



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: July 12, 2016 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

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

PUBLIC NOTICE:

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

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

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-718-2419, (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: 503-718-2410 (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 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
Friday	10:00 p.m.	Monday	6:00 a.m.



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: July 12, 2016 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

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

6:30 PM

- STUDY SESSION

- A. COUNCIL LIAISON REPORTS
- B. RECEIVE BRIEFING ON PROPOSED SANITARY SEWER ADMINISTRATIVE RULE
6:45 p.m. estimated time
- C. BRIEFING ON A NEW FRANCHISE AGREEMENT WITH ZAYO GROUP L.L.C. **7:00 p.m. estimated time**

- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING
 - A. Call to Order
 - B. Roll Call
 - C. Pledge of Allegiance
 - D. 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) 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:
 - A. RECEIVE AND FILE:
 1. Council Calendar
 2. Council Tentative Agenda for Future Meeting Topics
 - B. APPROVE CITY COUNCIL MINUTES:
 - April 19, 2016
 - April 26, 2016

• *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. QUASI-JUDICIAL PUBLIC HEARING - ZEIDER ANNEXATION (ZCA2016-00002) **7:35 p.m. estimated time**
5. DISCUSS GAS TAX MEASURE FOR NOVEMBER 2016 BALLOT **7:50 p.m. estimated time**
6. DISCUSS MARIJUANA TAX MEASURE FOR NOVEMBER 2016 BALLOT **8:10 p.m. estimated time**
7. NON AGENDA ITEMS
8. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
9. ADJOURNMENT **8:35 p.m. estimated time**

AIS-2734

B.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): 15 Minutes

Agenda Title: Proposed Sanitary Sewer Administrative Rule 12.01.080-XX-01

Prepared For: John Goodrich, Public Works **Submitted By:** John Goodrich, Public Works

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

Public Hearing: No

Publication Date:

Information

ISSUE

Briefing council on a proposed administrative rule regarding sanitary sewer waste water collection system responsibilities, practices, and procedures.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the proposed administrative rules be moved forward for public notice and review.

KEY FACTS AND INFORMATION SUMMARY

Staff is bringing this administrative rule for council consideration due to the complexity of roles and responsibilities within the sanitary sewer waste water collection system. Staff will brief council regarding these roles, responsibilities, practices, and procedures pertaining to Clean Water Services, the City of Tigard, and private property owners or customers.

This briefing will allow council to receive information on the proposed rule, and ask questions regarding each agency's responsibilities, practices, and procedures in the operation, maintenance, and repair of the city's sanitary sewer waste water collection system.

Administrative Rulemaking Process

The city's code requires staff to notify council of any proposed administrative rules. Tigard Municipal Code Section 2.04.070 describes the two options available to council:

- Move the item forward for public notice and comment
- Add the item to the next available council meeting for council consideration or action

OTHER ALTERNATIVES

Council could decide not to move the item forward for public notice and comment.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Previous Council Actions on Sanitary Sewer Master Planning:

- Sanitary Sewer Master Plan, Adopted 9/14/2010, Resolution No. 10-49
- Amend Sanitary Sewer Master Plan to Include Projects Necessary for the Development of River Terrace, Adopted 6/10/2014, Resolution No. 14-25

DATES OF PREVIOUS COUNCIL CONSIDERATION

Council has not been previously briefed on this proposed administrative rule.

Attachments

Sanitary Sewer Proposed Administrative Rule



Administrative Rules

Sanitary Sewer Waste Water Collection System Responsibilities, Practices, and Procedures

Rule No. 12.01.080-09-01

Effective xx-xx-xxxx

The City is responsible for the public sanitary sewer waste water collection system within the city boundary. This responsibility is granted through cooperative agreement(s) with Clean Water Services as described below.

I. Clean Water Services – Managing Authority

- A. Clean Water Services (CWS) as a county service district organized under ORS 451 has legal authority for the sanitary sewerage management programs within its boundaries consistent with relevant laws, rules and agreements.
- B. CWS performs watershed, sub-basin and facility planning, develops standards and work programs, is the permit holder, and operates and maintains wastewater treatment facilities, the public sanitary sewer conveyance systems, and the public surface water collections systems within its boundaries.

II. City of Tigard – Local Program

- A. The City of Tigard through cooperative intergovernmental agreement signed January 25, 2005, and further amendments signed July 1, 2008 (in force until June 30, 2027) assumes responsibility to perform capital improvement projects (service charge rate and system development charge (SDC) funded), sanitary maintenance, surface water maintenance, and engineering, inspection and support elements as the city's "Local Program" within the city boundary.

III. Determination of Programs, Rules, Policies and Standards

- A. CWS as the Permit holder is responsible for the management and operation of the public sanitary sewer and the public storm and surface water systems within its boundaries. The City shares certain responsibilities for the operation and maintenance of the public sanitary sewer and public storm and surface water systems within the city limits.
- B. CWS will obtain and enforce timely compliance with relevant federal and delegated state Clean Water Act permits for treatment plants, collection systems, and storm water.
- C. CWS may adopt orders, standards, specifications, work programs, reporting requirements, and performance criteria for the proper and effective operation of the sanitary sewer and storm and surface water systems and to meet or comply with state and federal permits, laws and regulations.

VI. City of Tigard Responsibility – Sanitary Sewer Waster Water Collection Systems

- A. The City agrees to follow and enforce the Orders, Standards, specifications, work programs, reporting requirements, and performance criteria adopted by CWS, subject however, to the extent that the City may be lawfully authorized to act.
- B. The City shall not be responsible for any failure to act or any defect in performance caused by inadequacies in the work program and performance standards as adopted by CWS.
- C. Compliance with the work program and performance standards as adopted by CWS shall be absolute defenses to any claim against the City under agreement. City shall notify CWS of apparent violations of the subject Orders, Standards, specifications, work programs, and performance criteria of which it has knowledge, which may require CWS legal action or enforcement.
- D. The city is responsible for the operation, maintenance, repair, and replacement of the waste water collection system, including main line sewers, large conveyance pipelines, and manholes or sewer

entry systems. The city is not responsible for sewer laterals or connections to the wastewater conveyance system, whether they are located on private property (front of street or back of property, etc.), with or without utility easements, or in the public right of way or public property.

- E. Private property owners are responsible for upper (private property) and lower (public right of way) sewer laterals as a private conveyance of authorized waste flow into the public sewer system. All cost associated with maintenance, clearing obstructions, and maintaining proper and adequate flow to prevent sanitary sewer overages (SSOs) or discharges is the responsibility of the private property owner. Sewer laterals serve only each private property and benefit only the private property lot legally served. Sewer laterals are not part of the public sewer system, nor does the city have ownership of sewer laterals serving private property. The city cannot maintain, repair, or replace private sewer laterals at the expense of the city utility ratepayers.
- F. The city is responsible for clearing any obstructions or blockages within the main pipe conveyance and manholes within the sanitary sewer system that may cause SSOs, either within the public sanitary sewer system or on private property through private sewer lateral connections.
- G. As the operator of the public sanitary sewer waste collection conveyance system, the city is responsible for locating and marking underground sewer utilities (requested through the Oregon Utility Notification Center -OUNC) within the public right of way in the city boundary served, including private sewer lateral hubs (connection point to public sewer system). Private sewer laterals will be marked "UL" as un-locatable at the perpendicular of the city main sewer pipe. Private sewer laterals are not the responsibility of the city to locate in direction or depth within the public right of way, nor is the city or its utility ratepayers responsible for damages to private sewer laterals due to third party contractors or constructors working within the public right of way.

Approved by:

Martha L. Wine, City Manager

Date

AIS-2755

C.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): 10 Minutes

Agenda Title: Briefing on a New Franchise Agreement with Zayo Group, L.L.C.

Prepared For: Brian Rager

Submitted By: Judy Lawhead,
Public Works

Item Type: Resolution
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 regarding a proposed new franchise agreement with Zayo Group, L.L.C.

STAFF RECOMMENDATION / ACTION REQUEST

No action is requested of Council at this briefing. Staff will provide information on the proposed new franchise agreement.

KEY FACTS AND INFORMATION SUMMARY

Zayo Group, L.L.C. has requested to enter into a new franchise agreement with the City of Tigard. Zayo is a telecommunications company who now owns certain buried assets within Tigard.

Background

In the early 2000's, Tigard experienced a tremendous amount of activity from various telecommunication companies working to install their utilities in city rights of way. One such company, Metromedia Fiber Networks (MFN), began installation of fiber optic utilities in the year 2000, but suddenly abandoned that work later that year. Since then, the city has considered the partially-installed assets as abandoned.

Zayo notified the city in March 2016 that their company acquired several telecommunications

companies, and MFN was one of those companies. Staff researched the Zayo Group online and confirmed these transactions. Staff and Zayo met to discuss options and Zayo determined that a franchise agreement would be in their best interest. Zayo has two primary bodies of work that they need to carry out in the near future: 1) to install new fiber optic cable into conduits that exist in the north part of Tigard; and 2) to conduct reconnaissance survey work of the conduits installed by MFN to assess their condition. Regarding #1, Zayo has already determined that those conduits are complete and usable for their system.

Franchise Ordinance Direction

The city's franchise utility ordinance, Chapter 15.06 of the Tigard Municipal Code (TMC) provides direction to the city with regard to these requests. Section 15.06.050 states that any person that places or maintains a utility system in any portion of the right of way without a franchise is subject to all other provisions of this chapter and that the city may grant a franchise allowing the use of any right of way for any portion of a utility system. Other provisions of the chapter require a company to pay a "right of way usage fee" which typically corresponds to gross revenues collected by the company within city boundaries. Zayo has reviewed the franchise utility ordinance and is agreeing to comply with all applicable provisions of that ordinance.

Section 15.06.060, Grant of Franchise, states that the city council shall grant by resolution a utility franchise to any person providing utility services which has submitted an application, meets the requirement of this chapter, and agrees to sign the city's standard franchise agreement without modification. Zayo has signed the city's standard franchise agreement and therefore is qualified to receive a franchise. Therefore, staff recommends approval of this new franchise agreement.

Next Steps

Staff plans to bring a formal resolution to council on August 9, 2016 for consideration.

OTHER ALTERNATIVES

In light of the fact that Zayo Group, L.L.C. has signed the city's standard franchise agreement form, there does not appear to be other alternatives for council action other than to approve it.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

N/A

DATES OF PREVIOUS CONSIDERATION

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

Fiscal Impact

Cost:

0

Budgeted (yes or no): N/A

Where Budgeted (department/program): N/A

Additional Fiscal Notes:

This new franchise agreement will actually result in additional revenues being given to the city in accordance with the proposed franchise agreement and Chapter 15.06 of the Tigard Municipal Code.

Attachments

No file(s) attached.

AIS-2770

3. A.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): Consent Item

Agenda Title: RECEIVE AND FILE: THREE-MONTH COUNCIL CALENDAR AND TENTATIVE AGENDA

Submitted By: Carol Krager, Central Services

Item Type: Receive and File

Meeting Type: Consent -
Receive and
File

Public Hearing: No

Publication Date:

Information

ISSUE

Receive and file the Council Calendar and the Tentative Agenda for future council meetings.

STAFF RECOMMENDATION / ACTION REQUEST

No action is requested; these are for information purposes.

KEY FACTS AND INFORMATION SUMMARY

Attached are the Council Calendar and the Tentative agenda for future Council meetings.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A - Receive and File Items

Attachments

Three-month Council Meeting Calendar

Tentative Council Meeting Agenda



MEMORANDUM

TO: Honorable Mayor & City Council/City Center Development Agency Board

FROM: Carol A. Krager, City Recorder

RE: Three-Month Council/CCDA Meeting Calendar

DATE: July 5, 2016

July

5 Tuesday CCDA Meeting – CANCELLED
12* Tuesday Council Business Meeting – 6:30 p.m., Town Hall
19* Tuesday Council Workshop Meeting – 6:30 p.m., Town Hall
26* Tuesday Council Business Meeting – 6:30 p.m., Town Hall

August

2 Tuesday CCDA Meeting – CANCELLED, National Night Out
9* Tuesday Council Business Meeting – 6:30 p.m., Town Hall
11 Thursday Council Summer Outreach – 6-8 p.m., Cook Park, Bishop-Scheckla Pavilion
16* Tuesday Council Workshop Meeting – 6:30 p.m., Town Hall
23* Tuesday Council Business Meeting – CANCELLED

September

6 Tuesday CCDA Meeting – 6:30 p.m., Town Hall
13* Tuesday Council Business Meeting – 6:30 p.m., Town Hall
20* Tuesday Council Workshop Meeting – 6:30 p.m., Town Hall
27* Tuesday Council Business Meeting – 6:30 p.m., Town Hall

Regularly scheduled Council meetings are marked with an asterisk (*).

Meeting Banner Business Meeting
 Study Session Special Meeting
 Consent Agenda Meeting is Full
 Workshop Meeting CCDA Meeting

City Council Tentative Agenda
 7/5/2016 4:34 PM - Updated

Form #	Meeting Date	Submitted By	Meeting Type	Title	Department	Inbox or Finalized
2616	07/05/2016	Carol Krager	AAA	July 5, 2016 CCDA Meeting CANCELLED	Central Services	03/21/2016
2617	07/12/2016	Carol Krager	AAA	July 12, 2016 Council Business Meeting COUNCILORS GOODHOUSE AND SNIDER ABSENT CITY MANAGER WINE ABSENT	Central Services	03/21/2016
2679	07/12/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
2734	07/12/2016	John Goodrich	ACCSTUDY	15 Minutes - Proposed Sanitary Sewer Administrative Rule 12.01.080-XX-01	Public Works	07/05/2016
2755	07/12/2016	Judy Lawhead	ACCSTUDY	10 Minutes - Briefing on a New Franchise Agreement with Zayo Group LLC	Public Works	07/05/2016
Total Time: 40 of 45 Minutes Scheduled						
2719	07/12/2016	Lina Smith	CCBSNS	1 10 Minutes - Quasi-Judicial Public Hearing Zeider Annexation (ZCA2016-00002)	Community Development	07/05/2016
2524	07/12/2016	Carol Krager	CCBSNS	2 20 Minutes - LCRB Contract Placeholder	Central Services	Barrett J, Sr Mgmt Analyst
2592	07/12/2016	Norma Alley	CCBSNS	3 25 Minutes - Discussion on Gas Tax Measure for November 2016 Ballot	Finance and Information Services	MartyW, City Manager
2724	07/12/2016	Carol Krager	CCBSNS	4 25 Minutes - Discussion on Marijuana Tax Measure for November 2016 Ballot	City Management	07/05/2016
Total Time: 80 of 100 Minutes Scheduled						

Meeting Banner	<input type="checkbox"/>	Business Meeting	<input type="checkbox"/>
Study Session	<input type="checkbox"/>	Special Meeting	<input type="checkbox"/>
Consent Agenda	<input type="checkbox"/>	Meeting is Full	<input type="checkbox"/>
Workshop Meeting	<input type="checkbox"/>	CCDA Meeting	<input type="checkbox"/>

**City Council Tentative Agenda
7/5/2016 4:34 PM - Updated**

2651	07/19/2016	Carol Krager	AAA	July 19, 2016 Workshop Meeting COUNCILOR HENDERSON ABSENT	Central Services	03/21/2016
2619	07/26/2016	Carol Krager	AAA	July 26, 2016 Council Business Meeting COUNCILOR HENDERSON ABSENT	Central Services	03/21/2016
2680	07/26/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
2389	07/26/2016	Judy Lawhead	ACCSTUDY	10 Minutes - Briefing on an IGA with ODOT for Design and Construction of New Sections of Fanno Cr. Trail	Public Works	Faha L, City Engineer
2587	07/26/2016	Judy Lawhead	ACCSTUDY	15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	Faha L, City Engineer
2761	07/26/2016	Steve Martin	ACCSTUDY	5 Minutes – Discussion of National Water Trail Designation for the Tualatin River	Public Works	Martin S, Division Manger
				Total Time: 45 of 45 Minutes Scheduled STUDY SESSION FULL		
2740	07/26/2016	Sean Farrelly	CCBSNS	1 5 Minutes - Resolution Authorizing Metro Equitable Housing Planning and Development Grant Application	Community Development	Farrelly S, Redev Project Manager
2696	07/26/2016	Carol Krager	CCBSNS	2 30 Minutes - PUBLIC HEARING: Consideration of Resolution for Gas Tax	Finance and Information Services	Fitzpatrick C, Asst Fin Dir
2728	07/26/2016	Carol Krager	CCBSNS	3 20 Minutes - Public Hearing: Consideration of Resolution to Place a Marijuana Tax on the November 2016 Ballot	City Management	Newton L, Asst City Manager
2703	07/26/2016	Lloyd Purdy	CCBSNS	4 15 Minutes - Resolution of Necessity: Hunziker Infrastructure	Community Development	Purdy, L, Econ Dev. Mgr
2698	07/26/2016	Lloyd Purdy	CCBSNS	5 5 Minutes – Hold for Scheduling – Grant Award Authorization	Community Development	Krager, C, City Recorder
				Total Time: 75 of 100 Minutes Scheduled		
2620	08/02/2016	Carol Krager	AAA	August 2, 2016 CCDA Meeting CANCELLED NATIONAL NIGHT OUT	Central Services	03/21/2016

Meeting Banner		Business Meeting	
Study Session		Special Meeting	
Consent Agenda		Meeting is Full	
Workshop Meeting		CCDA Meeting	

**City Council Tentative Agenda
7/5/2016 4:34 PM - Updated**

2621	08/09/2016	Carol Krager	AAA	August 9, 2016 Business Meeting	Central Services	03/21/2016
2681	08/09/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
2555	08/09/2016	Lloyd Purdy	ACCSTUDY	15 Minutes - (Hold for Scheduling) Development Agreement Hunziker Infrastructure	Community Development	Purdy, L, Econ Development Mgr
2747	08/09/2016	Kent Wyatt	ACCSTUDY	10 Minutes - Discuss Options for Advocating Tigard's Federal Legislative Priorities	Central Services City Management	Wyatt K, Management Analyst
2750	08/09/2016	Judy Lawhead	ACCSTUDY	15 Minutes - Briefing on Tigard Participation in Waluga Reservoir Roof Repair Expenses	Public Works	Koellermeier D, Lot Water Proj Coord
				Total Time: 55 of 45 Minutes Scheduled MEETING OVERSCHEDULED		
2390	08/09/2016	Judy Lawhead	CCBSNS	1 5 Minutes - Consider Authorizing the City Manager to Sign an IGA with ODOT for Design and Construction of New Sections of the Fanno Creek Trail	Public Works	McCarthy M, St/Trans Sr Proj Eng
2756	08/09/2016	Judy Lawhead	CCBSNS	2 20 Minutes - Establish a Franchise Agreement with Zayo Group LLC	Public Works	Rager B, PW Director
2762	08/09/2016	Steve Martin	CCBSNS	3 5 Minutes – Shall Council Approve a Resolution Supporting a National Water Trail Designation for the Tualatin River	Public Works	Martin S, Div.Manager
2613	08/09/2016	Cheryl Caines	CCBSNS	4 40 Minutes - Quasi-Judicial Public Hearing Craig Annexation & Comp Plan Amendment - ZCA2016-00001 & CPA2016-00001	Community Development	Caines C, Assoc Planner
2737	08/09/2016	Carissa Collins	CCBSNS	5 15 Minutes - FY 2017 First Quarter Budget Supplemental	Finance and Info Services	Collins C, Sr Mgmt Analyst
				Total Time: 90 of 100 Minutes Scheduled		
	08/11/2016			August 11, 2016 Council Summer Outreach Cook Park, Bishop-Scheckla Pavilion (6:00 pm – 8:00 pm)		

Meeting Banner	<input type="checkbox"/>	Business Meeting	<input type="checkbox"/>
Study Session	<input type="checkbox"/>	Special Meeting	<input type="checkbox"/>
Consent Agenda	<input type="checkbox"/>	Meeting is Full	<input type="checkbox"/>
Workshop Meeting	<input type="checkbox"/>	CCDA Meeting	<input type="checkbox"/>

**City Council Tentative Agenda
7/5/2016 4:34 PM - Updated**

2652	08/16/2016	Carol Krager	AAA	August 16, 2016 Workshop Meeting	Central Services	03/21/2016
2601	08/16/2016	Kent Wyatt	CCWKSHOP	1 15 Minutes - Update on the Implementation of the Strategic Plan	City Management	Wyatt K, Mgmt Analyst
2658	08/16/2016	Kent Wyatt	CCWKSHOP	2 45 Minutes - Briefing on the Council Goal of Providing Recreational Opportunities for Tigard Residents	City Management	Wyatt K, Mgmt Analyst
2738	08/16/2016	Lisa Shaw	CCWKSHOP	3 15 Minutes - Photo Red Light report to Council	Police	Shaw L, SRTS Program Coord
2585	08/16/2016	Ron Blecker	CCWKSHOP	4 20 Minutes - Discussion on Proposed Changes to TMC Ch. 12	Finance Info Services	Blecker, Ron, Util.Div.Superv r
				Total Time: 95 of 180 Minutes Scheduled		
2627	08/23/2016	Carol Krager	AAA	August 23, 2016 Business Meeting CANCELLED	Central Services	03/21/2016
2628	09/06/2016	Carol Krager	AAA	September 6, 2016 CCDA Meeting	Central Services	03/21/2016
2745	09/06/2016	Sean Farrelly	CCDA	1 45 Minutes - Joint Meeting with CCAC	Community Development	Farrelly S, Redev Proj Mgr
2701	09/06/2016	Sean Farrelly	CCDA	2 20 Minutes - Update on Main Street/Fanno Creek (Saxony) Site Redevelopment Study	Community Development	Farrelly S, Redev Proj Mgr
2702	09/06/2016	Sean Farrelly	CCDA	3 20 Minutes - Update on Downtown Urban Lofts Project (CET Grant)	Community Development	Farrelly S, Redev Proj Mgr
2767	09/06/2016	Sean Farrelly	CCDA	20 Minutes - Downtown Business Spotlight	Community Development	Farrelly S, Redev Proj Mgr
				Total Time: 105 of 180 Minutes Scheduled		
2629	09/13/2016	Carol Krager	AAA	September 13, 2016 Business Meeting	Central Services	03/21/2016

Meeting Banner Business Meeting
 Study Session Special Meeting
 Consent Agenda Meeting is Full
 Workshop Meeting CCDA Meeting

**City Council Tentative Agenda
7/5/2016 4:34 PM - Updated**

2683	09/13/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
				Total Time: 15 of 45 Minutes Scheduled		
2763	09/13/2016	Carol Krager	CCBSNS	1 15 Minutes - Receive State of the District Presentation from TVF&R	Central Services	Krager C, City Recorder
2754	09/13/2016	Carol Krager	CCBSNS	2 15 Minutes - Legislative Public Hearing: Consider Changes to TMC Chapter 12	Finance and Information Services	Blecker, Ron, Util. Div. Supervisor
2764	09/13/2016	Gary Pagenstecher	CCBSNS	3 30 Minutes – Cemetery Setback Code Amendment	Community Development	Pagenstecher G, Assoc Planner
				Total Time: 60 of 100 Minutes Scheduled		
2759	09/20/2016	Carol Krager	AAA	September 20, 2016 Workshop Meeting	Central Services	06/20/2016
2760	09/20/2016	Kent Wyatt	CCWKSHOP	60 Minutes – Discuss the City’s Role in Addressing Homelessness	City Management	Wyatt K, Mgmt Analyst
2765	09/20/2016	Susan Shanks	CCWKSHOP	50 Minutes - Tigard Triangle Strategic Plan & Urban Renewal Update	Community Development	Shanks S, Sr Planner
2766	09/20/2016	Sean Farrelly	CCWKSHOP	10 Minutes - Discuss Adoption Process for Substantial Amendment to Downtown City Center Urban Renewal Plan.	Community Development	Farrelly S, Redev Proj Mgr
				Total Time: 120 of 180 Minutes Scheduled		
2632	09/27/2016	Carol Krager	AAA	September 27, 2016 Business Meeting	Central Services	03/21/2016

Meeting Banner Business Meeting
 Study Session Special Meeting
 Consent Agenda Meeting is Full
 Workshop Meeting CCDA Meeting

**City Council Tentative Agenda
 7/5/2016 4:34 PM - Updated**

2684	09/27/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
				Total Time: 15 of 45 Minutes Scheduled		
2697	09/27/2016	Lloyd Purdy	CCBSNS	10 Minutes - (Hold for Scheduling) Connect ORVI Grant - Tigard Street Trail	Community Development	Purdy, L, Econ Dev Mgr
2752	09/27/2016	Agnes Kowacz	CCBSNS	30 Minutes – DCA2016-00002 FEMA Update and Marijuana Facilities	Community Development	
2699	09/27/2016	Lloyd Purdy	CCBNS	15 Minutes - (Hold for Scheduling) Development Agreement Hunziker Infrastructure - Second Review	Community Development	Lloyd, L, Econ Development Mgr
				Total Time: 55 of 100 Minutes Scheduled		

AIS-2769

3. B.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Carol Krager, Central Services

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:

- April 19, 2016
- April 26, 2016

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

[April 19 2016 Minutes](#)

[April 26 2016 Minutes](#)



City of Tigard
Tigard Workshop Meeting Minutes
April 19, 2016

WORKSHOP MEETING



1.

A. At 6:30 p.m. Mayor Cook called the City Council workshop meeting to order.

B. City Recorder Krager called the roll.

	Present	Absent
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	
Councilor Henderson	x	
Councilor Goodhouse	x	

C. Mayor Cook asked those attending to stand with him for the Pledge of Allegiance.

D. Mayor Cook called for any non agenda items from council and staff. There were none.

2. JOINT MEETING WITH LIBRARY BOARD

Library Director Barnes introduced this item and was joined by Library Board Vice Chair Katie Harris, and members Linda Monahan, Becky Gauthier and Cole Webber. Vice Chair Harris said the library is a core service and should be a budget priority for the city. The library serves the educational, recreational and cultural needs of the entire community. This department serves children, youth, seniors, the business community and the marginalized more than any other city service and as such, should be a priority. Board Member Gauthier said the library is a hub for connecting with the city’s vision. Board Member Cole noted that the library has seen reduced funding since 2010 and the board believes that the budget should not only be restored, but sustained. With passage of the WCCLS levy and funding from the city the library was able to reopen on Thursdays but with limited programs. She said the Library Board encourages supporting the library’s budget so it can once again be a full service library like all the other city libraries in Washington County.

Board Member Monahan urged the council to restore funding for full service library programming. She said the Library Board understands Tigard’s fiscal situation and that there is not enough general fund money to support all city services and the council goals. Ms. Monahan said if the city elects to go for a local option tax levy, support from library patrons is needed. She suggested that instead of reducing services to demonstrate need the city should galvanize support for the great service the library offers.

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In response to a question from Councilor Woodard about what additional resources were needed for Thursdays, Library Director Barnes replied that two options for library funding were presented to the Budget Committee last budget season and the option chosen provided limited Thursday hours without full restoration of all operational needs. Expanding this would include the possibility of actual programs on Thursdays and staffing beyond the level of a skeletal crew. Council President Snider asked what is not getting done and Vice Chair Harris said there is just basic circulation, checking materials in and out, but no reference service, technical service, collection development, literacy programming, or youth and senior programming. Library Director Barnes confirmed for Council President Snider that there is limited reference desk service on Thursdays but there are many gaps in scheduling. He said that translates into longer waiting time for patrons, not having technical resources to answer questions and slower return of material to shelves.

Councilor Woodard said one measurement is circulation and asked for the numbers for Thursdays and the rest of the week. Library Director Barnes said it is too soon after reopening on Thursdays to have that data. Councilor Woodard said he would like to see those numbers and asked if some processes could be done through the cloud. City Manager Wine said the Budget Committee will be hearing about choices and Library Director Barnes has prepared a white paper.

Mayor Cook asked about their support for a local option levy and Ms. Monahan said they understand that the city does not have money in the general fund to do everything and cannot raise the property tax. She reiterated that library patrons vote and if the city provides visible, good service they will be more supportive than if services are reduced. Mayor Cook noted that a local option levy would be packaged with library, public safety or parks and if it is too specific, you lose groups that support one but not the other. If too many services are included the amount is too high. However, he agreed that the library should be part of a future local options levy. Citizens want that but they also want police and parks. He said, "I think they pass when citizens come out and say 'we want this. Join me to get that.'"

3. RECEIVE UPDATE ON SAFE ROUTES TO SCHOOL

Safe Routes to School Program Coordinator Hormann gave the staff report and presented a PowerPoint. She was joined by Lenora Garcia, a Tigard parent with children in elementary and middle school who shared her experience with the SRTS program.

Ms. Hormann said bike safety education got assistance from a Jump Start grant with the Tigard Tualatin School District and the Bicycle Transportation Alliance. Teachers were trained in bicycle safety in March. Bicycles were obtained and given to Twality Middle School and will be going next to Metzger Elementary and then Fowler Middle School. Efforts were made to get parents excited about the national bike and walk to school event in May and some schools have since begun recurring events. Templeton Elementary has designated the first Wednesday of each month as a walk or bike to school day. Parents made signs encouraging children and their parents to make this a regular practice. Mary Woodward Elementary Principal Nihill started a weekly Walking Wednesday and is in the process of setting up a meeting spot because of the irregularities in their school's border.

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The schools are working on their Action Plans, which include lists of concerns, infrastructure recommendations and programmatic strategies. Templeton Elementary has adopted theirs and there will be two or three more completed by the end of the school year.

Ms. Hormann said two signalized crossings on Durham Road have been adjusted. Pedestrians now have a five-second head start before the vehicle signal turns green. She said these are low cost implementations and studies show they reduce pedestrian/vehicle accidents by 60 percent. A no parking zone was created near Mary Woodward at Katherine Street. Mary Woodward Elementary Principal Nihill reported that busses could not get through because of all the parents picking up and dropping off children. City and school district staff, including police traffic officers, observed the bottleneck and concluded that there was no reason not to block the area from parking as it did not front any homes and was not really wide enough to accommodate busses and parked cars. Now the crosswalk there is much more visible and the busses are getting through. A LQC project near Metzger Elementary called the Lincoln Street Trail, connects Lincoln Street with Oak Street. When the weather dries out Streets Division staff will clear the trail of brush and create a trail on the higher side out of the boggy area. This improved trail will hopefully draw parents and children away from using the nearby Lincoln Center driveway, a very active driveway not safe for children to be walking around.

Ms. Hormann showed a graph of concerns identified by parents of elementary school age children. While the time savings and convenience of driving their kids to school is important to them, what always rises to the top are infrastructure concerns such as sidewalks and safe crossings.

Parent Lenore Garcia shared her experience trying to walk with her children to school. She said many parents share her concerns. Their top two concerns are safe crossings and intersections and the amount of traffic along the walking route. She told council that most week days between 7-9 a.m. and 2-4 p.m. traffic is in total chaos. She said 32 percent of children attending Templeton Elementary are driven by parents and these cars are rushing along roads without bike lanes and sidewalks where children are trying to bike and walk to and from school. Car traffic at Murdock Street is often lined up from 97th Avenue to 98th Avenues. She described how her youngest son fell into one of the ditches on Murdock Street between 98th and 100th Avenues while dodging a car that approached very close to them as they walked. Ms. Garcia noted that 144 families walked to school safely on Walk or Bike to School Day. This was due to the collective efforts of crossing guards, volunteers and designated walking areas. She asked council to imagine the impact that even half of those 144 families walking to school would have. She said children would be safer and healthier and there would be improved traffic flow. She said while improvements have happened in the downtown and other parts of the city, Templeton Elementary students are facing hazards walking to school every day. Children are excited to walk and bike to school but these unsafe conditions make parents hesitant.

Councilor Goodhouse said he lives near Templeton and Twality and commented that many parents drive their kids to school in the morning but are more likely to walk in the afternoon. More sidewalks are needed and this is why he supports a sidewalk gap program. Councilor Woodard said Ms. Hormann and the community have done a great job. He said much work needs to be done to create safer routes and the city is chipping away at it. He thanked Ms. Garcia for coming forward to express her concerns. Councilor Henderson asked about using school assemblies to get the word out and Ms. Hormann said some schools have already planned assemblies promoting the May 4

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Youth Bike Fair and walking to school and she is meeting with the school district to discuss how to integrate this into the curriculum. Mayor Cook thanked her for kick starting the program.

4. CONSIDERATION OF THE FORMATION OF A TIGARD TRIANGLE CITIZEN ADVISORY COUNCIL

Community Development Director Asher and Senior Planner Shanks briefed council on the formation of a new citizen advisory council (CAC) for the Tigard Triangle urban renewal plan. This is a two-step process with one resolution to form the committee and another to appoint members. The Metro grant requires citizen outreach and to reach a broad number of citizens, staff publicized this volunteer opportunity through Cityscape and on the website. Ms. Shanks said staff also gave presentations to all city standing committees and a representative from each stepped up to be on this ad hoc CAC except the Parks and Recreation Board (PRAB). Four citizens also volunteered to be on the CAC, including an architect, a planner (Tigard resident who works at another city) a Tigard Triangle property owner and a housing advocate. There will also be a technical advisory committee (TAC) formed that will include representatives from the taxing districts that would be impacted by urban renewal. She said everyone was interested but she did not hear from the Lake Oswego business community. City of Lake Oswego staff said they did not have time to serve on the committee at this time.

Councilor Woodard expressed disappointment that no one from PRAB volunteered. He said the TTAC or Bicycle and Pedestrian Subcommittee representative may be able to share the vision on walkability, pathways, space activation and recreational activities. Senior Planner Shanks said she would work extra hard to make sure there is no gap and these things do not get lost in the conversation. She said they are aware of the need for parks in the Triangle.

Mayor Cook asked some questions about the composition of the CAC and commented that SW Portland neighborhood representatives were included in SW Corridor meetings and gave input on how they drive to work or shop in Tigard and he suggested the Lake Oswego neighborhoods across the freeway from this project be represented. Senior Planner Shanks said she will reach out to Lake Oswego neighborhood associations. Mayor Cook noted that the Tigard Youth Advisory Council representative will graduate soon and asked if another member of the TYAC will join to complete his term. Community Development Director Asher said the youth position could be created without a name and members can be identified in a later resolution.

Councilor Henderson mentioned previous service on a task force that explored securing financing for urban renewal for the downtown and asked about this process for the Triangle. Community Development Director Asher said the city needs to study what is necessary or desirable in the Tigard Triangle. He said they want committees that have interest in the Triangle and want to look at streetscape standards, code revision and urban renewal. The study is all part of the Metro grant award. The urban renewal plan will be prepared by fall and council will discuss when to place it to a vote. Metro agrees that the Triangle is a great candidate for urban renewal. He said the only reason to create an urban renewal area is to get the authority to do tax increment financing. The city's Charter requires a public vote if tax increment financing will be used and there be a separate urban renewal committee. He said we will learn many of our needs during this study. Senior Planner Shanks said there will be a project list at minimum, which will fulfill the Metro grant requirements.

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The resolutions establishing the CAC and appointing members will be scheduled for the April 26, 2016 council business meeting agenda.

5. RECEIVE A BRIEFING ON THE METZGER ELEMENTARY SCHOOL PARK PROJECT



Assistant Planner Smith and Community Development Director Asher presented this item and showed slides of ideas for a new community park drawn by students at Metzger Elementary. The city and Tigard-Tualatin School District have joined together through an intergovernmental agreement to allow the fields at Metzger Elementary to be used for a community park outside of school hours. Since the school is in a diverse neighborhood, an RFP was issued for a consultant team with multi-cultural experience. The contract was awarded to Verde, working with the Multicultural Collaborative and ESA Vigil-Agrimis. Planning has begun and student illustrations and ideas for the park are posted on the city's website. Site analysis and outreach will continue in May. The consultant team's approach is "focused on inclusivity, social enterprise and advocacy for community members."

Community Development Director Asher said this type of park planning is not the city's usual process. The consultant team wants to find out from the community what their needs are. He said the consultant will set up office hours at the school, go door to door in the neighborhood and produce materials in English and Spanish. They will also work with Supafresh and their constituents. He said this will not be done through a traditional committee and Verde's model is to empower citizens to design community parks through grass roots efforts.

Councilor Woodard asked if there would be all-day park use and Mr. Asher replied that non-school hours are for public use, and it is not uncommon for schools to share their space with the public. He commented that the more use it gets the safer the space will be. Councilor Woodard asked what the maintenance costs were and if they needed to be added to the budgeting process. Public Works Director Rager said they will need to be factored into the budget. The ball field and garden will remain. Community Development Director Asher said staff will keep council informed on progress.

6. DISCUSSION ON RIVER TERRACE AND CITY-WIDE SANITARY SEWER SURCHARGE FEES

Finance and Information Services Director LaFrance, Public Works Director Rager and City Engineer Faha presented this agenda item seeking direction from council on whether or not River Terrace and citywide sanitary sewer surcharge fees should be added to the Master Fees and Charges Schedule during the 2017 budget committee discussions. Mr. LaFrance said of any of the fees the most urgent is the sewer surcharge. Council will be considering a budget in the next few weeks and the forecast is that most funds are keeping positive balances. However, the sewer fund is in dire need and will be negative within two years without some change.

Mr. LaFrance said Clean Water Services (CWS) sets rates and the cities' share. For every dollar citizens pay, \$0.84 goes to CWS and \$0.16 goes to Tigard. Of the \$0.16, \$0.05 goes to the general fund as the five percent franchise fee and \$0.11 goes to the sewer fund towards operational/maintenance costs of the sewer system and capital improvements. Tigard and other cities are allowed to charge utility districts a franchise fee. Tigard is the only city within CWS

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boundaries that does not charge a sewer surcharge. A franchise fee cannot come out of the \$.084 cents paid to CWS but it could be applied against the \$.16 cents, putting more like \$.14-\$.15 into the sewer fund.

Council directed staff to go to CWS and dialog for a franchise fee and a lower surcharge. City Manager Wine and Finance and Information Services Director LaFrance have been working them for the past year. There should be a decision that leads to CWS paying their fair share of the franchise fee but this will take time and the city's sewer system does not have time.

He said the city contracted with FCS Group to perform a sewer rate analysis to determine how much additional revenue would adequately fund sewer services and capital. A copy of the Sanitary Sewer Infrastructure Financing Services – Tigard Sewer Surcharge Draft Report was included in the packet for this meeting.

Mayor Cook asked if Tigard is the only city without a franchise and Mr. LaFrance said that was true. All of the other cities in the CWS area have a franchise fee. He verified that city managers and finance managers in the district have been meeting and a smaller group will go to CWS to discuss it with them. Mayor Cook noted that Tigard is not the only city in this situation and unlike some fees, which address wants, this is going towards a dire need. He said it is not last minute and council and staff saw this coming. City Manager Wine said the health of the system is important. The city has been deferring sewer projects for some time.

In response to a question from Council President Snider on whether CWS sets rates for the entire district, Mr. LaFrance said there is a possibility of a city rate and an unincorporated rate. All cities will have a franchise fee but someone in an unincorporated area would not be paying a city franchise fee.

Public Works Director Rager said like a street maintenance fee which extends the life of streets, there is money placed in the budget every year for emergency broken water mains or sewer segments. He said the city is keeping up with mandates to video inside the storm and sewer lines so needs are known already. There are sewer lines in creeks because that was how it was done in the past. In response to a question from Councilor Henderson he said he did not know if this would be enough money but it is a big step in the right direction.

Councilor Henderson said people think sewer lines should last forever but he just had to spend a lot of money for a cast iron pipe breaking in his basement. He said he wants a sustainable program ensuring a healthy system for future generations. City Engineer Faha said the city is due for a sewer master plan update but in the meantime there is a list of projects that keep getting pulled out of the budget including exposed sewer lines and old pipelines filling with grease due to bad past practices. The system is aging.

Mayor Cook, Councilor Woodard and Council President Snider expressed preference for scenario #2 for the Citywide Sewer Surcharge which will help with Tigard's sewer infrastructure needs. \$2.07 will be added to citywide utility bills. Council President Snider recommended simply calling the fee a "sewer fee."

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Finance and Information Services Director LaFrance discussed the River Terrace Parks, Stormwater and Transportation fees. In previous discussions council made the decision not to implement a River Terrace Parks Fee due to park financing decisions. Council approved a River Terrace Transportation Utility fee currently set at \$5.

City Engineer Faha said stormwater plans in place for River Terrace have been changing. The big pipe on south River Terrace will not be built. Developers are putting in additional smaller sites. A \$12.00 per month River Terrace stormwater charge has been recommended but will not be implemented yet because the stormwater facilities developers are putting in have a three-year warranty. This reason and the fact that the city is also doing a stormwater master plan will buy time to determine an appropriate stormwater fee.

Mayor Cook asked if there is a way to give home buyers a heads up that this \$12 fee might be implemented at a future date. Council President Snider asked if it could be added to a covenants, codes and restrictions document. Public Works Director Rager said the city cannot enforce CCRs. Councilor Goodhouse agreed that people need to know what these fees are before they make the decision to move in.

7. NON AGENDA ITEMS None

8. EXECUTIVE SESSION

At 8:43 p.m. Mayor Cook announced that the Tigard City Council was entering into Executive Session to discuss property acquisition and exempt public records under ORS 192.660 (2) (e) and (f) and they would adjourn from the Red Rock Creek Conference Room immediately after the Executive Session.

9. ADJOURNMENT

At 10:02 p.m. Council President Snider moved for adjournment. Councilor Goodhouse seconded the motion and all voted in favor.

	Yes	No
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook	✓	
Councilor Henderson	✓	
Councilor Goodhouse	✓	

Carol A. Krager, City Recorder

Attest:

John L. Cook, Mayor

Date

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City of Tigard
Tigard City Council Meeting Minutes
April 26, 2016

STUDY SESSION – 6:30 p.m.

Councilor Woodard, Council President Snider and Councilor Goodhouse were present. Staff present: City Manager Wine, Utility Manager Goodrich, City Engineer Faha and City Recorder Krager

A. COUNCIL LIAISON REPORTS

Councilor Goodhouse reported on the JPACT meeting and noted the huge turnout in support of Safe Routes to Schools.

B. RECEIVE BREFING ON CAPITAL IMPROVEMENT PLAN (CIP) PROJECTS

City Engineer Faha gave the the FY 2015-16 Third Quarter Project Update. Her PowerPoint showed projects divided by Parks, Streets, Water, Sanitary Sewer, Storm and Facilities. Council was briefed on issues with schedules and costs. Engineer Faha described a water line issue that was discovered during Walnut Street construction which will require replacement of 2500 linear feet of water line. She said it will cost about \$600,000 and it is logical to replace this line now during the road construction.

Council was reminded about Spring Council Outreach to be held on April 30, 2016 at the TVF&R Fire Station 50, 12617 SW Walnut Street, 9-11 a.m.

1. BUSINESS MEETING – April 26, 2016  

A. At 7:30 p.m. Council President Snider called the City Council and Local Contract Review Board to order.

B. City Recorder Krager called the roll.

	Present	Absent
Councilor Henderson		✓
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook		✓
Councilor Goodhouse	✓	

C. Council President Snider asked everyone to stand and join him in the Pledge of Allegiance.

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D. Council President Snider asked Council and Staff for Non-Agenda Items. None.

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication – City Manager Wine reported on concerns raised by residents on April 12 that live near 92nd and Greenberg on April 12. Police staff investigated the parking issues. The street and utility pole meet city standards. The mailboxes are being blocked and need to be posted with signs. The city will stay in touch with residents to see if that solves the problem. If not, the city may consider options such as painting the curb near the mailbox to make it more noticeable as an area not to block.

B. Citizen Communication – Sign-up Sheet. No one signed up to speak.

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

A. PROCLAIM CONSTRUCTION INDUSTRY SAFETY MONTH

B. PROCLAIM MAY AS BIKE MONTH

C. LOCAL CONTRACT REVIEW BOARD: CONSIDER AWARD OF AUDIT CONTRACT

D. LOCAL CONTRACT REVIEW BOARD: CONSIDER AWARD OF STORMWATER MASTER PLAN

Councilor Woodard moved to approve the Consent Agenda and Councilor Goodhouse seconded the motion. The motion to approve the Consent Agenda passed unanimously.

	Yes	No
Councilor Henderson (absent)		
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook (absent)		
Councilor Goodhouse	✓	

Council President Snider read the proclamation for Construction Industry Safety Week and William Kalapsa from Liberty Mutual Insurance was present to accept a signed copy. Council President Snider also proclaimed May as Bike Month and reiterated the city’s commitment to biking as part of the overall walkable city vision. He noted that May 4 is Bike and Walk to School day, May 20 is Bike to Work Day and that the recent Youth Bike Fair was well attended.

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4. CONSIDER RESOLUTIONS TO FORM TIGARD TRIANGLE URBAN RENEWAL CITIZEN ADVISORY COUNCIL (CAC) AND APPOINT MEMBERS

Senior Planner Shanks gave the staff report for this item. She said this CAC will guide the development of the Tigard Triangle Urban Renewal Plan. She pointed out that based on council recommendation she reached out to three Lake Oswego neighborhood associations that directly abut the Triangle area and she heard back from two. They are personally too busy to attend the meetings but will make the information available and will post it on the Next Door website which connects neighbors online. She also reached out to the Lake Oswego planning director but did not hear back before this meeting. Council President Snider thanked her for making those efforts. Ms. Shanks said people are interested but may not have time to attend meetings and she can keep them informed by other means.

Councilor Goodhouse moved for approval of Resolution No. 16-15. Councilor Woodard seconded the motion. City Recorder Krager read the number and title of the resolution:

Resolution No. 16 - 15 – A RESOLUTION ESTABLISHING A CITIZEN ADVISORY COUNCIL TO ADVISE STAFF DURING DEVELOPMENT OF THE TIGARD TRIANGLE URBAN RENEWAL PLAN

Council President Snider conducted a vote and the motion passed unanimously.

	Yes	No
Councilor Henderson (absent)		
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook (absent)		
Councilor Goodhouse	✓	

Councilor Woodard moved to approve Resolution No. 16-16 and his motion was seconded by Councilor Goodhouse. City Recorder Krager read the number and title of the resolution:

Resolution No. 16 – 16 – A RESOLUTION APPOINTING MEMBERS TO THE TIGARD TRIANGLE URBAN RENEWAL PLAN CITIZEN ADVISORY COUNCIL

Council President Snider conducted a vote and the motion passed unanimously.

	Yes	No
Councilor Henderson (absent)		
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook (absent)		
Councilor Goodhouse	✓	

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Council President Snider noted that members Gary Jelinek, Katen Patel, Veronica Smith and John Goodhouse were present. He thanked them for agreeing to serve and gave the citizen members a City of Tigard pin.

5. ANNUAL ARBOR DAY REPORT AND RECOGNITION OF THE CITY OF TIGARD'S ACTIVITIES AND ACCOMPLISHMENTS IN URBAN FORESTRY

Public Works Confidential Executive Assistant Grass gave a presentation on Arbor Day, which in Tigard is actually Arbor Month. She presented a PowerPoint showing various activities celebrating trees in the city. The Tigard-Tualatin School District and the city joined for a tree planting by Tigard High CE2 students in Jack Park. Brian Wegener represented Oregon Community Trees and presented Tigard with a flag, stickers for the road signs and a 15-year award for being a Tree City. He commented that he is a longtime Tigard resident and is proud of the city's accomplishments including the Urban Forestry Code, Derry Dell Creek restoration and native habitat restoration at Dirksen Nature Park. He said Tigard is leading the way for other cities and pointed out that historical aerial photographs in Town Hall show evidence that Tigard's tree canopy is growing.

Council President Snider thanked staff for their efforts and said it is exciting to see that while we cannot do everything we want in one year, real progress can be made over 15 years.

6. BRIEFING ON WHOLESALE WATER CONTRACT EXTENSION MEMORANDUM OF UNDERSTANDING (MOU) WITH PORTLAND WATER BUREAU



Utility Manager Goodrich introduced this item and said the city is in the final stages of completing the Lake Oswego/Tigard Water Partnership and while the project is on schedule to meet the June 30 deadline there is risk that a delay could affect the water supply provision. Tigard has an existing contract with the City of Portland who was approached about a provisional contract if the schedule is impacted. Portland said when the contract ends no water would be available. Over two years of discussion with Portland led to a water contract extension but with certain provisions. One is that a request for an extension must be provided to Portland by June 15. Portland also wanted a "take and pay" contract so Tigard will need to commit to this in 30-day increments but will only pay for what is used.

Councilor Woodard recollected that \$86,000 was budgeted for an extension. Council President Snider noted there are contractor penalties associated with not delivering the project on time that will offset the city's water purchase costs. In response to a question from Council President Snider about the project completion timeline Mr. Goodrich said it is anticipated that by May 7 and no later than May 23 we will have the capacity to serve water to all Tigard customers. Council President Snider reiterated that this could be approved but not needed and in that case there would be no cost.

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Council agreed that this agreement could return for approval on the next Consent Agenda but Councilor Goodrich requested it be shared with Mayor Cook and Councilor Henderson, noting that if they have questions it may need separate consideration. City Manager Wine will brief the two absent council members.

- 7. NON AGENDA ITEMS None.
- 8. EXECUTIVE SESSION: None held.
- 9. ADJOURNMENT

At 8:04 p.m. Councilor Goodhouse moved for adjournment. Councilor Woodard seconded the motion. The motion passed unanimously.

	Yes	No
Councilor Henderson (absent)		
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook (absent)		
Councilor Goodhouse	✓	

Carol A. Krager, City Recorder

Attest:

Jason Snider, Council President

Date

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AIS-2719

4.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): 10 Minutes

Agenda Title: Quasi-Judicial Public Hearing Zeider Annexation (ZCA2016-00002)

Prepared For: Lina Smith, Community Development

Submitted By: Lina Smith, Community Development

Item Type: Ordinance

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: Yes

Publication Date:

Information

ISSUE

Consider adoption of an ordinance to annex one (1) parcel located on the south side of SW Summit Ridge Street, approximately 1.23-acres in size, into the City of Tigard.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends City Council approve the proposed Zeider Annexation (ZCA2016-00002) by adoption of the attached ordinance.

KEY FACTS AND INFORMATION SUMMARY

The 1.23-acre site is located on the south side of SW Summit Ridge Street, east of SW 133rd Avenue and west of SW Oak Valley Terrace; south of the city's border with unincorporated Washington County. As defined by Washington County Land Use Districts, the property is zoned R-6 Residential, as are adjacent properties to the east and west. Adjacent properties to the north and south are located within the City of Tigard, and are zoned R-7 (Medium-Density Residential). Upon annexation, the subject property will be zoned R-7, which most closely implements Washington County's R-6 plan and zoning designation.

The proposed annexation area is contiguous to Tigard city limits. Urban services are available and of sufficient capacity to serve the site. The site is within the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, and Urban Road Maintenance District; therefore the ordinance addresses removal from these districts. As outlined in the staff report, the proposed annexation meets the applicable requirements of the Tigard Community Development Code, Comprehensive Plan, state statutes, and Metro Code.

OTHER ALTERNATIVES

Adopt findings to deny the application.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Fiscal Impact

Fiscal Information:

N/A

Attachments

Ordinance

Exhibit A

Exhibit B

Exhibit C

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 2016- _____

AN ORDINANCE ANNEXING ONE (1) PARCEL OF LAND TOTALLING APPROXIMATELY 1.23 ACRES, APPROVING THE ZEIDER ANNEXATION (ZCA2016-00002), AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, AND WASHINGTON COUNTY URBAN ROAD MAINTENANCE DISTRICT.

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

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

WHEREAS, the Tigard City Council held a public hearing on July 12, 2016, to consider the annexation of one (1) parcel Washington County Tax Map (WCTM) 2S109DB, Tax Lot 1701 of land located on SW Summit Ridge Street, and withdrawal of said parcel from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, and Washington County Urban Road Maintenance District; and

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and on July 12, 2016; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of the annexed property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, and Washington County Urban Road Maintenance District; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning which most closely implements the City's comprehensive plan map designation or to the City designations which are the most similar; and

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

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

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

SECTION 1: The Tigard City Council hereby annexes the subject parcel as described and shown in the attached **Exhibits “A”** and **“B”**, and withdraws said parcel from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, and Washington County Urban Road Maintenance District.

SECTION 2: The Tigard City Council adopts the “Staff Report to the City Council” (ZCA2016-00002) as findings in support of this decision; a copy of the staff report is attached hereto as **Exhibit “C”** and incorporated herein by this reference.

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

SECTION 4: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District, and Washington County Urban Road Maintenance District shall be the effective date of this annexation.

SECTION 5: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2016.

Carol Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2016.

Approved as to form: _____
John L. Cook, Mayor

City Attorney

Date



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #4105

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT A
Legal Description

A tract of land located in the southeast one-quarter of Section 9, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being more particularly described as follows:

Beginning at a 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA COM. DEV." at the southeast corner of the plat of "Summit Ridge No. 3", being on the southerly right-of-way line of SW Summit Ridge Street (variable width right-of-way); thence along said southerly right-of-way line, North 88°00'47" West 201.48 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA COM. DEV." at the northwest corner of Exhibit D of Document Number 2014-071527 and the True Point of Beginning; thence along the west line of said deed, South 01°15'46" West 246.39 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR." at the northeast corner of Exhibit B of Document Number 2014-070764; thence along the north line of said deed, North 88°45'31" West 76.18 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR."; thence South 01°15'46 West 29.99 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR."; thence North 88°45'31" West 125.82 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR." on the east line of Lot 11 of the plat of "Woodside"; thence along said east line and the northerly extension thereof, North 01°15'46" East 279.02 feet to a 3/4 inch iron pipe on the southerly right-of-way line of SW Summit Ridge Street (variable width right-of-way); thence along said southerly right-of-way line, South 88°00'47" East 202.02 feet to the True Point of Beginning.

The above described tract of land contains 1.23 acres, more or less.

01/29/2016



Nick White
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

ANNEXATION CERTIFIED

BY ATN

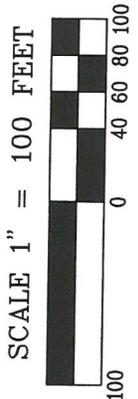
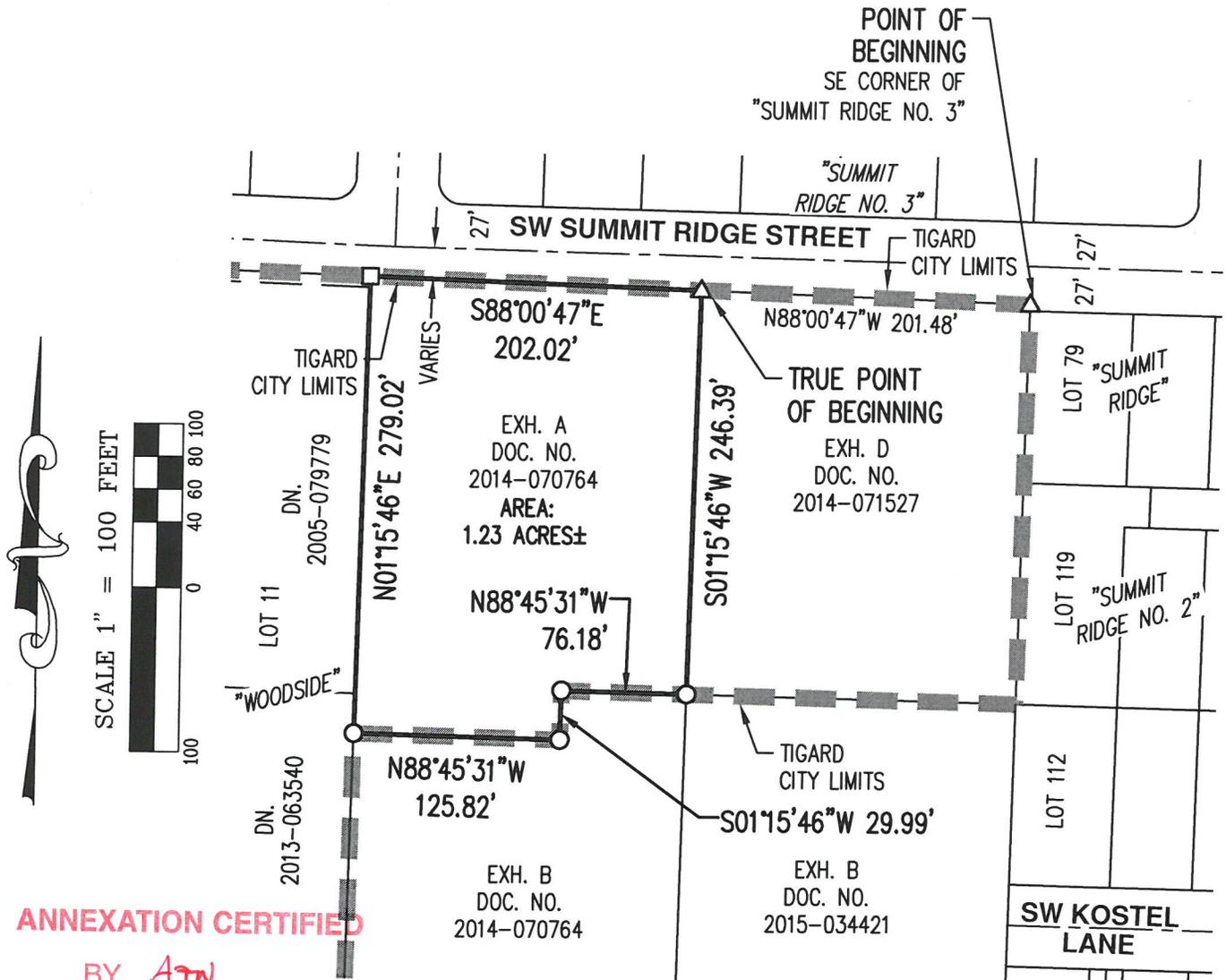
FEB 08 2016

2016 ATN

WASHINGTON COUNTY A & T
CARTOGRAPHY

EXHIBIT B

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SEC. 9, T2S, R1W,
WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON



ANNEXATION CERTIFIED

BY ASN

FEB 08 2015

2016 ASN

WASHINGTON COUNTY A & T
CARTOGRAPHY

01/29/2016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS
RENEWS: 6/30/16

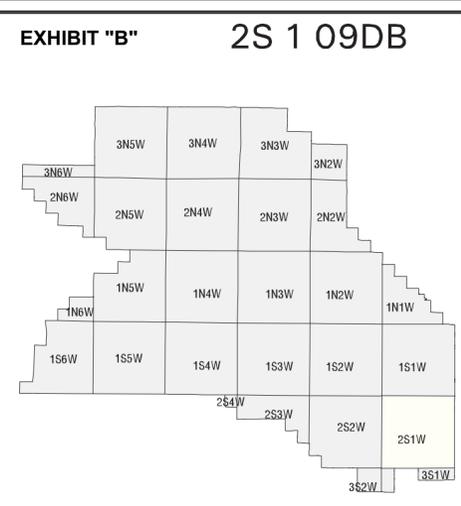
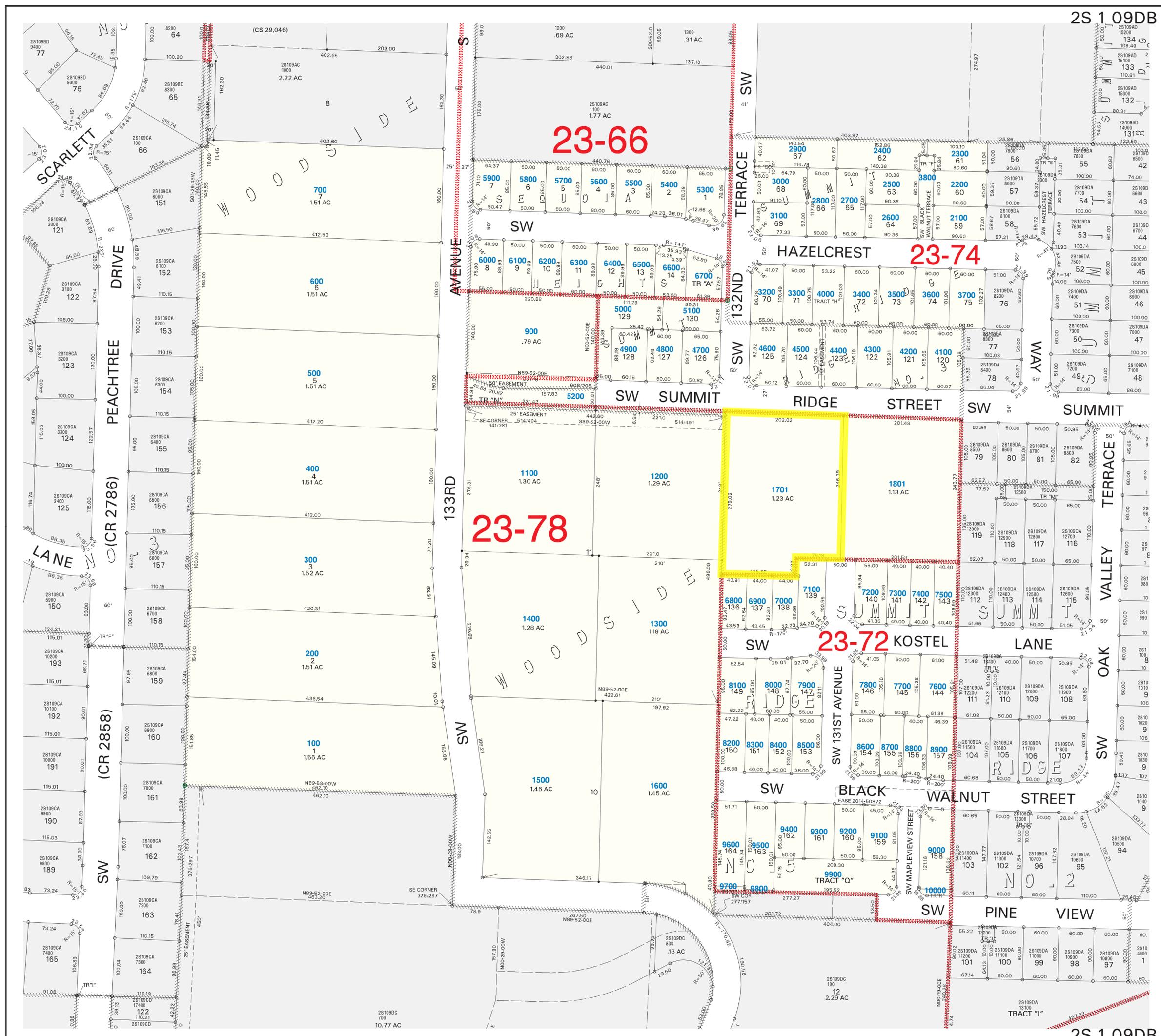
PREPARED FOR
VENTURE PROPERTIES
4230 SW GALEWOOD ST,
SUITE 100
LAKE OSWEGO, OR 97035

LEGEND

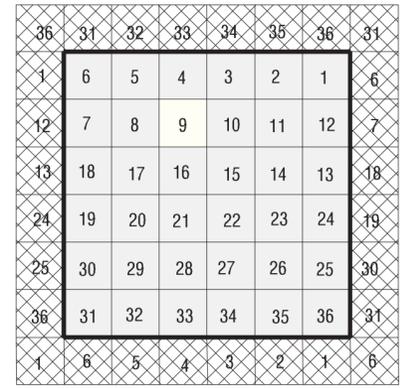
- 3/4" IRON PIPE
- △ 5/8" IRON ROD W/YPC
INSCRIBED "ALPHA COM. DEV."
- 5/8" IRON ROD W/YPC
INSCRIBED "AKS ENGR."

ANDERSON PROPERTY		
DRAWN BY: MSK	CHECKED BY: SRB	DWG: ANNEX-ANDERSON
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD TUALATIN, OR 97062 PHONE: 503.563.6151		SUITE 100 www.aks-eng.com FAX: 503.563.6152
		JOB: 4105





WASHINGTON COUNTY OREGON
NW1/4 SE1/4 SECTION 09 T2S R1W W.M.
SCALE 1" = 100'

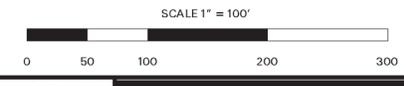


FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us

BB	BA	AB	AA
B		A	
BC	BD	AC	AD
CB	CA	DB	DA
C		D	
CC	CD	DC	DD

SECTION 09

Cancelled Taxlots For: 2S109DB
2000,1900,1000,3900,800,1700,1702,1800,



PLOT DATE: April 22, 2016
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

Map areas delineated by either gray shading or a cross-hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.

TIGARD
2S 1 09DB

Hearing Date: July 12, 2016 Time: 7:30 PM

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



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: ZEIDER ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2016-00002

APPLICANT: Janet K. Zeider **OWNER:** Same as applicant
 13100 SW Summit Ridge Street
 Tigard, OR 97224

PROPOSAL: Annex one (1) parcel located on the south side of SW Summit Ridge Street, approximately 1.23-acres in size, into the City of Tigard.

LOCATION: 13100 SW Summit Ridge Street; WCTM 2S109DB, Tax Lot 1701

COUNTY ZONE: R-6: Residential, five units/acre minimum density, six units/acre maximum density. The purpose of the R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2, Section 300-5, or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

**EQUIVALENT
CITY ZONE:**

R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE
REVIEW**

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

SECTION II. STAFF RECOMMENDATION

Staff recommends the Council find that the proposed annexation (ZCA2016-00002) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; Goal 12; and Goal 14.2, Policies 1-4. Therefore, staff recommends **APPROVAL** of ZCA2016-00002 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

The 1.23-acre site is located on the south side of SW Summit Ridge Street, east of SW 133rd Avenue and west of SW Oak Valley Terrace; south of the city's border with unincorporated Washington County. As defined by Washington County Land Use Districts, the property is zoned R-6 Residential, as are adjacent properties to the east and west. Adjacent properties to the north and south are located within the City of Tigard, and are zoned R-7 (Medium-Density Residential).

According to the Washington County Assessment & Taxation Report, the site was developed with an approximately 6,000-square-foot detached, single-family dwelling in 1996. The property is also occupied by an attached garage, paved driveway, various accessory structures, and associated landscaping.

The subject site was initially proposed as part of the Summit Ridge No. 5 Annexation in March 2015 (Case No. ZCA2014-00002). However, the applicant and property owner opted to exclude the property from the previous annexation request. Instead, the property owner signed and recorded an annexation contract that allowed the City of Tigard to annex the subject property within four years of the contract date, or sooner at the written request of the property owner. Under the terms of this contract, the property owner consented to annexation into the City of Tigard, and waived any right to remonstrate.

The applicant and property owner now proposes to annex the site, in order to connect to City of Tigard sewer. This is consistent with City of Tigard Comprehensive Plan Goal 11.3, Policy 6: "The City shall require a property to be located within the City limits prior to receiving City wastewater services."

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1; Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 12, Goal 14.2 (Policies 1-4).
State: ORS Chapter 222
Regional: Metro Code Chapter 3.09

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

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

Chapter 18.320.020.B: Approval Process and Standards.

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

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

FINDINGS: As detailed in the City of Tigard Comprehensive Plan, Public Facilities and Services refer to Stormwater Management, Water Supply and Distribution, Wastewater Management, Community Facilities, and Private Utilities. In addition, the Comprehensive Plan's Glossary includes public safety, parks, and transportation under Public Facilities and Services. All services are available for the proposed annexation site, and have adequate capacity to serve the existing development.

Stormwater – City of Tigard. City of Tigard stormwater infrastructure is available by an existing twelve-inch stormwater main along SW Summit Ridge Street. The City of Tigard Public Works Department reviewed the applicant's proposal, and determined there is adequate capacity to serve the existing property.

Water – City of Tigard/Tigard Water District. The property is located within the Tigard Water Service Area. The subject site is occupied by a detached, single-family home that is currently served by an existing

eight-inch water main along SW Summit Ridge Street. The City of Tigard Public Works Department reviewed the applicant's proposal, and determined there is adequate capacity to serve the existing property.

Sewer – City of Tigard. The applicant proposes to annex the subject parcel in order to connect to City of Tigard sewer. This is consistent with City of Tigard Comprehensive Plan Goal 11.3, Policy 6: “The City shall require a property to be located within the City limits prior to receiving City wastewater services.” City of Tigard sewer infrastructure is available by an existing eight-inch sanitary main along SW Summit Ridge Street.

The City of Tigard Public Works Department reviewed the applicant's proposal, and determined there is adequate capacity to serve the existing property. The City of Tigard Engineering Division also reviewed and responded to the applicant's proposal, requiring the applicant to apply for a Public Facility Improvement (PFI) permit prior to connecting to city sewer. In addition, the existing septic system shall be abandoned within the standards set forth by the Washington County Environmental Health Program.

Police – City of Tigard Police Department. The Washington County Sheriff's Office currently provides police services to the subject property. If this annexation request is approved, the site will be withdrawn from the Enhanced Sheriff's Patrol District. The City of Tigard Police Department reviewed the applicant's proposal, and had no objections.

Fire – Tualatin Valley Fire and Rescue. The subject property is located within the service area for Tualatin Valley Fire and Rescue (TVF&R). Accordingly, TVF&R currently provides fire protection and emergency medical services to the site, which will not change with this annexation request. TVF&R reviewed the applicant's proposal, and had no objections.

Parks–City of Tigard. The applicant proposes to annex a 1.23-acre property into the City of Tigard. Staff has reviewed the applicant's proposal and determined that this request will not adversely impact the city's ability or capacity to provide for parks and recreational needs.

Streets – City of Tigard Engineering Division. The subject property has approximately 202 feet of direct frontage along SW Summit Ridge Street, which is currently under the city's jurisdiction. SW Summit Ridge Street is also classified as a local street under the City of Tigard Transportation System Plan. The proposed annexation will not impact the existing transportation system. In addition, the property will be removed from the Washington County Urban Road Maintenance District.

CONCLUSION: Based upon this review, staff finds that all Public Facilities and Services (as defined by the City of Tigard Comprehensive Plan) are available to the proposed annexation property, and have sufficient capacity to provide service. The proposed annexation will not adversely impact levels of service within the City of Tigard. This criterion is met.

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

FINDINGS: The following City of Tigard Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1.1; Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 12, Goal 14.2 (Policies 1-4). Staff has determined that the proposal has satisfied the applicable Comprehensive Plan goals and policies based on the following findings:

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

The City of Tigard maintains an ongoing citizen involvement program. To ensure citizens will be provided an opportunity to be involved in all phases of the planning process, the city provides notice for Type IV land use applications. City staff posted, mailed, and published notice of the public hearing as follows: the city posted public hearing notices at four public places on June 21, 2016 (Tigard Public Library, Tigard

City Hall, Tigard Permit Center, and the subject property on 13100 SW Summit Ridge Street); city staff mailed public hearing notices to all interested parties and neighboring property owners within 500 feet of the subject site on June 1, 2016; and the city published a public hearing notice in *The Tigard Times* for two successive weeks (June 30 and July 7, 2016) prior to the July 12, 2016 public hearing before Tigard City Council.

Goal 11.1: Public Facilities and Services.

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

The applicant is not requesting City of Tigard stormwater services at this time. However, city stormwater infrastructure is available by an existing twelve-inch stormwater main along SW Summit Ridge Street. In addition, the City of Tigard Public Works Department reviewed the applicant's proposal, and determined there is adequate capacity to serve the existing property.

Goal 11.3: Public Facilities and Services.

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

The applicant proposes to annex the subject parcel in order to connect to City of Tigard sewer. This is consistent with the policy outlined above. City of Tigard sewer infrastructure is available by an existing eight-inch sanitary main along SW Summit Ridge Street. The City of Tigard Public Works Department reviewed the applicant's proposal, and determined there is adequate capacity to serve the existing property.

Goal 12: To provide and encourage a safe, convenient, and economic transportation system.

The subject property has approximately 202 feet of direct frontage along SW Summit Ridge Street, which is currently under the city's jurisdiction. SW Summit Ridge Street is also classified as a local street under the City of Tigard Transportation System Plan. The proposed annexation will not impact the existing transportation system.

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

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

The applicable Tigard zoning district designation is addressed below, under Chapter 18.320.020.C.

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

As addressed under Chapter 18.320.020.B.1 above, staff finds urban level services are available to the proposed annexation property, and have adequate capacity to serve the existing development.

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

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

As addressed under Chapter 18.320.020.B.1 above, staff finds all public facilities and services are available to the proposed annexation property, and have adequate capacity to serve the existing development.

B. is consistent with applicable state statute.

As reviewed later in this report, staff finds the applicable provisions of Oregon Revised Statutes Chapter 222 have been met, consistent with this policy.

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

The proposed annexation property (13100 SW Summit Ridge Street; WCTM 2S109DB, Tax Lot 1701) was initially proposed as part of the Summit Ridge No. 5 Annexation in March 2015 (Case No. ZCA2014-00002). However, the applicant and property owner opted to exclude the site from the previous annexation request. In addition, the property owners of the adjacent parcel (13020 SW Summit Ridge Street; WCTM 2S109DB, Tax Lot 1801) also requested to be excluded from the previous annexation request. At the time, the city expressed concern that failure to annex these two properties with the Summit Ridge No. 5 Annexation would prevent public services from being efficiently and effectively extended to the entire area. Therefore, the owners of 13020 and 13100 SW Summit Ridge Street signed and recorded annexation contracts that allow the City of Tigard to annex the two properties within four years of the contract dates, or sooner at the written request of the property owners. Under the terms of these contracts, the property owners consented to annexation into the City of Tigard, and waived any right to remonstrate.

The property owner of 13100 SW Summit Ridge Street now proposes to annex the subject site, in order to connect to City of Tigard sewer. The property owners of 13020 SW Summit Ridge Street are not proposing to annex at this time. Although approval of this annexation request will create a temporary unincorporated island at 13020 SW Summit Ridge Street, the above-referenced annexation contract ensures the subject property will be annexed into the city within four years of the contract date.

Furthermore, city staff sent invitations to adjacent property owners in April 2016 to join in on this annexation request, but did not receive any responses.

CONCLUSION: Annexation of the adjacent parcel (13020 SW Summit Ridge Street; WCTM 2S109DB, Tax Lot 1801) is not necessary at this time, as an annexation contract is already in place for the subject property. The city has coordinated with all applicable jurisdictions and agencies for the annexation site. Staff finds all public facilities and services are available to the proposed annexation property, and have adequate capacity to serve the existing development. Furthermore, the proposed annexation is consistent with all applicable City of Tigard Comprehensive Plan policies. This criterion is met.

Chapter 18.320.020.C: Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the city's zoning district which most closely implements the city's or county's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries county designations, the city shall convert the county's comprehensive plan map and zoning designations to the city designations which are the most similar.

FINDINGS: As defined by Washington County Land Use Districts, the site is zoned R-6 Residential, as are adjacent properties to the east and west. Adjacent properties to the north and south are located within the City of Tigard, and are zoned R-7 (Medium-Density Residential). Washington County's R-6 zone is intended for residential development at no more than six (6) units per acre and no less than five (5) units per acre. TDC Table 18.320.1 summarizes conversions for Washington County and City of Tigard plan and zoning designations. Based on this table, Washington County's R-6 zone is equivalent to the City of Tigard R-7 zoning district.

CONCLUSION: Upon annexation, the subject property will be zoned R-7 (Medium-Density Residential), which most closely implements Washington County's R-6 plan and zoning designation. This criterion is met.

Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the City of Tigard Community Development Code (Title 18), using standards of approval contained in 18.390.020.B, which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the city to provide notice at least 20 days prior to the hearing by mail, and to publish notice at least ten business days prior to the hearing. City staff mailed public hearing notices to all interested parties and neighboring property owners within 500 feet of the subject site on June 1, 2016, and published a public hearing notice in *The Tigard Times* for two successive weeks (June 30 and July 7, 2016) prior to the July 12, 2016 public hearing.

Additionally, Chapter 18.390.060 sets forth five factors for consideration when making a Type IV decision:

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

FINDINGS: The City of Tigard Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with Oregon's Statewide Planning Goals and Guidelines. In addition, staff finds this annexation proposal is consistent with the Comprehensive Plan goals and policies, as discussed above in this report.

CONCLUSION: This annexation proposal is consistent with the city's acknowledged Comprehensive Plan. Therefore, the proposal complies with the Statewide Planning Goals and Guidelines, including citizen involvement, land use planning, public facilities and services, transportation, and urbanization.

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

FINDINGS:

Oregon Revised Statutes (ORS) Chapter 222 - City Boundary Changes; Mergers; Consolidations; Withdrawals

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for the same two week period.

The owner of the subject parcel has signed a petition for annexation to the City of Tigard. The site is contiguous to the city's boundary.

City staff posted, mailed, and published notice of the public hearing as follows: the city posted public hearing notices at four public places on June 21, 2016 (Tigard Public Library, Tigard City Hall, Tigard Permit Center, and the subject property on 13100 SW Summit Ridge Street); city staff mailed public hearing notices to all interested parties and neighboring property owners within 500 feet of the subject site on June 1, 2016; and the city published a public hearing notice in *The Tigard Times* for two successive weeks (June 30 and July 7, 2016) prior to the July 12, 2016 public hearing before Tigard City Council.

CONCLUSION: Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

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

FINDINGS:

Metro 3.09.045 (d) and (e)

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

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

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

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

The Tigard Urban Service Agreement (TUSA) is between the City of Tigard, Washington County, Metro, and the service districts for water, sewer, public safety, parks, and transportation. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. As addressed in Chapter 18.320.020.B.1 of this report, staff finds that all urban services are available to the proposed annexation property, and have sufficient capacity to provide service.

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

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

This statute outlines the process for annexations initiated by a city or district, including public hearings and voting procedures. However, this statute is not applicable, as the annexation was initiated by the applicant and property owner, Janet K. Zeider. Mrs. Zeider submitted a signed petition to annex; she is the sole property owner and registered voter at the subject property.

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

ORS 195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Examples of special districts include water, sewer, police, fire, and school districts. Upon approval of this proposed annexation, the City of Tigard will provide sewer service to the site; the City of Tigard Police Department will provide public safety services to the property, instead of the Washington County Sheriff's Office; and the property will be removed from the Washington County Urban Road Maintenance District.

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

The City of Tigard Public Facility Plan was adopted in 1991, in compliance with Statewide Planning Goals and Guidelines and Oregon Administrative Rule 660-11. The city makes appropriate updates to the Public

Facility Plan on a regular basis as part of the Periodic Review process as required by Oregon Administrative Rule 660-25. As addressed under Chapter 18.320.020.B of this report, staff finds the proposed annexation is consistent with the applicable provisions of the City of Tigard Public Facility Plan.

(E) Any applicable comprehensive plan; and

The City of Tigard Comprehensive Plan applies to this proposed annexation. As addressed in Chapter 18.320.020.B.2 of this report, staff finds the applicable Comprehensive Plan goals and policies have been satisfied.

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

The applicant proposes to annex the subject parcel in order to connect to City of Tigard sewer. As reviewed in Chapter 18.320.020.B.1 of this report, staff finds that all public facilities and services are available to the proposed annexation property, and have sufficient capacity to provide service. Upon approval of this annexation, the City of Tigard Police Department will provide public safety services to the property, instead of the Washington County Sheriff's Office. TVF&R will continue to provide fire protection and emergency medical services to the site. The proposed annexation will not adversely impact levels of service within the City of Tigard.

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

The proposed property to be annexed is not outside the UGB. Therefore, this criterion does not apply.

Metro 3.09.050 (b)

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

This staff report was available to the public on June 27, 2016, fifteen (15) days prior to the public hearing before Tigard City Council.

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

As addressed in Chapter 18.320.020.B.1 of this report, staff finds that all urban services are available to the proposed annexation property, and have sufficient capacity to provide service.

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

The subject property will remain within Washington County, but will be withdrawn from the Washington County Enhanced Sheriff's Patrol District and the Washington County Urban Road Maintenance District upon completion of this annexation request. These withdrawals are incorporated into the attached ordinance.

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

A public hearing regarding this annexation request will take place before Tigard City Council on July 12, 2016. If Council adopts findings to approve ZCA2016-00002, the effective date of this annexation will be

upon filing with the Oregon Secretary of State, as outlined in Oregon Revised Statutes Chapter 222.180.

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

The proposed boundary change meets the applicable criteria, as demonstrated through the findings in this staff report.

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

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

CONCLUSION: Staff concludes the proposed annexation satisfies applicable regulations outlined in Chapter 3.09 Local Government Boundary Changes of the Metro Code. This criterion is met.

(Tigard CDC 18.390.060 continued)

4. Any applicable comprehensive plan policies; and

FINDINGS: Applicable City of Tigard Comprehensive Plan policies were addressed under Chapter 18.320.020.B.1 of this report.

CONCLUSION: Staff concludes the proposed annexation satisfies applicable City of Tigard Comprehensive Plan policies.

5. Any applicable provisions of the City's implementing ordinances.

FINDINGS: In February 2013, Tigard City Council passed Resolution 15-07, which extended previously approved incentives for property owners to annex into the city limits, for reasons that do not include the need for city services. These incentives include a waiver of the city annexation application fee, and phasing in of increased property taxes. However, the applicant proposes to annex the subject parcel in order to connect to City of Tigard sewer; therefore, these incentives do not apply. As previously demonstrated through the findings contained within this report, the proposed annexation is consistent with all applicable sections of the City of Tigard Community Development Code.

CONCLUSION: Staff concludes the proposed annexation satisfies applicable provisions of the city's implementing ordinances.

SECTION V. AGENCY COMMENTS

The City of Tigard Police Department, City of Tigard Public Works Department, and Tualatin Valley Fire & Rescue were sent copies of the applicant's proposal, and had no objections.

The City of Tigard Engineering Division also reviewed and responded to the applicant's proposal. Prior to connecting to city sewer, the applicant shall apply for a Public Facility Improvement (PFI) permit. In addition, the existing septic system shall be abandoned within the standards set forth by the Washington County Environmental Health Program.

SECTION VI. PUBLIC COMMENTS

City staff mailed public hearing notices to all interested parties and neighboring property owners within 500 feet of the subject site on June 1, 2016. As of June 23, 2016, no written public comments were received.



PREPARED BY: Lina Smith
Assistant Planner

June 23, 2016

DATE



REVIEWED BY: Tom McGuire
Assistant Community Development Director

June 23, 2016

DATE

In alignment with previous discussions, it is anticipated that the majority of this additional revenue would be allocated to the Pavement Management Program (PMP) to address the current backlog of streets identified in the Program. In addition, the increased revenues could help support major capital transportation projects and pedestrian connections inside the right-of-way.

If this measure is approved at \$.05/gallon, the increase in the city's street maintenance fee (SMF), currently scheduled to begin January 1, 2017, would not go into effect. The budgeted January 1, 2017 increase to the SMF charged to city residents and businesses is expected to generate approximately \$500,000 annually. The SMF increase is intended to fund paving of the City's backlog of projects over the next twenty years. An approved \$.05 increase to the local motor vehicle fuel tax would replace the scheduled January 1, 2017 increase in the SMF and also allow for funding additional transportation projects in the backlog.

Attached to this AIS are:

- Proposed November 8, 2016 ballot language asking voters to approve a \$.05 per gallon increase in fuel tax
- Memo noting potential transportation projects that could receive consideration with this additional revenue

OTHER ALTERNATIVES

Council may elect to alter the amount of the motor vehicle fuel tax and direct staff to bring forth such recommendation. Council may advise staff not to proceed with a November 8, 2016 ballot to increase in motor vehicle fuels tax. On January 1, 2017, the SMF will increase as approved in the FY2017 budget.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Transportation System Plan

Tigard Municipal Code Chapter 3.65

Council Goal: Expand Opportunities to Engage People in the Community - community education for content of measures for voter approval

Strategic Plan Goal 4: Facilitate walking connections to develop an identity

Strategic Plan Goal 5: Fund the vision while maintaining core services

DATES OF PREVIOUS CONSIDERATION

Gas Tax - 03/01/16

SMF & Gas Tax - 03/22/16

SMF - 09/15/15

SMF - 03/07/15

Attachments

Proposed Local Gas Tax Ballot Measure

Local Gas Tax Increase - Potential Transportation Projects

Caption (10 words)

Fuel tax increase for street system improvements, repair, and maintenance

Question (20 words)

Shall Tigard enact ordinance increasing fuel tax to 8 cents per gallon for street system improvements, repair, and maintenance?

Summary (175 words)

Ordinance 16-xx, if approved, would amend municipal code to increase City motor vehicle fuel tax from 3 to 8 cents per gallon and dedicate revenue to street system and safety improvements and pavement and rights-of-way maintenance. Estimated to raise \$1 million per year. The revenue would address existing unfunded transportation needs.

If this measure is approved, the increase in city street maintenance fee, scheduled to begin January 1, 2017, would not go into effect.

Project categories with potential examples:

- Pavement Management Program: Repave more neighborhood streets such as parts of Grant Ave, Atlanta, Benchview Terrace, 121st Avenue.
- Major Street Improvements: Contribute to North Dakota and Tigard Street bridge replacements, including sidewalks and bike lanes; Tigard Street along Dirksen Park.
- Pedestrian Connection & Safety Projects: Hunziker Street, Barrows Road, and neighborhood gaps; crosswalk improvements such as flashing signs and beacons; improved traffic signals for safer pedestrian crossings.

City of Tigard

Proposed Local Gas Tax Increase: Potential Transportation Projects

The city's existing fuel tax of \$.03/gallon does not provide sufficient funding for construction, maintenance, improvement of public highways, roads, street and rights of way within the city. Currently the \$.03/gallon fuel tax primarily supports major transportation capital projects. Through council and staff discussions, the city could consider an increase to the city gas tax to further support transportation related projects. An increase of \$.01/gallon in the city's tax would raise approximately \$200,000 in revenues annually.

Staff has identified transportation needs that this additional revenue could support. Three main transportation construction elements that a potential increase in city gas tax could support are:

1. Pavement Management Program
2. Major Capital Transportation Construction Projects
3. Pedestrian Connection Projects (inside the right-of-way) in support the strategic plan

The \$.05/gallon city gas tax increase is estimated to provide \$1,000,000 in revenues annually. This memo provides projects the city could consider for the proposed 5 cent/gallon increase in city gas tax. Identified transportation projects were categorized in the above three areas and noted in further detail below. (Additionally, some of the gas tax resources could be used to fund increasing right-of-way vegetation management needs)

1. Pavement Management Program

The increase in gas tax could provide an expansion of the current city Pavement Management Program (PMP) to help the city repave and provide accessible curb ramps on a larger proportion of city streets. The current PMP with an FY17 adopted budget of approximately \$2 million, paid by the city Street Maintenance Fee charged to city residents and businesses, is primarily focused over the next five years on larger arterial and connector streets (higher capacity, busier streets). It is anticipated that an additional \$600,000 annual revenues would help the city address the current backlog of PMP projects within the next ten years. The increased city gas tax would allow for more local, neighborhood streets to be repaved sooner. A potential list of candidate streets is shown in the following table. The table represents a potential street paving list over five years that would otherwise fall to later years.

City of Tigard

Proposed Local Gas Tax Increase: Potential Transportation Projects

Street Project	Street - From	Street - To	Classification	Project Cost
Cardinal Ln	72nd Ave	End of Street	Commercial	70,000
Johnson St	Hwy 99W	Grant Ave	Residential	60,000
Grant Ave	McKenzie St	Tigard St	Residential	170,000
Fonner St	Walnut St	115th Ave	Residential	220,000
Alderbrook Dr	Durham Rd	Oaktree Ln	Residential	40,000
Main St (Phase II)	Tigard St	Commercial St	Collector	30,000
Oak St	Hall Blvd	90th Ave	Collector	100,000
74th Ave	Durham Rd	1,300' S of Bonita	Commercial	230,000
Garden Place	Hwy 99W	Hall Blvd	Commercial	180,000
130th Ave	Scholls Ferry Rd	Hawksbeard St	Residential	80,000
Atlanta/69th	68th Pkwy	Baylor	Commercial	60,000
Beveland St	72nd Ave	End of Street	Commercial	70,000
115th Ave (Except at N. D)	Tigard St	Cottonwood Ln	Residential	180,000
Fanno Creek Dr	Bonita Rd	Fanno Creek Lp	Residential	120,000
Greenfield Dr	Bull Mountain Rd	Summit Ridge St	Residential	60,000
Walnut St	Gaarde St	135th Ave	Arterial	200,000
69th Ave	Hampton St	Dartmouth St	Commercial	100,000
Benchview Terr	Alpine View	Clearview Dr	Residential	200,000
Sequoia Pkwy	Upper Boones Ferry Rd	Bonita Rd	Collector	290,000
121st Ave	Gaarde St	Hollow Ln	Collector	170,000
Kable Ln	72nd Ave	End of Street	Commercial	40,000
				2,670,000

2. Major Capital Transportation Construction Projects

Transportation capital projects are improvements that each cost more than \$50,000. They are funded by a mix of sources, including state gas tax, system development charges paid by new development, local city gas tax, city general funds from property tax revenues, and regional/state/federal grant programs. These sources may have specific limitations on when, where, how they can be used; limited funding available; and in the case of grants – fierce competition for the available funds. Most grants also require matching funds, anywhere from 10% up to 200% of the grant amount. The city’s current revenues do not meet the existing needs in our transportation system. Additional revenue generated by an increase in the city’s gas tax would help supplement the city’s ability to meet these needs. The city’s current \$.03/gallon gas tax provides approximately \$600,000 of revenues annually. Staff anticipates approximately \$300,000 in annual revenues could help the city start addressing the list of unfunded and underfunded major capital transportation projects.

The existing city \$.03/gallon gas tax is currently utilized to:

- pay off transportation bonds issued in 2010 for the Greenburg Road/Main Street/Pacific Highway Intersection
- to help fund local street and sidewalk projects

As mentioned above, there is a substantial backlog of unfunded or underfunded projects. An increase in the city’s gas tax could help chip away at larger street, bike and pedestrian project needs in city right-of-way. After the transportation bonds are paid off in 2020, another estimated \$300,000 annual revenues will be available for projects as well. City gas tax dollars can pay directly for projects, but also can be important leverage as matching dollars, allowing the city to apply and

City of Tigard

Proposed Local Gas Tax Increase: Potential Transportation Projects

qualify for various regional, state and federal grants. This is important as many unfunded projects are estimated to cost in the millions of dollars.

Potential capital projects that a local gas tax increase can help fund are listed below. These are projects from the city's "Qualified List", which includes priority safety projects identified by staff and other priority projects ranked by the Tigard Transportation Advisory Committee. Some of the projects are in the recently adopted FY17-22 Capital Improvement Program (CIP) but are underfunded or pushed to out to later years. Some are under consideration for County Major Streets Transportation Improvement Program (MSTIP) funding through Washington County, but all are not likely to receive funding. Other projects, while considered a high enough priority to make the Qualified List, are currently unfunded and not listed in the CIP.

High Priority Projects in the Current CIP that are Under-Funded:

- North Dakota Street (Fanno Creek) bridge replacement: The city has applied to ODOT for federal bridge replacement grant funds, as the bridge repairs the city completed in the summer of 2015 are only temporary. However, based on ODOT staff comments, it is anticipated that grant funds, if received, will not provide for a complete project that includes sidewalks, bike lanes, flood relief over adjacent roadway or other safety improvement needs. City gas tax funds could provide for filling the gap so this is a complete and fully functional project. Depending on level of ODOT funding, the gap is anticipated to be \$800,000 to \$1.4 million (a complete project is estimated to cost about \$3.75 million). The recently adopted FY17-22 CIP currently provides for \$800,000 city match.
- Tigard Street (Fanno Creek) bridge replacement: Inspection information suggests this bridge should be replaced immediately following the North Dakota Street bridge. This bridge did not qualify for the 2018-2021 round of grant funding through ODOT (bridges need to be in very bad, near failure condition to qualify, such as the North Dakota Street bridge), but may qualify for the subsequent round, and the city will need matching dollars. Replacement with a complete project including full pedestrian and bicycle accommodations is estimated in the range of \$3.6 million.

Projects Under Consideration for County MSTIP Funding:

Currently the City has three high priority sidewalk/bicycle lane projects and two high priority intersection signalization projects on the 150% project list for potential funding through the Washington County Major Streets Transportation Improvement Program (MSTIP). Local gas tax dollars could help partially fund one or more of these projects if all are not selected for MSTIP (funding selections by the County are anticipated to be made by September 2016). These projects are:

- 121st Avenue, Tippit to Whistler: bicycle and pedestrian facilities, cost estimate \$3.9 million
- Tiedeman Avenue, Greenburg Road to Fanno Creek: sidewalks and bike lanes, cost estimate \$6 million (note: a smaller project on Tiedeman from Greenburg Road to Tigard Street is in the adopted CIP at an estimated cost of \$978,000 as a fundable placeholder if the complete project is not selected for MSTIP funding)

City of Tigard

Proposed Local Gas Tax Increase: Potential Transportation Projects

- Hunziker Street, 77th to 72nd: sidewalk and bike lanes, cost estimate \$1 million
- Bonita Road at Sequoia Parkway: traffic signal, cost estimate \$600,000
- Hall Blvd at Pfaffle Street: traffic signal, cost estimate \$600,000

Other Unfunded High Priority Projects (these are projects not in the city's CIP, but are noted on the "Qualified List"):

- Hunziker Street, 72nd to 77th: add sidewalk on north side and bike lanes, cost estimate \$1 million.
- Tigard Street, Gallo Avenue to Fanno Creek: half-street improvement and sidewalk/trail adjacent to Dirksen Nature Park, cost estimate \$1.1 million. (Improvements required by conditions of approval for park improvements)
- 116th Avenue, Tigard Street to Katherine Street: new trail in existing unimproved right-of-way crossing Summer Creek, cost estimate \$200,000.
- Barrows Road, Springbrook to Anna: sidewalk on Tigard's side of the road, cost estimate \$150,000.
- Scoffins Street, Hall Blvd to Ash Avenue: add sidewalks, cost estimate \$1 million.

3. Pedestrian Connection Projects (inside right-of-way)

In addition to noted (1) and (2) above the city has identified a need for increased attention to pedestrian connections in support of the city's strategic plan. Revenues from an increase in the city's gas tax could supplement the Pedestrian and Cyclist Connections Program in the city's adopted Capital Improvement Program (CIP). There are many smaller projects that can individually and cumulatively increase pedestrian route connectivity and safety in Tigard. In addition, there is a tremendous backlog of sidewalk, pathway, and crosswalk gap projects throughout the city, and the additional funding would assist in chipping away at this backlog. The types of projects proposed for funding with the additional city gas tax revenues are noted below. The Tigard Transportation Advisory Committee or designated subcommittee would be asked to advise the city on project priorities to be funded from these categories.

- Short, "missing link" sidewalk or pathway gaps in public right-of-way
- Pedestrian crossing improvements, such as flashing pedestrian signs and beacons
- Improvements to street traffic signals to provide for safer pedestrian crossings

As discussed above the city has identified how approximately \$1,000,000 in increased local gas tax revenue could be used to address the current backlog of transportation projects and maintenance. A \$.05/gallon increase to the city's local gas tax is an option to meet this need.

AIS-2724

6.

Business Meeting

Meeting Date: 07/12/2016

Length (in minutes): 25 Minutes

Agenda Title: Discussion on Marijuana Tax Measure for November 2016 Ballot

Prepared For: Liz Newton

Submitted By: Carol Krager, Central Services

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

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Council discussion on the establishment of a three percent tax on the sale of marijuana items by marijuana retailers in the City of Tigard.

STAFF RECOMMENDATION / ACTION REQUEST

Council discussion, consensus and direction to staff on a proposed resolution to refer a three percent tax on the sale of marijuana items to voters, including draft ballot title, and a proposed ordinance amending the previously authorized marijuana tax.

Based on council's review of the proposed ordinance and direction to proceed by resolution to refer the matter to voters, Council may approve the ballot title resolution at a public hearing on July 26, 2016.

If the council decides not to refer the ordinance to voters in November 2016, the next opportunity, by state law, will be the general election in November 2018.

KEY FACTS AND INFORMATION SUMMARY

Oregon State Law (ORS 475 B.345) provides that cities may adopt an ordinance to refer to voters that, if passed, would impose up to a three percent tax on the sale of marijuana items by a marijuana retailer in the city's jurisdiction. The city council discussed possible taxation in September 2014 and August and September 2015.

In September 2014 city council adopted Ordinance 14-12 establishing taxes on the sale of marijuana items in advance of Measure 91 going before voters on the November 2014 ballot. Ordinance 14-12 is still in effect but HB 3400, codified as ORS 475 B.345, supersedes its authority. In addition, state law now precludes cities from establishing taxes on medical marijuana.

In September 2015, city council provided direction to the city attorney to prepare an ordinance for council consideration that would comply with state law and allow the city to tax the sale of marijuana items. The proposed ordinance (attached) would establish a three percent tax on the sale of marijuana items by marijuana retailers in the city and would take effect only upon approval by Tigard voters at the November 8, 2016 general election.

If approved by voters, a new Chapter 3.80 - Marijuana Tax - would be added to the Tigard Municipal Code. The key provisions of the new Chapter 3.80 would include imposing the three percent tax, responsibilities of the marijuana retailer including payments and record keeping, penalties and interest, appeal rights and refunds, what constitutes a violation and the right of the city to conduct audits and recover debt owed.

At this time it is unclear when the state Department of Revenue (DOR) will make distributions of tax revenue to cities. The legislature directed DOR not to make any distributions until the liquor fund is repaid for loans made to both the Oregon Liquor Control Commission (OLCC) and the Oregon Health Authority (OHA) for set-up costs related to their responsibilities for administering the program. The amount of the loan repayment is \$17 - \$18 million for both OLCC and OHA. When the loan is repaid, no later than June 30, 2017, cities will see an increase in the shared liquor revenue as the loans were made in part with city money. Since tax collections are about three times the legislative revenue office projections distribution to cities may occur before June 30, 2017.

OTHER ALTERNATIVES

City Council could decide not to refer an ordinance to the voters to establish a three percent tax on retail sales of marijuana.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

N/A

DATES OF PREVIOUS CONSIDERATION

September 9, 2014
September 23, 2014
August 18, 2015

Attachments

Resolution and Exhibits

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 16-___

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF TIGARD AT THE NOVEMBER 8, 2016 GENERAL ELECTION, THE QUESTION OF WHETHER TO ESTABLISH A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF TIGARD

WHEREAS, Section 34a of HB 3400 (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the electors of the city that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City; and

WHEREAS, the City Council of Tigard adopted Ordinance No. ____, which establishes a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the city of Tigard; and

WHEREAS, the City Council of Tigard, pursuant to Section 34a of HB 3400 (ORS 475B.345), desires to refer Ordinance No. ____ to the electors of the City of Tigard.

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

SECTION 1: Measure. A measure election is called in and for the City of Tigard, Washington County, Oregon, for the purpose of submitting a measure that would establish a three percent tax on the sale of marijuana items by marijuana retailers in the city of Tigard. A copy of the measure is attached and incorporated as "Exhibit 1."

SECTION 2: Election Conducted by Mail. The measure election shall be held on Tuesday, November 8, 2016, which is the next general election. The precinct for the election shall be all of the territory within the corporate limits of the City of Tigard. As required by ORS 254.465, the measure election will be conducted by mail by the Washington County Elections Department, according to the procedures adopted by the Oregon Secretary of State.

SECTION 3: Notice of Ballot Title. The City Elections Officer is directed to publish notice of receipt of the ballot title in the Tigard Times or The Oregonian in compliance with ORS 250.275(5).

SECTION 4: Ballot Title. Pursuant to ORS 250.285 and ORS 254.095, the Tigard City Council directs the City Elections Officer to file a notice of City Measure Election in substantially the form of Exhibit 2, with the Washington County Elections Office, unless, pursuant to a valid ballot title challenge, the Tigard City Council certifies a

different Notice of City Measure Election be filed, such filing shall occur no earlier than the eighth business day after the date on which Exhibit A is filed with the city elections officer and not later than September 8, 2016.

SECTION 5: Explanatory Statement. The explanatory statement for the measure, for publication in the county voters' pamphlet, which is attached and incorporated as "Exhibit 3," is approved; said statement shall be filed with the Washington County Elections Office at the same time the Notice of City Measure Election is filed by the City Elections Officer.

SECTION 6: Delegation. The Tigard City Council authorizes the City Manager or a designee of the City Manager to act on behalf of the city of Tigard and to take such further action as is necessary to carry out the intent and purposes herein in compliance with the applicable provisions of law.

SECTION 7: Effect of "Yes" Vote. If a majority of eligible voters vote "yes" on the measure, Ordinance No. _____ will become operative, and a three percent tax will be imposed on the sale of marijuana items by marijuana retailers in the corporate limits of the City of Tigard.

SECTION 8: This resolution is effective immediately upon passage.

PASSED this _____ day of _____, 2016.

John L. Cook, Mayor

ATTEST:

Carol A. Krager, City Recorder

Exhibit 1

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-____**

AN ORDINANCE ESTABLISHING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF TIGARD

WHEREAS, Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, the Tigard City Council wishes to exercise that power to tax the sale of marijuana items by a marijuana retailer in the City of Tigard.

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

- SECTION 1: Tigard Municipal Code is amended by adding a new Chapter 3.80, Marijuana Tax, to read as attached in Exhibit A.
- SECTION 2: Severability. The sections, subsections, paragraphs and clauses of this ordinance or any intergovernmental agreement with any department or agency of the State of Oregon are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.
- SECTION 3: Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.
- SECTION 4: Intergovernmental Cooperation. After the effective date of this ordinance, the City may enter into an agreement whereby the State of Oregon is responsible for the administration, collection, distribution or enforcement of the tax authorized under this chapter, either in full or in part, without needing to obtain voter approval.
- SECTION 5: Tigard Municipal Code Chapter 3.70 is hereby repealed, as of the effective date of this ordinance.
- SECTION 6: This ordinance shall be referred to the electors of Tigard at the next statewide general election on Tuesday, November 8, 2016.
- SECTION 7: This ordinance shall be effective upon certification by the County Elections official that it has received voter approval at an election conducted on November 8, 2016.
- PASSED: By _____ vote of all Council members present after being read by number and title only this _____ day of _____, 2016.

Exhibit 1

Carol A Krager, City Recorder

APPROVED: Approved by Tigard City Council this _____ day of _____, 2016.

John L. Cook, Mayor

Approved as to form:

City Attorney

Exhibit A

Chapter 3.80 MARIJUANA TAX

Sections:

- 3.80.010 Purpose**
- 3.80.015 Definitions**
- 3.80.020 Tax Imposed**
- 3.80.025 Amount and Payment, Deductions**
- 3.80.030 Marijuana Retailer Responsible for Payment of Tax**
- 3.80.035 Penalties and Interest**
- 3.80.040 Appeal**
- 3.80.045 Refunds**
- 3.80.050 Actions to Collect**
- 3.80.055 Violation**
- 3.80.060 Confidentiality**
- 3.80.065 Audit of Books, Records, or Persons**
- 3.80.070 Forms and Regulations**
- 3.80.075 Intergovernmental Agreement**

3.80.010 Purpose

The purpose of this chapter is to impose a three percent tax upon the retail sale of marijuana items by marijuana retailers in the City of Tigard.

3.80.015 Definitions

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

- A. “Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purposes of resale.
- B. “Director” means the Director of Finance for the City of Tigard or his or her designee.
- C. “Retail sale price” means the price paid

for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

D. “Marijuana item” has the meaning given that term in ORS 475B.015(16).

E. “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

F. “Retail sale” or “Sale” means the exchange, gift or barter of a marijuana item by any person to a consumer.

G. “Marijuana retailer” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

H. “Tax” means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

I. “Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

3.80.020 Tax Imposed

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement,

Exhibit A

collection, and administration of the tax.

3.80.025 Amount and Payment, Deductions

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Tigard shall pay a tax of three percent (3%) of the retail sale price paid to the marijuana retailer of marijuana items. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

3.80.030 Marijuana Retailer Responsible for Payment of Tax

A. Every marijuana retailer shall obtain a business license from the City of Tigard pursuant to TMC 5.04. The marijuana retailer will indicate on the business license application whether the marijuana retailer is licensed by or registered with the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

B. Every marijuana retailer shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The marijuana retailer may request, or the City may establish, shorter reporting periods for any marijuana retailer if the marijuana retailer or City deems it necessary in order to ensure collection of the tax and the City may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.

C. At the time the return is filed, the full amount of the tax collected shall be remitted to the City.

D. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any marijuana retailer if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.

E. Every marijuana retailer must keep and preserve, in an accounting format established by the Director, records of all sales made by the dispensary and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

3.80.035 Penalties and Interest

A. Any marijuana retailer who fails to remit any portion of any tax imposed by this

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chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.

B. If the City determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 3 of this section.

C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

D. Penalties imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.

E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Tigard General Fund to offset the costs of auditing and enforcement of this tax.

3.80.040 Appeal

Any marijuana retailer aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the Appeals to Civil Infractions Hearings Officer in Chapter 1.17 of this code, except that the appeal shall be filed within thirty (30) days of the serving or mailing of the determination of tax due. The hearings officer shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the appellant in the manner prescribed in Chapter

1.17. Any amount found to be due shall be immediately due and payable upon the service of notice.

3.80.045 Refunds

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one (1) year of the date of payment. The claim shall be on forms furnished by the City.

B. The Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the marijuana retailer is still in business, a credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

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C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

3.80.050 Actions to Collect

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the City. Any such tax collected by a marijuana retailer which has not been paid to the City shall be deemed a debt owed by the marijuana retailer to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Tigard for the recovery of such amount. In lieu of filing an action for the recovery, the City of Tigard, when taxes due are more than 30 (thirty) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Tigard has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

3.80.055 Violation

A. Violation of this chapter shall constitute a Class 1 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions. It is a violation of this chapter for any marijuana retailer or other person to:

1. Fail or refuse to comply as required herein;

2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to permit inspection of records;
4. Fail or refuse to furnish a supplemental return or other data required by the City;
5. Render a false or fraudulent return or claim; or
6. Fail, refuse or neglect to remit the tax to the city by the due date.

B. Filing a false or fraudulent return shall be considered a Class B misdemeanor, subject to Chapter 7.28.020 of this code, Unsworn Falsification. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

3.80.060 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which

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marijuana items are sold or provided; or

B. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or

C. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter.

D. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this chapter; or

E. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

F. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

3.80.065 Audit of Books, Records, or Persons

A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books,

invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.

B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

C. The marijuana retailer shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of 1 percent per month, or the portion thereof, from the date the original tax payment was due.

D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the Tigard Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

E. Every marijuana retailer shall keep a record in such form as may be prescribed by the City of all sales of marijuana items. The records shall at all times during the

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business hours of the day be subject to inspection by the City or authorized officers or agents of the Director.

F. Every marijuana retailer shall maintain and keep, for a period of three (3) years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana items.

3.80.070 Forms and Regulations

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

A. A form of report on sales and purchases to be supplied to all vendors; and

B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.

3.80.075 Intergovernmental Agreement

The City Council may enter into an IGA with any department or agency of the State of Oregon whereby the State is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

EXHIBIT 2

Notice of Measure Election

SEL 802

rev 1/14: ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465

City

Notice		
Date of Notice	Name of City or Cities City of Tigard	Date of Election November 8, 2016

The following is the final ballot title of the measure to be submitted to the city's voters.

Final Ballot Title Notice of receipt of ballot title has been published and the ballot title challenge process has been completed.
Caption 10 words which reasonably identifies the subject of the measure Imposes city tax on marijuana retailer's sale of marijuana items

Question 20 words which plainly phrases the chief purpose of the measure Shall City impose a three percent tax on the sale of marijuana items by a marijuana retailer in the City?
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Summary 175 words which concisely and impartially summarizes the measure and its major effect Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer. If this measure is adopted, it would approve a Tigard Ordinance imposing a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax.

Explanatory Statement 500 words that impartially explains the measure and its effect, if required attach to this form If the county is producing a voters' pamphlet an explanatory statement must be submitted for any measure referred by the city governing body and if required by local ordinance, for any initiative or referendum.			
Measure Type	County producing voters' pamphlet	Local ordinance requiring submission	Explanatory statement required
<input checked="" type="checkbox"/> Referral	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Not applicable	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Initiative	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Referendum	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Authorized City Official Not required to be notarized → By signing this document, I hereby state that I am authorized by the city to submit this Notice of Measure Election and I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.
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Name	Title	Work Phone
Signature	Date Signed	

EXHIBIT 3
EXPLANATORY STATEMENT

Under measure 91, adopted by the Oregon voters in November 2014, and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of Tigard City Council has adopted an ordinance imposing a three percent tax on the sale of marijuana items by a marijuana retailer in the city, and, as a result, has referred this measure to the voters.

If this measure is adopted, it would approve City of Tigard Ordinance No. ____ imposing a three percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax. There are no restrictions on how the city may use the revenues generated by this tax.