	2	25	\$9.10	Room set up & tear down, general cleaning	\$228
DARE Camp Supervisors	9015V	0	0	\$9.10	Mentoring kids at camp (does not including driving)	\$0
Park Landscape Maintenance	9102V	50	1,500	\$9.10	Planting trees, blackberry removal, greenway cleanup, path clean up, trail maintenance. This code allows use of gas powered leaf blowers and reciprocating weed eaters.	\$13,650
Citywide Celebrations	9402V	500	1,750	\$9.10	Earth Day, Make A Difference Day, etc. Includes planting trees, library shelf cleaning, community cleanup, street cleanup patrols	\$15,925
Storm/Water Maintenance	9402V	250	600	\$9.10	Stenciling catch basins, Adopt-A-Creek program with weeding & limited trash removal & cleaning/painting water hydrants. This code allows use of gas powered leaf blowers and reciprocating weed eaters. Also, trail counting and review.	\$5,460
Street Cleanup Program	9402V	100	600	\$9.10	Roadside cleanup. This code allows use of gas powered leaf blowers and reciprocating weed eaters.	\$5,460
Door to Door Distribution	9410V	3	30	\$9.10	Delivery of brochures/door hangers	\$273
TOTAL Estimated Payroll for FY 2014/15						\$1,200,019

NOTE: 8 boards, commission and task forces (WC Code 8742V) are as follows: Budget Committee (5 non-Council members), City Center Advisory Commission (10), Intergovernmental Water Board (Tigard only gets two appointees, three if the at-large/floating member is from Tigard), Library Board (9), Neighborhood Involvement Committee (10), Park & Recreation Advisory Board (9), Planning Commission (11), Tigard Transportation Advisory Committee (13)

NOTE: Mayor and Council are not reported as volunteers because they are paid monthly stipends which are reported with payroll figures under WC Code # 8742.

AIS-1773

4.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 45 Minutes

Agenda Title: Discussion on Infrastructure System Financing for River Terrace and Citywide

Submitted By: Debbie Smith-Wagar
Financial and Information Services

Item Type: Update, Discussion, Direct Staff **Meeting Type:** Council Business Meeting - Main

Public Hearing: No

Publication Date:

Information

ISSUE

Staff will brief Council on workplans for the next year to address infrastructure financing related to River Terrace and other citywide infrastructure needs.

STAFF RECOMMENDATION / ACTION REQUEST

Staff requests that Council provide direction on workplans.

KEY FACTS AND INFORMATION SUMMARY

Background:

The city currently have a number of projects that require an update to, or creation of, fees and charges to assist in the financing of system infrastructure. These projects include:

- Updates of master plans to account for needed infrastructure in River Terrace. The system master plan updates include: water, sewer, storm water, transportation, and parks. It is standard practice after updating a master plan to review and update system development charges (SDC) paid by developers when building permits are obtained.
- On April 21, 2014 the City of Tigard Budget Committee instructed staff to pursue a local revenue source for the sewer system. The Sewer Fund of the city does not have sufficient resources to pay for operations and capital. The Budget Committee determined that service level decreases would put Tigard in jeopardy of violating environmental rules. To prevent the fund from running out of money, an additional local revenue such as a surcharge, will be examined and brought to Council for consideration.
- In November 2010, Council set water rates and charges intended to pay for Tigard's share of the Lake Oswego / Tigard Water Partnership which will provide Tigard Water

customers with their own water source allowing the city to no longer depend on Portland Water. Last year, Tigard City Council agreed to change the partnership to increase Tigard's share in the water source by an additional 4 million gallons per day (mgd). This will increase Tigard's share in the project costs. Prior to making the decision to purchase the 4 mgd share, Council was advised that the purchase would most likely result in the need to further increase water rates.

Key time frames that will impact development of the fees include:

- The River Terrace Community Plan is anticipated to be complete in the Spring of 2015. Under that time frame, the earliest that final plats for development is likely to be approved is July 1, 2015. The SDCs get recorded on the final plat. In order to charge River Terrace related SDCs in the River Terrace area, Council will need to adopt new SDCs prior to July 1, 2015 in order to avoid delaying development in the area.
- The LO/Tigard Water Partnership costs are funded via bonds supported by water usage charges. The city issued approximately \$97.7 million in water revenue bonds in April 2012 with a second bond issue anticipated. The proceeds from the 2012 bond issue are likely to run out by February 2015. In order to issue the second set of bonds, new water rates that will pay for the project, including the additional 4 mgd, need to be set. In order to meet the project times for the second bond issue, the new rates will need to be set prior to January 1, 2015.
- The Sewer Fund is forecasted to be out of cash in two years. The longer the city delays in implementing a local revenue source, the lower the fund balance resources will become. Staff is recommending that the local revenue source be adopted prior to January 1, 2015.

Project approach:

Staff has organized to address financing the five infrastructure systems. Each system has a team with a team lead and staff from Public Works, Community Development, and Finance and Information Services departments. All the teams are meeting in a single larger group to coordinate resources. Staff is issuing a single solicitation for services that will lead to an award of 1-5 contracts to assist the city in developing the infrastructure financing (SDCs, water rates, sewer fees, etc.).

For all five systems, staff is proposing the following interactions with Council:

- Two passes of the contract for services. Tonight's meeting is the first pass. Contract adoption will come in August.
- Two updates in Study Sessions and/or Workshops to keep Council updated on the project update and provide an opportunity to review draft fees.
- Hearings to adopt fees.

Additionally, for SDCs there are public outreach requirements:

- There is a minimum 90 days notice prior to hearing that the city is going to hold a hearing on SDCs.
- There is a minimum 60 days notice prior to hearing of the SDC methodology.

Proposed Calendar:

1. July 8, 2014 - First pass of project contract solicitation
2. August 12, 2014 - LCRB Contract award
3. August 26, 2014 - Council Study Session on Water and Sewer projects.
4. Mid September - Notice of city's intention to review SDCs.
5. November 18, 2014 - Council Workshop on Water and Sewer rates and fees.
6. December 9, 2014 - Council Hearing on Water and Sewer rates and fees.
7. February 17, 2015 - Council Workshop on Storm water, Parks, and Transportation projects.
8. April 21, 2015 - Council Workshop on Storm water, Parks, and Transportation fee proposal.
9. April 23, 2015 - 60 Day notice of SDC methodology.
10. June 23, 2015 - Council Hearing on Storm water, Parks, and Transportation SDCs and fees.

Key Policy Issues:

- For water, staff is not recommending a review of the rate structure. Staff advises that the rate structure should be addressed after experience operating the water treatment plant can be incorporated.
- For sewer, staff is recommending that options on how the 5% sewer franchise fee is charged to the city and Clean Water Services be explored.
- For transportation and parks, River Terrac; the existing Transportation Development Tax (TDT) vs the new local transportation SDC; and the treatment of trails as transportation/park facilities will be explored.
- For storm water River Terrace is a consideration, as well as storm water flows from outside of the city that impact city facilities.

OTHER ALTERNATIVES

- Council can direct staff to change time frames or direction
- Council can direct staff not to pursue some or all of the rates and fees necessary for infrastructure financing, placing the financing of projects in jeopardy.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

- LO/Tigard Water Partnership Bond Sale #2
- River Terrace
 - Complete Community Plan and master plans
 - Development begins

DATES OF PREVIOUS COUNCIL CONSIDERATION

- River Terrace Master Plans and financing have been considered by Council on: January 21, 2014; May 20, 2014; June 10, 2014; and June 17, 2014.
- Sewer local financing considered by Budget Committee on April 21, 2014.
- Council adopted the IGA change on the LO/Tigard Water Partnership authorizing the additional 4 mgd share on December 10, 2013.

Attachments

No file(s) attached.

AIS-1814

5.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 5 Minutes

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

Prepared For: Steve Martin, Public Works

Submitted By: Steve Martin, Public Works

Item Type: Resolution

Meeting Type: Council Business Meeting - Main

Public Hearing: No

Publication Date:

Information

ISSUE

Shall council adopt a resolution naming Troy Mears, Linda Shaw, Wayne Gross, and Scott Winkels as members, and J. Randall Brenner and Timothy Pepper as alternates to the Park and Recreation Advisory Board (PRAB)?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends council adopts the resolution.

KEY FACTS AND INFORMATION SUMMARY

There are four voting member vacancies on the PRAB as of July 1, 2014. Three of the vacancies are for 4-year terms. One vacancy is for a 1-year term and will complete the unexpired term of a PRAB member who left the board in January. There are also two alternate member vacancies.

On June 3, 2014, with staff liaison Steve Martin, the Mayor's Appointment Advisory Committee interviewed eight candidates. The committee's recommendations are:

- Troy Mears, Linda Shaw, and Scott Winkels are appointed to 4-year terms. It is Mr. Mears' second full term, and Ms. Shaw's and Mr. Winkels' first term.
- Wayne Gross is appointed to the 1-year term. He will complete the unexpired term of the PRAB member who left the board in January. It is Mr. Gross' first term.
- J. Randall Brenner and Timothy Pepper are appointed to 1-year terms as alternate members. This will be their first term on the PRAB.

Information on the nominees is included on the attached biographical information sheet.

OTHER ALTERNATIVES

Council could choose not to adopt the resolution and provide alternate direction to staff.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

None

DATES OF PREVIOUS COUNCIL CONSIDERATION

Council last appointed new PRAB members and alternates in July 2013.

Fiscal Impact

Fiscal Information:

Appointing PRAB members has no fiscal impact.

Attachments

Resolution

PRAB Nominee Biographical Information

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 14-

A RESOLUTION APPOINTING TROY MEARS, LINDA SHAW, SCOTT WINKELS, AND WAYNE GROSS AS MEMBERS, AND J. RANDALL BRENNER AND TIMOTHY PEPPER AS ALTERNATE MEMBERS OF THE PARK AND RECREATION ADVISORY BOARD (PRAB)

WHEREAS, Troy Mears, Linda Shaw, Scott Winkels, Wayne Gross, J. Randall Brenner, and Timothy Pepper have expressed an interest in serving on the PRAB; and

WHEREAS, there are four voting member vacancies on the PRAB as of July 1, 2014; and

WHEREAS, three of the voting member vacancies are for 4-year terms; and

WHEREAS, the fourth voting member vacancy is for a 1-year term; this term will complete the unexpired term of a PRAB member who left the board in January; and

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

WHEREAS, the Mayor's Appointment Advisory Committee interviewed eight candidates and recommended Troy Mears, Linda Shaw, Scott Winkels, Wayne Gross, J. Randall Brenner, and Timothy Pepper be appointed to the PRAB as described in Sections 1-3 below; and

WHEREAS, these appointments will fill all the vacant positions on the PRAB.

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

SECTION 1: Troy Mears, Linda Shaw, and Scott Winkels are appointed to serve as members of the PRAB. These appointees will serve 4-year terms that expire on June 30, 2018.

SECTION 2: Wayne Gross is appointed to serve as member of the PRAB. Mr. Gross will serve a 1-year term that expires on June 30, 2015.

SECTION 3: J. Randall Brenner and Timothy Pepper are appointed to serve as alternate members of the PRAB. These appointees will serve 1-year terms that expire on June 30, 2015.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2014.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

PRAB Nominee Biographical Information

Troy Mears has served one full term on the PRAB and has been a Tigard resident for 12 years. Mr. Mears is a landscape architect and also has a degree in environmental design. He has worked with multiple municipalities and districts on park and recreation facilities. Mr. Mears has coached kids sports and is a member of the Tigard Rotary and Blue Ribbon Task Force.

Scott Winkels will be serving his first term on the PRAB and has lived in Tigard for 7 years. He has a history degree from Western Oregon and works as a lobbyist for the League of Oregon Cities. Mr. Winkels was a reserve deputy sheriff with Multnomah County and an advisor to their Explorer program and is a member of the Portland Velo Cycling Club, the Portland Velo Racing Team, and the Oregon Bicycle Racing Association.

Linda Shaw has lived in Tigard for 16 years and will be serving her first term on the PRAB. She has a degree in speech communications from OSU and works as a customer service representative for a screen printing company. Ms. Shaw previously worked as a reading aide in TTSD and was the Tigard Recreation Association volunteer coordinator. She has volunteered for many TTSD school sports and events and is an active member of the Friends of Bull Mountain Park.

Wayne Gross has lived in Tigard for 4 years and will be filling the remaining one year term on a vacant PRAB position. Mr. Gross has a degree in recreation and park administration as well as a masters' degree in public administration. He has worked as a park and recreation professional for approximately 40 years and was a member of the Tigard Tree Board before it was discontinued.

J. Randall Brenner has lived in Tigard for 7 years, as well as 6 years previously. He will be serving a 1-year term as an alternate member on the PRAB. Mr. Brenner has a degree in politics and works as the manager of a local office of a national insurance company. He has served as a classroom volunteer with TTSD and a Tigard Youth Football coach. He was an alternate on the 2008 Budget Committee.

Timothy Pepper has lived in Tigard for 10 years and will be serving a 1-year term as an alternate member on the PRAB. He has a degree from Cal Poly in computer science and a master's degree in computer science from PSU. He works as a software engineer, and is on the Board of Directors for the Beaverton Farmers Market. Mr. Pepper is a volunteer soccer coach, a career mentor at THS, an active park user as a triathlete, and a trail building leader at Bull Mountain Park.

AIS-1714

6.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 10 Minutes

Agenda Title: Consider a Resolution Designating a Vertical Housing Development Zone

Prepared For: Lloyd Purdy, Community Development

Submitted By: Lloyd Purdy, Community Development

Item Type: Resolution

Meeting Type: Council
Business
Mtg -
Study Sess.

Public Hearing: No

Publication Date:

Information

ISSUE

A Vertical Housing Development Zone (VHDZ) is an economic development tool, consistent with our economic development strategy, which both leverages and induces private sector investment. A VHDZ results in development that supports commercial activity for restaurants, retailers and professional offices, along with housing for residents (our workforce), and requires collaboration with state and private sector partners. The City Council can request designation of a zone through formal resolution and the submission of a proposal to the state's Housing and Community Services Department.

STAFF RECOMMENDATION / ACTION REQUEST

A Vertical Housing Development Zone encourages private sector investors and developers to add residential capacity above first floor commercial uses in targeted parts of the City. This results in a mix of commercial and residential activities that can be mutually supportive. A VHDZ is one tool used with other programs, like an urban renewal district and existing land use classifications, to incentivize early phase mixed-use projects in designated areas of the City. Staff recommends authorization of a request for the State of Oregon to designate a Vertical Housing Development Zone to encompass downtown Tigard and include the portion of the Tigard Triangle zoned for mixed-use development. The attached maps document the two areas that make up the proposed VHDZ in Tigard. A policy review memo, which reviews the connection between a VHDZ and current city planning documents, has been attached to this AIS.

KEY FACTS AND INFORMATION SUMMARY

As discussed during the April 1, 2014 CCDA meeting, State enabling legislation allows municipalities to adopt a Vertical Housing Development Zone to encourage the private sector to build higher-density mixed-use development (first floor commercial with residential above) in targeted areas of a city. The reduction of a portion of property taxes for a defined period of time can improve the financial feasibility of a mixed-use project -- particularly in markets where lower rents might not support the cost of new construction. Qualified new development projects within a Vertical Housing Development Zone are eligible to receive a 10-year property tax abatement on the value of new construction for up to 20 percent per residential floor (for the first four floors above a commercial ground floor). Total property tax abatement of the new construction is limited to no more than 80 percent of the residential development. Land and commercial development are fully taxed with one exception; an additional partial property tax exemption on the land may be given if some or all of the residential housing is designated as affordable housing (80 percent of area median income or below).

The Zone must be in a qualifying area defined by the City, consistent with state criteria. Projects are certified through the state's Housing and Community Services Department. Each project is provided with the abatement for a maximum 10-year period if applications are approved before January 2016 (under current legislation). Abatement applies to all taxing jurisdictions that do not opt out of the program. Taxing jurisdictions have the option to opt out of the zone before it is created. Other communities (Hillsboro, Milwaukie, Gresham and Oregon City) have used VHDZ to encourage mixed-use residential development. The Fourth/Main Project now completed in downtown Hillsboro is an excellent example of how this tool facilitates mixed-use development in urban infill real estate markets. Two maps have been attached to this AIS documenting the proposed VHDZ. The first map illustrates how the proposed VHDZ meets the criteria the state will use to justify authorization of a VHDZ in Tigard. The second map shows the 398 tax lots included in the VHDZ. This information will become part of the official application to the state.

OTHER ALTERNATIVES

A Vertical Housing Development Zone as an overlay on top of existing land use, can be combined with other programs like urban renewal tax increment financing to encourage private investment. A VHDZ is an additional tool in the City's economic development portfolio. Unlike other tax related development tools, other overlapping taxing jurisdictions can opt out of a zone in Tigard if they so choose.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

As discussed during the April 1, 2014 CCDA meeting, a Vertical Housing Development Zone is consistent with the City Center Urban Renewal Plan, and Goals 9,10, and 15 of the City's Comprehensive Plan. See attached memo for more details.

DATES OF PREVIOUS COUNCIL CONSIDERATION

Vertical Housing Development Zone Introduction (CCDA) October 1, 2013

Vertical Housing Development Zone: Tigard (CCDA) April 1, 2014.

Fiscal Impact

Fiscal Information:

Zone is established, taxing districts will continue to receive taxes on the full value of a tax parcel's land and commercial development. A taxing district will forego 20 percent of the increased property tax on the first four floors of residential development when those floors are added above a first story commercial development. After 10 years, the full value of the property is returned to the tax role.

Other tax districts impacted by a VHDZ are listed on the communication flyer and have been notified and invited to comment.

Attachments

[Resolution](#)

[VHDZ Policy Analysis](#)

[VHDZ Criteria Map](#)

[VHDZ Proposed Boundaries Map](#)

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 14-

A RESOLUTION TO AUTHORIZE A REQUEST TO THE STATE OF OREGON FOR
THE DESIGNATION OF A VERTICAL HOUSING DEVELOPMENT ZONE IN THE
CITY OF TIGARD

WHEREAS, the City of Tigard supports the private sector's role in the creation and adaptive reuse of property that optimizes the economic potential of the City's limited supply of existing developable land; and

WHEREAS, mixed-use development that supports first-story commercial activity with upper-story residential use is a valuable tool for development in some parts of the City; and

WHEREAS, mixed use development can strengthen commercial activity and provide new housing options for Tigard residents while capitalizing on existing mass transit options; and

WHEREAS, State of Oregon statute ORS 285C.450 to 285C.480 enables municipalities to create a special district to encourage mixed-use development; and

WHEREAS, the State of Oregon's Oregon Housing and Community Services Department manages a tax credit program to encourage mixed-use commercial and multi-story development in a locally defined area; and

WHEREAS, a Vertical Housing Development Zone (VHDZ) can be created to encourage private sector development through a partial ten-year tax credit on qualified projects; and

WHEREAS, several areas in the City are eligible as a VHDZ on the state's criteria for targeted districts including: an urban center, access to rail/transit and compatible land uses allowing mixed-use areas; and

WHEREAS, the proposed area is consistent with the state's criteria for a VHDZ and includes downtown Tigard as defined by the City Center Urban Renewal District, and the Tigard Triangle which together are designated as a Town Center; and

WHEREAS, a Vertical Housing Development Zone should encourage development that supports downtown revitalization as discussed in the City Center Urban Renewal Plan; and

WHEREAS, the Tigard Triangle is expected to support between 900 and 2,900 new dwelling units; and

WHEREAS, in both areas of Tigard's Town Center, successful and sustainable development will provide access to commercial services, housing, and employment within walking distance of one another, while providing access to public transportation and other non-auto modes of travel to minimize single-occupancy vehicle use; and

WHEREAS, residential development will need convenient access and proximity to neighborhood scale commercial amenities (such as coffee shops, banks, restaurants, dry cleaners, hair salons, etc.) while these businesses must also be focused in areas with the greatest visibility and access to patrons and residents to succeed; and

WHEREAS, private sector development that provides capacity for residential activity located above commercial activity creates a marketplace for economic activity, more efficient land use patterns, and “street activating” activity; and

WHEREAS, the overlapping taxing districts that also derive revenue in this part of the City have been notified of the City of Tigard’s intent to create a Vertical Housing Development Zone.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that: a request for a Vertical Housing Zone designation be made, as documented in an application to the State of Oregon’s Housing and Community Services Department.

SECTION : This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2014.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard



City of Tigard Memorandum

To: Mayor John Cook and City Council

From: Lloyd Purdy, Economic Development Manager

Re: Policy Support for a Vertical Housing Development Zone

Date: June 17, 2014

A Vertical Housing Development Zone (VHDZ) is consistent with the Center City Urban Renewal Plan, and Comprehensive Plan Goal 9, 10 and 15.

Downtown/Urban Renewal

A Vertical Housing Development Zone works with existing land use and the city's urban renewal district to encourage development that supports downtown revitalization. The purpose of the City of Tigard's Comprehensive Plan Goal 15 (Downtown) is to facilitate the transformation of downtown into an urban village. Given existing land use and commercial activity, this will require the addition of both housing and space for new commercial activity located in a walkable context.

Specifically, Policy 6 notes the need for a range of new housing options to attract new residents downtown (who are both local consumers and part of our work force). Concurrently, Policy 2 encourages a mix of complementary land uses – higher density residential activity along with retail restaurant, entertainment and services. A Vertical Housing Development Zone is an economic development tool that encourages private sector development for both commercial and residential activity. Development projects successfully qualify as VHDZ projects because they locate commercial activity focused on goods and services with consumers and employees (residents).

Like tax increment financing, a Vertical Housing Development Zone is a tool that Oregon municipalities can use to influence the type of development in a targeted part of the City. Tax increment financing is a targeted tool focused on specific projects. A VHDZ is a more general tool encouraging a development pattern – higher density residential development with first story commercial activity. Combining residential use with commercial first story activity typically creates a more challenging and expensive development program. A VHDZ reduces some of the expense of mixed use development over the early life (first 10 years) of a project.

Tigard Triangle

According to preliminary findings from the Tigard Triangle Strategic Plan, existing zoning in the Tigard Triangle is primarily composed of Mixed-Use Employment (MUE), which permits both commercial and multifamily residential development. Depending upon the results of the Tigard Triangle strategic planning process, this area may see the addition of **between 900 and 2,900 potential new dwelling units**. Future development in the Triangle is expected to include a mix of housing along with office, retail and/or other amenities integrated into a walkable neighborhood.

This development pattern will provide access to commercial services, housing, and employment within walking distance of one another, while providing access to public transportation and other non-auto modes of travel to minimize single-occupancy vehicle use. Office uses and residential projects will need amenities such as coffee shops, banks, restaurants, dry cleaners, hair salons, etc. to be viable. These businesses must be focused in areas with the greatest visibility and access to patrons (residents).

Including the Tigard Triangle as part of a Vertical Housing Development Zone is one tool the city can use to induce private sector development consistent with the expectations highlighted above. Development that provides capacity for residential activity located above commercial activity creates a marketplace for economic activity, more efficient land use patterns, and “street activating” activity. In the Tigard Triangle, a Vertical Housing Development Zone may be a financial tool that aligns with changes to our land use and design code that encourages higher density residential development in an area of the city where, historically, regulatory and market forces, have not converged to support this type of private sector investment.

Comprehensive Plan Goal 9 Objectives

A Vertical Housing Development Zone supports the City of Tigard’s Comprehensive Plan Goal 9 economic development objectives by:

- Encouraging efficient development/redevelopment of underutilized commercial land.
- Increasing business and employment opportunities through more intense use of existing commercially viable lands.
- Encouraging retail and commercial activity in appropriately zoned portions of the city, preserving industrial zoned lands for industrial jobs.
- Supporting efficient regional multi-modal transportation for Tigard’s residents in the work force and regional commuters employed by Tigard-based companies by building upon existing fixed rail infrastructure in downtown Tigard.
- Increasing opportunities for higher density housing and employment downtown and in the Tigard Triangle.

A Vertical Housing Development Zone encourages private sector investments that support our work force with housing for residents (employees), first story commercial spaces for businesses and a “market making” proximity that pairs consumers with providers of goods and services.

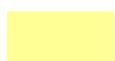
Comprehensive Plan Goal 10 Housing

A Vertical Housing Development Zone also supports the objectives of the City of Tigard’s comprehensive Plan Goal 10. This goal includes providing for a *variety* of housing types in the City of Tigard. Recommended activities consistent with this goal highlight the importance of using financial incentives and programs administered by the State of Oregon to develop higher residential density in areas like downtown and the Tigard Triangle. These are priority areas for higher density housing because of their proximity to transit corridors that support employment opportunities and commercial services.

Attached Files Include

- Resolution for Council consideration and adoption.
- Map showing factors that support VHDZ selection – existing mixed-use zoning, location in an urban core, access to transit and building restrictions.
- Map of tax lots included in the proposed VHDZ.

Proposed Vertical Housing Development Zone

-  Proposed VHDZ Boundary
-  Metro Town Center
-  Urban Center
-  Mixed Use Zoning
-  Existing WES Station
-  Tigard City Boundary

Scale
0 0.125 0.25 Miles

"A place to call home"
TIGARD MAPS

13125 SW Hall Blvd
Tigard, Oregon 97223
503 . 639 . 4171
www.tigard-or.gov

Zone- MUE-2
FAR- 0.60
Max. height- 60 feet

Zone- MUC/MUE-1
FAR- 1.25
Max. height- 200 feet

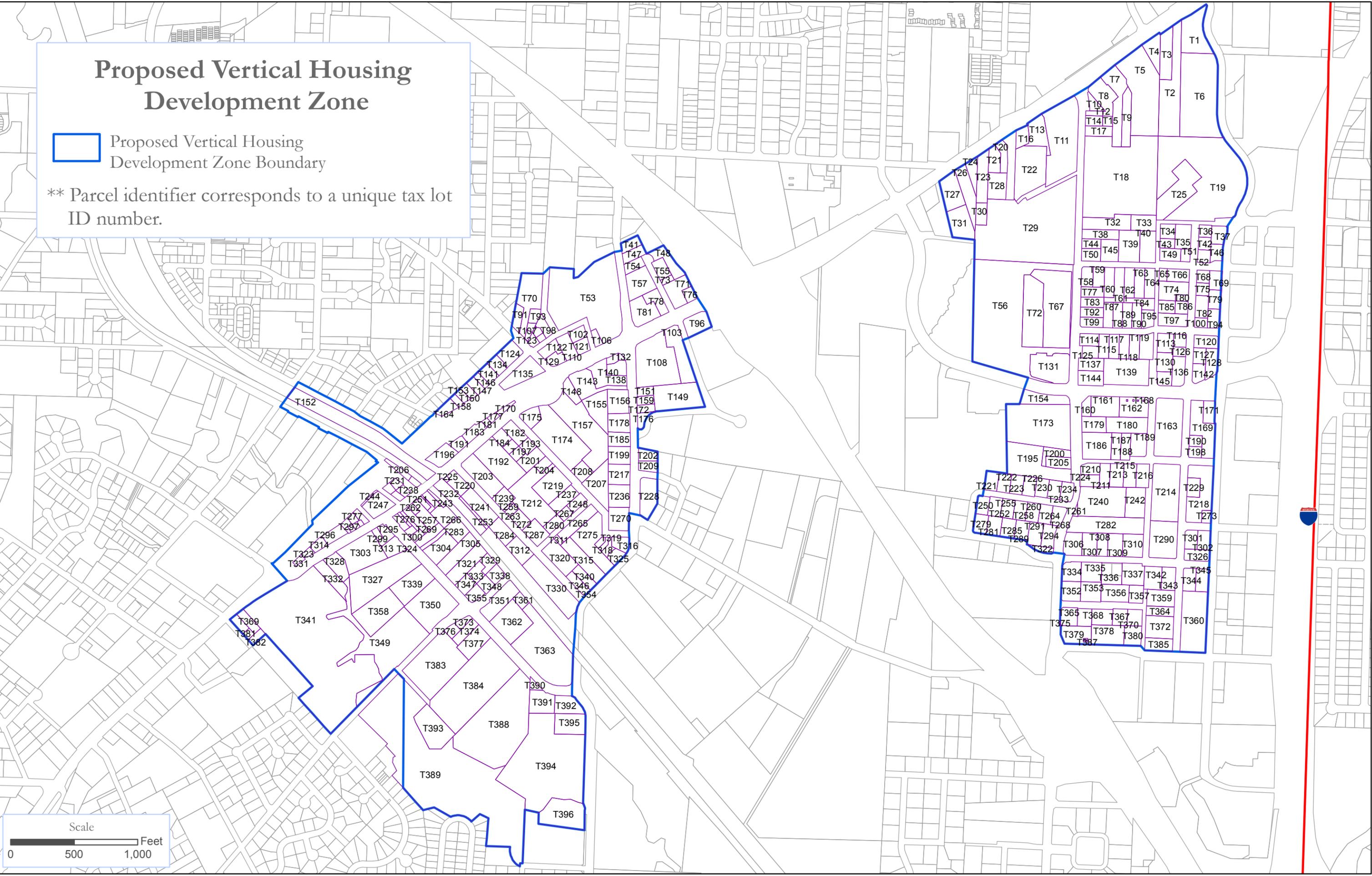
Zone- MU-CBD
No FAR Limit
Max. height- 45-80 feet

Zone- MUE
No FAR Limit
Max. height- 45 feet

Proposed Vertical Housing Development Zone

 Proposed Vertical Housing Development Zone Boundary

** Parcel identifier corresponds to a unique tax lot ID number.



AIS-1781

7.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 15 Minutes

Agenda Title: Consider Amendments to Tigard Municipal Code 7.70 Secondhand Dealers and Transient Merchants

Submitted By: Carol Krager, City Management

Item Type: Ordinance

Meeting Type: Council
Business
Mtg -
Study Sess.

Public Hearing: Yes

Publication Date:

Information

ISSUE

Staff recommends revisions to the Secondhand Dealers and Transient Merchants TMC 7.70 to clarify procedures and definitions.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that the Secondhand Dealers and Transient Merchants TMC 7.70 be revised with current language and definitions.

KEY FACTS AND INFORMATION SUMMARY

Staff recommends the following revisions to the Secondhand Dealers and Transient Merchants TMC 7.70:

- Definitions have been revised to clarify current language.
- Reference to Secondhand Dealer Special License has been revised to Secondhand Dealer License.
- Secondhand Dealers are required to enter data in the Northwest Regional Automated Information Database (RAPID) system that the Tigard Police Department utilizes to manage data pertaining to Secondhand Dealers' transaction reports. Occasional Secondhand Dealers may request an exemption from using RAPID. This exemption will allow occasional Secondhand Dealers to, as an alternative, submit their transactions on a transaction report form created by the Chief of Police. The request for this exemption must be made in writing to the Chief of Police.
- The hold period for items may be reduced from 30 days to 20 days if the item either displays a complete legible serial number; or is an item of jewelry; or is a previous metal scrap. The Dealer must report the acquisition into RAPID on the same day the acquisition occurs; include a description in the RAPID entry of the degree of detail for

the type of item as required in the Administrative Policies and Procedures and TMC 7.70; include a digital photograph of sufficient size and focus to identify the item and distinguish it from similar items that clearly shows any legible serial number on the item in the RAPID entry; and comply with all remaining requirements in the Administrative Policies and Procedures. A Dealer may be required to reinstate a 30-day hold period if an examination of RAPID entries reveals a pattern of insufficient item description or insufficient photographs.

- Items held or seized under TMC 7.70.090, Section 4, may not be released to anyone other than the Dealer unless the property is released to (a) another law enforcement agency that has provided documentation to the satisfaction of the Chief of Police of the stolen status of the property; or (b) a person who reported the property as stolen when all of the following are present:
 - (1) A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and (2) A notice has been delivered to the Dealer holding the property or from whom the property was seized. (i) The notice required by this subsection will state that the property is being released to the person who has filed the stolen property report. (ii) The notice required by this subsection will be sent electronically with a request for acknowledgment, or delivered in person to the Dealer at the email or physical address shown on the Dealer's permit application or most recent permit renewal application, and to the pawner/seller at the address shown in the transaction report required by TMC 7.70. The Chief of Police may release property to the owner after the notice required by this subsection has been delivered; proof of receipt of the notice is not required. (iii) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

6/24/2014

Attachments

Ordinance

Exhibit A

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 14-

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS

WHEREAS, Tigard Municipal Code (TMC) Chapter 7.70 governs secondhand dealers and transient merchants; and

WHEREAS, Several nearby jurisdictions have made revisions to their municipal code in recent years, and the City of Tigard desires that proposed changes to TMC Chapter 7.70 more closely align with current best practices; and

WHEREAS, Some definitions in the municipal code were unclear so they have been clarified. One revision will add protection to cover a part of the market which was previously overlooked; and

WHEREAS, Changes in the code will provide tools for law enforcement to be more efficient in the recovery of stolen items which occasionally show up in Secondhand Dealer businesses; and

WHEREAS, Changes will allow dealers to become more competitive with businesses in other jurisdictions by allowing a shorter hold period for items they buy if proposed changes are followed; and

WHEREAS, Dealers will be required to enter data into a regional database and a provision was added for current businesses defined as occasional dealers to be exempt from this requirement; and

WHEREAS, Protection for Secondhand Dealers is proposed to guarantee they will be listed as crime victims when property is seized from them and to place them in line for restitution from the courts; and

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

SECTION 1: Sections of TMC Chapter 7.70 are amended as set forth in Exhibit A to this ordinance and are approved and adopted by the City Council.

SECTION 2: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By _____ vote of all council members present after being read by number and title only, this _____ day of _____, 2014.

Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2014.

John L. Cook, Mayor

Approved as to form:

City Attorney

Date

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Chapter 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS.*

Sections:

- 7.70.010 Purpose.
- 7.70.020 Definitions.
- 7.70.030 Special License Secondhand Dealer License Required.
- 7.70.035 Minimum Standards.
- 7.70.040 Application for Special License Secondhand Dealer License.
- 7.70.045 Surety Bond Required.
- 7.70.050 Issuance and Renewal of Special Permit Secondhand Dealer License.
- 7.70.060 Special License Secondhand Dealer License Fees.
- 7.70.070 Subsequent Locations.
- 7.70.080 Reporting of Secondhand Dealer Transactions.
- 7.70.090 Regulated Property Sale Limitations.
- 7.70.100 Tagging Regulated Property for Identification.
- 7.70.110 Inspection of Property and Records.
- 7.70.120 Prohibited Acts.
- 7.70.130 Civil Penalties.
- 7.70.140 Revocation or Suspension of Permit Secondhand Dealer License.
- 7.70.150 Appeals.
- 7.70.155 Administrative Policies and Procedures.

* Prior ordinance history: Ord. Nos. 02-05, 83-26.

7.70.010 Purpose.

The purpose of adopting this Chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. Despite the best

efforts of legitimate secondhand dealer businesses, this risk is present because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. These regulations are necessary and the need for the regulations outweighs the regulatory effect that may result from their adoption. (Ord. 09-07 § 1).

7.70.020 Definitions.

As used in this Chapter, unless the context requires otherwise:

1. "Acceptable identification" means either a current driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state - or local government-issued identification cards, one of which has a photograph of the seller. Transactions which are accompanied by a thumbprint require only one current United States, state, or local government-issued identification card which has a photograph of the seller.

2. "Acquire" means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a Dealer and a private party seller; leases; trade-ins; loans; and abandonments. "Acquire" also means to take or transfer any interest in precious metals, in a voluntary transaction, for the purpose of refinement. Any acquisition of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, "acquire" does not include:

a. Any loans made in compliance with state laws by persons licensed as

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pawnbrokers by the State of Oregon; or

b. Memoranda between a Secondhand Dealer and a person engaged in the business of selling regulated property.

3. "Business Location" means any physical location where the Dealer conducts business.

4. "Chief of Police" means the Chief of the Tigard Police Department or his/her designee.

5. "Criminal arrests or a conviction" refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Tigard, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Tigard, as specified herein, will be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or City of Tigard ordinance provisions.

6. "Dealer" or "Secondhand Dealer"

a. Means any:

(1) Sole Proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:

(i) Acquires regulated property at or from business locations within the City of Tigard, or on behalf of such a business regardless of where the acquisition occurs, or

(ii) Offers for sale regulated property.

(2) Pawnbroker licensed under the Oregon Pawnbroker's Act, ORS 726.020, 726.990.

b. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an "Occasional Secondhand Dealer." The term "Dealer" in this Chapter and all regulations herein refer to Secondhand Dealers, Occasional Secondhand Dealers and Pawnbrokers unless specifically stated otherwise.

c. "Dealer" does not include:

(1) A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(C)3 organizations; or

(2) A person whose only business transactions with regulated property in the City of Tigard consist of the sale of personal property acquired for household or other personal use; or

(3) A person whose only business transactions with regulated property in the City of Tigard consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

7. "Held Property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a prescribed period of time as more specifically enumerated in Section 7.70.090.

8. "Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an

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investment.

9. "Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.

10. "New" means anything conspicuously not used.

11. "Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 7.70 to have a Secondhand Dealer Permit. As a Dealer, all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.

12. "Person" means a natural person.

13. "Principal" means any person who will be directly engaged or employed in the management or operation of the Secondhand Dealer business, including any owners and any shareholders with a five percent or greater interest in the company.

14. "Receive" means to take property into the inventory, possession, or control of a Dealer.

15. A "Registered Business" must be:

a. Registered with the Secretary of State Corporate Division or its equivalent in the state where the business is located; and

b. In compliance with the City of Tigard business license registration requirements.

16. "Regulated property" means property of a type that has been determined by the Chief of Police to be property that is frequently the subject

of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. In order to enhance the Police Department's ability to reduce property crimes and recover stolen goods, a list of regulated property may be included in the Administrative Policies and Procedures, ~~Section 4~~, and shall be updated ~~by June 30th of each year~~ by the Chief of Police. A copy will be kept on file in the Police Department.

~~1617.~~ "Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.

~~1718.~~ "Seller" means any person who:

a. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or

b. Donates or abandons items of regulated property.

~~1819.~~ "Trade Show" means an event open to the public, held in a venue other than a Dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.

Events commonly known as flea markets or swap-meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this Chapter.

~~1920.~~ "Transaction Report" means the record of the information required by Section 7.70.080, transmitted to the Tigard Police Department by the means required in Section 7.70.080.

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2021. “Transient Merchant” means any person:

a. Engaged in the business of purchasing or acquiring regulated property from business locations within the City of Tigard;

b. Engaged as an itinerant or temporary business under the provisions of the Tigard Municipal Code, Chapter 5.04; and

c. Engaged in the business of purchasing such regulated property from any person not representing a business which is required to be issued a business license or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the Dealer’s place of business.

2122. “Used” means anything that has been put into action or service.

2223. “PPDS” (Portland Police Data System) means the computerized record keeping system the Tigard Police Department utilizes to manage data, including, but not limited to, Secondhand Dealers’ transaction reports, and includes the RegJIN record keeping system. (Ord. 09-07 § 1).

24. “RAPID” (Northwest Regional Automated Information Database) means the computerized, web-based record keeping system the Tigard Police Department utilizes to manage data pertaining to Secondhand Dealers’ transaction reports.

7.70.030 ~~Special License—Secondhand Dealer License~~ **Required.**

1. No person or business shall engage in, conduct or carry on a secondhand dealer business in the City of Tigard without a valid Secondhand Dealer ~~Special License~~ issued by the City of Tigard. A ~~special license—Secondhand Dealer~~

~~License~~ shall be required in addition to a business license or special certificate required by Chapter 5.04 of the Tigard Municipal Code, or any other City license or permit.

2. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period are categorized as an “Occasional Secondhand Dealer.” Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an Occasional Secondhand Dealer shall apply for and obtain a ~~Regular~~ Secondhand Dealer ~~Special License~~ and comply with all the regulations of a secondhand dealer before acquiring any more items of regulated property.

3. Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City of Tigard will be presumed to be operating as a Dealer subject to the terms of Chapter 7.70.

4. The sale of regulated property at events commonly known as “garage sales,” “yard sales,” or “estate sales” is exempt from these regulations if all of the following are present:

a. No sale exceeds a period of 72 consecutive hours; and

b. No more than four sales are held at the same location in any 12-month period. (Ord. 09-07 § 1).

7.70.035 **Minimum Standards.**

1. No person or business may operate as a Dealer within the City of Tigard unless the person or business maintains a fixed physical business location.

2. Dealers shall comply with all applicable federal, state and local regulations. (Ord. 09-07 § 1).

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7.70.040 Application for ~~Special License~~ Secondhand Dealer License.

1. An applicant for a ~~Special License~~ Secondhand Dealer License shall complete and submit an application (including required personal history forms) that sets forth the following information:

a. The name, address, telephone number, birth date and principle occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;

b. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

c. The Web address of any and all Web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all Internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer;

d. Written proof that all principals are at least 18 years of age;

e. Each principal's business occupation or employment for the three years immediately preceding the date of application;

f. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 7.70;

g. A brief summary of the applicant's business history in any jurisdiction including:

(1) The business license or permit

history of the applicant, and

(2) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation;

h. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

(1) If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each.

(2) If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;

i. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;

j. All arrests or convictions of each

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principal enumerated in Subsection 1 of this Section;

k. Upon request, principals and employees shall submit to the Tigard Police Department the following information: fingerprints, passport-size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Tigard Police Department;

1. Any other information that the Chief of Police may reasonably feel is necessary to accomplish the goals of this Chapter.

2. The Secondhand Dealer shall notify the Chief of Police of any changes in the information required in Subsection 1 of this Section within 10 business days.

3. New employees of Dealers shall complete and submit the personal history form as required in Subsection 1 of this Section. Employees may not acquire regulated property until all required information has been reviewed and approved by the Tigard Police Department. The criteria used to review a new employee will be the same as those used in the review of an initial application in Chapter 7.70.

4. The personal and business information contained in the application forms required pursuant to Section 7.70.040 are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq. (Ord. 09-07 § 1).

7.70.045 Surety Bond Required.

No person shall engage in business as a transient merchant until such merchant has filed with the City Recorder of the City a ~~\$~~10,000 dollar bond, with a surety company licensed to do business in the State of Oregon as surety, for the benefit of any person damaged by false,

fraudulent, or misleading representations of the transient merchant in the conduct of his/her business. (Ord. 09-07 § 1).

7.70.050 Issuance and Renewal of ~~Special-Permit~~Secondhand Dealer License.

1. Upon the filing of an application for a ~~Secondhand-Dealer-Special-License~~Secondhand Dealer License and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 7.70.040. The Chief of Police shall issue the ~~permit-license~~ within 90 days of receiving the application if no cause for denial exists.

2. Except as provided in Section 7.70.050 the Chief of Police shall deny an application for a Secondhand Dealer Special License if any of the following apply:

a. The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.70, and

(1) The license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 7.70, or

(2) The business has been found to constitute a public nuisance and abatement has been ordered;

b. Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Chapter 7.70. The offenses include:

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(1) Any felony.

(2) Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses;

c. The Chief of Police finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 7.70.120;

d. The Chief of Police finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 7.70;

e. Any statement in the application is false or any required information is withheld; or

f. The Chief of Police finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.70 or any laws or statutes equivalent to the provisions of Chapter 7.70, and the business has violated applicable state, federal or local requirements, including permitting requirements.

3. Notwithstanding Section 7.70.050, the Chief of Police may grant a permit after consulting with the City Council despite the presence of one or more of the enumerated factors if the applicant establishes to the Chief of Police's reasonable satisfaction that:

a. The behavior evidenced by such

factor is not likely to recur; or

b. The behavior evidenced by such factor is remote in time; or

c. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 7.70.

4. ~~Secondhand Dealer Special Licenses~~ Secondhand Dealer Licenses are valid for one year and expire at 12:00 a.m. on January 15th of each year. The ~~permits—licenses~~ are nontransferable and are valid only for a single business location. When the business location is to be changed, the ~~permit—license~~ holder shall provide the address of the new location in writing to the Chief of Police for approval at least 14 days prior to the change.

5. ~~Secondhand Dealer Special Licenses~~ Secondhand Dealer Licenses must be displayed at the business location in a manner readily visible to patrons.

6. Upon denial of an application for a ~~Secondhand Dealers Special License~~ Secondhand Dealer License, the Chief of Police shall give the applicant written notice of the denial.

a. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.

b. Mailing of the notice will be prima facie evidence of receipt of the notice.

c. The denial will be effective the date the notice is sent.

7. Denial of a ~~permit—license~~ may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance

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with Section 7.70.150. (Ord. 09-07 § 1).

7.70.060 ~~Special License Secondhand Dealer License Fees.~~

Every Dealer shall complete and submit all required forms to the Chief of Police and pay a non-refundable fee as set forth by the City of Tigard Master Fees and Charges Schedule. (Ord. 09-07 § 1).

7.70.070 Subsequent Locations.

1. Dealers must file an application for a ~~permit-license~~ for a subsequent or additional business location with the Tigard Police Department and pay a non-refundable fee as set forth in the City of Tigard Master Fees and Charges Schedule; provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 7.70.040.

2. ~~Secondhand Dealer Special Licenses Secondhand Dealer Licenses~~ issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the ~~permit-license~~ issued for a subsequent or additional location will expire on the same date as the initial permit. (Ord. 09-07 § 1).

7.70.080 Reporting of Secondhand Dealer Transactions.

1. Dealers shall provide to the Tigard Police Department all required information as set forth by the Tigard Police Department for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated to the Criminal Investigations Unit by means of mail, the Internet, or other computer media.

a. In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all Secondhand Dealers. All secondhand dealers shall enter their transactions into RAPID, Tigard's designated reporting system. Occasional secondhand dealers may request an exemption from using RAPID, allowing them to, as an alternative, submit their transactions on transaction report (SDR) forms. The request must be made in writing to the Chief of Police.

b. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, Dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a Dealer must submit a written request for additional time to the Chief of Police before the deadline.

c. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.

2. The following apply to Occasional Secondhand Dealers:

a. Occasional secondhand dealers may request an exemption from using RAPID. The exemption will, allow Occasional Secondhand Dealers, as an alternative, submit their transactions on a transaction report (SDR) form created by the Chief of Polices. The request for this exemption must be made in writing to the Chief of Police.

b. The Tigard Police Department will provide all Occasional Secondhand Dealers with transaction report forms at cost until 60 days after such time that the Chief of Police directs a change

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in the reporting method. The Chief of Police may specify the format of the transaction report form. The Chief of Police may require that the transaction report form include any information relating to the regulations of this Chapter. Dealers may utilize their own forms, in lieu of those supplied by the Tigard Police Department, if the Chief of Police has approved such forms. The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate. (Ord. 09-07 § 1).

7.70.090 Regulated Property Sale Limitations.

1. Regulated property is subject to the following limitations:

a. Holding Period. Regulated property acquired by any Secondhand Dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of Section 7.70.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of Section 7.70.090 remain in effect.

b. The following sections apply to the hold period:

(1) The hold period for items may be reduced from 30 days to 20 days if the item either displays a complete legible serial number; or is an item of jewelry; or is precious metal scrap. The Dealer must:

i Report the acquisition into RAPID on the same day the

acquisition occurs; and

ii Include a description in the RAPID entry of the degree of detail for the type of item as required in the Administrative Policies and Procedures and Tigard Municipal Code 7.70; and

iii Include a digital photograph of sufficient size and focus to identify the item and distinguish it from similar items and that clearly shows any legible serial number on the item in the RAPID entry; and

iv Comply with all remaining requirements in the Administrative Policies and Procedures.

(2) A Dealer may be required to reinstate a 30-day hold period if an examination of RAPID entries reveals a pattern of insufficient item descriptions or insufficient photographs.

cb. Requirements of Held Property. All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Tigard Police Department. Held property must be kept at the business location where it was acquired (including hotels or temporary event locations) during this holding period so that it can be inspected during normal business hours (as provided in Section 7.70.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the other requirements of Section 7.70.090, Subsection 1.b,

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are met.

de. Held property requirements do not apply if:

(1) The property is received from a Secondhand Dealer regulated by the City of Tigard who has already satisfied the holding requirements of this Chapter and the Dealer records the original transaction report number on the transaction report completed for the new transaction; or

(2) If a customer, who originally purchased property from a Secondhand Dealer, returns it to that Dealer with the original receipt.

2. Notwithstanding Section 7.70.090, the Chief of Police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in Section 7.70.120.

3. Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of Section 7.70.090, Subsection 1.b, above. The hold may be extended an additional 30 days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The Dealer shall comply with the hold notice and notify the Tigard Police Department Criminal Investigations Unit of the hold notice no later than five calendar days from the day the notice was received, either by telephone, fax, e-mail or in person. A Dealer must notify the Criminal Investigations Unit of his/her intent to

dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.

a. A Police Hold area must meet the following criteria:

(1) Located out of public view and access, and

(2) Marked "Police Hold," and

(3) Contain only items that have been put on Police Hold.

b. Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.

c. If it is not possible or practical to move an item to or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.

4. Upon probable cause that an item of property is the subject of a crime, the Chief of Police may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time as determined by the Chief of Police or any Tigard police officer, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in Section 7.70.090, Subsection 1.b, and will be maintained in the Police Hold area unless seized or released by the Ppolice. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

5. Items held or seized under TMC 7.70.090, Section 4, may not be released to

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anyone other than the Dealer unless the property is released to:

a. Another law enforcement agency that has provided documentation to the satisfaction of the Chief of Police of the stolen status of the property; or

b. A person who reported the property as stolen when all of the following are present; and:

(1) A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

(2) A notice has been delivered to the Dealer holding the property or from whom the property was seized.

(i) The notice required by this subsection will state that the property is being released to the person who has filed the stolen property report.

(ii) The notice required by this subsection will be sent electronically with a request for acknowledgement, or delivered in person to the Dealer at the email or physical address shown on the Dealer's permit application or most recent permit renewal application, and to the pawnor/seller at the address shown in the transaction report required by TMC 7.70. The Chief of Police may release property to the owner after the notice required by this subsection has been delivered; proof of receipt of the notice is not required.

(iii) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

65. If a Dealer acquires regulated property with serial numbers, personalized inscriptions or

initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The Dealer must notify the Tigard Police Department by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the Tigard Police Department. The held property must conform to all the requirements found in Section 7.70.090, Subsection 1.b.

76. If a Dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Tigard Police Department by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.

87. If a peace officer employed by an agency other than Tigard seizes any property from a Dealer, the Dealer must notify the Tigard Police Department of the seizure no later than five calendar days from the day the seizure occurs. The Dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Tigard Police Department may be given by telephone, fax, email, or in person. (Ord. 09-07 § 1).

7.70.100 Tagging Regulated Property for Identification.

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the Tigard Police Department. After the holding period has expired, the transaction number must remain identifiable on the property

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until the sale of the property.

1. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.

2. After the applicable holding period has expired, items that are remanufactured need not remain tagged. (Ord. 09-07 § 1).

7.70.110 Inspection of Property and Records.

Upon presentation of official identification, a Dealer shall allow any representative of the Tigard Police Department to enter the business location to ensure compliance with the provisions of Chapter 7.70. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter. Except by mutual agreement with the Dealer or by court order, any inspection under this Section may occur only during the Dealer's normal business hours. (Ord. 09-07 § 1).

7.70.120 Prohibited Acts.

1. It is unlawful for any person regulated by Chapter 7.70:

a. To receive any property from any person:

(1) Known to the principal, employee or Dealer to be prohibited from selling by a court order,

(2) Under the age of 18 years unless the person's parent or guardian completes the applicable information on the Declaration of Proof of Ownership,

(3) About whom the principal,

employee or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his/her own behalf or as the agent of another who meets the above criteria;

b. To receive property prohibited by this Chapter, including:

(1) Medications,

(2) Gift cards, in-store credit cards, or activated phone cards,

(3) Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible;

c. To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen. Determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.

2. Any violation of Chapter 7.70 is punishable, upon conviction, by a fine of not more than \$500.00 and a jail sentence of up to six months. (Ord. 09-07 § 1).

7.70.130 Civil Penalties.

1. The Chief of Police may assess civil penalties in an amount up to \$500.00 for each violation of Chapter 7.70.

2. Procedure.

a. The Chief of Police having made a determination to seek civil penalties as provided by this Section, shall give the Dealer written

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notice of the determination.

b. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested or by personal service by any sworn member of the Tigard Police Department.

c. Mailing of the notice will be prima facie evidence of receipt of the notice.

d. The civil penalty will be due ~~40-30~~ days from the date of the notice unless such civil penalty is appealed in accordance with Section 7.70.150. (Ord. 09-07 § 1).

7.70.140 Revocation or Suspension of Permit Secondhand Dealer License.

1. Along with the other regulatory enforcement authority granted under this Chapter, the Chief of Police may, after consulting with the City Council, revoke or suspend any permit license issued pursuant to this Chapter under the following conditions:

a. For any cause that would be grounds for denial of a permit; ~~or~~

b. Upon finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; ~~or~~

c. A lawful inspection has been refused; ~~or~~

d. If payment of civil penalties has not been received by the City of Tigard within 10 business days after the penalty becomes final; or

e. If any statement contained in the application for the permit is false.

2. The Chief of Police, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the Dealer written notice of the revocation or suspension.

a. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.

b. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.

3. Revocation will be effective and final 10 days after the giving of notice unless the revocation is appealed in accordance with Section 7.70.150

4. Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days. (Ord. 09-07 § 1).

7.70.150 Appeals.

1. Any Dealer or person whose initial application or renewal application for a ~~Special License-Secondhand Dealer License~~ has been denied, or whose license has been revoked or suspended, or who has been directed to pay a civil penalty by the Chief of Police, may appeal the action of the Chief of Police to the Civil Infractions Hearing Officer in accordance with Chapter 1.17 of the Tigard Municipal Code.

2. The filing of a notice of appeal of revocation or suspension of a ~~permit~~license, or of a civil penalty imposed by the Chief of Police

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under this Chapter, will stay the effective date of the action until the Civil Infractions Hearing Officer has issued an opinion. (Ord. 09-07 § 1).

7.70.155 Administrative Policies and Procedures.

1. ~~The City Council shall grant the Chief of Police the authority to~~ may, by rule, implement the requirements and specifications of this chapter ~~change, modify or adjust the Definition of Regulated Property list (Administrative Policies and Procedures, Section I), Completion of Secondhand Dealers Report (Administrative Policies and Procedures, Section II), or other sections specified in this Chapter.~~ Administrative Policies and Procedures stemming from this Chapter, Sections I and II, will be maintained by the Tigard Police Department and copies will be provided to all Dealers.

~~2. The Chief of Police shall make available and publish a new Regulated Property List (Administrative Policies and Procedures, Section I) and Completion of Secondhand Dealers Report (Administrative Policies and Procedures, Section II) by June 30th of each year. If no modifications are made to Administrative Policies and Procedures, Sections I and II, from the previous year, the previous year's Administrative Policies and Procedures, Sections I and II, will remain in effect. (Ord. 09-07 § 1). ■~~

AIS-1808

8.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 10 Minutes

Agenda Title: Discussion of Upcoming Contracts

Prepared For: Joseph Barrett

Submitted By: Joseph Barrett, Financial and Information Services

Item Type: Update, Discussion, Direct Staff **Meeting Type:** Local Contract Review Board

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Discussion of upcoming contracts.

STAFF RECOMMENDATION / ACTION REQUEST

Staff is asking Council to provide direction and inform staff of any additional information they would like to have presented during the contract award for upcoming contracts. The Local Contract Review Board will be presented with a contract award motion for each contract at their July 22nd Business Meeting.

KEY FACTS AND INFORMATION SUMMARY

Right-of-Way (ROW) Improvements and Maintenance

The city has a need for a landscape contractor to perform both landscape maintenance and minor improvements in a number of the city's rights of way and water quality facilities. Work will include:

- Turf Management (Mowing, Edging, String Trimming, Sweeping/Blowing Sidewalks)
- Planter Strip Maintenance
 - Weeding
 - Litter Pickup
 - Pruning
 - Leaf Removal
- Irrigation Repair
- Fertilization (Turf and Planter Strips)

The vast majority of this contract will be for maintenance services as the city has largely completed improvements over the contracts of prior years. Small improvements are scheduled for Gaarde (access road turn out to 121st) and Walnut (80 feet east of Gaarde to 132nd).

The city issued a Request for Proposal (RFP) for the work on June 6th with an advertisement in the Daily Journal of Commerce. In addition, the city directly mailed the RFP to eight (8) landscape contractors. The closing date was June 19th at 2:00 pm and staff received one proposal - from Cascadian Landscapers. This is consistent with previous year response rates and is partly due to the nature of the work and the time of year.

Staff reviewed the proposal and determined that Cascadian submitted a responsive and responsible proposal and is a firm capable of performing the work the city needs. The proposed contract will be for an estimated \$83,250 (\$74,700 for maintenance and \$8,550 for improvements) for the city's rights of way and \$17,220 for maintenance services at the city's water quality facilities.

City Hall, Police, and Permit Center Re-Skin (Wrap)

Several areas of Tigard's City Hall complex including City Hall, the Permit Center, and the Police Department have failing or compromised Exterior Insulation Finishing System (EIFS) stucco that is in need of removal and replacement. Along with these improvements, modifications will also be made to the entryway canopy between the Permit Center and City Hall, a window will be installed on the south wall of the Permit Center, the metal roof, which has reached its maximum life expectancy (based on the warranty) will be replaced, and landscaping around the perimeter of the buildings will be removed and replaced.

Because of the complexity of this project, which requires a multitude of disciplines, the City has utilized specialized consulting agencies to complete the necessary tasks. With the data obtained from the previous testing for water infiltration and hazardous materials, an architect was hired to serve as architect of record and produced plans and bid documents. A separate and independent architect was hired to serve as project manager/owner's representative. A contractor, who must be pre-qualified as a Dryvit Care Application Contractor, which is what this contract will be for, will provide structural and roofing repair, handle and disposal of any hazardous waste materials and provide the necessary testing and testing agencies required for completion.

The construction project will be in two phases:

Phase 1

- Removal and replacement of Exterior Insulation Finishing System (EIFS) stucco on Permit Center building
- Removal and replacement entrance canopy
- Installation of new roofing material
- Removal of Permit Center landscaping
- Erosion control

Phase 2

- Removal and replacement of Exterior Insulation Finishing System (EIFS) stucco on City Hall and Police building
- Installation of new roofing material
- Removal of City Hall and Police building landscaping
- Erosion control

The city issued an Invitation to Bid for the work on May 21st with advertisements in both The Daily Journal of Commerce and The Oregonian. Bids were due on June 10th at 2:00 pm and the city received bids from two firms, one of which that was automatically disqualified as it came incomplete and via email. Applied Restorations, a firm qualified as a Dryvit Care Application contractor, submitted the sole acceptable bid. Staff, along with the city's owners' representative consultant, reviewed the bid and determined it to be a responsible and responsive bid. As such, staff is recommending a contract be awarded to Applied Restorations for the work.

Applied Restorations base bid was \$674,975 (\$324,800 - Phase 1 and \$350,175 - Phase 2). The bid alternates, which staff is recommending also be included in this contract were as follows:

- Bid Alternate A Canopy - \$161,500 (Phase 1)
- Bid Alternate B Metal Roofing - \$16,250 (Phase 1) + \$65,000 (Phase 2)
- Bid Alternate C Paint Windows - \$30,500 (Phase 1) + \$37,600 (Phase 2)
- Total of all Bid Alternates - \$310,850 (\$208,250 - Phase 1 + \$102,600 - Phase 2)

The total of base bid and the bid alternatives is \$985,825. In addition, the replacement cost for the sheathing and EIFS system is \$24.80 per square foot and the cost to re-point the masonry is \$8.29 per linear foot. The city had \$1,701,415 estimated in the CIP for this work over fiscal years 13-14, 14-15, and 15-16.

OTHER ALTERNATIVES

The Local Contract Review Board may direct staff to shelve these projects and bring them forward at a later date. Doing so would likely create a scenario where new solicitations would be required.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time the Local Contract Review Board has discussed this potential contract.

Attachments

No file(s) attached.

AIS-1738

9.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 10 Minutes

Agenda Title: Briefing on an Agreement with Washington County for Technological Improvements to Traffic Signals along Durham and Upper Boones Ferry Roads

Prepared For: Mike McCarthy **Submitted By:** Renee Ferguson, Public Works

Item Type: Update, Discussion, Direct Staff **Meeting Type:** Council Business Mtg - Study Sess.

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Briefing on an intergovernmental agreement (IGA) with Washington County for increasing the efficiency of traffic signals along Durham and Upper Boones Ferry Roads to improve traffic flow.

STAFF RECOMMENDATION / ACTION REQUEST

No action is required; formal consideration of the agreement is scheduled on a future consent agenda.

KEY FACTS AND INFORMATION SUMMARY

The adopted 2014-15 Capital Improvement Plan includes project #95041 - Upper Boones Ferry Road / Durham Road Adaptive Signal Coordination. The purpose of this project is to use modern technology to improve traffic flow and safety along the Upper Boones Ferry Road and Durham Road corridor from Interstate 5 to Highway 99W. The project will install a traffic flow management system to coordinate the 13 signalized intersections, two rail crossings, one enhanced crosswalk, and two school zones along this corridor, and allow signal timing to adapt in real time to changes in traffic demand. The attached map shows the project corridor (as a blue line) and the signals to be coordinated along that corridor.

The total cost of this project is estimated to be \$1.1 million. City staff have secured \$1 million in federal Surface Transportation Program (STP) funding for this project. This federal funding is allocated through Metro's Metropolitan Improvement Program (MTIP) and the design and construction contracts will be administered by the Oregon Department of Transportation (ODOT). Tigard is required to pay a 10.27% local match, which is estimated to be \$114,454, which will be paid from the Transportation Development Tax (TDT) fund. The \$1 million of federal funds will flow through the state to pay the consultant and contractor to complete the project. This project will be managed at a level so that Tigard's external costs will not exceed \$114,454. Tigard's internal staff costs for project management are budgeted to be \$50,000, for a total city cost of \$164,454, from TDT funds.

Washington County maintains Tigard's signals under a separate intergovernmental agreement, and County staff have the expertise in coordinated signal systems to effectively manage this project. County staff have offered to manage this project with the city, and this agreement outlines how this project will be managed and implemented. Washington County will have agreements with ODOT and Metro for execution of this project.

This agreement was reviewed and approved by the city attorney's office in April, 2014.

OTHER ALTERNATIVES

The council could propose changes to the agreement or could decide not to approve the agreement. Should the council decide not to approve the agreement, the consequence would likely be that the county would not agree to assist the city by managing this project.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

None

DATES OF PREVIOUS CONSIDERATION

None

Fiscal Impact

Cost: \$114,454

Budgeted (yes or no): Yes

Where Budgeted (department/program): CIP Project # 95041

Additional Fiscal Notes:

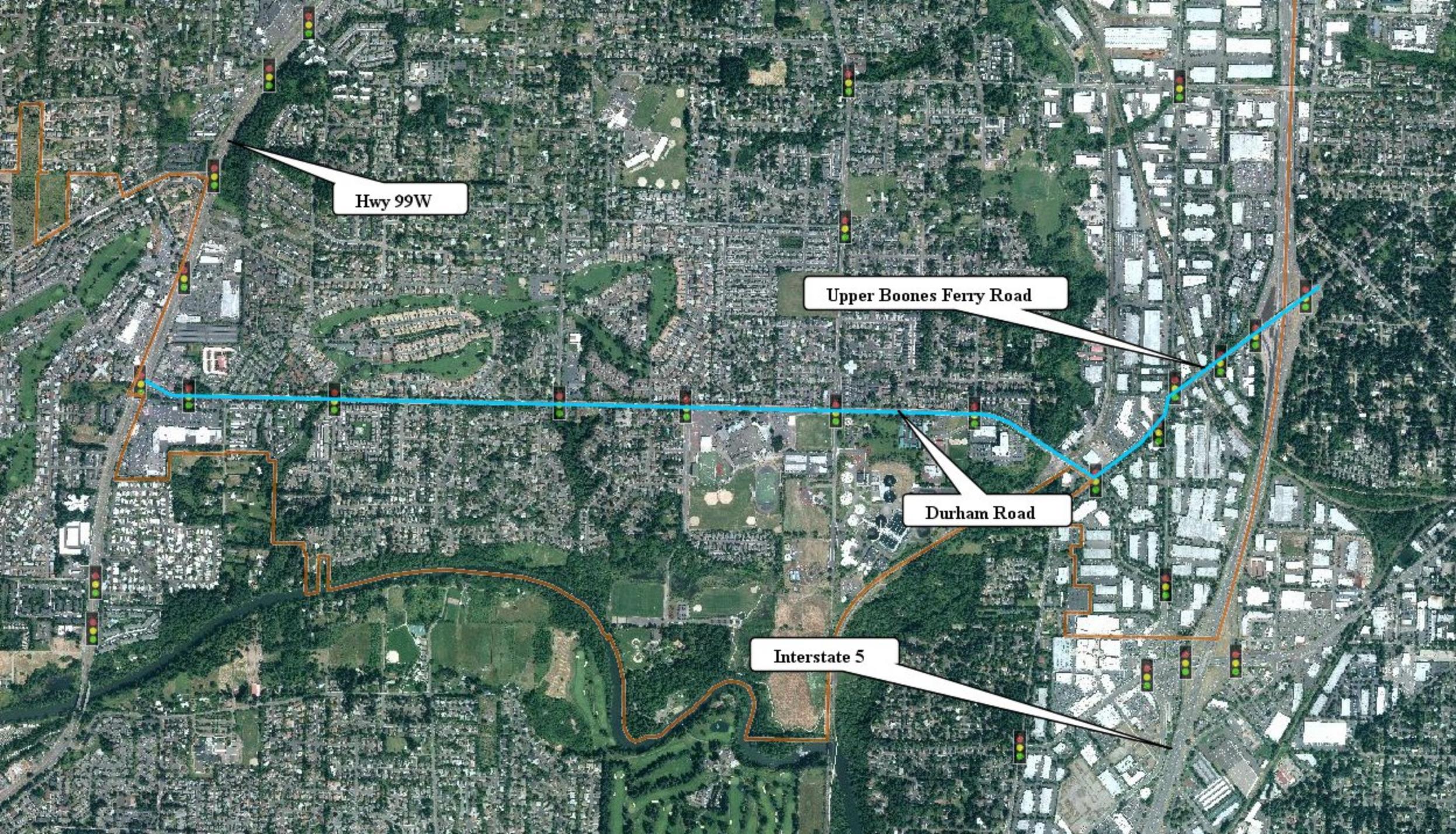
This project is primarily funded by \$1 million from the federal Surface Transportation Program (STP) allocated through Metro's Metropolitan Transportation Improvement Program (MTIP). This funding is not shown in the Capital Improvement Plan (CIP) because it will not flow through the city's books. The state will hire and pay the consultant and contractor to complete this project.

The city's local match for this project is \$114,454, which will be paid to the County. The city's estimated internal costs are \$50,000 spread over FY 2014 & FY 2015. The total city cost of \$164,454 is budgeted in the adopted Capital Improvement Plan to be paid with Transportation Development Tax (TDT) funds. This use of TDT funds has been approved by the Washington County Coordinating Committee.

Attachments

Durham Upper Boones Project Map

Intergovernmental Agreement



Hwy 99W

Upper Boones Ferry Road

Durham Road

Interstate 5

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
WASHINGTON COUNTY AND THE CITY OF TIGARD**

**INSTALLATION OF INTELLIGENT TRANSPORTATION SYSTEM (“ITS”)
UPPER BOONES FERRY/DURHAM RD SIGNALS**

THIS INTERGOVERNMENTAL AGREEMENT is entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as “COUNTY”; and the City of Tigard, a municipal corporation, acting by and through its City Council, hereinafter referred to as “CITY,” jointly referred to as “PARTIES”.

RECITALS

1. WHEREAS, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and
2. WHEREAS, CITY has an approved and funded Metropolitan Transportation Improvement Project (MTIP) to design and construct signal improvements to SW Upper Boones Ferry Road, a City Arterial Street, and SW Durham Road, a City Arterial Street, from Interstate 5 to Highway 99W; and
3. WHEREAS, COUNTY maintains certain public infrastructure within the Rights-of-Way of SW Upper Boones Ferry Road and SW Durham Road by agreement with CITY; and
4. WHEREAS, CITY desires COUNTY to improve signal operation along SW Upper Boones Ferry Road and SW Durham Road; and
5. WHEREAS, PARTIES have determined it would serve the interests of the public, and result in considerable cost savings, for the COUNTY to manage, design and construct the signal improvements; and
6. WHEREAS, under such authority, it is the desire of the PARTIES to enter into such an Agreement to cooperate in the design and construction of the improvements to the traffic signal system along SW Upper Boones Ferry Road and SW Durham Road, with the allocation of responsibilities as detailed below; and
7. WHEREAS, it is the desire of PARTIES to enter into this agreement to allocate responsibilities for funding, design, and construction of all the above-described improvements.

AGREEMENT

NOW, THEREFORE, the premise being in general as stated in the foregoing recitals, and in consideration of the terms, conditions and covenants as set forth below, the PARTIES hereto agree as follows:

1. PROJECT DESCRIPTION

- 1.1 The project work within the City includes installation of a traffic signal control system connecting thirteen (13) traffic signals, two (2) rail crossings, one (1) crosswalk, and potentially school speed zone signage, hereinafter collectively referred to as "PROJECT" as shown generally on the attached Exhibit A.

2. COUNTY OBLIGATIONS

- 2.1 Upon execution of this Agreement, COUNTY shall assign a Project Manager to be responsible for oversight of the PROJECT during the design, bidding and construction phase of the PROJECT and to provide timely coordination with CITY.
- 2.2 COUNTY shall perform, or cause to be performed, all actions necessary for the design and construction of the PROJECT including project management, design and construction engineering, regulatory and land use permits and approvals, public information, contract administration, and construction management. COUNTY shall coordinate and administer the design and construction contracts for the PROJECT.
- 2.3 COUNTY shall regularly and upon request, inform and notify the CITY, through the City assigned Project Manager, of PROJECT construction status and anticipated completion date.
- 2.4 COUNTY shall perform actions regarding compensation as set forth in Article 4 – Compensation.

3. CITY OBLIGATIONS

- 3.1 Upon execution of this Agreement, CITY shall assign a Project Manager to be responsible for coordination of the PROJECT with COUNTY.
- 3.2 CITY shall provide timely review and comment on COUNTY design documents and timely response to other PROJECT information requests. COUNTY agrees to incorporate CITY comments that do not significantly impact PROJECT costs or schedule.
- 3.3 CITY will review PROJECT work and may provide inspection or testing at its own expense and may require additional and/or corrective work, at its own expense to complete the PROJECT if, in the CITY's judgment, it is in the public interest to do so and as may be necessary.
- 3.4 CITY shall coordinate and participate with COUNTY on any disagreements, disputes, delays or claims related to or as a result of the PROJECT.

3.5 CITY shall perform actions regarding compensation as set forth in Article 4 – Compensation.

4. COMPENSATION

4.1 Estimated design costs are:

a. Intelligent Transportation System: Design	\$ 345,000
b. City of Tigard Match (10.27%)	\$ 39,487
c. Estimated Total Design Cost	\$ <u>384,487</u>

4.2 Estimated construction costs are:

a. Intelligent Transportation System: Construction	\$ 655,000
b. City of Tigard Match (10.27%)	\$ 74,967
c. Estimated Total Construction Cost	\$ <u>729,967</u>

4.3 Estimated Project costs are:

a. City of Tigard Match (10.27%)	\$ 114,454
b. Federal Highway Contribution	\$ 1,000,000
c. Estimated Total Project Cost	\$ <u>1,114,454</u>

4.4 CITY shall provide to COUNTY a 10.27% match for the PROJECT, as approved as part of the CITY's fiscal year 2014-2015. The CITY's match funds will be payable in one lump sum payment upon execution of this Agreement. The costs shall include, but are not limited to, design engineering and construction engineering consultant services, and County administrative costs.

4.5 CITY and COUNTY understand that the design and construction costs outlined above are estimates and are used to determine project budgets and estimated payment amounts used within this Agreement. Notwithstanding, the estimate costs shown above, final costs payable by the CITY to COUNTY will be based on the actual contract amounts. However, in no event shall the CITY be obligated to pay to COUNTY more than \$114,454 for PROJECT costs. Any additional costs associated with the PROJECT incurred by the County and/or its contractor above the match funds, including without limitation, any cost overruns, shall be borne by the COUNTY or COUNTY's contractor. Payments made by the CITY to the COUNTY related to this PROJECT shall be based on actual design invoices, actual bid prices, construction quantities and non-construction costs.

4.6 Within ninety (90) days after the completion of the construction contract, the COUNTY shall provide the CITY with a final statement of PROJECT WORK and bill the CITY for any remaining costs in excess of the payments already made, or refund any excess match funds to the CITY.

- 4.7 Upon the completion of the construction and completion of Record Drawings, the COUNTY shall deliver one electronic copy and one set of reproducible Record Drawings to the CITY, for their files.

5. GENERAL PROVISIONS

5.1 LAWS OF OREGON

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated and made a part of this Agreement as if fully set forth herein.

5.2 DEFAULT

Time is of essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

5.3 INDEMNIFICATION

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold harmless the other party, and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement.

5.4 MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

5.5 DISPUTE RESOLUTION

The parties shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations, with the parties sharing equally in the cost of a neutral third party. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

5.6 REMEDIES

Subject to the provisions in paragraph 5.5, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

5.7 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

5.8 SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

5.9 INTEGRATION

This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

6. TERMS OF AGREEMENT

- 6.1 The term of the Agreement shall be from the date of execution until the completion of the PROJECT, but not to exceed five (5) years.
- 6.2 This Agreement may be amended or extended for periods of up to one (1) year by mutual consent of the parties. It may be canceled or terminated for any reason by either party. Termination or cancellation shall be effective thirty (30) days after written notice to the other party, or at such time as the parties may otherwise agree. The parties shall, in good faith, agree to such reasonable provisions for winding up the PROJECT and paying for any additional costs as necessary.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

CITY OF TIGARD, OREGON

WASHINGTON COUNTY, OREGON

MAYOR

CHAIR, BOARD OF COUNTY
COMMISSIONERS

DATE: _____

DATE: _____

ATTEST:

CITY RECORDER

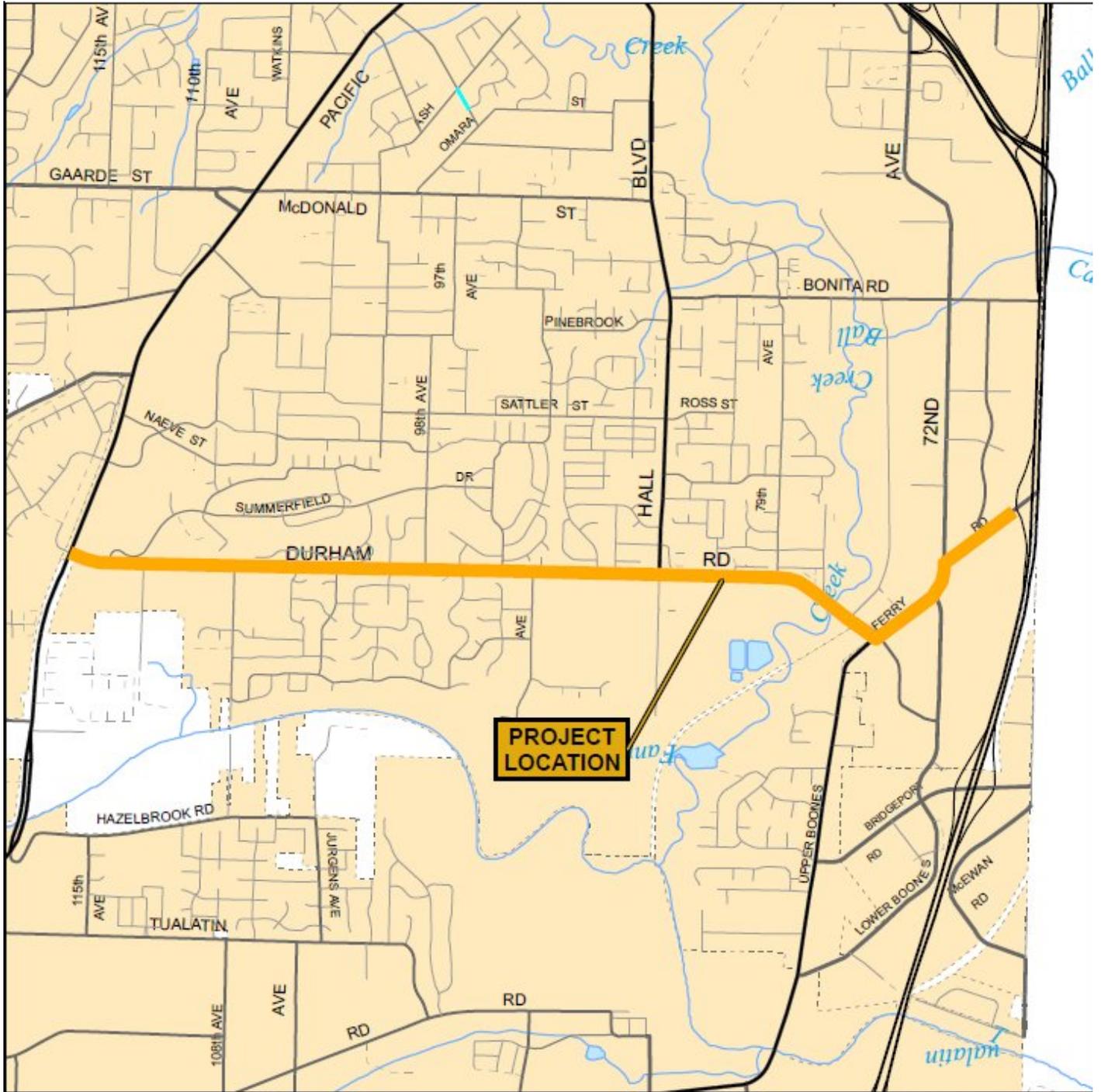
RECORDING SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

CITY ATTORNEY

COUNTY COUNSEL



PROJECT LOCATION



**UPPER BOONES FERRY RD / DURHAM RD
PACIFIC HWY 99W TO US HWY 5**

LEGEND

- PROJECT LOCATION
- HIGHWAYS
- MAJOR ROADS
- MINOR ROADS
- RAILROADS
- CITIES
- LAKES
- RIVERS & STREAMS



Disclaimer: This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

For more information, contact:
 Dan Erpenbach, Project Manager
 Engineering and Construction Services
 Phone: 503-846-7800
 Fax: 503-846-7810
 Email: daniel_erpenbach@co.washington.or.us

Drawn by: RRR
 Map Date: March 5, 2014



SCALE

Feet
 0 375 750 1,500

AIS-1743

10.

Business Meeting

Meeting Date: 07/08/2014

Length (in minutes): 10 Minutes

Agenda Title: Briefing on an Agreement with CWS and Beaverton Regarding the Construction of Water and Sewer Lines to Serve River Terrace

Prepared For: Mike Stone

Submitted By: Greer Gaston, Public Works

Item Type: Update, Discussion, Direct Staff

Meeting Type: Council Business Mtg - Study Sess.

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Briefing on an Intergovernmental Agreement (IGA) with Clean Water Services (CWS) and the City of Beaverton regarding the design and construction of Phase 2 of water and sewer lines to serve River Terrace.

STAFF RECOMMENDATION / ACTION REQUEST

No formal action is requested; the council will be asked to formally consider the IGA on its consent agenda at an upcoming meeting.

KEY FACTS AND INFORMATION SUMMARY

This project represents Phase 2 of the previous work completed in FY 13/14 and will extend the remaining sections of trunk sewer and mainline waterlines to the intersection of Roy Rogers Road and Scholls Ferry Road. From this point, the lines will be extended south into the River Terrace Service Area.

Previously, the water and sewer work was agreed upon and undertaken by way of two separate IGAs between the participants (Tigard, Washington County and Beaverton). The IGA under consideration for Phase 2 is similar to the previous agreements for Phase 1 except that a single agreement is proposed to cover both the sewer and water work. This agreement

represents a means for CWS, Beaverton and Tigard to pay for their respective portions of the design, construction and maintenance responsibilities associated with the improvements.

As planned the majority of the work benefits Beaverton. Understandably, Beaverton has offered to design, bid, construct and provide project management services with the other two parties compensating Beaverton for their respective proportional costs. This avoids the need for multiple contracts and IGAs.

Inspection of improvements specific to Tigard (portions of the mainline waterlines) will be accomplished by Tigard employees.

The agreement has been reviewed by Tigard's City Attorney and has been adopted by both CWS and Beaverton.

OTHER ALTERNATIVES

The council could choose to not approve or could propose changes to the IGA. Not approving the IGA as proposed could lead to Tigard completing the improvements alone, possibly at significantly increased costs.

Proposing changes to the IGA could possibly lead to a delay in the completion timeline, thereby impacting the development schedule for River Terrace.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Not applicable.

DATES OF PREVIOUS CONSIDERATION

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

Council approved (2) similar IGAs for Phase 1, one for mainline waterline and one for trunk sewer improvements. The waterline IGA was approved on May 14, 2013, and the trunk sewer line IGA was approved on September 10, 2013.

Fiscal Impact

Cost:	\$388,000
Budgeted (yes or no):	Yes
Where Budgeted (department/program):	531 - Water SDC Fund, 540 - Sanitary Sewer Fund

Additional Fiscal Notes:

See Table Attached

Attachments

CWS/Beaverton/Tigard
Final Fiscal Impact Table



**INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF BEAVERTON, CITY OF TIGARD, AND
CLEAN WATER SERVICES TO CONSTRUCT
THE SCHOLLS FERRY TRUNK SEWER EXTENSION PHASE 2
PROJECT NO. 6649**

This Agreement, dated _____, 2014, is between CLEAN WATER SERVICES (District), a county service district organized under ORS Chapter 451, the CITY OF BEAVERTON (Beaverton), an Oregon Municipality, and the CITY OF TIGARD (Tigard), an Oregon Municipality.

A. RECITALS

ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local governments to delegate to each other authority to perform their respective functions as necessary.

District, Tigard, and Beaverton intend to undertake the Scholls Ferry Trunk Sewer Extension Phase 2 Project (Project) to extend gravity sewer from Barrows Road westward to Scholls Ferry Road and to connect two segments of existing water line. This Project has been endorsed by the Capital Improvement Program Prioritization Committee.

NOW, THEREFORE, the parties agree as follows:

B. PROJECT DESCRIPTION

The sanitary sewer improvement portion of the Project consists of constructing approximately 690 linear feet of 24-inch diameter sanitary sewer, 555 linear feet of 21-inch diameter sanitary sewer, 50 linear feet of 8-inch diameter sanitary sewer, and nine manholes from the eastern terminus of a storm water facility access road along the southern side of SW Scholls Ferry Road to a point 1,243 feet eastward on Barrows Road as shown in Exhibit A (Sanitary Work).

The water improvement portion of the Project consists of constructing approximately 350 linear feet of 18-inch diameter water line with appurtenances from the western side of the traffic circle at SW Barrows Road, extending to the intersection of SW Barrows Road and SW Scholls Ferry Road (Water Work).

Beaverton will design the Project, select the construction contractor, and administer the construction contract for the Project.

C. DEFINITIONS

1. **Beaverton Planning and Design Cost** – Beaverton labor and benefit costs and consultant costs paid by Beaverton associated with the services outlined in Section E.1-22.

2. **Capital Improvement Program Prioritization Committee** – The Committee established by District and the Member Cities of Beaverton, Cornelius, Forest Grove, Hillsboro, Tigard, Tualatin, and Sherwood to identify and prioritize sanitary and storm system improvement projects throughout District’s service area.
3. **Sewer Cost** - Includes the cost of all line items, bid schedules, restoration work, change orders, any associated restoration work, Beaverton Planning and Design Cost, overhead, bidding, inspection and project administration that can be accurately allocated to installation of the sanitary sewer and the prorated share of all general construction line items (mobilization, work zone traffic control, erosion control) as described in the Project Description for Sanitary Work, and any other costs associated with bidding and installing or modifying the new sanitary sewer line. Sewer Cost will also include costs associated with the repair of the water vault necessitated by damage to the vault during construction of the Sanitary Work.
4. **Water Cost** – Includes the cost of all line items, bid schedules, restoration work, change orders, any associated restoration work, design, overhead, bidding, inspection and project administration that can be accurately allocated to the water line and the prorated share of all general construction line items (mobilization, work zone traffic control, erosion control) as described in the Project Description for Water Work, and any other costs associated with bidding and installing or modifying the new water line.

D. DISTRICT OBLIGATIONS

District shall:

1. Provide direction to Beaverton on the anticipated capacity requirements of sewer lines larger than 12-inches in diameter.
2. Review plans and specifications provided by Beaverton and provide comments to Beaverton within ten working days of receiving them.
3. Pay Beaverton 75% of the Sewer Cost, not to exceed \$1,225,000 within 30 days of receiving and approving the invoice. The invoice must be complete and include full progress payment amounts and typical construction retainage.
4. Appoint Andrew Braun as District’s Project Manager.
5. Provide approval to Beaverton of the low bidder and bid cost for the Sanitary Work within three business days.
6. Have the right to review, and approve or reject any proposed changes to the Sanitary Work such as design change, field directive, change order, or use of the contingency line item.
7. Pay none of the Water Cost.
8. Respond to requests for District’s approval of changes to the Sanitary Work within 12 business hours (8:00 a.m. – 5:00 p.m. Monday through Friday, excluding holidays). This

includes, but is not limited to: a) authorizing any design changes, b) approving any change orders, c) authorizing use of contingency line items, or d) resolving any disagreement, dispute, delay or claim.

9. Approve final acceptance prior to making any payment.

E. BEAVERTON OBLIGATIONS

Beaverton shall:

1. Appoint Andrew Barrett or another employee acceptable to District, as Beaverton's Project Manager.
2. Select, contract with, and pay consultants to perform a geotechnical investigation, utility locates, boring design, environmental assessment, and other work as necessary for use in designing and obtaining permits for the Project.
3. Provide all planning, design, specifications, and permits for the Project.
4. Provide any required notice and communicate with the neighborhood and property owners within the Project limits. Respond to public calls arising from work being completed for the Project. Take the lead in coordinating public involvement related to the Project.
5. Provide Tigard and District at least ten business days to review plans and specifications for the Project at 75%, 90%, and 100% completion, and incorporate their review comments into the plans.
6. Conduct a public bidding process to construct the Project.
7. Provide timely responses to bidders' questions about the Project. If necessary, provide District with an addendum no later than five business days prior to the bid opening.
8. Provide timely response to contractor's Project information requests.
9. Require all contractors to include District and Tigard as additional insureds on insurance coverage required for construction work performed in completing the Project.
10. Administer construction of the Project and pay contractor all contract costs.
11. Construct the Project and provide construction and management services for the Project.
12. Provide construction inspection of the Project bid items including review and approval of shop drawings, submittals, and onsite inspection to determine compliance with the contract documents. Beaverton's inspector shall be onsite and responsible for enforcing all applicable specifications during all Project work, including but not limited to night work, accommodations for public traffic and work zone traffic.
13. Obtain District's approval for any proposed sewer design or other changes to the Sanitary Work. Obtain District's consent before taking any of the following actions for the Sanitary Work: a) authorizing any design changes, b) approving any change orders, c) authorizing use of contingency line items.
14. Provide District written notice that the Project is complete and obtain District's approval for final acceptance of the Project prior to releasing bonds, or issuing final payment to the contractor.

15. Provide District as-built construction drawings for the Project within 60 days after the Project is deemed complete and acceptable to District. The as-built drawings shall be provided in camera-ready hardcopy, 11 x 17 inches with a CD in both pdf and AutoCAD digital format.
16. Coordinate and participate with District and obtain District's consent before resolving any disagreement, dispute, delay or claim related to, or as a result of the Sanitary Work.
17. Provide documentation of the Project cost to District and Tigard, prior to invoicing.
18. Track Water Cost and Sewer Cost separately.
19. Pay 12.5% of the Sewer Cost, (after reimbursement from District and Tigard) not to exceed \$205,000.
20. Invoice District for 75% of the Sewer Cost, not to exceed \$1,225,000, upon completion of the Project.
21. Invoice Tigard for 12.5% of the Sewer Cost upon completion of the Project.
22. Invoice Tigard for 3% of the Water Cost as a contract administrative fee.
23. Invoice Tigard 100% of the Water Cost at the time the contractor's invoices are received.

F. TIGARD OBLIGATIONS

Tigard shall:

1. Appoint Rob Murchison or another employee acceptable to District and Beaverton as Tigard's Project Manager.
2. Provide all planning, design, specifications, and permits for the Water Work.
3. Review plans and specifications provided by Beaverton for the Project and provide comments to Beaverton within ten working days of receiving them.
4. Provide timely response to contractor's Water Work information requests.
5. Provide construction inspection and management services for the Water Work.
6. Provide construction inspection of the bid items relating to Water Work including review and approval of shop drawings, submittals, and onsite inspection to determine compliance with the contract documents. Tigard's inspector shall be onsite and responsible for enforcing all applicable specifications during all Project work, including but not limited to night work, accommodations for public traffic and work zone traffic.
7. Have the right to approve any proposed Water Work related to design change, field directive, change order, or use of the contingency line item.
8. Pay Beaverton 100% of the Water Cost within 30 days of receiving and approving the invoice.
9. Pay Beaverton, 12.5% of the Sewer Cost as bid and modified during construction, not to exceed \$205,000, within 30 days of approving the invoice. The invoice shall include full progress payment amounts, including typical construction retainage.
10. Pay Beaverton 3% of the Water Cost as a contract administrative fee.

11. Show proof that funds are available prior to starting the Project.
12. Provide Beaverton as-built construction drawings for the Water Work within 30 days after the Project is deemed complete. The as-built drawings shall be provided in camera-ready hardcopy, 11 x 17 inches with a CD in both pdf and AutoCAD digital format.

G. GENERAL TERMS

1. Laws and Regulations. Beaverton, Tigard and District agree to abide by all applicable laws and regulations.
2. Term of this Agreement. This Agreement is effective from the date the last party signs it and shall remain in effect until the Project is complete and the parties' obligations have been fully performed or this Agreement is terminated as provided herein.
3. Amendment of Agreement. Beaverton, Tigard and District may amend this Agreement from time to time, by mutual written agreement.
 - A. Proposed sewer-related changes of scope during the Project implementation must be reviewed and endorsed by the Capital Improvement Program Prioritization Committee. Changes necessitated by conditions discovered during design or construction, but consistent with the original scope of the Project, may be approved by District and Beaverton for the Project without further approval from the Capital Improvement Program Prioritization Committee.
 - B. The construction contract amount of the Water Work and the Sanitary Work may each be increased by up to 20% without amending this Agreement, provided the increase shall not exceed any not to exceed amount contained in this Agreement.
4. Termination. This Agreement may be terminated immediately by mutual written agreement of the parties, or by any of the parties notifying the others in writing prior to award of a construction contract, with the termination being effective in 30 days.
5. Integration. This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement shall prejudice the waiving party's exercise of the right in the future.
6. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the parties shall indemnify and defend the others and their officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation

of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.

7. Resolution of Disputes. If any dispute out of this Agreement cannot be resolved by the project managers from each party, the Beaverton Mayor, Tigard City Manager and District's General Manager will attempt to resolve the issue. If they are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. In the event the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law.
8. Interpretation of Agreement.
 - A. This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
 - B. The paragraph headings contained in this Agreement are for ease of reference only and shall not be used in construing or interpreting this Agreement.
9. Severability/Survival. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Agreement for any cause.
10. Approval Required. This Agreement and all amendments, modifications or waivers of any portion thereof shall not be effective until approved by 1) District's General Manager or the General Manager's designee and when required by applicable District rules, District's Board of Directors 2) Beaverton, and 3) Tigard. Proposed changes of scope to the Sanitary Work must also be approved by the Capital Improvement Program Prioritization Committee.

11. Choice of Law/Venue. This Agreement and all rights, obligations and disputes arising out of the Agreement shall be governed by Oregon law. All disputes and litigation arising out of this Agreement shall be decided by the state courts in Oregon. Venue for all disputes and litigation shall be in Washington County, Oregon.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

CLEAN WATER SERVICES

CITY OF BEAVERTON, OREGON

By: _____
General Manager or Designee

By: _____
Mayor or Designee

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

District Counsel

City Counsel

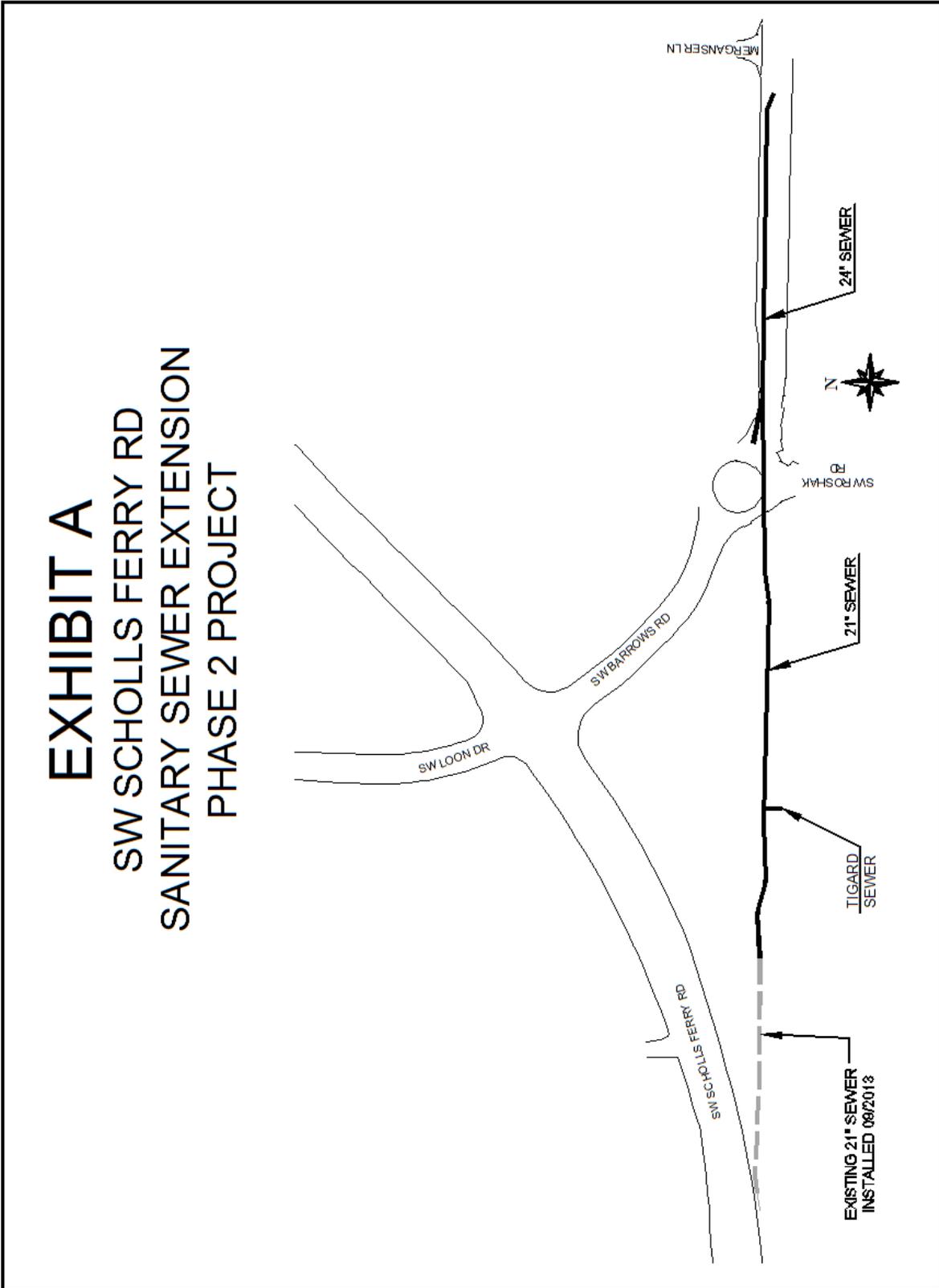
CITY OF TIGARD

By: _____
City Manager or Designee

APPROVED AS TO FORM

City Counsel

**Exhibit A
Project Location Map**



ESTIMATED CITY OF TIGARD COSTS TO CONSTRUCT WATER AND SEWER LINES TO SERVE RIVER TERRACE

There is \$735,000 total combined budget for the water (\$345,000) and the sewer line (\$390,000).

The estimated cost of Tigard's portion of the water and sewer line construction is as follows:

Waterline Improvements (CIP Project # 96035) Tigard's Portion is 100% of Waterline Construction Costs	\$ 98,000
Internal Costs	\$ 37,000
External Costs (As-builts, RFI submittals, etc.)	\$ 5,000
Beaverton Administrative Fee @ 3%	\$ 3,000
Subtotal Waterline	\$143,000
Sewer Line Improvements (CIP Project # 93035) Tigard's Portion is 12.5% of Estimated Sewer Construction Costs Not to Exceed	\$205,000
Internal Costs	\$ 40,000
Subtotal Sewer Line	\$245,000
TOTAL FOR BOTH PROJECTS	\$388,000*

* Costs associated with undefined responsibility such as clearing and grubbing, bonding and mobilization, etc. have not been included in these costs. These costs will be proportioned out to the participating partners once the contract has been awarded.