



MEMORANDUM

Via Email: toby@tigard-or.gov

TO: Toby LaFrance

FROM: Gülgün U. Mersereau & Harvey W. Rogers, Bond Attorneys

DATE: July 1, 2015

RE: Referring to the YMCA in the Ballot Title for the Community Center General Obligation Bonds

We are writing to confirm our advice regarding including a reference to the YMCA as the expected operator of the community center in the ballot title for that project.

The City does not have a binding agreement with the YMCA that obligates the YMCA to operate the proposed community center on terms that are acceptable to the City. The City therefore cannot be certain that, if the bonds are approved, the City will be able to enter into an acceptable agreement with the YMCA to operate the community center. The ballot measure therefore cannot simply state that the YMCA “will operate” the community center without significant risk to the City, as outlined in our memorandum to the City dated June 1, 2015 and attached here.

However, the City can refer to the YMCA in the ballot title, as long as the reference is accurate. For example, if the City has had discussions with the YMCA about the terms under which the YMCA would operate the community center, and those terms appear to be acceptable to the City, the ballot title may say that the City “expects” the YMCA to operate the community center.

If the City and the YMCA do not share a reasonably accurate understanding of the terms under which the YMCA would operate the community center, then the ballot title could use one of the following phrases:

- “The City expects a non-profit organization, like the YMCA, will operate the community center”, or
- “The City expects the initial operator of the community center to be a non-profit organization, like the YMCA.”

These alternates make it clear that another entity may operate the community center.

MEMORANDUM

Via Email: toby@tigard-or.gov

TO: Toby LaFrance

FROM: Gülgün Mersereau & Harvey Rogers, Bond Attorneys

DATE: June 1, 2015

RE: Ballot Title for Community Center Bonds

You have asked us to identify potential limitations in the proposed ballot title for community center general obligation bonds.

We reviewed the email from Jordan Ramis circulating the draft ballot title and agree with that firm's assessment that it is difficult to draft a ballot title for a project that is in the preliminary planning stages. Those difficulties and the corresponding risks to the City are outlined below. At the bottom of this memorandum we include a marked version of the ballot title. Our comments are aimed at trying to mitigate some of the risks to the City.

Is the amount authorized sufficient to pay for the community center?

If \$30,000,000 is not sufficient to pay for the proposed project as presented in the ballot title, the City will need to find another source to pay for the additional portion of the project.

Does the description of the project in the ballot title accurately reflect the final project?

As stated below, the ballot title must include a concise and impartial statement summarizing the measure and its major effect. The ballot title must also include a reasonably detailed, simple and understandable description of the use of proceeds.

We understand the details of the project have yet to be developed. Given that, the description of the project should remain general in the ballot title in order for the City to avoid making promises in the ballot title that it may not be able to keep.

Including details of the project in the ballot title could severely limit the City's flexibility. For example, if the City states in the ballot title that the community center will be operated by the YMCA and it turns out that the YMCA is not able to operate the facility, is not able to operate the facility for the life of the facility or is not able to operate the entire facility, the City will

likely not be able to issue the bonds. Alternatively, if the YMCA stops operating the facility after the bonds are issued, then the City may not be able to levy a tax to pay debt service on the bonds because the project substantially differs from what was presented in the ballot title.

Does the ballot title accurately reflect the impact of the levy on property owners?

If the City obtains authority to issue general obligation bonds, it will have the authority to impose a levy annually in an amount necessary to pay debt service on the bonds. That amount is dependent on many factors—the interest rate at which the bonds sell, the assessed value of property in the City in each year of assessment, the debt service structure of the bonds, the delinquency rate, etc. Given this, the City should only state the levy impact as an estimate as it is unknowable until the year of each levy.

Comments to draft

Caption

~~Authorizes Up To \$30,000,000 Of Bonded Indebtedness~~ General Obligation Bonds For Tigard Community Center

[The caption is limited to 10 words which reasonably identifies the subject of the measure]

Question

~~Shall The City Of Tigard Be Authorized City Council Authorize Up To To Issue Up To \$30,000,000 Of General Obligation Bonds For A Community Center Operated By the YMCA?~~
If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution.

[The first sentence of the question is limited to 20 words, and must plainly state the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure. The second sentence is required, and does not count towards the 20 word limit.]

Summary

~~This Measure would authorize the Tigard City Council to incur issue up to \$30,000,000 of general obligation bonds indebtedness to pay for capital costs to provide a community center, including to acquire property and construct a community center, parking lot and related amenities, and finance issuance costs. T~~with the primary purpose of the community center is to provideing athletic and recreational facilities.

~~The community center would be operated by the YMCA~~City expects the community center to be operated by a non-profit organization.

~~The term of the bonds is X. The cost of the bond is \$X per \$1,000 of assessed property value. For a house assessed at \$200,000 the cost is \$X annually.~~

[This measure is estimated to result in a tax of \$0. per \$1,000 of assessed value per year, or approximately \$ per year on a home assessed at \$.]

The bonds may be issued in multiple series and each series may mature over no more than years. [The maximum term is not legally required to be included in city measures, but is often included in ballot titles for cities because voters are used to see the maximum]

[The summary is limited to 175 words, and is required to be a concise and impartial statement summarizing the measure and its major effect. The summary also must include a reasonably detailed, simple and understandable description of the use of proceeds. The City is also required to draft an explanatory statement if the County is producing a voters' pamphlet.]