



TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION

Monday, February 14, 2011

City Council Chambers
18880 SW Martinazzi Avenue, Tualatin, Oregon

WORK SESSION begins at 5:30 p.m.
REGULAR MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Chris Barhyte
Councilor Monique Beikman
Councilor Wade Brooksby

Councilor Frank Bubenik
Councilor Joelle Davis
Councilor Ed Truax

WELCOME! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda – *Item C, following Presentations*, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at: <http://www.ci.tualatin.or.us/government/CouncilPackets.cfm>, at the Library located at 18878 SW Martinazzi Avenue, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised live the day of the meeting through Washington County **Cable Access** Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org. Council meetings can also be viewed "live" from the City's **website** the day of the meeting at <http://www.ci.tualatin.or.us/government/CouncilPackets.cfm>.

Your City government welcomes your interest and hopes you will attend the City of Tualatin City Council meetings often.

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A *legislative* public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. The Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A *quasi-judicial* public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review. The Mayor opens the public hearing and identifies the case to be considered. A staff member presents the staff report to the Council.

1. Public testimony is taken:
 - a) *In support of the application*
 - b) *In opposition or neutral*
2. The Council then asks questions of staff, the applicant or any member of the public who testified.
3. When the Council has finished its questions, the Mayor closes the public hearing.
4. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions* or *deny the application*, or *continue* the public hearing.

TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: ORS 192.660(2)(a) the employment of personnel; ORS 192.660(2)(b) the dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) non-public information or records; ORS 192.660(2)(g) matters of commerce in which the Council is in competition with other governing bodies; ORS 192.660(2)(h) current and pending litigation issues; ORS 192.660(2)(i) employee

performance; ORS 192.660(2)(j) investments; or ORS 92.660(2)(m) security issues. All discussions within this session are confidential. Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.

- SEE ATTACHED AGENDA -



OFFICIAL AGENDA FOR TUALATIN CITY COUNCIL MEETING
February 14, 2011

A. CALL TO ORDER
Pledge of Allegiance

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Tualatin Youth Advisory Council Update
2. Eagle Scout Presentation - *Tanner Ellenson*
3. Proclamation Recognizing the 2010 Employee of the Year
4. New Employee Introductions - *Sara Singer, Administration; Travis Sperle, Vernon Bathke, and Bert Olheiser, Operations*
5. High Speed Rail Update - *City Engineer Mike McKillip*

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

1. Approval of the Minutes of the Special Work Session of January 11, 2011, and the Work Session and Meeting of January 24, 2011
2. Resolution No. **5018-11** Authorizing an Amendment to an Intergovernmental Agreement Between the City of Portland Police Bureau and the City of Tualatin Changing the Agency Participation with the Portland Police Data System (PPDS) from Inquiry-Only to Being a Full-Entry Partner Agency
3. Resolution No. **5019-11** Consenting to the Transfer of Control of the Solid Waste and Resource Recovery Franchise Granted to United Disposal, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., to United Disposal Services, Inc. dba Allied Waste Services of Clackamas and Washington Counties
4. Resolution No. **5020-11** Modification of the City Manager's Employment Agreement

5. Community Involvement Committee Appointments

E. PUBLIC HEARINGS – Legislative or Other

1. Establish a Zone of Benefit Recovery Charge for Street Improvements on SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road

F. PUBLIC HEARINGS – Quasi-Judicial

1. Sign Variance for Legacy Bridgeport Clinic in the General Commercial (CG) Planning District at 18010 SW McEwan Road (Tax Map 2S113DD, Tax Lot 1800)
(SVAR-10-01)-REQUEST FOR CONTINUANCE-

Attachments to Item F-1 - Staff Report Regarding SVAR-10-01.

G. GENERAL BUSINESS

1. 2010 Annual Report of the Tualatin Arts Advisory Committee
2. 2010 Tualatin Heritage Center Annual Report
3. Ordinance No. 1318-11 Relating to Solid Waste Management and Amending Franchise Territory with United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties; and Rescinding Ordinance No. 1140-03

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION

K. ADJOURNMENT

City Council Meeting

Item #: B.

Date: 02/14/2011

Information

SUBJECT

1. Tualatin Youth Advisory Council Update
 2. Eagle Scout Presentation - *Tanner Ellenson*
 3. Proclamation Recognizing the 2010 Employee of the Year
 4. New Employee Introductions - *Sara Singer, Administration; Travis Sperle, Vernon Bathke, and Bert Olheiser, Operations*
 5. High Speed Rail Update - *City Engineer Mike McKillip*
-

Attachments

1. YAC PowerPoint
2. Proclamation

Council Update February 14, 2011

TUALATIN YOUTH
ADVISORY COUNCIL



Washington County Youth Summit



- YAC grant proposal was approved!
- \$750
- Working with Hazelbrook Middle School
 - ▣ Anti-cyberbullying video
 - ▣ Cyberbullying lessons and activities

Tualatin YAC – Youth Participating in Governance

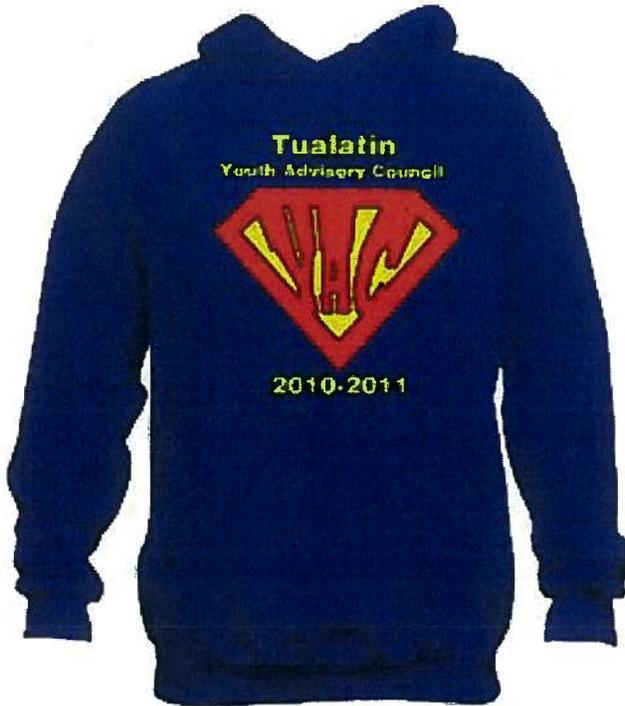


Arbor Week 2011

- First week in April
- YAC members Maddie Willon and Malory Turner are serving on the Arbor Week Ad-Hoc committee

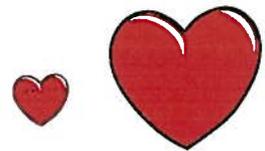


YAC Sweatshirts



- Designed by YAC
Senior Maddie Willon
- Super YAC!

Tualatin YAC – Youth Participating in Governance



Tualatin Quidditch

- ❑ Joint program between YAC/Tualatin Teen Program
- ❑ Openings for 6 teams
- ❑ Games begin April 2nd
- ❑ Volunteer assistant referees needed!
- ❑ Great way for teens to have fun and get exercise!



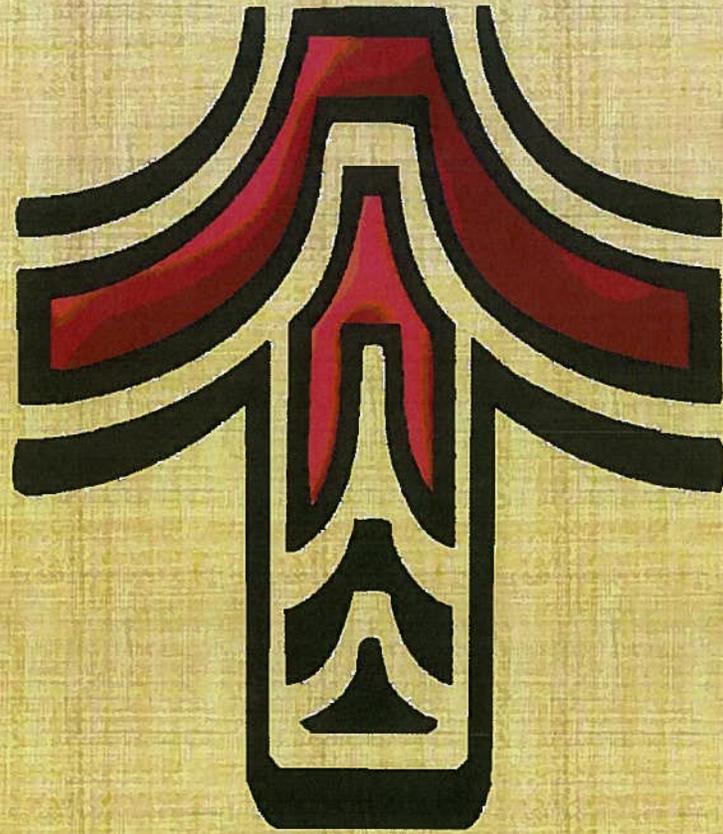
Tualatin YAC – Youth Participating in Governance



See you next month!

Happy Valentine's Day!





City of Tualatin



CITY COUNCIL SIGN-UP SHEET

DATE: February 14, 2011

PLEASE COMPLETE TO GIVE TESTIMONY

LIMIT TESTIMONY TO THREE MINUTES

(PLEASE PRINT CLEARLY)		Name	Address	E-mail	Representing	Agenda Item(s) or Citizen Comments
1.		David Met	10335 SW Furrong Dr Tualatin		SELF	
2.		Dolores Hurtado	8685 SW Chinook St Tualatin		Protect Tualatin Parks	Citizen Comment
3.		Aurice Vigileos	18230 SW Sherman Tualat		Parks Protection	✓
4.		Rose TERRY	17815 SW Chapman Tualatin		Parks Protection	✓
5.		Kathy Newsome	17815 SW Chapman Dr		✓	✓
6.						
7.						
8.						

Submitted for the record by Kathy Newcomb @ Citizen Comments' portion of the 2/14/11 Council meeting.

Public Comment, February 14, 2011, from Kathy Newcomb

Mayor Ogden, it has been a disappointment to read your inaccurate information in a Times Soapbox, as well as inaccurate information by your supporters, relying on your knowledge, and also opposing the Charter Amendment protecting the park.

You have claimed the council has supported the parks so very well. To a certain extent that is true. However I feel that when it comes to traffic arterials over the parks (one of which was set aside, and another is planned and almost in the pipeline), your support of the parks has broken down.

You claimed in the Times and elsewhere that we should be pleased that "the current process worked". IT DID NOT. What we had was not a public process. It was a tsunami of public outrage. As you described it yourself, there were bombs exploding due to lack of citizen involvement. The four bombs were The bridge. Blake Street. The racquet-club. The Hospital.

In the crucial time, the first half of 2009, the normal city process was not employed. Neither the Tualatin Planning Advisory Committee nor the Tualatin Parks Advisory Committee were at all involved in any review of the bridge over the park before the city council sent it to Metro for the Regional Transportation Plan in July 2009. Nor were there hearings or open houses or staff presentations to the regular city council sessions or city newsletter information.

I hope no one would claim that the Tualatin Road Extension was in the 2001 Tualatin Transportation System Plan. IT WAS NOT. The closest description was about Lower Boones Ferry Road and the river. But there was nothing about the park; nothing about Tualatin Road Extension. Nothing more on a map than an unlabeled one inch line.

One more inaccuracy: "The City Parks Master Plan is one of the very special components of living in Tualatin." Sad to say, that plan has not been updated since 1983.

Finally it is also a disappointment that the Chamber Board – of which you are a member – and the Governmental Activities Committee, including the utilities, supported inaccurate material in the voters' pamphlet. I tried twice, once at your direction, to help the GAC and the Board to understand their mistakes. No one there was interested.

Let us please remember that there is no law requiring honesty in measure arguments. If you find mistakes in ours, let us know. We very much want to be accurate.

Please give major credit to the city's employees in Operations and to the park maintenance people, Dan Boss and Bob Martin. Also a huge credit to the people in charge of park activities, Paul Hennon and Carl Switzer. Some of these people have worked for many years, doing an absolutely marvelous job...for as many as 33 years.

Proclamation

Proclamation Recognizing Jennifer Bach as 2010 Employee of the Year in the City of Tualatin

WHEREAS Jennifer Bach was hired on May 14, 2007 as Inventory Control Specialist for the Operations Department, and is an integral part of the Department in many capacities. When it comes to "teamwork" she is there to help no matter who needs assistance and no matter what she is currently involved with.

WHEREAS Jennifer is well-respected amongst her peers and not only does she function as a member of the Operations Department, she also volunteers her time as a Tualatin Police Reserve Officer. As a City volunteer, she contributes many hours to City events and Police Reserve activities.

WHEREAS Jennifer is always looking for more efficient ways to do things and improve on the City's existing processes to save staff time and energy. She will take an issue, think it through, and act on it. She was able to save the City hundreds of dollars a year by rethinking how we buy parts for City equipment.

WHEREAS Jennifer has a positive attitude and does a great job making things happen. Jennifer always smiles and goes out of her way to deliver prompt customer service. Her concern is for the customer getting what they need, when they need it. Jennifer is always conscientious of sustainability, one example is that we now send e-waste out to be "truly" recycled at no cost to the City.

WHEREAS recently the Parks Maintenance Division, working in conjunction with the Police Department, worked together in cleaning up a homeless camp. Volunteers were needed by Parks Maintenance and Jennifer volunteered to get in and get it done. It was with Jennifer and other staff assistance that made this project go smoothly and get the job done! Jennifer is able to do this, with not only a great attitude, but with a warm and friendly smile!

WHEREAS Jennifer demonstrates on a regular basis the City Manager's SEVEN VALUES of TEAMWORK, RESPECT, ONE CITY, EMPOWERMENT, PROBLEM SOLVING, CUSTOMER SERVICE, and being NON-BUREAUCRATIC.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that:

Jennifer Bach is named the *2010 EMPLOYEE OF THE YEAR*.

INTRODUCED AND ADOPTED this 14th day of February, 2011.

CITY OF TUALATIN, OREGON

BY _____

Mayor

ATTEST:

BY _____

City Recorder

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Maureen Smith, Executive Assistant

DATE: 02/14/2011

SUBJECT: Approval of the Minutes of the Special Work Session of January 11, 2011, and the Work Session and Meeting of January 24, 2011

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes of the Special Work Session of January 11, 2011, and the Work Session and Meeting of January 24, 2011.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: A - Special Work Session Minutes of 1/11/2011

B - Work Session Minutes of 1/24/2011

C - Meeting Minutes of 01/24/2011



SPECIAL CITY COUNCIL WORK SESSION MINUTES OF JANUARY 11, 2011

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Ed Truax, Councilor-elect Frank Bubenik

ABSENT: Councilor-elect Wade Brooksby, Councilor Donna Maddux

STAFF

PRESENT: Sherilyn Lombos, City Manager; Mike McKillip, City Engineer; Aquilla Hurd-Ravich, Acting Planning Manager; Paul Hennon, Community Services Director; Ben Bryant, Management Intern; Colin Cortes, Assistant Planner

The special work session was called to order at 6:09 p.m. at the Library Community Room.

1. ANNOUNCEMENTS – None.

2. ITEMS DISCUSSED

A. Basalt Creek Planning

A PowerPoint presentation was presented and City Manager Sherilyn Lombos began the discussion starting with the history of the proposed I-5/99W Connector study, leading into the history of the Urban Growth Boundary (UGB) expansion areas south of Tualatin – Basalt Creek/Southwest/West Railroad. Also, discuss values, goals, objectives, and outcomes, and discussion of procedural options. (*Materials attached.*)

Acting Planning Manager Aquilla Hurd-Ravich spoke on what has previously been discussed on potential development for the area. City Engineer Mike McKillip explained about ensuring effectiveness of the SW 124th extension.

Discussion continued on how to address the planning area, with regards to Basalt Creek, and to make sure that the 124th extension fits into the planning process. City Manager Lombos explained about the grant from Metro and the work that's beginning with Wilsonville on the planning of the Basalt Creek/West Railroad area. The next steps are to meet with Washington County, Metro and Wilsonville, hold a joint Council meeting with Wilsonville, and hire a land use consultant firm. City Manager Lombos said it is important for Council to determine what should be in place – what are Tualatin's desired land uses, financial interests, natural space, local aspirations, and jurisdictional boundaries.

Discussion continued on what types of development should be planned. Also mentioned what the benefit would be for 124th, with regards to the Southwest Concept Plan, but not necessarily the Basalt Creek area. It was mentioned about not having residential areas abut to rights-of-way. Also mentioned was the potential widening of Highway 99W, light rail, etc. and how it may factor into planning of the SW Concept Plan area.

Council expressed concern about the planning and inclusion of the *corridor*, and whether Washington County and/or Metro would approve the Basalt Creek planning without including the corridor. It is not in the fiscally constrained budget, although the 124th extension is in the fiscally constrained, and Council's believes Wilsonville is supportive of the 124th extension project, but not the "connector" piece. It was mentioned to ensure Wilsonville has indicated *in writing* about their position on the connector area of support/non-support. City Manager Lombos said it is addressed in the Memorandum of Understanding (MOU) that was done with Wilsonville; Washington County wants it to be worked out between the jurisdictions. Concerns continued to be expressed about working with Wilsonville in the planning of the land, and being specific about the particular understanding of what should be developed and where, and without impacting neighborhoods.

Discussion continued on how better to address the planning process and that Council be part of the process and involvement up front before moving further into it, and also to be sure of adequately addressing the public involvement side of the process. It was mentioned there is no point in starting the planning process without Washington County and Metro approval, because if Tualatin and Wilsonville do not, Metro will. Discussion continued. General consensus by Council present was to include the "interim" improvements piece (124th).

Council discussed continuing with ongoing involvement with Wilsonville and to approach Wilsonville, perhaps Washington County of the alternative idea of planning up to the "swath" and the next step would be to see what "wobble room" exists with Wilsonville for the *consideration* of the swath, minus ROW acquisition, etc. Discussion continued further on how to address what will work out with Wilsonville, in terms of the "swath" area, and to do the "interim" improvements of 124th, through to Day Road (*see map*). The amount of industrial, light industrial, and residential was discussed, also assessed value (AV).

A break was taken from 8:09 p.m. to 8:16 p.m.

Mayor Ogden noted Council will go into executive session pursuant to ORS 192.660(2)(e) to discuss real property transactions will be held at the end of the work session.

B. Tigard Sand & Gravel – discussion postponed.

C. Draft Scope of Phase I of Public Involvement Plan for the TSP – discussion not held.

D. Southwest Concept Plan Public Involvement Opportunities – discussion not held.

E. Sequence of January 24, 2011 Council Meeting – discussion not held.

3. EXECUTIVE SESSION

Mayor Ogden noted that an executive session pursuant to ORS 192.660(2)(e) to discuss real property transactions was held at the end of the special work session.

4. ADJOURNMENT

The special work session adjourned at 8:31 p.m.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith





WHAT ARE OUR VALUES, GOALS, OBJECTIVES, & INTERESTS?

- Desired Land Uses
- Financial Interests
- Natural Space
- Local Aspirations
- Jurisdictional Boundaries



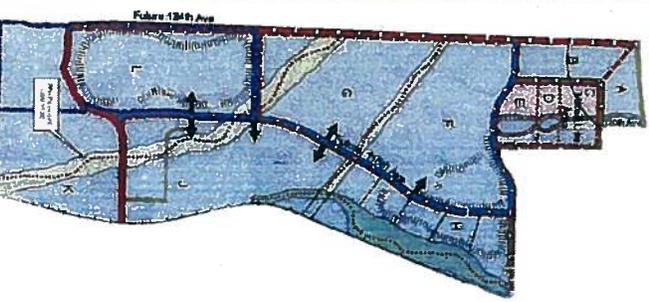
WHAT ARE THE NEXT STEPS?

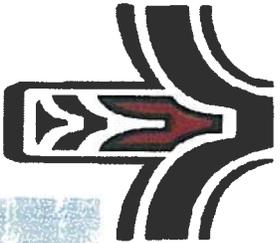
- Meeting with Washington County, Metro, & Wilsonville
 - Joint Council Meeting with Wilsonville
 - Hire Land Use Consultant Firm
- OR-**
- Alternative Options



HOW DID WE GET HERE?

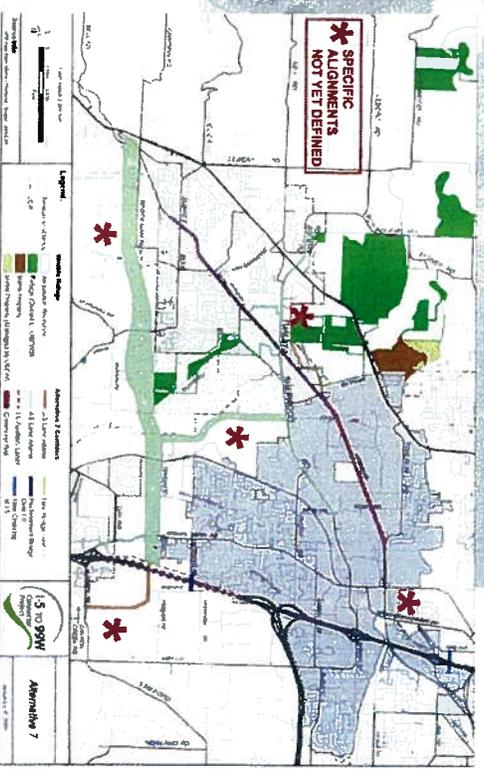
- Land Added to UGB in 2004
- Washington County's Position on Urbanization
- Memorandum of Understanding with Wilsonville
- Ensure Effectiveness of SW 124th Extension
- Compatible with Southwest Concept Plan





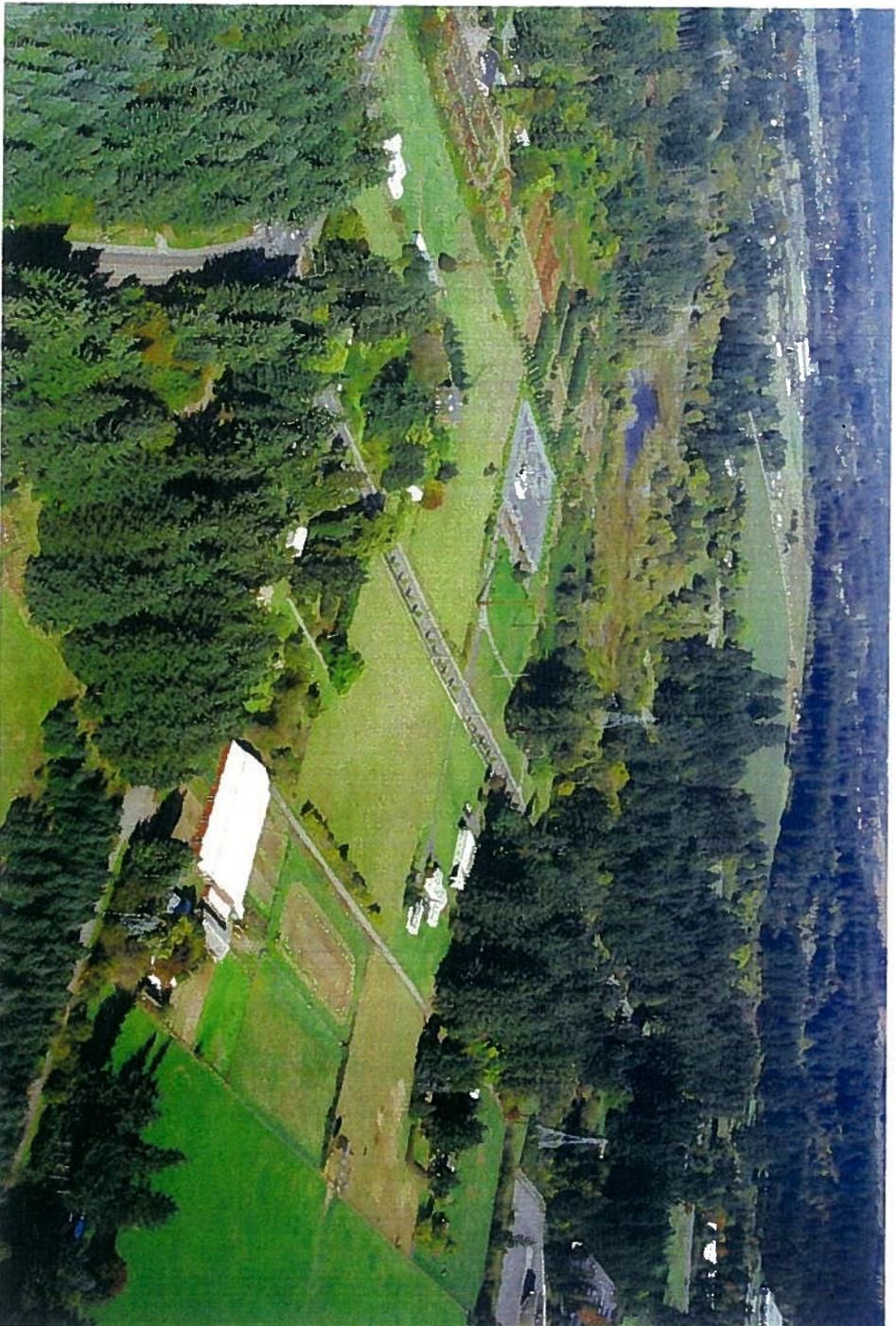
WHY ARE WE HERE?

- Present History
 - UGB Expansion Areas
 - I-5/99W Connector Study
- Discuss & Solidify Values, Goals, Objectives, & Outcomes
- Discuss Procedural Options





Tualatin City Council Special Work Session



Basalt Creek / West Railroad Planning



MEMORANDUM

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager

DATE: January 11, 2011

SUBJECT: SPECIAL WORK SESSION AGENDA: BASALT CREEK PLANNING

AGENDA

- A. History of the Proposed I-5/99W Connector Study** (Ogden & McKillip)
 - Brief synopsis of the process (Attachment A)
 - End result and 2030 Metro Regional Transportation Plan (Attachment B & C)
 - Regional interests and direction – Metro, Washington County, Clackamas County, ODOT, and other cities
 - Wilsonville concerns/interests
- B. History of the UGB Expansion Areas South of Tualatin—Basalt Creek/Southwest/West Railroad** (Ogden, Beikman, McKillip, & Hurd-Ravich)
 - Land designation and adjacent land uses (Attachment D)
 - Local aspirations (Attachment E)
- C. Impetus for Planning Basalt Creek Area** (Hurd-Ravich & Bryant)
 - Metro ordinance requirements (Attachment F)
 - Washington County's position on urbanization
 - MOU with Wilsonville to plan collaboratively (Attachment G)
 - Ensure effectiveness of SW 124th Ave. extension
 - Consequences of not planning
- D. Tualatin's Goals, Outcomes, and Interests** (Lombos)
 - Discuss the specific items Tualatin Council is seeking through planning efforts
- E. Options** (Lombos)
 - Reschedule a joint meeting with the Wilsonville City Council in order to increase our understanding of issues from Wilsonville's point of view, establish a common set of goals and outcomes, and discuss areas of agreement regarding transportation and other related issues
 - Schedule a meeting with representatives of Wilsonville, Metro, and Washington County in an effort to seek a consensus about how best to proceed with planning the area
 - Proceed with plans to jointly hire a land use consulting firm with the intent that the planning process will help resolve the controversial issues
 - Bring in a neutral facilitator/mediator to foster a collaborative agreement between the two cities regarding potentially controversial issues
 - Agree to plan the Basalt Creek Planning Area with an undesignated swath of land through the middle to protect a future "Southern Arterial" alignment
 - Remove Wilsonville from the project and proceed with planning independently
 - Allow Metro and/or Washington County to plan the area

MEMORANDUM: Special Work Session Agenda: Basalt Creek
January 11, 2011
Page 2 of 2

- Postpone work on the Basalt Creek Concept Plan and do nothing for now

Attachments:

- A. 15/99W Connector Study Structure Chart and Description
- B. Alternative 7 Map
- C. RTP Excerpts
- D. 2040 Urban Growth Concept Map
- E. Local Aspirations Handout
- F. Metro Ordinance 04-1040B Exhibit F (Conditions attached to UGB expansion)
- G. Memorandum of Understanding with Wilsonville for Joint-Planning
- H. Map of Planning Areas South of Tualatin
- I. Topography Map of Basalt Creek Planning Area

I5/99W Connector Study Structure



Project Steering Committee: Elected officials and directors from affected jurisdictions and agencies charged with project decision-making and policy guidance. Members included:

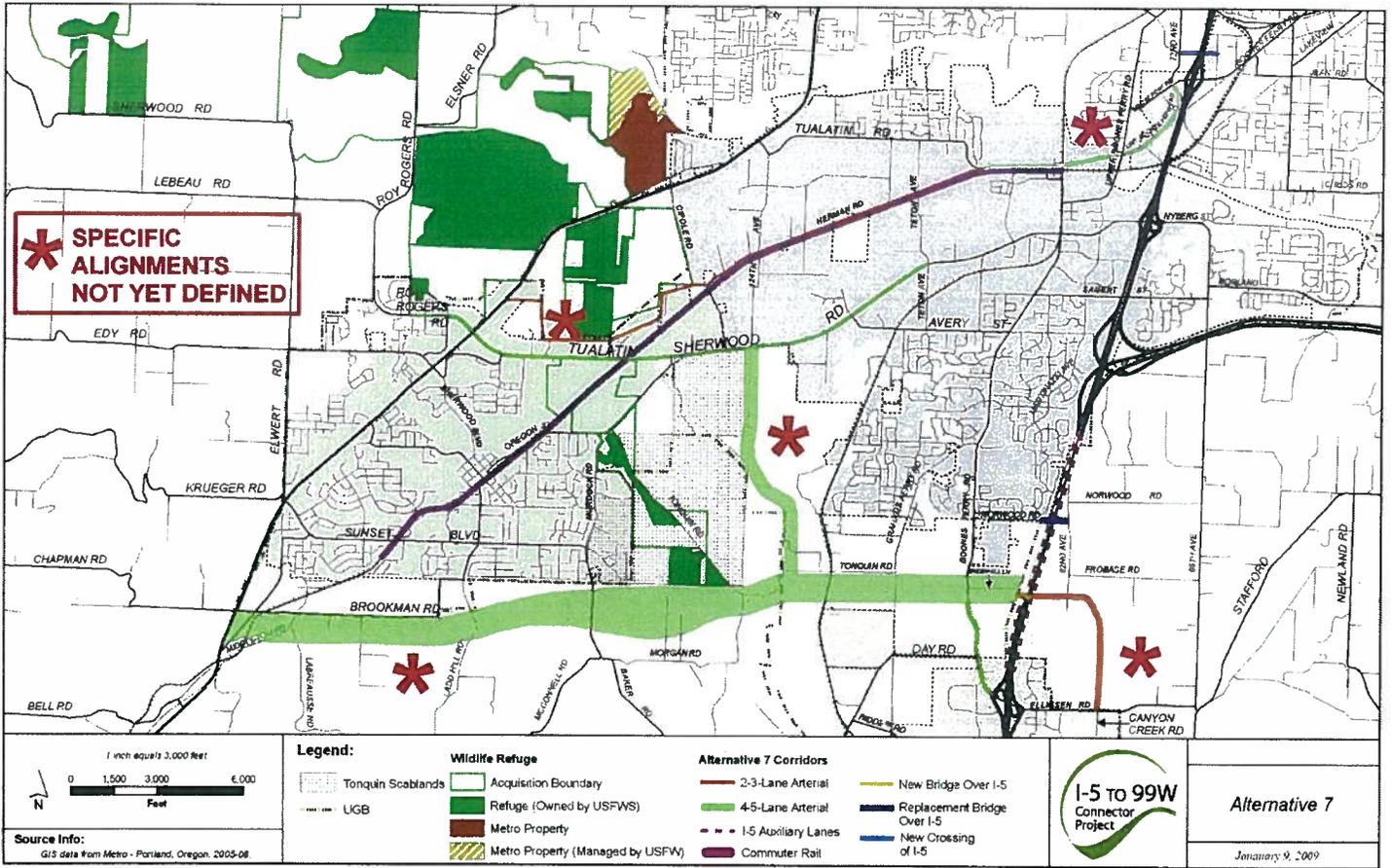
- Commissioner Tom Brian, Washington County (chair)
- Commissioner Charlotte Lehan, Clackamas County
- Councilor Carl Hosticka, Metro
- Jason Tell, Oregon Department of Transportation (ODOT)
- Mayor Keith Mays, City of Sherwood
- Mayor Lou Ogden, City of Tualatin
- Commissioner Roy Rogers, Washington County
- Tim Knapp, City of Wilsonville

Collaborative Environmental Transportation Agreement on Streamlining (CETAS): A committee of federal and state environmental and land use regulatory agencies which evaluated project impacts and trade-offs.

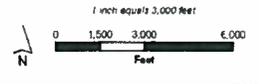
Stakeholder Working Group: Community members, advocacy group representatives and business representatives nominated by their organizations and ratified by the PSC. They were charged with providing informed, wide-ranging advice and guidance to the Project Steering Committee. Tualatin and Wilsonville members included: Dave Volz, Ray Phelps, Tom Sullivan, Cheryl Dorman.

Executive Management Team: Senior staff from affected jurisdictions charged with reviewing project findings and communicating findings to the Project Steering Committee. Tualatin and Wilsonville members included: Mike McKillip, Mike Stone, Mike Bowers (alternate)

Project Management Team: Technical staff from lead agencies (Washington County, Metro and ODOT) and consultant team members charged with day-to-day project oversight and management.



*** SPECIFIC ALIGNMENTS NOT YET DEFINED**



Source Info:
GIS data from Metro - Portland, Oregon, 2005-06

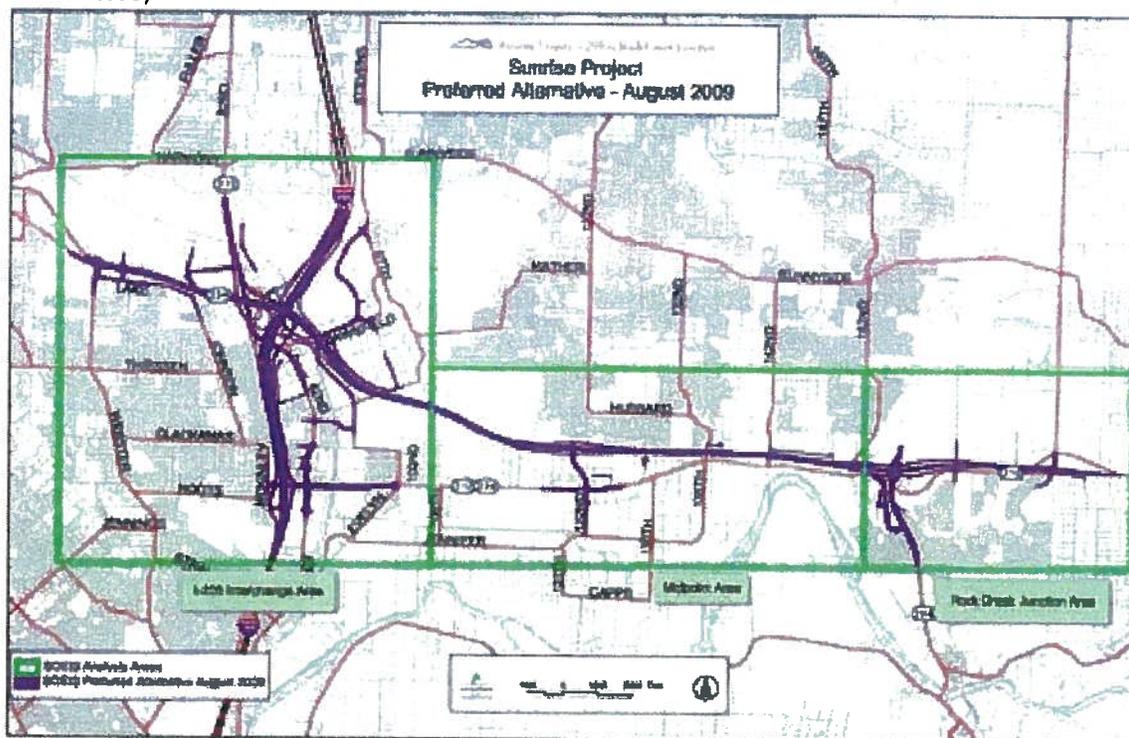
Legend:		Wildlife Refuge		Alternative 7 Corridors	
	Tonquin Scablands		Acquisition Boundary		2-3-Lane Arterial
	UGB		Refuge (Owned by USFWS)		4-5-Lane Arterial
	Metro Property		Metro Property		I-5 Auxiliary Lanes
	Metro Property (Managed by USFW)				Commuter Rail
					New Bridge Over I-5
					Replacement Bridge Over I-5
					New Crossing of I-5



Alternative 7
January 9, 2009

and OR 212 corridor study will provide further direction for solutions in this corridor. Further map refinements and project recommendations may be identified through this work.

Figure 6.2
Sunrise Project Preferred Alternative (as Recommended by the project's Policy Review Committee)



6.3.2.3 I-5/99W Connector Study Recommendations and Implementation (Tigard to Sherwood - Mobility Corridor #20)

Between 2006 and 2009, the I-5/99W Corridor Study identified a number of improvements in this corridor to support access to 2040 land uses, address existing deficiencies and serve increased travel demand. One primary function of this route is to connect the Washington Regional Center to the cities of Tigard, Tualatin and Sherwood, and provide access to the Tualatin/Sherwood Industrial Area and Tualatin National Wildlife Refuge. This corridor provides shortline heavy rail access to the region from the Willamette Valley and connects agricultural areas to the interstate highway system in this region. This mobility corridor also serves as a secondary gateway to the region, connecting communities in Yamhill County and the Central Oregon Coast to the Portland metropolitan region.

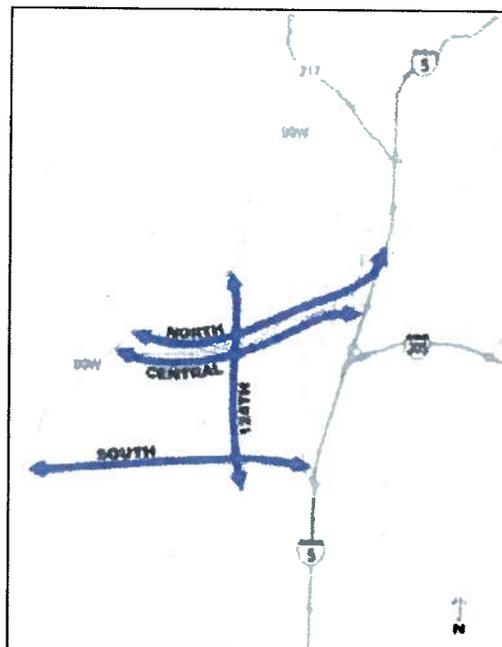
In February 2009, the I-5/99W Connector Project Steering Committee (PSC) was unable at the end of its process to reach a unanimous recommendation for the I-5/99W Corridor Study as required by the PSC Partnership Agreement in order to forward a Recommended Corridor Alternative to the

RTP. However, there was unanimous agreement on some aspects of the Connector that could be reflected in the RTP:

- Identify projects for inclusion in the RTP with minimal extra conditions, particularly the extension of SW 124th from SW Tualatin Sherwood Road to the I-5/North Wilsonville Interchange,
- Identify conditions to be met before a new Southern Arterial is implemented to ensure integration with surrounding land use and transportation plans, particularly an I-5 South Corridor Study,
- Determine an incremental phasing plan to ensure the projects with the most benefit that can reasonably be built within the 20-year horizon be included in the RTP Financially Constrained list.

The recommendations for the I-5/99W Corridor Study proposed for inclusion in the RTP are based upon the conclusions reached by the Project Steering Committee (PSC) as follows:

- The 3 options consisting of a new limited access expressway from I-5 to OR 99W (2 alignments north of Sherwood and 1 alignment south of Sherwood) were unacceptable due to high impact on the natural and built environment, the need for extensive improvements to I-5, high cost and concern about the potential for induced growth to Yamhill County, and
- The option focused on expanding Tualatin-Sherwood Road was unacceptable due to the very large size it would need to be and the resulting impacts on the Tualatin and Sherwood Town Centers.
- The alternative recommended is based upon the principle that it is preferable to spread the traffic across three smaller arterials rather than one large expressway. The analysis concluded this approach could effectively serve the traffic demand, would provide better service to urban land uses in the Tualatin/Sherwood area, especially industrial lands, and could be built incrementally based upon need to serve growth and revenue



The I-5/99W Corridor Study recommended a variety of transportation investments to improve the area's road, transit, bicycle, pedestrian and trail networks and to distribute traffic across a network of three arterials so that no single route would function as a defacto through "connector." The RTP places additional conditions on the "Three Arterial" recommendation and implementation.

Attachment C

availability. The overall concept is structured around a Northern, Central and Southern arterial providing east-west access between OR 99W and I-5 with an extension of SW 124th providing north-south connectivity (see diagram).

The City of Wilsonville was and continues to raise objections to the Southern Arterial component throughout this process. The City is very concerned about growing I-5 congestion and the City's dependence on effective access to the two I-5 interchanges. The City is concerned that the Southern Arterial connecting into the I-5/North Wilsonville interchange will significantly increase traffic and impair that access.

When the PSC considered the recommendation, the Clackamas County Commission representative introduced a series of amendments to the conditions to ensure that the Southern Arterial would be examined in greater detail to:

- evaluate alignment options and their environmental impact;
- integrate the proposal with the concept plan and transportation system plan for the newly expanded UGB area and any new Urban Reserves that are designated in the area;
- address any requirements that may result from adoption of an exception to Goal 14 (if needed) for an urban facility outside the UGB;
- integrate the proposal with a Tigard to Wilsonville Corridor Study (Corridor #3) to ensure these east-west arterials and I-5 itself could effectively function together; and
- determine the most appropriate approach to connecting the Southern Arterial to I-5, including options for an interchange at the I-5/North Wilsonville interchange or consideration of extending the Southern Arterial across I-5 to Stafford Road east of I-5, thereby providing better access to I-205.

The Project Steering Committee acknowledged many significant issues to be addressed before the Southern Arterial can proceed to construction, and approved the proposed conditions unanimously. The detailed conditions can be found in Appendix 3.3.

Typically, there is a need to transition from a "planning" level of detail to a "project" level of detail which involves better definition of alignments and designs and consideration of impacts on the natural and built environment and how to mitigate those impacts. These conditions proposed by the Project Steering Committee add in the need to integrate the recommendation with land use planning for recent UGB expansion areas and potential Urban Reserves (still to be defined) and the importance of integrating the overall system for the area with an I-5 corridor strategy.

The RTP places additional conditions on the "Three Arterial" recommendation and implementation, as reflected below:

Short-term phasing strategy (2008-2017)

- Identify replacement solutions for the Tualatin Road project recommended by the I-5/Connector study as part of the next Tualatin TSP update. This project was removed from the RTP based on community concerns and lack of support by the Tualatin City Council. The two-lane connection from the Tualatin Road/Herman road intersection to I-5 at Lower Boones Ferry Road was not intended to serve through traffic, but rather to provide access to the surrounding industrial area and neighborhoods. The planning work will consider alternative alignments and designs across the Tualatin River and I-5 near the I-5/Lower Boones Ferry Road interchange to mitigate impacts. If Tualatin (through their TSP update) does not identify project(s) to adequately address the capacity/connectivity issues identified in this area, then the RTP will be amended to direct the Corridor Refinement Plan effort for corridors #2, 3 and 20 to address this need in that planning effort. The need would go unaddressed until completion of that corridor refinement plan, or the next RTP update.
- Begin construction of the Tonquin Trail (RTP Projects #10092 and #10854).
- Upgrade existing streets to two lanes with turn lanes, traffic signal timing, bike lanes and sidewalks, including Herman Road, Tualatin-Sherwood Road, 95th Avenue (RTP Projects #10715, #10718, #10852).
- Add southbound auxiliary lane from I-205 to I-5/Elligsen Road and northbound auxiliary lane from I-5/Elligsen Road to I-205 interchange. (RTP Projects #10872 and #11177)
- Conduct more detailed project planning and begin construction of a two-lane extension of SW 124th Avenue (RTP Project #10736: 124th Avenue) from Tualatin-Sherwood Road to I-5/North Wilsonville interchange to support its operation as an industrial access route. The planning work will further consider potential impacts on the existing development and the natural environment. It will also include more detailed definition of the design and alignment to mitigate impacts and to integrate with land use and transportation plans for the area.
- Conduct more detailed planning to meet all of the conditions placed on new Southern Arterial project, including:
 1. Conduct the I-5 South Corridor Refinement Plan (includes I-5 from Portland to Tigard, I-5 from Tigard to Wilsonville, and OR 99W from I-5 through Tigard and Sherwood) and land use planning for areas recently added to the urban growth boundary and any land designated as urban reserves. These planning efforts will include opportunities for further public participation and input.
 2. Conduct more detailed project planning on potential Southern Arterial impacts on existing development and the natural environment to develop more detailed definition of the design and alignment to mitigate impacts and coordinate with land use and transportation plans for the area, including integration with land use plans for UGB expansion areas and Urban Reserves, conducting the I-5 South Corridor Refinement Plan, including Mobility Corridors 2, 3 and 20, and resolution of access between I-5 and southern arterial with no negative

impacts to I-5 and I-205 beyond the forecast No-Build condition, addressing NEPA to determine the preferred alignment and addressing any conditions associated with land use goal exception for the southern arterial. This planning effort will include opportunities for further public participation and input.

Tualatin-Sherwood Road is sized in the recommended alternative based upon the expectation there will be a Southern Arterial and will fail due to insufficient capacity without a Southern Arterial and further expansion is incompatible with the plans for the Tualatin and Sherwood Town Centers. If the Southern Arterial is dropped through future studies, there is a major unresolved issue addressing east-west travel through this area. The RTP will need to be amended to direct the Corridor Refinement Plan effort for corridors #2, 3 and 20 to address this need. The need would go unaddressed until completion of that corridor refinement plan, or the next RTP update.

Medium-term phasing strategy (2018-2025)

- Widen existing streets to four lanes with turn lanes, traffic signal timing, bike lanes and sidewalks, including Tualatin-Sherwood Road, Roy Rogers Road, Boones Ferry Road and Herman Road (RTP Projects #10568, #10700, #10708, #10732 and #10735)
- Program right-of-way acquisition for the Southern Arterial project in the 2018 - 2025 time period to allow time to conduct the I-5 South refinement plan and land use plans for designated urban reserves in the area.

Longer-term phasing strategy (2026-2035)

- Construct the Southern Arterial connection to I-5 or other surface arterials in the vicinity of the I-5/North Wilsonville Interchange when all the project conditions are met.

6.4 CONGESTION MANAGEMENT PROCESS

A key change from SAFETEA-LU was an updated requirement for a CMP for metropolitan planning organizations (MPOs) in Transportation Management Areas (TMAs – urban areas with over 200,000 in population). This change is intended to build on the previous requirement of a congestion management system (CMS), placing a greater emphasis on management and operations and enhancing the linkage between the CMP and the long-range regional transportation plan (RTP) through an objectives driven, performance-based approach.

A CMP is a systematic approach for managing congestion that provides information on transportation system performance. It recommends a range of strategies to minimize congestion and enhance the mobility of people and goods. These multimodal strategies include, but are not limited to, operational improvements, travel demand management, policy approaches, and additions to capacity. The region's CMP will advance the goals of the 2035 RTP and strengthen the connection between the RTP and the Metropolitan Transportation Improvement Program (MTIP). A "Roadmap" of the region's CMP can be found in Appendix 4.4.

Attachment C

At their meeting on February 25, 2009, the PSC agreed on the following conditions as amended from those presented to them in the Alternative 7 Recommendation Memorandum dated February 17, 2009 to accompany the RTP recommendation of Alternative 7:

1. **Future phasing plans for implementing Alternative 7 projects must take into consideration the transportation, environmental, and economic impacts of advancing some improvements sooner than others.** The sequencing of affordable improvements should be done in a manner that does not create new transportation problems or liabilities for the vitality of affected jurisdictions.
2. **The timing and priority of an I-5 corridor study must be considered in the RTP adoption process for Alternative 7.** The connector project development process emphasized the need for a corridor study along I-5 from Portland to the Willamette River. The results of this study may affect the timing and designs of some improvements within Alternative 7.
3. **Access between I-5 and the southern arterial must be resolved.** Additional study is required to fully understand the impacts and trade offs between transportation solutions and land use, economic and environmental consequences of a new southern arterial. The impacts on rural lands are of particular importance and must be further evaluated before pursuing an exceptions process. The study area may need to be expanded to include connections to Stafford Road and additional areas along the OR 99W corridor that were not included in the alternatives analysis. The alternatives analysis process determined the general corridor location for the new southern arterial. However, additional preliminary engineering and planning work is needed to determine the optimal access option and configuration for connecting the southern arterial to I-5, OR 99W, and other arterials in the expanded study area. Construction of the southern arterial should be conditioned on defining the I-5 improvements needed to accommodate it and ensuring no negative impacts to I-5 and I-205 occur beyond the forecast No-Build condition as a result of Alternative 7. Options to be explored include modifying the I-5/North Wilsonville Interchange into a tight split-diamond interchange, or extending a new arterial connection crossing over I-5 and connecting to Stafford Road and/or Elligsen Road on the east side of I-5 for regional traffic benefits.
4. **Completion and construction of major project elements is subject to compliance with the National Environmental Policy Act (NEPA) and design refinement.** The Alternative 7 concept provides only the general locations and functional characteristics of new transportation facilities. A fully collaborative public/agency involvement and environmental analysis process must be conducted in developing the design details of any major construction element of Alternative 7. Subsequent project development work will need to define the actual alignments and designs of each of these facilities within the framework of these general parameters. On-going coordination with the Tualatin River National Wildlife Refuge must also occur to ensure optimum compatibility of Alternative 7 elements with refuge objectives.
5. **Land Use Concept Planning for UGB expansion areas should be coordinated with the refinement of these transportation recommendations.**
6. **The design of the southern arterial; must incorporate any conditions that may come out of land use goal exceptions processes (if required) by Metro, Washington County, and Clackamas County.** Portions of Alternative 7 may require exceptions under state land use goals that have not yet been studied or approved in order to be adopted in the RTP and to achieve needed federal and jurisdictional approvals. The extent of this issue may be affected by Metro's coming decisions on rural/urban land use reserves. Portions of proposed new transportation facilities are outside Metro's jurisdictional boundaries and will require coordination of actions between Metro and other affected jurisdictions. Possible design requirements may include forms of access management and land use control measures.
7. **State highway system routing and ODOT mobility standards must be key considerations in the design and future ownership of improvements within Alternative 7.** Current RTP assumptions are that a new limited-access connector would be built between I-5 and 99W, and that this roadway would become the new state route, possibly replacing OR 99W through Tigard. Alternative 7 does not result in

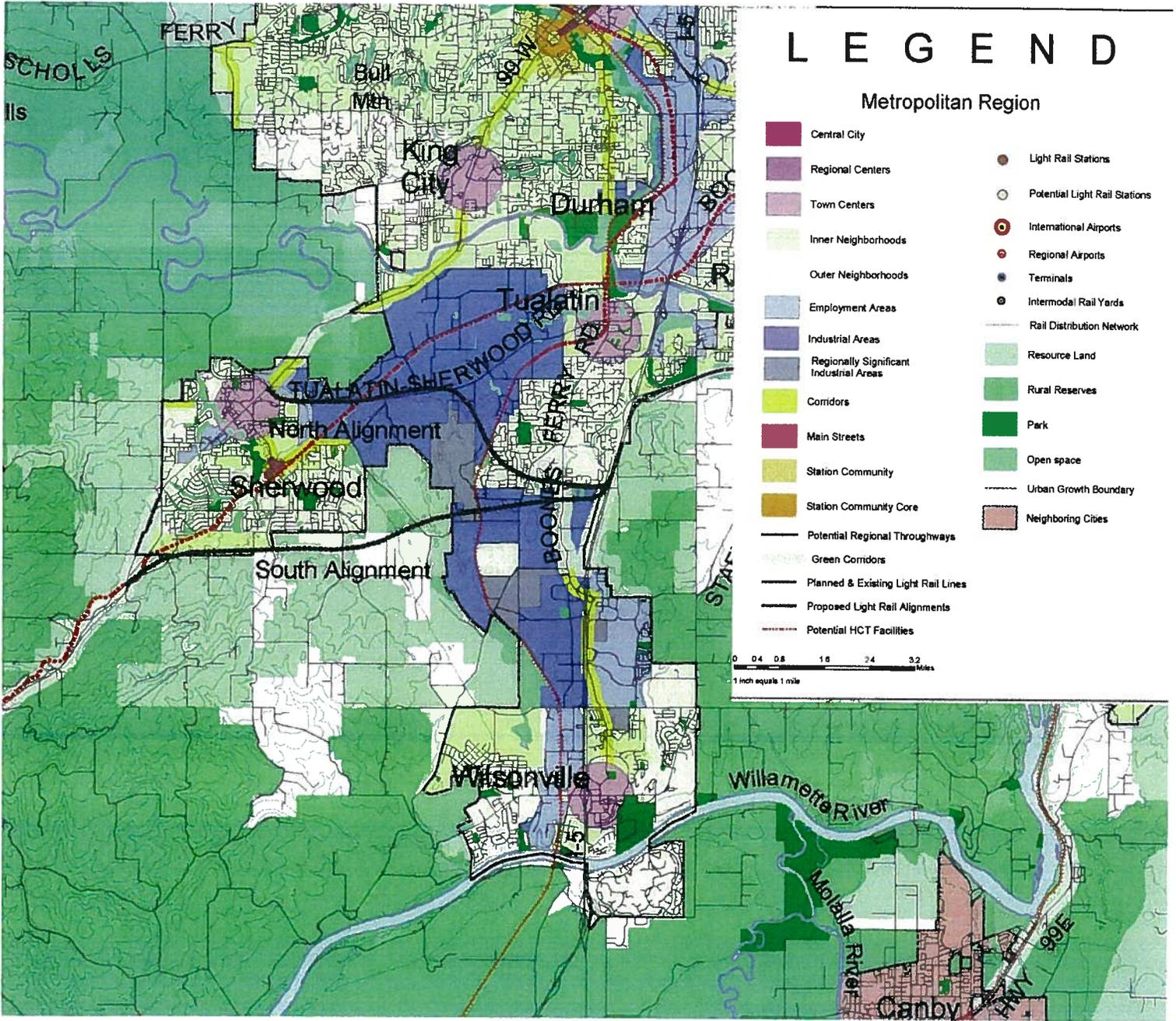
Attachment C

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a limited-access connector, which may result in OR 99W remaining the designated state highway route through Sherwood, King City and Tigard.

8. **Strategic protection of right-of-way should be considered by agencies for the Alternative 7 elements within the UGB and along potential alignments where land development could conflict with the future implementation of corridor improvements.** Protective measures could include property setbacks, dedication of right-of-way, specific acquisition(s), and/or right-of-way purchases within the UGB consistent with NEPA process.

Following agreement on the above conditions, PSC representatives of Washington County, ODOT, Metro, and the cities of Tualatin and Sherwood voted in favor of recommending Alternative 7 with the conditions as amended above. PSC representatives of the City of Wilsonville and Clackamas County voted against this recommendation.



LEGEND

Metropolitan Region

- Central City
- Regional Centers
- Town Centers
- Inner Neighborhoods
- Outer Neighborhoods
- Employment Areas
- Industrial Areas
- Regionally Significant Industrial Areas
- Corridors
- Main Streets
- Station Community
- Station Community Core
- Potential Regional Throughways
- Green Corridors
- Planned & Existing Light Rail Lines
- Proposed Light Rail Alignments
- Potential HCT Facilities
- Light Rail Stations
- Potential Light Rail Stations
- International Airports
- Regional Airports
- Terminals
- Intermodal Rail Yards
- Rail Distribution Network
- Resource Land
- Rural Reserves
- Park
- Open space
- Urban Growth Boundary
- Neighboring Cities

0 0.4 0.8 1.6 2.4 3.2 Miles
 1 inch equals 1 mile



City of Tualatin's Local Aspirations

Urban & Rural Reserves

April 2009



In June 2007, the City Council accepted Tualatin Tomorrow's Community Vision and Strategic Action Plan which included the following vision:

HOW WE PLAN AND GROW

GROWTH, HOUSING AND TOWN CENTER

“In the Year 2030, Tualatin maintains a strong sense of community identity while successfully managing new growth and development. A dynamic growth strategy and plan for development promotes choices that fit community values and priorities, while benefiting local neighborhoods, business, schools, parks, and roads.

The City of Tualatin works collaboratively with other local and regional governments, expanding its urban planning area as appropriate, and managing the impacts of Urban Growth Boundary (UGB) expansion to protect community and environmental assets. The City plans carefully to address the cost of new growth and needed infrastructure.

Tualatin has diversified its supply of housing, providing a range of housing choices and affordability to meet the needs of its changing population. Tualatin town center preserves its best historical features while incorporating new mixed-use development, including high-density housing, a full complement of services, commercial and retail development, and amenities that accommodate pedestrians and bicyclists as well as cars.

Good urban design is an important part of Tualatin, with flexible standards that promote an attractive, well-functioning community, including appropriate mixed-use development, small, pedestrian-oriented neighborhood commercial centers, beautiful tree-lined streetscapes, and community ‘gateway’ entrances that strengthen local identity.

Tualatin has a thriving local economy that attracts businesses that fit well into the community, providing living wage jobs and supporting small businesses, while encompassing high-end retail development that offers better choices to shoppers and supports the local tax base.”

Tualatin Tomorrow- Community Vision and Strategic Action Plan, June 2007

City of Tualatin's Local Aspirations/ Urban & Rural Reserves

What Are Local Aspirations?

Metro has asked cities to identify how much population, employment and housing they will have in the next 20 to 50 years. These Local Aspirations will inform Metro's process in determining the location and size of urban and rural reserves. The reserves process stemmed from concerns with the current system for managing growth in the Metro area.

The City Council has met five times since October 2008 to discuss what Tualatin may look like in the next 20 and 50 years. Their top priority is to maintain the quality of life in Tualatin. Over the next 20 to 50 years change will inevitably occur; however, we can shape what our community looks like. That is why Tualatin Tomorrow's goals for *How We Grow* are stated on the front cover. The information contained here represents aspirations set by the Council for population and employment in the next 20 and 50 years. Transportation improvements, such as additional lanes and new roads, are necessary to accomplish many of these aspirations. Analysis of transportation infrastructure needs will occur at a future date.

The Town Center Today

In February 2008, the City Council approved a revised Town Center vision statement:

- **Includes a mixed use living, working and playing environment**
- **Is oriented to and integrates the Tualatin River and other natural features to activate uses**
- **Has a distinctive feel with strong, interesting and distinctive design standards and elements**
- **Includes civic, social, commercial and cultural functions as a full service community within walking distance**
- **Encourages safe bike and pedestrian activity**
- **Is a destination for local business activities and not a pass through location for freight traffic**

The Town Center is a mixed-use area meaning there are residential, commercial, and retail uses next to each other. There are several buildings with apartments or condominiums above stores, restaurants and offices on the ground floor. In 2007 there were 3,855 jobs in approximately 1.25 million gross square feet of building space. Additionally, there were 2,390 residents who lived in approximately 956 condominiums and apartments in various locations through out the Town Center.

The Town Center in 20 Years

During five work session meetings, the City Council articulated their aspirations for the Town Center in 20 years. In addition to maintaining the quality of life currently enjoyed by Tualatin residents, their aspirations include constructing new buildings on vacant land and redeveloping existing buildings to facilitate achieving the vision set out in February 2008. In 20 years the Town Center could provide 6,704-8,405 jobs in 2.17 –2.9 million gross square feet of building space. There could be as many as 2,521-3,438 people living in 1,006-1,356 apartments, condominiums or row houses.

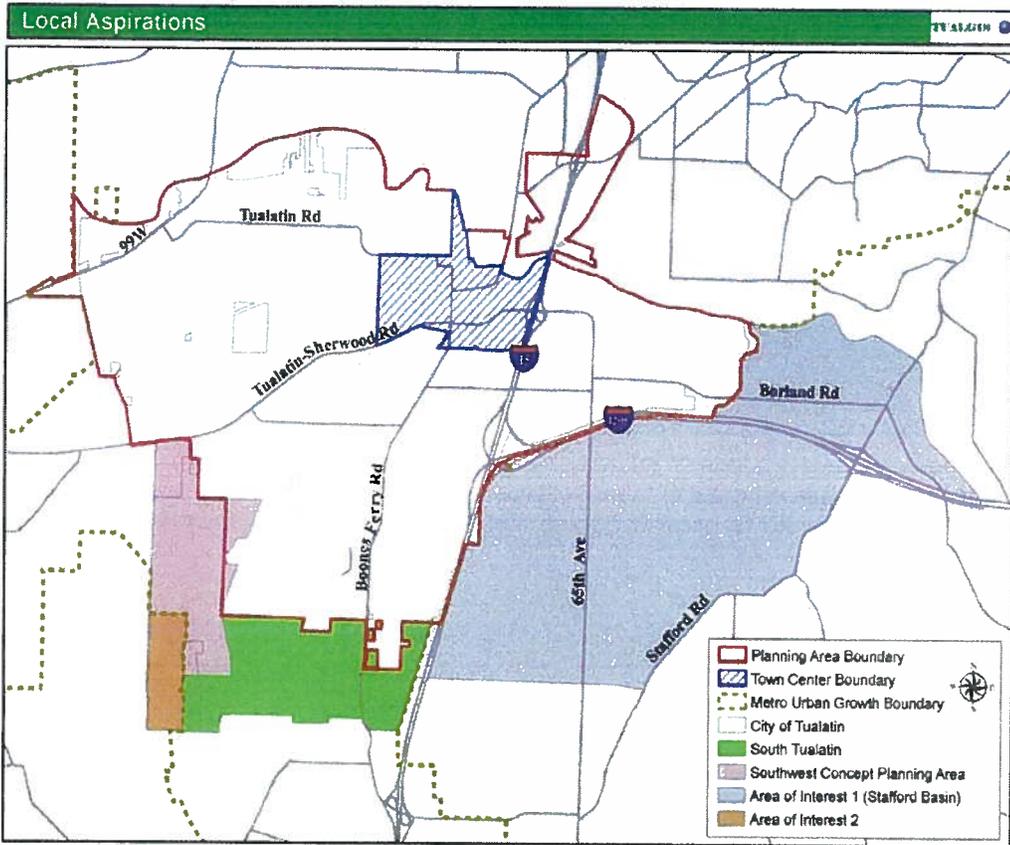
The Town Center in 50 Years

The Town Center could provide 7,753-12,803 jobs in an estimated 2.51 – 4.35 million gross square feet of building space. There could be a population range of 2,691-5,047 people living in 1,071-2,965 apartments, condominiums or row houses in the next 50 years.



	Jobs	Square Footage	Pop.	Res. Units
Town Center 2007	3,855	1.25 million	2,390	956
Town Center 2030	6,704-8,405	2.17-2.9 million	2,521-3,438	1,006-1,356
Town Center 2060	7,753-12,803	2.51-4.35 million	2,691-5,047	1,071-2,965

City of Tualatin's Local Aspirations/ Urban & Rural Reserves



Commercial Land Outside of the Town Center

According to the Oregon Employment Department (OED), in 2007 the City of Tualatin had 5,527 employees or jobs on commercial land.

Future development on vacant land and lots that can be redeveloped will look similar to commercial development today. The City has 20 acres of vacant commercial land which could be built out in two years based on a historical average of 12 acres per year being developed. This could produce approximately 550 jobs.

There are approximately 21 acres of redevelopable land and 5 acres of infill land that could produce a combined total of 708 jobs.

Industrial Land

Future industrial development inside the current City boundaries will look similar to our existing industrial areas. There are 340 acres of vacant land, 9 acres of infill land and 99 acres of redevelopable land that could produce 6,445 jobs. Vacant land could be built out in 6 years based on a historical average absorption rate of 60 acres per year. In 2007 there were 12,850 employees or jobs on industrial land, according to OED.

The Southwest Concept Plan area is intended to support corporate business park type industrial development. It has 221 acres of vacant land and 179 acres of redevelopable land which could support 5,500-12,000 jobs by the year 2025 depending on the corporate businesses.

Area of Interest 2 is currently outside of the City and Metro's Urban Growth Boundary (UGB); however, if it is brought into the UGB that area will likely support corporate business park style industrial development. Area of Interest 2 has approximately 7 acres of vacant land and could support up to 104 industrial jobs. There is also a possibility for some industrial development in the South Tualatin area west of the railroad tracks which could support an estimated 361 jobs.

Area	Acres	New Jobs by 2030
Commercial	46	1,259
Industrial- Inside the City	448	6,445
Southwest Concept Plan	400	5,500-12,000
Area of Interest 2	7	104
South Tualatin	19	361
<i>Total</i>	<i>920</i>	<i>13,669-20,169</i>

City of Tualatin's Local Aspirations/ Urban & Rural Reserves

Residential Land

The City aspires to maintain the character of existing residential neighborhoods and to continue that character in new neighborhoods as the City grows. According to Portland State University's Population Research Center, Tualatin has a population of 26,040 as of July 2008, and the City Council has identified a long range population of 35,000 as reasonable.

In 2007, there were 237 acres of vacant (42%), redevelopable (48%) and infill (10%) land; 88% of that land is in the low density residential planning district.

In 20 years, 667-1,505 dwelling units could be added resulting in 1,747-3,944 new people in Tualatin's current boundaries.

Land north of Wilsonville and south of Tualatin was added to the UGB when the boundary expanded in 2004. South Tualatin, about 342 vacant acres in this area, could be served by the City. About 314 acres (91%) of the area was previously identified for residential development. Given the City's aspiration to maintain our residential character, development in South Tualatin could range from 314-2,008 dwelling units resulting in 823-5,261 new residents in the next 20 years. South Tualatin is envisioned to have parks and green space and about 10 acres of retail services.

	Population
Population in 2007	26,040
Town Center 20 Year	2,521-3,438
Residential- Outside of the Town Center	1,747- 3,944
South Tualatin	823 - 5,261
Total Potential 20 Year	31,131- 38,683
Council Aspiration	35,000

Area of Interest 1- Stafford Basin

According to Metro, the Portland metropolitan region could add 975,000-1.3 million people in the next 20 years and 1.6-2.3 million over the next 50 years. Cities in the region may have to accept a portion of this additional population. Tualatin has identified the Stafford Basin as an area for the City to grow into instead of increasing densities in the existing City boundaries to accommodate additional population. In order to protect the character of Tualatin's neighborhoods, the Stafford Basin is an area that can provide room for expansion in a manner that resembles the character of our existing neighborhoods. The City's aspirations for the Stafford Basin are to protect open space, protect groves of trees, and provide parkland and school sites that will benefit residents in the City and surrounding area. Corridors of natural areas along I-5 and I-205 are envisioned to serve as buffers.

The Stafford Basin, an area of 2,900 gross acres, is envisioned to have 10,000 people living there in the next 50 years. Possible land use allocations for the 180 net developable acres north of I-205 could be 49 acres of residential land and 131 acres of employment land. South of I-205, there are 1,164 net developable acres that are envisioned to support residential development and several service commercial sites of 6-10 acres identified for local residents to obtain daily goods and services in their neighborhoods.

Stafford Basin 2060	
Population	10,000
Employment	3,935-4,103

•For more information on Urban & Rural Reserves visit the following websites: **Metro**-www.metro.gov; **Washington County**-www.co.washington.or.us; **Clackamas County**-www.co.clackamas.or.us

•To view **Tualatin's Local Aspirations/ Urban & Rural Reserves** work session memos and presentations visit the Long Range Planning webpage at: www.ci.tualatin.or.us/departments/communitydevelopment/planning

Exhibit F to Ordinance No. 04-1040B
Conditions on Addition of Land to the UGB

I. GENERAL CONDITIONS APPLICABLE TO ALL LANDS ADDED TO THE UGB

A. The city or county with land use planning responsibility for a study area included in the UGB shall complete the planning required by Metro Code Title 11, Urban Growth Management Functional Plan (“UGMFP”), section 3.07.1120 (“Title 11 planning”) for the area. Unless otherwise stated in specific conditions below, the city or county shall complete Title 11 planning within two years after the effective date of this ordinance. Specific conditions below identify the city or county responsible for each study area.

B. The city or county with land use planning responsibility for a study area included in the UGB, as specified below, shall apply the 2040 Growth Concept design types shown on Exhibit E of this ordinance to the planning required by Title 11 for the study area.

C. The city or county with land use planning responsibility for a study area included in the UGB shall apply interim protection standards in Metro Code Title 11, UGMFP, section 3.07.1110, to the study area until the effective date of the comprehensive plan provisions and land use regulations adopted to implement Title 11.

D. In Title 11 planning, each city or county with land use planning responsibility for a study area included in the UGB shall recommend appropriate long-range boundaries for consideration by the Council in future expansions of the UGB or designation of urban reserves pursuant to 660 Oregon Administrative Rules Division 21.

E. Each city or county with land use planning responsibility for an area included in the UGB by this ordinance shall adopt provisions – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery – in its land use regulations to enhance compatibility between urban uses in the UGB and agricultural practices on adjacent land outside the UGB zoned for farm or forest use.

F. Each city or county with land use planning responsibility for a study area included in the UGB shall apply Title 4 of the UGMFP to those portions of the study area designated Regionally Significant Industrial Area (“RSIA”), Industrial Area or Employment Area on the 2040 Growth Concept Map (Exhibit C). If the Council places a specific condition on a RSIA below, the city or county shall apply the more restrictive condition.

G. In the application of statewide planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) to Title 11 planning, each city and county with land use responsibility for a study area included in the UGB shall comply with those provisions of Title 3 of the UGMFP acknowledged by the Land Conservation and Development Commission (“LCDC”) to comply with Goal 5. If LCDC has not acknowledged those provisions of Title 3 intended to comply with Goal 5 by the deadline for completion of Title 11 planning, the city or county shall consider, in the city or county’s application of Goal 5 to its Title 11 planning, any inventory of regionally significant Goal 5 resources and any preliminary decisions to allow, limit or prohibit conflicting uses of those resources that is adopted by resolution of the Metro Council.

H. Each city and county shall apply the Transportation Planning Rule (OAR 660 Div 012) in the planning required by subsections F (transportation plan) and J (urban growth diagram) of Title 11.

II. SPECIFIC CONDITIONS FOR PARTICULAR AREAS

A. Damascus Area

1. Clackamas County and Metro shall complete Title 11 planning requirements through the incorporation of this area into the greater Damascus/Boring Concept Plan planning effort currently underway. This planning shall be completed within the same time frame as specified in Ordinance No. 02-969B.
2. In the planning required by Title 11, subsections (A) and (F) of section 3.07.1120, Clackamas County or any future governing body responsible for the area shall provide for annexation of those portions of the area whose planned capacity is sufficient to support transit to the Tri-met District.
3. In the planning required by Title 11, subsections (A) and (F) of section 3.07.1120, Clackamas County or any future governing body responsible for the area shall provide for annexation of those portions of the area whose planned capacity is sufficient to support transit to the Tri-met District.

B. Beavercreek Area

1. Clackamas County or, upon annexation to Oregon City, the city and county, with Metro, shall complete Title 11 planning for the area.
2. This area shall be planned in conjunction with the adjoining tax lot added to the UGB in 2002, under Ordinance No. 02-969B.

~~C. Borland Area North of I-205~~

- ~~1. Clackamas County or, upon annexation to the City of Tualatin, the city and county, in coordination with the Cities of Lake Oswego, Tualatin, and West Linn and Metro, shall complete Title 11 planning within four years following the effective date of Ordinance No. 04-1040. The county and city, in conjunction with Lake Oswego and West Linn and Metro shall recommend long range boundaries in the Stafford Basin and general use designations for consideration by the Council in future expansions of the UGB.~~
- ~~2. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.~~

~~DC. Tualatin Area~~

1. Washington County or, upon annexation to the Cities of Tualatin or Wilsonville, the cities, in conjunction with Metro, shall complete Title 11 planning within ~~four~~ two years following the selection of the right-of-way alignment for the I-5/99W Connector, or within seven years of the effective date of Ordinance No. 04-1040, whichever occurs earlier.

Attachment F

2. Title 11 planning shall incorporate the general location of the projected right of way ~~location~~ alignment for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan. If the selected right-of-way for the connector follows the approximate course of the "South Alignment," as shown on the Region 2040 Growth Concept Map, as amended by Ordinance No. 03-1014, October 15, 2003, the portion of the Tualatin Area that lies north of the right-of-way shall be designated "Inner-Outer Neighborhood" on the Growth Concept Map; the portion that lies south shall be designated "Industrial."
3. The governments responsible for Title 11 planning shall consider using the I-5/99W connector as a boundary between the city limits of the City of Tualatin and the City of Wilsonville in this area.

ED. Quarry Area

1. Washington County or, upon annexation to the cities of Tualatin or Sherwood, the cities, and Metro shall complete Title 11 planning for the area.
2. Title 11 planning shall, if possible, be coordinated with the adjoining area that was included in the UGB in 2002 under Ordinance No. 02-969B.
3. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.
4. Title 11 planning shall incorporate the general location of the projected right-of-way for the Tonquin Trail as shown on the 2004 Regional Transportation Plan.

FE. Coffee Creek Area

1. Washington and Clackamas Counties or, upon annexation of the area to the ~~City~~ cities of Tualatin or Wilsonville, the city, and in conjunction with Metro, shall complete the Title 11 planning for the area within ~~four~~ two years following the selection of the right-of-way alignment for the I-5/99W Connector, or within seven years of the effective date of Ordinance No. 04-1040B, whichever occurs earlier.
2. ~~The concept~~ Title 11 planning shall incorporate the general location of the projected right of way location for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan.

~~G.~~ Wilsonville East Area

- ~~1.~~ Clackamas County or, upon annexation of the area to the City of Wilsonville, the city, and Metro shall complete the Title 11 planning for the area within two years of the effective date of Ordinance No. 04-1040.
- ~~2.~~ In the planning required by Title 11 a buffer shall be incorporated to mitigate any adverse effects of locating industrial uses adjacent to residential uses located southwest of the area.

Attachment F

- ~~3. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.~~

~~HF.~~ Cornelius Area

1. Washington County, or, upon annexation of the area to the City of Cornelius, the city and Metro shall complete the Title 11 planning for the area.

~~IG.~~ Helvetia Area

1. Washington County, or upon annexation of the area to the City of Hillsboro, the city, and Metro shall complete the Title 11 planning for the area.
2. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITIES OF TUALATIN AND WILSONVILLE
FOR CONCEPT PLANNING THE URBAN GROWTH BOUNDARY
EXPANSION AREA (BASALT CREEK/WEST RAILROAD PLANNING AREA)**

Whereas, in 2004 the Metro Council added an area located generally between the Cities of Tualatin and Wilsonville, to the Urban Growth Boundary (UGB) for residential and industrial uses in Metro Ordinance No. 04-1040B; and

Whereas, the two Cities have agreed to refer to the area generally as the Basalt Creek Planning Area; and

Whereas, the two Cities wish to work together to complete concept planning for this area to assure carefully planned development in the Basalt Creek/West Railroad Planning Area that will be of benefit to both Cities and their residents; and

Whereas, Metro conditioned that the UGB expansion undergo Title 11 concept planning as defined in Metro Code Chapter 3.07, cited as the Urban Growth Management Functional Plan (UGMFP), and that the concept planning be completed in accordance with Exhibit F of Metro Ordinance 04-1040B; and

Whereas, recent action by the Oregon Transportation Commission (OTC), and by the Metro Council on the Regional Transportation Plan, support a southerly extension of SW 124th Avenue from SW Tualatin-Sherwood Road and ending at SW Tonquin Road and continuing via existing streets and rights-of-way to Interstate 5, in order to provide freight access to Tualatin's industrial areas in the vicinity of SW 124th Avenue; and

Whereas, the OTC has also approved the transfer of jurisdiction over SW Boones Ferry Road between Norwood Road and Day Road from the State to Washington County, authorizing \$2 million dollars in improvements to that section of roadway; and

Whereas, street connectivity within the study area will be necessary to support a functioning transportation system; and

Whereas, the property owners within the Basalt Creek/West Railroad Planning Area have been unable to pursue the urban development of their land, in spite of the fact that it has been within the UGB for approximately six years, because no Concept Plan has been prepared for the area; and

Whereas, Metro has allocated \$365,000 of Construction Excise Tax funding to pay for Concept Planning in the area, and

Attachment G

Whereas, once concept planning is complete, the two Cities intend to enter into an intergovernmental agreement (IGA) that will finalize the intent and understandings set forth in this Memorandum of Understanding (MOU); and

Whereas, there exists a somewhat isolated area west of the railroad tracks (labeled the West Railroad Planning Area) which was part of the same UGB expansion as the remainder of the Basalt Creek Planning Area and for which the City of Wilsonville intends to provide planning services; and

Whereas, Tualatin and Wilsonville approach planning differently in terms of legislative decision-making, with Tualatin using a single map for both Comprehensive Plan land use designations and zoning, while Wilsonville uses a separate map for each. Also, Tualatin's City Council conducts its own legislative hearings without a Planning Commission, while Wilsonville's City Council acts after receiving the recommendation of its Planning Commission. These differences will require staffs and consultants to coordinate with one another in ways that might not typically be needed and will require the two City Councils to work together in a cooperative manner; and

Whereas, Oregon Statewide Planning Goal 1 requires public involvement and Goal 2 requires intergovernmental coordination, this MOU is intended to indicate to private property owners in the area, Washington County, Metro, the State or Oregon, and all other interested parties the cooperative nature of the planning effort being undertaken by the Cities of Tualatin and Wilsonville; and

Whereas, both the Cities of Wilsonville and Tualatin expect to amend their existing Urban Planning Area Agreements (UPAAs) with Washington County to reflect the future city limit lines of each City, when the Concept Plan has been completed.

Now, therefore, the Cities of Tualatin and Wilsonville set forth their understanding as follows:

A. Subject Land Area

1. The Basalt Creek/West Railroad concept planning area between Tualatin and Wilsonville is mapped in Exhibit 1.

B. Urban Planning Area Agreements (UPAAs)

1. Both the City of Tualatin and the City of Wilsonville have UPAAs with Washington County that will have to be amended once jurisdictional boundaries are determined in the Concept Plan work. It is recognized that Washington County adopts annual land use and transportation work

programs, and this concept planning effort will require coordination to fit within the work program of Washington County.

C. Title 11 Concept Planning

1. The Cities of Tualatin and Wilsonville acknowledge that they will fulfill the requirements of Title 11 related to future land use, affordable housing, transportation, environmental conservation, potable water, sanitary sewer, stormwater management, parks, police, fire protection, and public school siting and will address additional topics including, but not limited to, citizen involvement, fiscal analysis, intergovernmental coordination, capital improvements, economic development, natural hazards, solid waste management, and general local government services.
2. The two Cities will initiate concept planning on or after July 2, 2010 and before December 31, 2010 as long as Metro authorizes the use of \$365,000 of construction excise tax (CET) grant funds, and both Cities allocate funds through their respective budgets to conduct the Title 11 concept planning work. If for whatever reason Metro does not grant CET funds, then either party to this Memorandum of Understanding (MOU) may either revoke the MOU without obligation or penalty or the two Cities may jointly amend the MOU.
3. Tualatin will act as the fiscal agent of the Metro CET grant funds.
4. The two Cities jointly will prepare a scope of work (***note draft scope of work outline attached as Appendix 1***) in coordination with Metro to establish key milestones for deliverables by addressing:
 - a. a CET grant as the funding source
 - b. City responsibilities
 - c. RFP process
 - d. eligible expenses for a CET grant
 - e. payment procedures
 - f. project records retention
 - g. records audit and inspection
 - h. term of contract
 - i. amendment, and
 - j. relationship to other legal agreements.
5. At the conclusion of the concept planning process, the two Cities intend to enter into an IGA to delineate the ultimate municipal boundary between the two Cities.

Attachment G

6. Based on mutual agreement the two Cities will share equally the additional cost if the cost of concept planning exceeds the amount of the CET grant funds. The sharing may be in the form of in-kind services as well as cash.
7. The two Cities jointly will draft and issue a Request for Proposals (RFP) for consultant services to conduct the concept planning work activities and will jointly chose a consultancy.
8. The two Cities jointly will fund using Metro CET grant funds one consultancy to aid completion of concept planning.
9. The two Cities jointly will establish criteria for review of candidate consultancies.
10. The two Cities will establish through the chosen consultancy a joint set of goals and objectives as well as criteria to guide project-related decisions.
11. The two Cities acknowledge that further amendment of their UPAA's will be necessary following completion of concept planning.

D. Comprehensive Planning

1. Each City is responsible for conducting its own Comprehensive Plan amendments.

E. City Council Coordination

1. The Cities of Tualatin and Wilsonville acknowledge that they will hold joint City Council meetings at key milestones to be determined.

F. Intergovernmental Agreement (IGA)

1. Based on the outcome of the concept planning work, the Cities of Tualatin and Wilsonville and other involved parties may as necessary establish an intergovernmental agreement (IGA).

G. Dispute Resolution

1. If a boundary dispute arises, and Tualatin and Wilsonville cannot resolve the dispute, the two Cities acknowledge that in 1997, the Oregon state legislature granted Metro authority to establish requirements for boundary

Attachment G

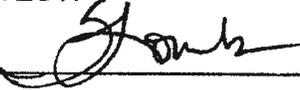
changes within its district. The Boundary Appeals Commission would arbitrate the dispute.

ENTERED into this 12 day of JULY, 2010.

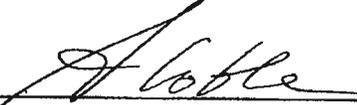
CITY OF TUALATIN, Oregon

By 

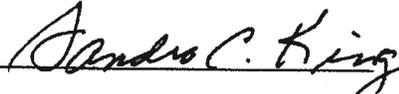
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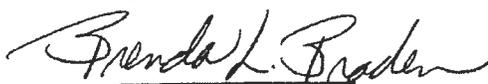
CITY OF WILSONVILLE, Oregon

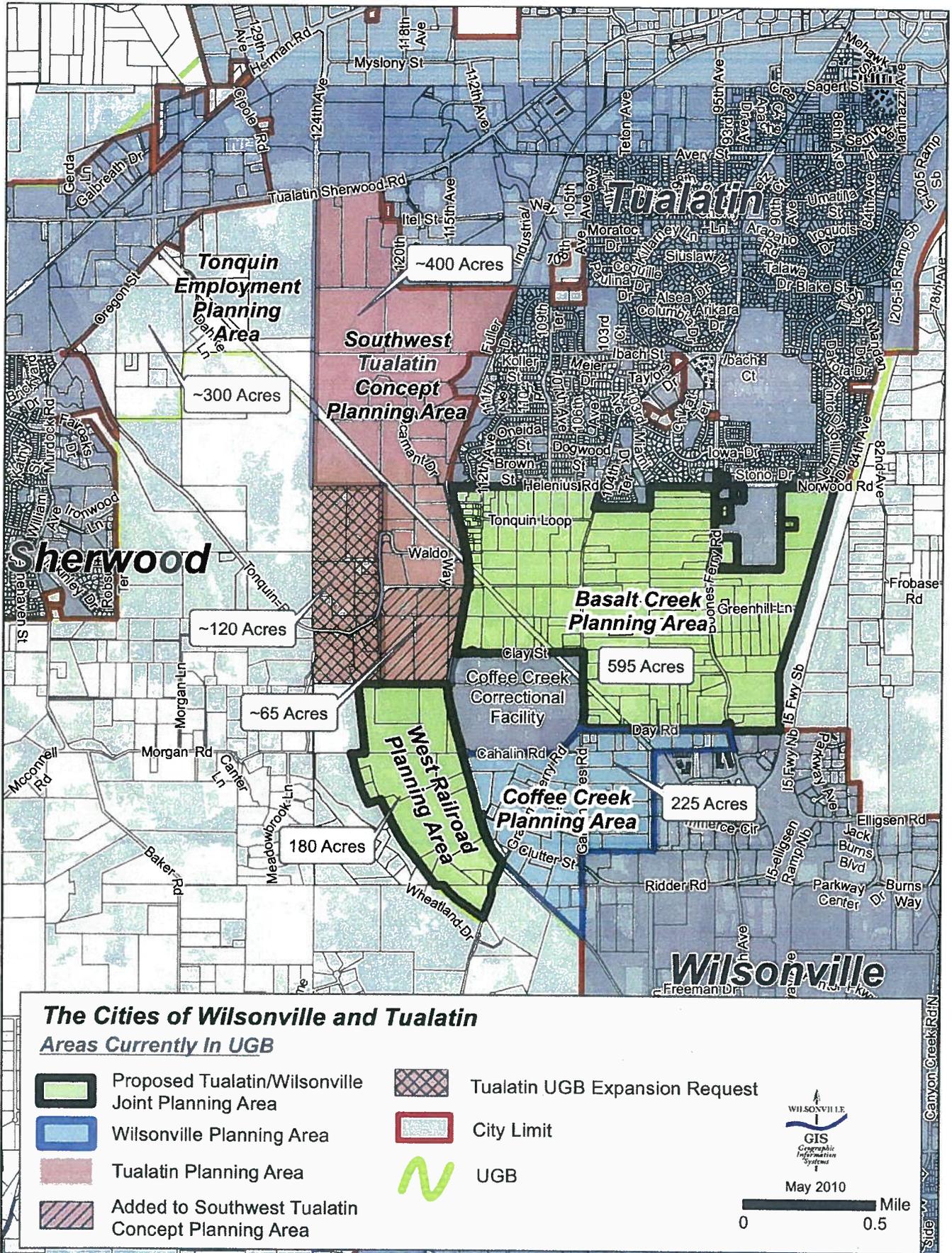
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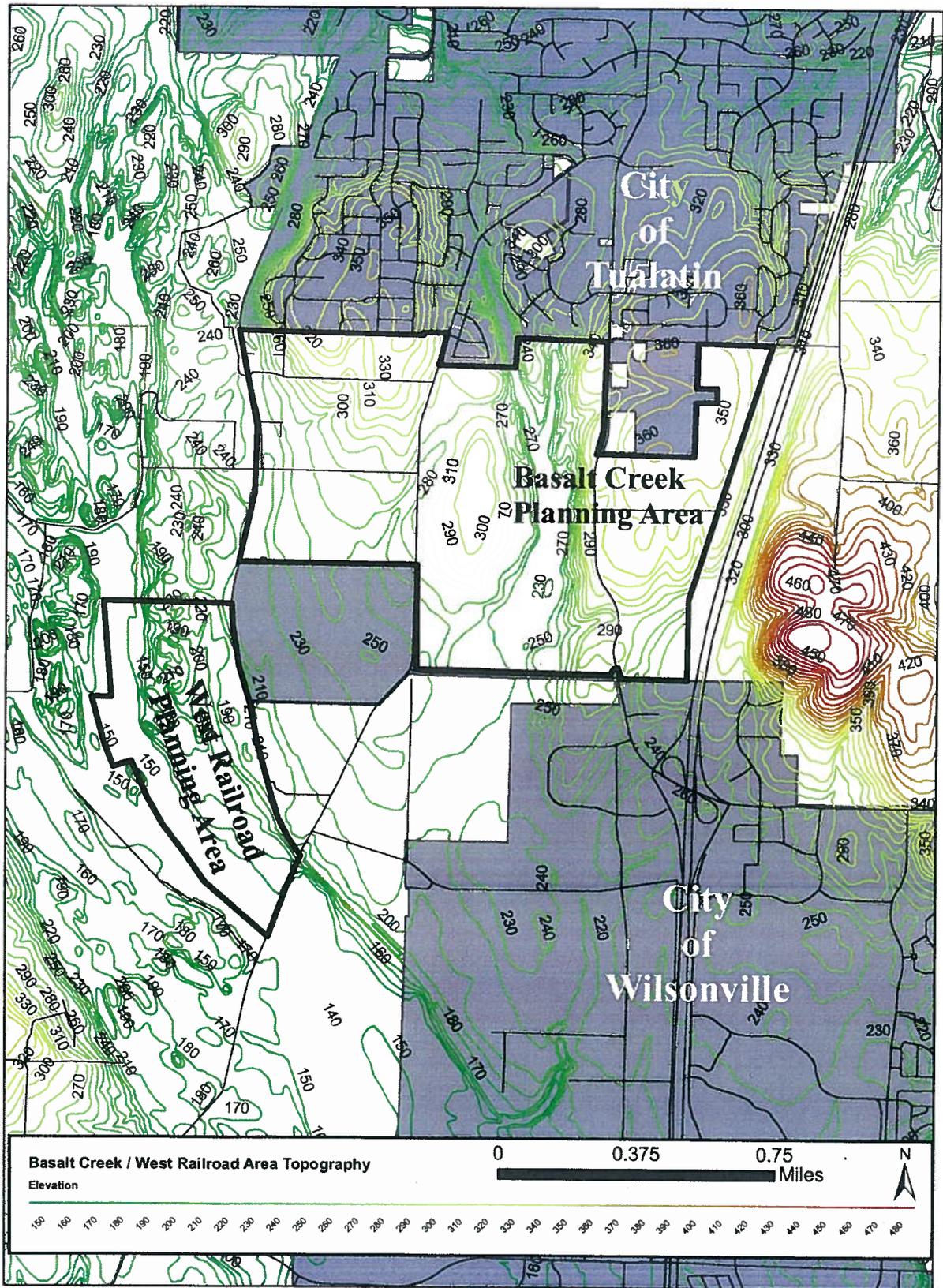
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APPROVED AS TO LEGAL FORM


CITY ATTORNEY



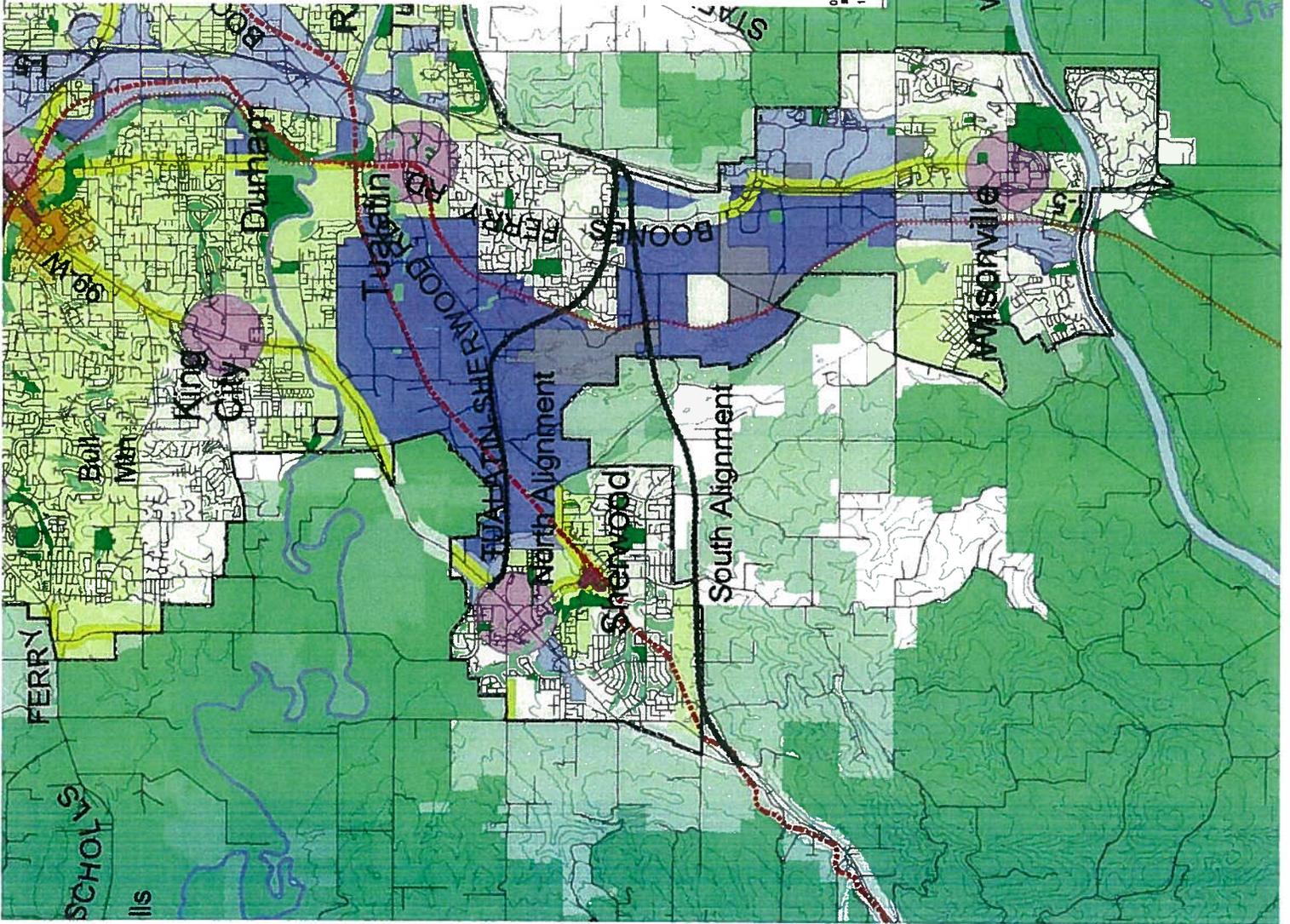
Attachment I

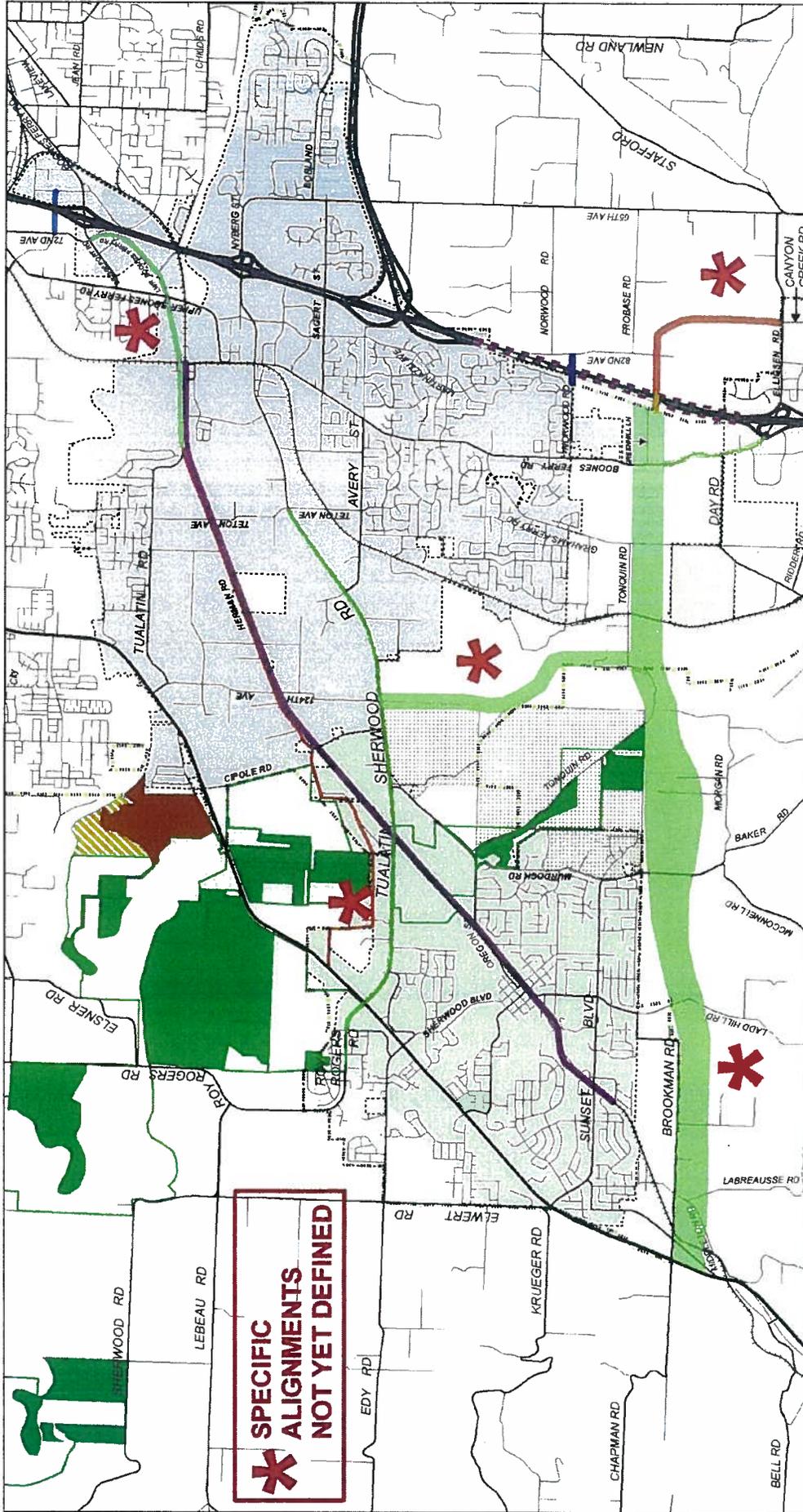


LEGEND

Metropolitan Region

- | | |
|---|---|
|  Central City |  Light Rail Stations |
|  Regional Centers |  Potential Light Rail Stations |
|  Town Centers |  International Airports |
|  Inner Neighborhoods |  Regional Airports |
|  Outer Neighborhoods |  Terminals |
|  Employment Areas |  Intermodal Rail Yards |
|  Industrial Areas |  Rail Distribution Network |
|  Regionally Significant Industrial Areas |  Resource Land |
|  Corridors |  Rural Reserves |
|  Main Streets |  Park |
|  Station Community |  Open space |
|  Station Community Core |  Urban Growth Boundary |
|  Potential Regional Throughways |  Neighboring Cities |
|  Green Corridors | |
|  Planned & Existing Light Rail Lines | |
|  Proposed Light Rail Alignments | |
|  Potential HCT Facilities | |





SPECIFIC ALIGNMENTS NOT YET DEFINED

Legend:

- Tonquin Scablands
- UGB
- Wildlife Refuge
 - Acquisition Boundary
 - Refuge (Owned by USFWS)
 - Metro Property
 - Metro Property (Managed by USFW)

1 inch equals 3,000 feet

0 1,500 3,000 6,000 Feet

Source info:
GIS data from Metro - Portland, Oregon, 2005-08

Alternative 7 Corridors

- 2-3-Lane Arterial
- 4-5-Lane Arterial
- I-5 Auxiliary Lanes
- Commuter Rail
- New Bridge Over I-5
- Replacement Bridge Over I-5
- New Crossing of I-5

I-5 TO 99W Connector Project

Alternative 7

January 9, 2009



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL
WORK SESSION FOR JANUARY 24, 2011

Present: Mayor Lou Ogden, Council President Chris Barhyte, Councilor Monique Beikman, Councilor Joelle Davis, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos,
City Attorney Brenda Braden,
City Engineer Mike McKillip,
Police Chief Kent Barker,
Operations Director Dan Boss,
Community Services Director Paul Hennon,
Finance Director Don Hudson,
Acting Planning Manager Aquilla Hurd-Ravich,
Development Manager Eric Underwood,
Maintenance Services Division Manager Clayton Reynolds,
Management Intern Ben Bryant,
Executive Assistant Maureen Smith

4:00 p.m. (30 min) – Executive Session; ORS 192.660(2)(i); Employee Performance.

4:30 p.m. (60 min) – Council Photos Taken.

5:30 p.m. (15 min) – Council Committee Assignments. Attached is the Committee Assignments sheet that shows the committees that currently have a Council member assigned to them for your discussion.

Council reviewed the current committee assignments and made changes.

5:45 p.m. (15 min) – Tigard Sand & Gravel. Tigard Sand and Gravel has requested Tualatin's support for a five-year extension of their conditional use permit from Washington County on the tax lot closest to Tualatin to allow for continued mining and crushing operations. Attached is a map that shows the area.

City Manager Sherilyn Lombos briefly explained Tigard Sand & Gravel's (TSG) position. Washington County is looking for comments from Tualatin. TSG is asking the City to support an extension of the conditional use permit until 2015. It was noted every five years the conditional use permit is reviewed by Washington County. Discussion followed on issues of continuation of the conditional use permit and TSG's moving their "crusher", and what noise impacts that would create. Council asked for staff to consult with some type of noise specialist to determine how noise and TSG's location of equipment will affect the surrounding neighborhoods.

6:00 p.m. (30 min) – Recognition of Outgoing Councilors. This is an opportunity for the Council, staff and the community to recognize and acknowledge the contributions that Councilors Harris and Maddux have made during their tenure on the City Council.

"Friends of the Tualatin Library" presented a donation from the Foundation, in Councilor Harris' name, in recognition of his time and commitment of the expansion of the library.

Jan Giunta, on behalf of the Citizen Involvement Organization, wanted to say "thank you" to both Councilors Harris and Maddux for their dedication and time of serving on the City Council.

6:30 p.m. (30 min) – Reception for Outgoing Councilors and Incoming Council.
This informal reception will be held in the Community Room of the Library.

The Work Session adjourned at 6:37 p.m. for the Reception held in the Community Room.

Sherilyn Lombos, City Manager



/ Maureen Smith, Recording Secretary



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL
FOR JANUARY 24, 2011

Present: Mayor Lou Ogden, Council President Chris Barhyte, Councilor Monique Beikman, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Ed Truax, Councilor Joelle Davis

Staff Present: City Manager Sherilyn Lombos,
City Attorney Brenda Braden,
City Engineer Mike McKillip,
Police Chief Kent Barker,
Community Services Director Paul Hennon,
Human Resources Director Nancy McDonald,
Finance Director Don Hudson,
Acting Planning Manager Aquilla Hurd-Ravich,
Development Manager Eric Underwood,
Associate Planner William Harper,
Maintenance Services Division Manager Clayton Reynolds,
Management Intern Ben Bryant,
Executive Assistant Maureen Smith

A. CALL TO ORDER

The Pledge of Allegiance was led by the Tualatin Police Honor Guard.

The meeting was called to order at 7:07 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Swearing-in of Mayor-elect Ogden, Councilors-elect Barhyte, Brooksby, and Bubenik

City Manager Lombos swore in Councilors-elect Chris Barhyte, Wade Brooksby and Frank Bubenik, and Mayor-elect Lou Ogden.

2. Council President Nominations and Selection

Nominations were opened, with Councilor Barhyte nominated by Councilor Beikman. Nominations closed. By ballot, Councilor Barhyte was elected Council President.

3. *Metro Councilor Carl Hosticka - Update on Metro Activities & Introductions of New Councilors*

Metro Councilor Carl Hosticka, representing District 3, welcomed the new councilors, and spoke on what is happening and likely to happen in the coming year at Metro. New members of Metro Council include Tom Hughes as Council President, and Councilor Shirley Craddick, which both bring experience to their position. Metro Councilor Hosticka mentioned there are now three members on the council that have served in city government. Robert Liberty, representing District 6, resigned his position and Metro declared the seat vacant, which is a two-year appointment. A special election will not be held, but Metro is accepting applications until February 9, 2011, at which time a public hearing will be held to review the applications, with an additional hearing if needed. Metro Councilor Hosticka commented the new members will shift emphasis in the direction of more involvement in economic development in the region. As part of that, Metro is sponsoring a seminar on February 1, 2011, and noted a flyer on the event.

Metro Councilor Hosticka reviewed activities and issues Metro will be tackling in the coming year, beginning with finishing the "reserves" process. The Land Conservation Development Commission (LCDC) approved urban reserves for Clackamas County, and also approved the areas in Washington County. At the present Metro does not have an Intergovernmental Agreement (IGA) with Washington County for urban reserves, but is in negotiations. Next issue Metro will need to address before the end of the year is to complete the "capacity ordinance," a set of policies Metro thinks will focus growth and investment in specific areas inside the Urban Growth Boundary (UGB), and make the most of investments companies and taxpayers have made in those areas. Study of the southwest corridor for possible high capacity transit which could be any type of transit; starting on the process of developing scenarios for greenhouse gas reductions. The 2009 State Legislature mandated this issue, with the work to be done by 2014. When done, local governments will be obligated to comply, anticipating it is not just a transportation planning, but an urban/land use issue. On April 1, 2011 Metro will hold a retreat with Metro Policy Advisory Committee (MPAC) and the Joint Policy Advisory Committee on Transportation (JPACT) members to begin scoping out the agenda.

Planning of the "Basalt Creek" area, which is land between the cities of Wilsonville and Tualatin is occurring. Metro Councilor Hosticka noted Metro brought the area into the Urban Growth Boundary (UGB) in 2004, primarily for employment purposes, and with the underlying plan of the I-5/99W Corridor project. Although brought in for employment purposes, the area north of the alignment could be planned as residential contiguous to the current city of Tualatin, and south of alignment could be industrial. Metro did not specify governing or planning of those areas. Under Alternative 7, which the connector morphed into, is the connection of 124th east, with a connection at some point to Interstate-5. A meeting with local officials and Metro representatives to discuss these issues will be in the coming week.

The future Tonquin Trail will offer bicyclists and pedestrians, safe, new connections between Wilsonville, Sherwood and Tualatin. The Tonquin Trail master plan process has begun, and Tualatin's representative is Parks and

Recreation Manager is Carl Switzer. Metro Councilor Hosticka concluded by noting Metro is looking to get more involved with local governments, and primarily how to coordinate and implement investment strategies. In particular transit, and water issues cross over the local governments, and Metro welcome local government participation as it moves forward.

Mayor Ogden briefly updated Metro Councilor Hosticka on what Tualatin has been working on, such as joint planning of the Basalt Creek area is beginning with Tualatin and Wilsonville. At issue is the 124th alignment, and the notion of protecting a corridor for acquisition of right-of-way (ROW), which Mayor Ogden also noted a discussion with officials will be held later this week. Mayor Ogden also mentioned the City Council has met to discuss the value points of each city with regard to the planning of the Basalt Creek area. The main issue is protection of neighborhoods and the delineation between the two cities. Brief discussion followed and Mayor Ogden suggested a "briefing" of ongoing and upcoming projects/issues could be prepared for Councilor Hosticka.

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Linda Moholt, CEO of Tualatin Chamber of Commerce, 18791 SW Martinazzi Avenue, Tualatin, OR welcomed the new councilors and thanked all for their service, and said she is looking forward to the coming year.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

MOTION by Mayor Lou Ogden, SECONDED by Councilor Monique Beikman to approve the Consent Agenda as read.

Vote: 7 - 0

1. Resolution Establishing Regular Meetings of the City Council and Architectural Review Board and Repealing Resolution No. 4983-10.
2. Approval of a Change of Ownership Liquor License Application for Claim Jumper Restaurant.

3. Approval of a New Liquor License Application for Oregon Wine Services and Storage.
4. Establishment of an Ad Hoc Committee to Coordinate the 2011 Arbor Week Celebration
5. Approval of the Minutes for the Work Session and Meeting of December 13, 2010.

E. PUBLIC HEARINGS – Legislative or Other
None.

F. PUBLIC HEARINGS – Quasi-Judicial

1. Request to Change the Planning District Designation from Low-Density Residential (RL) to Medical Center (MC) of Parcels of Land Located on SW Borland Road (21E19C, Tax Lots 1700 & 2000) and .25 Acres of Abutting Right-of-Way; and Amending the Community Plan Map 9-1 (PMA-09-03)

Mayor Ogden opened the public hearing, and noted the applicant, Legacy Health Systems, has requested a withdrawal of PMA-09-03.

MOTION by Council President Chris Barhyte, SECONDED by Councilor Monique Beikman to accept the applicant's withdrawal of PMA-09-03.

Vote: 7 - 0

G. GENERAL BUSINESS

1. Consideration of a Development Agreement Between the City of Tualatin and Legacy Health System.

Mayor Ogden noted Council will take no action on the Development Agreement (DA) from Legacy Health Systems, due to their withdrawal of PMA-09-03.

2. Authorizing a Personal Services Agreement with JLA Public Involvement for Public Involvement Phase I for the Transportation System Plan Update.

City Manager Sherilyn Lombos presented a PowerPoint explaining the process for the Transportation System Plan (TSP) Public Involvement Scope of Work, and described four objectives of the overall process: 1) design, develop and implement a public involvement plan for the TSP update; 2) develop and implement processes, procedures and tools to involve the public in meaningful and engaging ways; 3) assist City staff in the process of building trust with the community; and 4) build staff and community capacity to work productively together on future planning projects. City Manager Lombos went on to explain the Public Involvement Plan Development steps, which will include stakeholders, online survey, TSP

involvement objectives and stakeholder identification, and identification of information for requests for proposals (technical consultant), and lastly draft plan for review by project team and community leaders, ending in a final plan. The timeline is to be done with Phase I in March, to enter into Phase II process with the TSP. Phase I is for \$35,000. It was noted there was a PSA included in the staff report. The schedule for Phase I would be to complete the work between now and March 2011. The proposed budget for Phase I is not to exceed \$35,000. Phase II will include the implementation of the PI plan created during Phase I, as well as moving forward with staff training needs identified in Phase I.

Staff is recommending Council accept the scope and budget and direct the City Manager to enter into a contract with JLA Public Involvement for the Phase I Transportation System Plan Public Involvement.

COUNCIL DISCUSSION

It was asked and City Manager Lombos replied that staff, Council, and community members will be part of the stakeholders, and other meetings as well.

It was mentioned to make the survey as widely available as possible, and suggested an insert in the City's newsletter would be the way to reach most all households via the newsletter distribution.

Mayor Ogden noted there were members present in the audience that have been involved in the process, and all have positive comments and were in agreement with the choice of JLA.

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

Councilor Truax noted the years of service former councilor Richard Hager has done on Washington County's Policy Advisory Board (PAB), and suggested having him attend a future Council meeting to recognize his years of service.

J. EXECUTIVE SESSION

Mayor Ogden noted an executive session pursuant to ORS 192.660(2)(i) to discuss Employee Performance was held at the beginning of the Work Session.

K. ADJOURNMENT

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Wade Brooksby to adjourn the meeting at 8:19 p.m.

Vote: 7 - 0

Sherilyn Lombos, City Manager

Maureen Smith / Maureen Smith, Recording Secretary

APPROVED BY TUALATIN CITY COUNCIL

Date 2/14/11

Recording Secretary W. Smith

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Darla Madtson, Office Coordinator
Kent Barker, Police Chief

DATE: 02/14/2011

SUBJECT: Resolution Authorizing an Amendment to an Intergovernmental Agreement Between the City of Portland Police Bureau and the City of Tualatin Changing the Agency Participation with the Portland Police Data System (PPDS) from Inquiry-Only to Being a Full-Entry Partner Agency

ISSUE BEFORE THE COUNCIL:

Adopting the Amendment to an Intergovernmental Agreement between the City of Portland and the City of Tualatin.

RECOMMENDATION:

Staff recommends approval of the resolution.

EXECUTIVE SUMMARY:

The Purpose of this amendment is to change the City of Tualatin's participation level with the Portland Police Data System (PPDS) from an inquiry only agency to being a full entry partner agency.

FINANCIAL IMPLICATIONS:

City of Tualatin agrees to pay to the City of Portland Police Bureau \$2,250 quarterly for basic service and entry related services and UCR reporting, and this is within our current budget.

Attachments: A PPDS Resolution PDF
B PPDS Exhibit A
C PPDS IGA

RESOLUTION NO. 5018-11

A RESOLUTION AUTHORIZING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PORTLAND POLICE BUREAU AND THE CITY OF TUALATIN CHANGING THE AGENCY PARTICIPATION WITH THE PPDS FROM INQUIRY ONLY TO BEING A FULL ENTRY PARTNER AGENCY

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

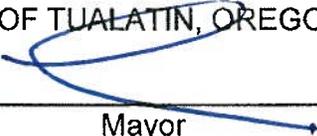
Section 1. The City Council approves and accepts the attached Intergovernmental Agreement between the City of Portland Police Bureau and the City of Tualatin.

Section 2. The Mayor and the City Recorder are authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Tualatin.

INTRODUCED AND ADOPTED this 14th day of February, 2011.

CITY OF TUALATIN, OREGON

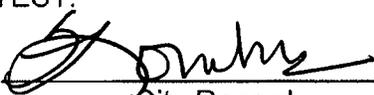
BY



Mayor

ATTEST:

BY



City Recorder

APPROVED AS TO LEGAL FORM



CITY ATTORNEY

Exhibit A
Schedule of costs for Tualatin Police Department
Oct 1, 2010 – June 30, 2011

Tualatin PD is to pay the City of Portland the following monthly amounts for Portland Police Data System (PPDS) service. Unless other arrangements are made, Tualatin PD will be billed quarterly.

Note: Number of active user IDs and caseload will be re-evaluated yearly by the Portland Police Bureau's Data Processing Division to determine the correct monthly access fee. If this review does not result in a rate change, you will not receive an updated Exhibit A and the previous Exhibit A will remain in effect.

Monthly charges for Tualitan PD

Basic Service	
1 – 10 Users	\$ 250.00 per month
Entry Related Services and UCR reporting	
2,001 -5,000 cases per year	\$ 500.00 per month
CrimeMapper.com (public facing crime mapping)	\$ 0.00 per month
CAMIN2 (Mapping program for offenses and custodies)	\$ 0.00 per month
LinX NW (crime analysis tool for data from 156 agencies)	\$ 0.00 per month
Monthly Total	\$ 750.00 per month

Under this agreement, Tualatin PD is responsible for the following:

- Maintaining a current Inter-Governmental Agreement with Portland Police Bureau.
- Assuring that all personnel or contractors that have contact with computers or networks under their jurisdiction that access PPDS have passed a criminal justice agency background investigation.
- Assuring that Tualatin PD maintains appropriate physical and electronic security policies.
- Data Entry for all Tualatin PD reports and assuring that case reports are numbered within a pre-assigned range.
- Assuring that reports meet quality standards for inclusion into PPDS.
- Assuring that Tualatin PD adheres to the LinX NW Access Policy
- Coordination of user accounts and the use of LinX NW

Under this agreement, PPB is responsible for the following:

- User account setup and maintenance for employees of Tualatin PD.
- Full PPDS query and entry access for Tualatin PD.
- Sharing of all PPDS data with LInX NW
- Access to other criminal justice systems available through PPDS.
- Access to Multnomah County mug shots through PPDS.
- All Tualatin PD OUCR reporting to the State of Oregon

- Extensive set of tactical, operational, and statistical management reports for Tualatin PD

AMENDMENT #
TO CONTRACT #

This amendment is made and entered into by and between the Bureau of Police, City of Portland, Oregon a political subdivision of the State of Oregon (**Provider**) and the Tualatin Police Department (**Receiver**). The purpose of this amendment is to change the Receiver agency participation with the Portland Police Data System (PPDS) from inquiry only to being a full entry partner agency.

The agreement is amended as follows:

Addition to 1. SCOPE OF PROVIDER SERVICES including:

- e. Provide access via networked PC computers for full entry into the computerized data base files of the PPDS system.
- f. Provide the necessary programs, access, and data storage so that (**Receiver**) cases and related information can be entered into PPDS files.
- g. Produce standard PPDS reports for (**Receiver**) data; and other reports as mutually agreed.
- h. Provide standard Oregon Uniform Crime Reporting (OUCR) data for (**Receiver**) cases to the State of Oregon LEDS/OUCR.
- i. Facilitate access via networked PC computers to the NCIS Law Enforcement Information Exchange (LInX Northwest) system.
- j. Provide public records category data from PPDS for all PPDS partner agencies to the NCIS Law Enforcement Information Exchange (LInX Northwest) system for sharing with other law enforcement agencies. This data sharing will adhere to strict CJIS data sharing guidelines.
- k. Provide trouble-shooting support for ePPDS Monday thru Fridays from 0800-1700; and after-hours support will be best effect or next day.
- l. Perform services related to PPDS access such as defining and maintaining user logons and device definitions.

Deletion to 1. SCOPE OF PROVIDER SERVICES including:

- d. Perform services related to PPDS access such as liaison with vendors for maintenance service calls, etc.

Addition to 2. SCOPE OF RECEIVER RESPONSIBILITY including:

- d. The Receiver agency shall perform data entry of its data into PPDS and shall conform to the standards and procedures established by the Provider regarding such data entry.
- e. The Receiver is agrees to abide by all use policies set forth for participation in the NCIS Law Enforcement Information Exchange (LInX Northwest) system as stipulated in Exhibit L.

Addition to 3. COMPENSATION replace with:

The Receiver, as a "full entry" user of PPDS, shall pay to the Provider the amount as set out in Exhibit A: Schedule of Costs. Cost of services shall be reviewed annually, with adjustments made effective July 1.

Sent for Signatures
By: Police

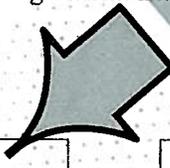
COPY

Receiver shall be notified of adjustments at least 90 days in advance.

Effective Date of Amendment: Upon Approval

All other terms and conditions of the original agreement and any future amendments shall remain in full force and effect.

**SIGN
HERE**



PROVIDER:

RECEIVER:

By:
Name: Michael Reese
Title: Police Chief, Portland
Date:

By: <i>Sherilyn Lombos</i>
Name: Sherilyn Lombos
Title: City Manager
Date: 2-14-2011
By: <i>Lou Ogden</i>
Name: Lou Ogden
Title: Mayor
Date: 2-14-2011

APPROVED AS TO LEGAL FORM

Brenda L. Brader
CITY ATTORNEY

Sent for Signatures
By: Police

COPY

APPROVED BY TUALATIN CITY COUNCIL
Date 2-7-11
Recording Secretary M. [Signature]

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kathy Kaatz, Program Coordinator
Daniel J. Boss, Operations Director

DATE: 02/14/2011

SUBJECT: Resolution Consenting to the Transfer of Control of the Solid Waste and Resource Recovery Franchise Granted to United Disposal, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., to United Disposal Services, Inc. dba Allied Waste Services of Clackamas and Washington Counties

ISSUE BEFORE THE COUNCIL:

Should Council consent to the transfer of control of the Solid Waste and Resource Recovery Franchise granted to United Disposal, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., to United Disposal Services, Inc., dba Allied Waste Services of Clackamas and Washington Counties.

RECOMMENDATION:

- The original franchise agreement declares the holders of the exclusive franchise to conduct solid waste collections, solid waste management and resource recovery within the City to be United Disposal Service, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc.
- Allied Waste Services has purchased the three above referenced entities and are currently doing business as United Disposal Services Inc., dba Allied Waste Services of Clackamas and Washington Counties. This request is to amend the existing Ordinance to reflect the doing business as for this hauler.
- Staff recommends that Council accept the transfer requested by Allied Waste Services, Inc.

EXECUTIVE SUMMARY:

Acceptance of this transfer will allow United Disposal Services Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, current certificate holders to do business as United Disposal Service, Inc., dba Allied Waste Services of Clackamas and Washington Counties.

OUTCOMES OF DECISION:

The acceptance of this transfer would simplify the accounting and reporting requirements of the agreement as well as allow for more efficient service and better utilization of assets.

FINANCIAL IMPLICATIONS:

The acceptance of this transfer will not have any financial impact.

Attachments: A Allied Letter of Request

B Resolution to Accept Consolidation



January 25, 2011

Sherilyn Lombos
City Manager
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

Dear Ms. Lombos:

As provided under Ordinance No. 1140-03, United Disposal Service, Inc, Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., are all listed as current certificate holders for the collection of solid waste for the City of Tualatin. These companies are owned by Allied Waste Service, Inc. We request the City designate all of these companies as: United Disposal Services, Inc./dba Allied Waste of Clackamas and Washington Counties.

This change will enable United Disposal Services, Inc. /dba Allied Waste of Clackamas and Washington Counties, to collect waste in the area now served by its sister company, Rossman Sanitary Services, Inc. Specifically:

“all territory located within the City limits, east of the Interstate 5 Freeway and north of the Tualatin River, and east of SW50th Avenue and south of the Tualatin River.”
(Ordinance No. 1140-03, Section 4, item (b), sub-section (2)).

Changes proposed for Section 4, item (b) eliminates the need for subsections (1) and (3).

This will allow us to provide a more efficient service, with better utilization of assets. The rates in each agreement are identical, and the service levels will not change for those customers affected by this change. Some customers will see a change in the day their service is provided, and we will notify customers in a timely manner if they are in that group. I have attached a list of customer addresses that are affected by this change, for your reference.

I appreciate your attention to this request, and welcome questions or comments.

Best Regards,

A handwritten signature in black ink, appearing to read 'Carol Dion'.

Carol Dion
General Manager
Allied Waste of Clackamas and Washington Counties

Attachment

TUALATIN COMMERCIAL - 469 TO 455

Red Tuesday: are day changes from Wednesday

KIRKMAN LAB
17305 63RD AVE
TUALATIN OR 97062

BERREY PROPERTIES
6305 ROSEWOOD ST
LAKE OSWEGO OR 97035-5388

INDUSTRIAL CASTOR & WHEEL
7019 MCEWAN RD **Tuesday**
LAKE OSWEGO OR 97035-7830

MEINEKE MUFFLERS
17717 SW BOONES FERRY RD
LAKE OSWEGO OR 97034

L G INTERNATIONAL
6700 BRADBURY CT
LAKE OSWEGO OR 97035-7872

RENAISSANCE DESIGN CENTER
16889 65TH AVE
LAKE OSWEGO OR 97035-7865

CARL'S JR
17929 MCEWAN RD
LAKE OSWEGO OR 97035

WELLPARTNER PHARMACY
6405 ROSEWOOD ST
LAKE OSWEGO OR 97035-5284

BURGER KING # 4221
17971 MCEWAN RD
TUALATIN OR 97062

PERFECT LOOK #123 **Tuesday**
17777-A BOONES FERRY RD
LAKE OSWEGO OR 97035

NW NATURAL GAS
7100 MCEWAN RD
LAKE OSWEGO OR 97035-7838

DOLAND NW LLC
17571 65TH AVE
TUALATIN OR 97062

CASCADIA EYE CARE
17777 UPPER BOONES FERRY RD
LAKE OSWEGO OR 97035

FAHEY MACHINERY CO INC
17605 65TH AVE
TUALATIN OR 97062

THE DIFFERENCE **Tuesday**
17750 LOWER BOONES FERRY RD
LAKE OSWEGO OR 97035-5226

HALTINER SHEET METAL FAB.
17555 65TH AVE
TUALATIN OR 97062-3554

VAN SPECIALTIES
17420 63RD AVE
LAKE OSWEGO OR 97035-5208

BLUE RIBBON CONSTRUCTION
17410 63RD AVE
LAKE OSWEGO OR 97035-5208

GALLOPS SADDLERY
17937 MCEWAN AVE
SUITE 1
TIGARD OR 97224-7774

TIMBERCON
17387 63RD AVE
LAKE OSWEGO OR 97035-5205

PUREMIST CORPORATION
7023 MCEWAN RD
LAKE OSWEGO OR 97035-7830

BOONES FERRY CHEVRON
17830 BOONES FERRY RD
LAKE OSWEGO OR 97034

PUBLIC STORAGE PUB064343
7095 MCEWAN RD
TUALATIN OR 97062

PUBLIC STORAGE PUB023413
17990 MCEWAN RD
TUALATIN OR 97062

CAT CARE PROFESSIONAL
17888 MCEWAN RD
LAKE OSWEGO OR 97035-7875

Tuesday

THE LITTLE GYM OF LAKE OS
17890 BOONES FERRY RD
LAKE OSWEGO OR 97035

BACKYARD BIRDSHOP
16949 65TH AVE
LAKE OSWEGO OR 97035-7866

M BANK
17898 SW MCEWAN RD
TIGARD OR 97224-7217

Tuesday

PHIL'S AUTO CLINIC
17360 63RD AVE
LAKE OSWEGO OR 97035-5206

Tuesday

WALGREENS #9625
17850 LOWER BOONES FERRY RD
LAKE OSWEGO OR 97035-5228

HOLLANDER CONSULTANTS
18010 MCEWAN RD
LAKE OSWEGO OR 97035-7868

SPACE AGE FUEL #27
17895 BOONES FERRY
LAKE OSWEGO OR 97035

GRANPA'S GARDENWARE CO
17380 63RD AVE
LAKE OSWEGO OR 97035-5206

Tuesday

FEDERAL EXPRESS 256825
6505 ROSEWOOD ST
STATION 256825
LAKE OSWEGO OR 97035-7864

MOTEL 6 0047
17950 SW MCEWAN RD
PORTLAND OR 97224-7218

MOTEL 6 1348
17959 SW MCEWAN RD
PORTLAND OR 97224-7206

CHILDRENS HOUR ACADEMY
17650 65TH AVE
LAKE OSWEGO OR 97035

24 HOUR FITNESS TFH000491
17942 SW MCEWAN RD
PORTLAND OR 97224

SIMPLEX GRINNELL
6305 ROSEWOOD ST
SUITE A
LAKE OSWEGO OR 97035-5388

CREATION COMPOSITS, LLC
17370 63RD AVE
LAKE OSWEGO OR 97035-5206

Tuesday

INTEGRA
17600 SW 65TH AVE
LAKE OSWEGO OR 97035

PACIFIC COLLECTION
7021 MCEWAN RD
LAKE OSWEGO OR 97035-7830

Tuesday

SAVVY DESIGN INC
17455 63RD AVE
LAKE OSWEGO OR 97035-5207

Tuesday

ARBYS - SMURFIT DEBTOR
17771 BOONES FERRY RD
LAKE OSWEGO OR 97035

GEODYNE
17360 63RD AVE
LAKE OSWEGO OR 97035-5206

Tuesday

SUBWAY SANDWICH
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

BAJA FRESH
17805 65TH AVE
LAKE OSWEGO OR 97035-5203

PANDA EXPRESS PEX001689
17799 SW 65TH AVE
TUALATIN OR 97062

X3 LLC
17435 63RD AVE
LAKE OSWEGO OR 97035-5207

Tuesday

BASKIN ROBBINS ICE CREAM
17773 LOWER BOONES FERRY RD A
LAKE OSWEGO OR 97035-5268

GLASS DOCTOR
6510 ROSEWOOD ST
LAKE OSWEGO OR 97035-7856

THE POINTE @ BRIDGEPORT
7300 SW HAZELFERN RD
TIGARD OR 97224-7715

PROJECTUS
6750 BRADBURY CT
LAKE OSWEGO OR 97035

Tuesday

PLAYERS
17880 MCEWAN RD
LAKE OSWEGO OR 97035-7875

MERIDIAN CORP CENTER
6405 ROSEWOOD ST
TUALATIN OR 97034

WU'S OPEN KITCHEN
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

KAADY CAR WASH
17701 BOONES FERRY RD
LAKE OSWEGO OR 97035

PRESTIGE CLEANERS
17727 BOONES FERRY RD
LAKE OSWEGO OR 97035

INTEGRATED BAKING
6405 ROSEWOOD ST #C
LAKE OSWEGO OR 97035-5284

A I C
17555 63RD AVE
LAKE OSWEGO OR 97035-5209

DICK BARLESS AUTO SERVICE
7025 MCEWAN RD

NORTHWEST COMPOUNDERS
17972 SW MCEWAN RD
PORTLAND OR 97224-7218

STARS CABARET
17939 SW MCEWAN RD
PORTLAND OR 97224-7205

FAMOUS DAVES BBQ
7121 SW NYBERG ST
TUALATIN OR 97062-8224

BERREY PROPERTIES
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

BULL MT MECHANICAL
6520 ROSEWOOD ST
LAKE OSWEGO OR 97035

COUNTRY CLUB CLEANERS
17773 A BOONES FERRY RD
LAKE OSWEGO OR 97035

OREGON DEPT. OF REVENUE
6405 ROSEWOOD ST
TUALATIN OR 97062

CHADWICK CO
17685 65TH AVE
LAKE OSWEGO OR 97035-7800

SUPERIOR IN-BOARD REPAIR
17530 63RD AVE
LAKE OSWEGO OR 97035-5210

PIPER'S RUN
6835 CHILDS RD
LAKE OSWEGO OR 97035-7807

SAFEWAY PHARMACY #1047
17779 BOONES FERRY RD
TUALATIN OR 97034

OSWEGO STORAGE
7055 MCEWAN RD
TUALATIN OR 97062

DOROTHY TESTER SALES
17390 63RD AVE

Tuesday

LAKE OSWEGO OR 97035-7830

LAKE CAR CARE JOINT VNTUR
17705 BOONES FERRY RD
LAKE OSWEGO OR 97035

GOLDEN KEY MINI STORAGE Tuesday
6725 BRADBURY CT
LAKE OSWEGO OR 97035-7872

NORTHWEST TEXTBOOK DEPOS
17970 MCEWAN RD
TUALATIN OR 97062

SOUTH LAKE CENTER PARTNER
BOONES FERRY & 65TH
TUALATIN OR 97062

TUALATIN OR 97062

FUDDRUCKERS
17815 65TH AVE
TUALATIN OR 97062

MILLER'S HOMESTEAD INN
17933 MCEWAN AVE
PORTLAND OR 97224-7204

PIONEER COMMERCIAL CENTER
17937 MCEWAN RD
TUALATIN OR 97062

TACO BELL
17873 SW MCEWAN RD
TUALATIN OR 97062

RESOLUTION NO. 5019-11

RESOLUTION CONSENTING TO THE TRANSFER OF CONTROL OF THE SOLID WASTE AND RESOURCE RECOVERY FRANCHISE GRANTED TO UNITED DISPOSAL, INC., ROSSMAN SANITARY SERVICE, INC., AND KELLER DROP BOX, INC., TO UNITED DISPOSAL SERVICES, INC. DBA ALLIED WASTE SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES

WHEREAS the City of Tualatin entered into an exclusive solid waste and resource recovery franchise agreement with United Disposal Service, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., through Ordinance 1140-03 passed in 2003;

WHEREAS the parent ownership of these three entities companies is Allied Waste Services, Inc.; and

WHEREAS Allied Waste Services, Inc., has requested that the City of Tualatin consolidate the designated areas for these three companies and their associations into one location under one entity; United Disposal Services, Inc., dba as Allied Waste Services of Clackamas and Washington Counties.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1: Consent to the Transfer of Control.

The City Council hereby consents to the transfer of control of the franchisee and of the franchise from United Disposal Service, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., to United Disposal Services, Inc., dba Allied Waste Services of Clackamas and Washington Counties.

Section 2. Effective Date.

This Resolution shall be effective upon its adoption by the Council.

INTRODUCED AND ADOPTED this 14th day of February, 2011.

CITY OF TUALATIN, OREGON

BY [Signature]
Mayor

ATTEST:
BY [Signature]
City Recorder

APPROVED AS TO LEGAL FORM

[Signature]
CITY ATTORNEY

APPROVED BY TUALATIN CITY COUNCIL
Date 2-14-11
Recording Secretary [Signature]

TO: Honorable Mayor and Members of the City Council
FROM: Sherilyn Lombos, City Manager
DATE: 02/14/2011
SUBJECT: Modification of the City Manager's Employment Agreement

ISSUE BEFORE THE COUNCIL:

Should the Council implement compensation changes resulting from a formal review of the City Manager's job performance?

RECOMMENDATION:

Staff recommends that the City Council modify the City Manager's employment agreement.

EXECUTIVE SUMMARY:

On January 24, 2011 the City Council conducted a formal review of the City Manager's job performance for the period of time from July 2007 (the last time a performance evaluation was conducted) to date. The result of the review is that the City Council is pleased with the Manager's performance and is rewarding that performance with an increase in her compensation package. The increase will be taken as an additional annual contribution of \$9,508 to her retirement saving plan (401A). The City Manager's employment agreement will be modified under the Compensation section to reflect this additional contribution.

OUTCOMES OF DECISION:

Adoption of the resolution will modify the City Manager's employment agreement to reflect the additional contribution, retroactive to January 24, 2011.

FINANCIAL IMPLICATIONS:

The costs associated with the additional contribution is available within the Administration Department's personal services allocation of the 2010/2011 fiscal year budget.

Attachments: A - Resolution, Employment Agreement

RESOLUTION NO. 5020-11

RESOLUTION APPROVING MODIFICATIONS TO EMPLOYMENT AGREEMENT WITH CITY MANAGER

WHEREAS through Resolution No. 4603-06 the City Council selected a City Manager and approved an employment agreement with the City Manager; and

WHEREAS the present City Manager commenced employment on December 18, 2006 and has served continuously since that time; and

WHEREAS on January 24, 2011 the City Council conducted a formal review of the City Manager's job performance and compensation package and agreed that the City Manager's performance from the period of July 2007 to December 2010 warrant an increase in compensation.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that the Employment Agreement is modified in the following manner, effective retroactively to January 24, 2011.

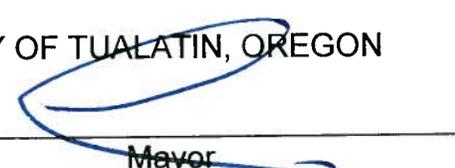
Section 3. Compensation, modify subsection (e) to read, "City agrees to pay on behalf of Employee an additional annual amount of \$9,508 in a proportionate amount each pay period, to a pre-tax saving mechanism designed for Management Employees, subject to all applicable Internal Revenue Service (I.R.S.) codes and State of Oregon tax regulations.

All other provisions of the existing Employment Agreement shall remain in full force.

INTRODUCED AND ADOPTED this 14th day of February, 2011.

CITY OF TUALATIN, OREGON

BY _____


Mayor

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

ATTEST:

BY _____


City Recorder

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Maureen Smith, Executive Assistant
DATE: 02/14/2011
SUBJECT: Community Involvement Committee Appointments

ISSUE BEFORE THE COUNCIL:

The City Council approve appointments to various Advisory Committees and Boards.

RECOMMENDATION:

Staff recommends the City Council approve the Community Involvement Committee (CIC) recommendations and appoint the below listed individuals.

EXECUTIVE SUMMARY:

The Community Involvement Committee met and interviewed citizens interested in participating on City committees and boards. The Committee recommends appointing the following individuals:

<i>Individuals</i>	<i>Committee / Board</i>	<i>Term</i>
Bill Beers	Planning Advisory Committee	Partial Term Expiring 08/31/13
Dana Paulino	Parks Advisory Committee	Partial Term Expiring 2/28/11

Attachments:

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kaaren Hofmann, Civil Engineer
Michael A. McKillip, City Engineer

DATE: 02/14/2011

SUBJECT: Establish a Zone of Benefit Recovery Charge for Street Improvements on SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road

ISSUE BEFORE THE COUNCIL:

Consideration of the request by the Tualatin Development Commission to establish a Zone of Benefit Recovery Charge.

RECOMMENDATION:

Staff recommends that the Council establish the requested Zone of Benefit Recovery Charge and direct the preparation of a resolution to that effect.

EXECUTIVE SUMMARY:

The Tualatin Development Commission (TDC) constructed SW 124th Avenue as a part of the Leveton Urban Renewal District. The costs for the construction of the improvements between the curbs was determined by the TDC to be a legitimate use of urban renewal dollars but the improvements behind the curb was not. Therefore, these costs would become the responsibility of the adjacent property owner as the properties develop.

The improvements constructed behind the curbs are required by the Tualatin development code to be constructed when properties develop to mitigate the impacts of their development. By constructing these improvements at the time of the construction of 124th, the TDC relieved the property owners of their obligation to construct these improvements when they develop.

The request from the TDC was received by the City on December 8, 2010. The project improvements were accepted by the Council on December 13, 2010. The proposed Zone of Benefit Recovery Charge is for street improvements constructed on SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road more specifically described as follows:

Sidewalks, street trees, street lights, plantings and irrigation along both sides of SW 124th Avenue for approximately 2250 feet between SW Myslony Street and SW Tualatin-Sherwood Road.

Detailed costs and invoices for labor, materials and actual permit and inspection fees are below:

<i>Sidewalk:</i>	<i>\$115,290.00</i>
<i>Irrigation:</i>	<i>\$ 37,803.96</i>
<i>Street Lights:</i>	<i>\$105,575.00</i>
<i>Street Trees:</i>	<i>\$ 14,091.00</i>
<i>Plantings:</i>	<i>\$ 39,369.19</i>

Total: \$312,129.15

There are seven properties that benefited by the improvements constructed and for which the recovery charge would be sought. The recovery charge would be paid when development occurred on that parcel as long as it is within 10 years of the date of the resolution adoption. This issue has been discussed with the property owners several times throughout the project. Specifically, letters were sent in both 2008 and 2009 to them keeping them informed as to the process. Officially, notice of this hearing was sent on January 13, 2011 to the property owners. Below is a table of the property owners and the amounts that are apportioned to each property.

Property Owner	Percent Total Lineal Footage	Proposed Recovery Charge
Earl & Loris IteL, Trustee	15.52%	\$48,449.90
Fore-Sight Balboa, LLC	26.67%	\$83,234.44
Franklin Business Park, LLC	6.97%	\$21,740.34
Lumber Products	7.86%	\$24,535.53
James Tanner	15.52%	\$48,449.90
Edward Wager	19.70%	\$61,494.10
Ronald Endicott	7.76%	\$24,224.94
TOTAL	100%	\$312,129.15

OUTCOMES OF DECISION:

If the Zone of Benefit is established, the Tualatin Development Commission could receive revenues up to \$312,129.15 to reimburse project expenses incurred outside of the Urban Renewal District.

If the Zone of Benefit is not established, the Tualatin Development Commission will not receive any reimbursement for costs incurred outside of the Urban Renewal District. This could leave the TDC exposed to a charge of not properly expending TDC funds in the district.

ALTERNATIVES TO RECOMMENDATION:

Deny the request for a Zone of Benefit Recovery Charge. This could leave the TDC exposed to spending funds that were not an approved expenditure.

FINANCIAL IMPLICATIONS:

The Tualatin Development Commission could receive revenues up to \$312,129.15.

Attachments: Engineer's Report
Power Point

REPORT AND RECOMMENDATION
TO ESTABLISH A ZONE OF BENEFIT RECOVERY CHARGE
FOR STREET IMPROVEMENTS ON SW 124TH AVENUE BETWEEN SW
MYSLONY STREET AND SW TUALATIN-SHERWOOD ROAD

Prepared by
Michael A. McKillip
City Engineer
City of Tualatin, Oregon

January 10, 2011

This report and recommendation on the establishment of a Zone of Benefit Recovery Charge was prepared at the request of the Tualatin Development Commission (see attached).

The Tualatin Development Commission constructed SW 124th Avenue as a part of the Leveton Urban Renewal District. The costs for the construction of the improvements between the curbs was determined to be a legitimate use of urban renewal dollars but the improvements behind the curb was not. Therefore, these costs would become the responsibility of the adjacent property owner as it would be when developed.

This report was prepared in accordance with City of Tualatin Municipal Code Chapter 2-5, known as the "System Development Recovery Charge Ordinance", and originally adopted on September 9, 1991. The proposed Zone of Benefit Recovery Charge is for street improvements constructed on SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road more specifically described as follows:

Sidewalks, street trees, street lights, plantings and irrigation along both sides of SW 124th Avenue for approximately 2250 feet between SW Myslony Street and SW Tualatin-Sherwood Road hereafter called 'improvements'. A map is attached.

Section 1. The following information has been received in accordance with Section 2-5-050 (2):

(a) Detailed or as-built plans or drawings showing the actual location, nature and extent of all improvements for which a zone of benefit recovery charge is sought.

Detailed as-built plans are filed in the Engineering and Building Department. These improvements were accepted by the City on December 13, 2010, by Resolution No. 5014-10.

(b) The parcels of property indentified by survey or tax lot number which are purportedly specially benefited by the improvements from with a recover charge is sought. The ownership of parcels indentified in subsection (b) or this subsection, according to the current records of the County Department of Assessment and Taxation and the mailing address of such property owners.

The properties benefitting from the improvements and from which a recovery charge is sought are and the owners are:

Tax Map/Tax Lot	Owner
2S1 27B/00400	Earl & Loris Itel, Trustee 12155 SW Tualatin-Sherwood Rd Tualatin, OR 97062
2S1 28A/00100	Fore-Sight Balboa, LLC 20400 SW Cipole Road Tualatin, OR 97062
2S1 27B/00200	Franklin Business Park, LLC 1202 NW 17 th Avenue, Ste. B Portland, OR 97209
2S1 21DD/00201	Lumber Products 19855 SW 124 th Avenue Tualatin, OR 97062
2S1 28A/00300	James Tanner 12777 SW Tualatin-Sherwood Rd Tualatin, OR 97062
2S1 27B/00300	Edward Wager 12075 SW Tualatin-Sherwood Rd Tualatin, OR 97062
2S1 22C/01600	Ronald Endicott PO Box 228 Aurora, OR 97002

(c) Detailed costs and invoices for labor, materials and actual permit and inspection fees devoted exclusively to the improvements and from which a recover charge is sought to be established.

Detailed costs have been submitted and are:

<i>Sidewalk:</i>	<i>\$115,290.00</i>
<i>Irrigation:</i>	<i>\$ 37,803.96</i>
<i>Street Lights:</i>	<i>\$105,575.00</i>
<i>Street Trees:</i>	<i>\$ 14,091.00</i>
<i>Plantings:</i>	<i>\$ 39,369.19</i>
<i>Total:</i>	<i>\$312,129.15</i>

The applicant has only requested recovery of the construction costs of the improvements. Staff has verified the construction costs indicated are comparable to costs anticipated for such work. The final pay request is attached.

Section 2. The City Engineer's recommendation as required by Section 2-5-050(3) must include and address:

(a) Whether the applicant has paid for some or all of the costs of a utility improvement. *The applicant has paid all of the costs for the project to construct the street improvements along the frontages of the properties listed above.*

(b) The extent to which the improvements referred to in subsection (a) of this subsection have relieved another person or persons of the future need or requirements to construct all or a portion of the same improvements. (c) The area or parcels which are specially benefited by the improvement, and whether or not such parcels would, as a condition of future development be required to construct some or a portion of the same improvement for which a recover charge is sought to be established. *The improvements referred to on Page 1 of this Report and Recommendation have relieved the properties in the above table of the requirement to construct street improvements on SW 124th Avenue upon development.*

(d) That portion of the cost of the improvement within the area of the proposed or probable zone of benefit which is appropriate for reimbursement by the owners of the property indentified in subsection(c) of this subsection. *One hundred percent of the costs for improvement within the Zone of Benefit are appropriate for reimbursement by the owners of the properties identified previously.*

(e) A rational formula for apportioning the cost of the improvement among properties within the proposed zone of benefit and where appropriate a unit of measure for applying the zone of benefit recovery charge to property which with approval be developed at some future date. *As the parcels develop, they will be required to construct improvements based on their street frontage; therefore, the costs of these street improvements should be apportioned based on the percentage of lineal footage of frontage adjacent to the street. Apportioning based on frontage reflects the benefit received by the properties served by this street improvement.*

(f) The results of applying the formula referred to in subsection (e) of this subsection to the parcels identified in subsection (c) of this subsection, which becomes the proposed recovery charge. *The table below indicates the proposed recovery charges bases on the results of apportioning the costs by lineal footage of frontage:*

PROPERTY	LINEAL FOOTAGE	PERCENT TOTAL LINEAL FOOTAGE	PROPOSED RECOVERY CHARGE
2S1 27B/00400	780	15.52%	\$48,449.90
2S1 28A/00100	1340	26.67%	\$83,234.44
2S1 27B/00200	350	6.97%	\$21,740.34
2S1 21DD/00201	395	7.86%	\$24,535.53
2S1 28A/00300	780	15.52%	\$48,449.90
2S1 27B/00300	990	19.70%	\$61,494.10
2S1 22C/01600	390	7.76%	\$24,224.94
TOTAL	5025	100.00%	\$312,129.15

(g) The annual percentage rate applied to the proposed recovery charge over the following 10 years, which represents the estimated return on investment of the reimbursable costs. *No Zone of Benefit Recovery Charge or interest shall be collected after a date ten years after the adoption of this charge by the City. From and after the effective date of this Recovery Agreement, charges which remain unpaid shall bear interest on the unpaid amount at the rate paid to local governments by the Oregon State Treasurer on deposits made in the Local Government Investment Pool pursuant to Oregon Revised Statutes 294.805 to 294.895 until paid.*

(h) Whether the applicant has complied with the requirements of this ordinance. *The applicant has complied with the requirements of TMC Chapter 2-5.*



CITY OF TUALATIN
 PO Box 369, Tualatin, OR 97062-0369
 Phone: (503) 692-2000 Fax: (503) 692-5421

APPLICATION TO ESTABLISH A ZONE OF BENEFIT RECOVERY CHARGE

The following items must be submitted with this completed application (further details of the requirements can be found in Ordinance 843-91):

ZBRC	INFORMATION REQUIRED
/	As-built plans showing the actual location, nature and extent of all improvements for which the Zone of Benefit Recovery Charge is sought
/	The parcels of property to benefit by the improvements and from which a recovery charge is sought identified by: survey, document number, plat book and page, or legal description, and tax map and tax lot number
/	The parcels identified above listing tax map and tax lot numbers, and owners' names and addresses according to the current records of the appropriate county Department of Assessment and Taxation on pre-gummed address labels
/	Detailed costs and invoices for labor, materials, and actual permit and inspection fees devoted exclusively to the improvements and for which a recovery charge is sought to be established
NA	Paid application fee

Site Address: <u>124th Avenue</u>	
Tax Map Number(s):	
Tax Lot Number(s):	
Type of Improvement: <input checked="" type="checkbox"/> Street <input type="checkbox"/> Water <input type="checkbox"/> Sanitary Sewer <input type="checkbox"/> Storm Drain	
Applicant's Name: <u>Eric Underwood for Tualatin Development Commission</u>	
Address: <u>18876 SW Martinazzi Ave Tualatin, OR 97062</u>	
Phone Number: <u>(503) 691-3020</u>	Fax Number: <u>(503) 692-0447</u>
Signature:	Date: <u>12/8/10</u>
Application by: <input type="checkbox"/> Owner <input type="checkbox"/> Contract Purchaser <input type="checkbox"/> Developer <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Other:	
Receipt Number:	Fee: \$
Job Number:	By:



SW Myslowy St

SW 124th Ave

SW Tualatin-Sherwood Rd



DATE: 6/1/2009

APPLICATION NO. 12 - Final Billing

PERIOD: FROM 1-May TO 31-May 20 09

PROJECT: SW 124TH AVENUE, MYSLONY ST TO TUALATIN-SHERWOOD RD

CONTRACTOR: NORTHWEST EARTHMOVERS, INC.

1 ORIGINAL CONTRACT AMOUNT:	<u>2,582,987.80</u>
2. CONTRACT MODIFICATIONS APPROVED IN PREVIOUS APPLICATIONS:	
ADDITIONS <u>\$196,254.95</u> DEDUCTIONS _____	
3. CONTRACT MODIFICATIONS APPROVED THIS PERIOD	
ADDITIONS _____ DEDUCTIONS _____	
4. NET CHANGE BY CONTRACT MODIFICATIONS (sum of 2 & 3):	<u>\$196,254.95</u>
5. REVISED CONTRACT AMOUNT (sum of 1 & 4):	<u>\$2,779,242.75</u>
6. TOTAL VALUE OF WORK TO DATE:	<u>\$2,740,247.90</u>
7. PERCENT PROJECT COMPLETE:	<u>98.60</u>
8. TOTAL MATERIALS ON HAND:	<u>\$0.00</u>
9. SUBTOTAL WORK COMPLETED & STORED (sum of 6 & 8):	<u>\$2,740,247.90</u>
10. LESS PREVIOUS PAYMENTS:	<u>\$2,586,495.22</u>
11. LESS PREVIOUS RETAINAGE:	<u>\$136,131.33</u>
12. AMOUNT WORK COMPLETE THIS PERIOD (9 less 10 & 11):	<u>\$17,821.35</u>
13. LESS RETAINAGE (5% of 12):	<u>\$891.07</u>
14. CURRENT PAYMENT DUE (12 less 13):	<u>\$16,740.28</u>

MINE
 Contractor - NEI
6/1/2009
 Date

Steve Kitho
 Engineer - CH2M Hill
6/8/09
 Date

Release all retainage
08/03/08
04300007027008
(KLD501)
KTH
6/19/09
Fy08/09

REMITTANCE ADDRESS
 NORTHWEST EARTHMOVERS, INC.
 P.O. BOX 1609
 SHERWOOD, OR 97140

NORTHWEST EARTHMOVERS, INC.
 PROCESS BILLING #12 & FINAL BILLING
 JOB: NW 124TH AVENUE, NYSLOVY ST TO TUALATIN-SHERVOIC
 BILLING PERIOD ENDING: 5/31/2009
 BILLING DATE: 6/1/2009
 FILE: 0812



ITEM #	DESCRIPTION	UNIT	QTY	BID UNIT	BID TOTAL	TO-DATE QTY	TO-DATE AMOUNT	PRIOR QTY	PRIOR AMOUNT	CURRENT QTY	CURRENT AMOUNT
10	Mobilization	LS	1	\$ 71,082.00	71,082.00	100%	71,082.00	100%	\$ 71,082.00		0%
15	Project Field Office	LS	1	4,928.00	4,928.00	100%	4,928.00	100%	\$ 4,928.00		0%
20	Temporary Protection and Direction of Traffic	LS	1	13,275.00	13,275.00	100%	13,275.00	100%	\$ 13,275.00		0%
30	Erosion Control	LS	1	3,538.00	3,538.00	100%	3,538.00	100%	\$ 3,538.00		0%
40	Gravel Construction Entrance	EA	2	100.00	200.00	1	100.00	1	\$ 100.00		0%
50	Inlet Protection	EA	10	42.20	422.00	10	422.00	10	\$ 422.00		0%
60	Silt Fence, Unsupported	LF	5517	1.70	9,378.90	5517	9,378.90	5517	\$ 9,378.90		0%
70	Orange Plastic Mesh Fence	LF	840	1.30	1,112.00	400	720.00	400	\$ 720.00		0%
80	Clothing and Grabbing	LS	1	\$ 7,535.00	7,535.00	100%	7,535.00	100%	\$ 7,535.00		0%
90	Excavation	CY	18500	4.50	83,250.00	20750	93,375.00	20750	\$ 93,375.00		0%
100	Foundation Stabilization	TON	280	20.30	6,084.00	243	5,054.40	243	\$ 5,054.40		0%
105	Trench Foundation Stabilization	TON	150	152.30	22,845.00	20300	14,210.00	20300	\$ 14,210.00		0%
110	Subgrade Geotextile	SY	20300	0.70	14,210.00	9	1,079.10	9	\$ 1,079.10		0%
120	Remove and Replace Valve Box	EA	1	119.90	119.90	1	119.90	1	\$ 119.90		0%
130	Adjust Junction Box	EA	1	95.70	95.70	1	95.70	1	\$ 95.70		0%
140	Reconstruct Manhole	EA	4	855.00	3,420.00	4	3,420.00	4	\$ 3,420.00		0%
Drainage and Sewer											
150	12" Storm Sewer Pipe	LF	2676	42.10	112,479.60	2682	112,937.40	2682	\$ 112,937.40		0%
160	10" Sanitary Sewer Pipe	LF	1756	49.40	86,450.00	1756	86,450.00	1756	\$ 86,450.00		0%
170	12" Culvert Pipe	LF	92	44.70	4,112.40	92	4,112.40	92	\$ 4,112.40		0%
180	24" Culvert Pipe	LF	157	59.70	9,372.90	157	9,372.90	157	\$ 9,372.90		0%
190	Concrete Manhole, 48" Flap Top	EA	5	1,658.00	8,290.00	9	15,012.00	9	\$ 15,012.00		0%
200	Concrete Manhole, 48" Eccentric Cone	EA	5	2,059.00	10,295.00	9	18,531.00	9	\$ 18,531.00		0%
210	Concrete Manhole, 60" with Flow Control	EA	1	4,344.00	4,344.00	1	4,344.00	1	\$ 4,344.00		0%
220	Concrete Gate Inlet, 36"	EA	5	1,012.00	5,060.00	5	5,060.00	5	\$ 5,060.00		0%
230	Concrete Curb Inlet, 48"	EA	12	1,394.00	16,728.00	13	18,122.00	13	\$ 18,122.00		0%
240	Inlet, Type D	EA	1	1,040.00	1,040.00	1	1,040.00	1	\$ 1,040.00		0%
250	Concrete Curb Cuts	EA	26	310.20	8,065.20	26	8,065.20	26	\$ 8,065.20		0%
260	Extended Dry Pond	EA	1	14,930.00	14,930.00	100%	14,930.00	100%	\$ 14,930.00		0%
270	Street Swales	LF	1415	53.20	75,278.00	1415	75,278.00	1415	\$ 75,278.00		0%
Basins											
280	Aggregate Base - Leveling Course	TON	2855	21.90	62,414.50	2855	62,414.50	2855	\$ 62,414.50		0%
290	Aggregate Base - Base Course	TON	11948	15.00	179,220.00	11948	179,220.00	11948	\$ 179,220.00		0%
Wearing Surfaces											
300	Standard Class C Asphalt	TON	2470	50.90	124,683.00	2,174.20	110,686.62	1847.2	\$ 94,022.38	327.00	\$ 16,663.13
310	Standard Class B Asphalt	TON	7226	50.90	365,864.50	5889.54	299,777.59	5889.54	\$ 299,777.59		0%
320	Extra for Asphalt Approaches	EA	2	550.50	1,101.00	2	1,101.00	2	\$ 1,101.00		0%
330	Concrete Curb & Gutter	LF	5035	8.70	43,801.50	5035	43,801.50	5035	\$ 43,801.50		0%
340	Concrete Curb	LF	2630	8.00	21,040.00	2722	21,776.00	2722	\$ 21,776.00		0%
350	Concrete Walks	SY	4575	25.20	115,290.00	4575	115,290.00	4575	\$ 115,290.00		0%
360	Concrete Driveway Approaches	SY	195	46.40	9,048.00	208	9,651.20	208	\$ 9,651.20		0%
Permanent Traffic Control and Guidance Devices											
370	Performed Thermoplastic Pavement Blue Lane Markings	EA	13	245.80	3,200.40	13	3,200.40	13	\$ 3,200.40		0%
380	Performed Thermoplastic Pavement Arrows	EA	8	226.50	1,764.00	7	1,543.50	7	\$ 1,543.50		0%

NORTHWEST EARTHMOVERS, INC.
 REMITTANCE ADDRESS: NORTHWEST EARTHMOVERS, INC.
 P.O. BOX 1699
 SHERWOOD, OR-97140



NORTHWEST EARTHMOVERS, INC.
 PROGRESS BILLING #12 & FINAL BILLING
 JOB: SW 124TH AVENUE, MYSLOVY ST TO TUALATIN-SHERVOIC
 BILLING PERIOD ENDING: 5/31/2009
 BILLING DATE: 6/1/2009
 FILE: 0812

ITEM #	DESCRIPTION	UNIT	QTY	RID UNIT	RID TOTAL	TO-DATE QTY	TO-DATE AMOUNT	PRIOR QTY	PRIOR AMOUNT	CURRENT QTY	CURRENT AMOUNT
380	Painted Permanent Pavement Striping	LF	17860	\$ 0.20	3,570.00	29461	5,892.20	20451	\$ 4,092.30	-	\$ -
400	Thermoplastic Pavement Line	SF	570	\$ 7.10	4,047.00	1601	11,367.10	1601	\$ 11,367.10	-	\$ -
410	Macro-Directional Type 1A Markers	EA	130	\$ 5.30	689.00	151	800.30	151	\$ 800.30	-	\$ -
420	Bi-Directional Type 1B Markers	EA	140	\$ 5.30	742.00	134	710.20	134	\$ 710.20	-	\$ -
Permanent Traffic Control and Illumination Systems											
430	Illumination System Complete	LS	1	\$ 105,575.00	105,575.00	100%	105,575.00	100%	\$ 105,575.00	0%	\$ -
440	Traffic Signal Installation, Complete (124ln/TualatinShm)	LS	1	\$ 179,135.00	179,135.00	100%	179,135.00	100%	\$ 179,135.00	0%	\$ -
450	Traffic Signal Interconnect Installation, Complete	LS	1	\$ 2,238.00	2,238.00	1	2,238.00	1	\$ 2,238.00	-	\$ -
460	3" Conduit, Future Use	LF	635	\$ 3.80	2,476.50	635	2,476.50	635	\$ 2,476.50	-	\$ -
470	2" Conduit, Future Use	LF	125	\$ 3.70	462.50	125	462.50	125	\$ 462.50	-	\$ -
480	22" x 22" x 12" Junction Box, Future Use	EA	4	\$ 315.00	1,260.00	4	1,260.00	4	\$ 1,260.00	-	\$ -
490	Signs in Place	SF	55	\$ 9.00	495.00	56	495.00	55	\$ 495.00	-	\$ -
500	Perforated Tube Breakaway Sign Post	EA	5	\$ 109.80	549.00	5	549.00	5	\$ 549.00	-	\$ -
Right of Way Development and Control											
510	2 Year Landscaping Maintenance	LS	1	\$ 8,820.00	8,820.00	100%	8,820.00	1	\$ 8,820.00	-	\$ -
520	Irrigation System	LS	1	\$ 58,800.00	58,800.00	100%	58,800.00	1	\$ 58,800.00	-	\$ -
530	24-30" B&B Shrubs - Landscaping	EA	172	\$ 21.50	3,698.00	172	3,698.00	172	\$ 3,698.00	-	\$ -
540	3" Caliper Trees - Landscaping	EA	79	\$ 231.00	18,249.00	79	18,249.00	79	\$ 18,249.00	-	\$ -
550	Soil Prep - Landscaping	LS	1	\$ 7,046.00	7,046.00	1	7,046.00	1	\$ 7,046.00	-	\$ -
560	Bark Mulch - Landscaping - 3" Deep	SF	25910	\$ 0.60	15,546.00	25910	15,546.00	25910	\$ 15,546.00	-	\$ -
570	Shrubs, 1 Gallon - Landscaping and Wetland	EA	3102	\$ 7.50	23,265.00	3322	24,915.00	3322	\$ 24,915.00	-	\$ -
580	Shrubs, 2 Gallon - Landscaping and Wetland	EA	1975	\$ 16.80	33,180.00	2454	41,227.20	2454	\$ 41,227.20	-	\$ -
590	Groundcovers, 4" Pot, Landscaping and Wetland	EA	3536	\$ 2.62	9,185.92	3536	9,185.92	3536	\$ 9,185.92	-	\$ -
605	Seed Mix, Extended Dry Pond	AC	0.3	\$ 7,300.00	2,310.00	0.3	2,310.00	0.3	\$ 2,310.00	-	\$ -
610	Seed Mix, Wetland	AC	0.7	\$ 9,000.00	6,300.00	0.7	6,300.00	0.7	\$ 6,300.00	-	\$ -
620	Plant Plug, Wetland	EA	7975	\$ 0.70	5,582.50	7975	5,582.50	7975	\$ 5,582.50	-	\$ -
630	Deciduous Trees - No 1 Container - Wetland	EA	75	\$ 7.40	555.00	85	763.00	85	\$ 763.00	-	\$ -
640	Deciduous Trees - No 2 Container - Wetland	EA	150	\$ 16.80	2,520.00	75	1,260.00	75	\$ 1,260.00	-	\$ -
650	Coniferous Trees - No 2 Container - Wetland	EA	75	\$ 16.80	1,260.00	75	1,260.00	75	\$ 1,260.00	-	\$ -
660	Compost - Wetland	CY	594	\$ 30.60	21,236.40	694	21,236.40	694	\$ 21,236.40	-	\$ -
670	Topsoil - Wetland	CY	242	\$ 7.60	1,839.20	242	1,839.20	242	\$ 1,839.20	-	\$ -
680	Mulch, Wetland	AC	1	\$ 3,150.00	3,150.00	1	3,150.00	1	\$ 3,150.00	-	\$ -
690	Hydroseed, Side Slopes	AC	1.1	\$ 1,922.00	2,114.20	1.1	2,114.20	1.1	\$ 2,114.20	-	\$ -
700	Initial Monument Frame and Cover	EA	6	\$ 244.30	1,465.80	4	977.20	4	\$ 977.20	-	\$ -
710	5 Foot Chainlink Fence	LF	725	\$ 20.80	15,080.00	840	17,424.00	840	\$ 17,424.00	-	\$ -
720	5 Foot Black Vinyl Chainlink Fence	LF	527	\$ 26.80	14,123.60	1066	28,579.28	1066	\$ 28,579.28	-	\$ -
730	10" x 8" Black Vinyl Chainlink Gate	EA	2	\$ 625.00	1,250.00	1	625.00	1	\$ 625.00	-	\$ -
740	20" x 6" Black Vinyl Chainlink Gate	EA	1	\$ 1,050.00	1,050.00	1	1,050.00	1	\$ 1,050.00	-	\$ -
750	City of Tualatin Permanent Barriade, Street	EA	2	\$ 1,096.00	2,192.00	2	2,192.00	2	\$ 2,192.00	-	\$ -
760	Interlocking Unit Pavers	SF	472	\$ 13.40	6,324.80	472	6,324.80	472	\$ 6,324.80	-	\$ -
Water Supply Systems											
770	12" Ductile Iron Pipe and Appurtenances	LF	697	\$ 73.30	51,090.10	697	51,090.10	697	\$ 51,090.10	-	\$ -
780	10" Water Service	EA	1	\$ 8,273.00	8,273.00	1	8,273.00	1	\$ 8,273.00	-	\$ -
790	8" Water Service	EA	3	\$ 5,790.00	17,370.00	8	46,320.00	8	\$ 46,320.00	-	\$ -
800	2" Water Service	EA	8	\$ 3,298.00	26,304.00	8	26,304.00	8	\$ 26,304.00	-	\$ -

NORTHWEST EARTHMOVERS, INC.
PROGRESS BILLING #12 & FINAL BILLING
JOB: SW 124TH AVENUE, MIYSLONY ST TO TUALATIN-SHERWOOD
BILLING PERIOD ENDING: 5/31/2009
BILLING DATE: 6/1/2009
FILE: 0812



REMITTANCE ADDRESS:
NORTHWEST EARTHMOVERS, INC.
P.O. BOX 1689
SHERWOOD, OR 97140

ITEM #	DESCRIPTION	UNIT	QTY	AMT	CLD TOTAL	TO-DATE QTY	TO-DATE AMOUNT	PRIOR QTY	PRIOR AMOUNT	CURRENT QTY	CURRENT AMOUNT
810	Fire Hydrant Assembly	EA	6	5,301.00	31,658.00	6	31,658.00	6	31,658.00		
820	Catholic Protection Relocation	LS	1	367.30	367.30	1	367.30	1	367.30		
Private Utilities											
830	Utility Vault 577 - PGE	EA	7	2,573.00	18,011.00	7	13,011.00	7	13,011.00		
840	Vault Installation 5106 - PGE(Vault Provided by PGE)	EA	3	787.50	2,382.50	3	2,382.50	3	2,382.50		
850	Vault Installation 612 - PGE(Vault Provided by PGE)	EA	2	787.50	1,575.00	2	1,575.00	2	1,575.00		
860	Vault Installation 61067A - Verizon(Vault Provided by Ver	EA	4	1,040.00	4,160.00	6	3,240.00	6	4,240.00		
870	4" Sch 40 PVC - PGE	LF	2794	2.90	8,122.60	2794	3,102.60	2794	3,102.60		
880	4" 90 degree 36" Radius - PGE	EA	24	131.30	3,151.20	24	3,151.20	24	3,151.20		
890	Installation 6" Sch 40 PVC & Filling - PGE	LF	4950	8.70	43,065.00	4950	43,065.00	4950	43,065.00		
900	Installation 4" Sch 40 PVC & Filling - Verizon	LF	11176	3.50	39,116.00	11176	39,116.00	11176	39,116.00		
910	Installation 2" Sch 40 PVC & Filling - Comcast	LF	5588	2.00	11,176.00	5588	11,176.00	5588	11,176.00		
920	PGE Microspig	EA	1	367.50	367.50	1	367.50	1	367.50		
930	Trench Excavation and Backfill	LF	2650	26.30	69,685.00	3640	95,732.00	3640	95,732.00		
940	Polishing Existing Utility	EA	4	525.20	525.20						
TOTAL BASE BID											17,621.34
MATERIAL ON HAND REQUESTS											2,538,071.43
MOR #1 Illumination Materials on Hand											0.0
MOH #2 Illumination and Signal Equipment Materials on Hand											0.0
Sub Total											17,621.34

ITEM #	DESCRIPTION	UNIT	QTY	AMT	CLD TOTAL	TO-DATE QTY	TO-DATE AMOUNT	PRIOR QTY	PRIOR AMOUNT	CURRENT QTY	CURRENT AMOUNT
CO #1.1	Relocate Fencing	LS	1.0	3,214.25	3,214.25	1	3,214.25				
CO #1.2	Install Signal Pole and Controller	LS	1.0	6,113.40	6,113.40	1.0	3,113.40				
CO #1.3	Additional Storm Sewer Pipe	LF	8.0	336.80	336.80	8.0	336.80				
CO #1.4	Concrete manholes, 60" Water Quality	EA	1.0	4,565.00	4,565.00	1.0	4,565.00				
CO #1.5	Ramp Outfall Pad	EA	1.0	485.00	485.00	1.0	485.00				
CO #1.6	Increase in Sanitary Sewer Unit Price	LF	1724.0	14.80	25,515.20	1796.4	25,586.72				
CO #1.7	Increase in Concrete Manholes, 48" Exc. Crme Unit Price	EA	9.0	151.00	1,359.00	9.0	1,359.00				
CO #2.1	Crew and equipment standby time due to sanitary revisib	LS	1.0	3,650.82	3,650.82	1.0	3,650.82				
CO #2.2	Replace 36" ADS Culvert with 36" RCP, Remove	LF	115.0	21,942.00	21,942.00	115.0	21,942.00				
CO #2.3	Install 60" Manholes all connection to existing ADS Culvert	EA	2.0	4,550.00	9,100.00	3.0	14,550.00				
CO #2.4	Restock fees and freight per vendor invoice	LS	1.0	2,704.74	2,704.74	1.0	2,704.74				
CO #3.1	Remobilize Sewer Crew Equipment	LS	1.0	2,500.00	2,500.00	1.0	2,500.00				
CO #3.2	10" PVC Sanitary Sewer Pipe with Grounding Backfill	LF	487.0	196.50	95,685.50	487.0	95,685.50				
CO #3.3	Sanitary Manholes over Existing Line, Incl. Tie in Work	EA	2.0	3,391.00	6,782.00	2.0	6,782.00				
CO #3.4	Sanitary Manhole	EA	2.0	2,059.00	4,118.00	2.0	4,118.00				
CO #4.1	Job Matting	LS	1.0	1,261.71	1,261.71	1.0	1,261.71				

NORTHWEST EARTHMOVERS, INC.
 PROGRESS BILLING #12 & FINAL BILLING
 JOB: SW 125TH AVENUE, MYSLOVY ST TO TUALATIN-SHERWOOD
 BILLING PERIOD ENDING: 6/31/2009
 BILLING DATE: 6/11/2009
 FILE: 0812



REMITTANCE ADDRESS:
 NORTHWEST EARTHMOVERS, INC.
 P.O. BOX 1809
 SHERWOOD, OR 97140

ITEM #	DESCRIPTION	UNIT	QTY	BID UNIT	BID TOTAL	TO-DATE QTY	TO-DATE AMOUNT	PRIOR QTY	PRIOR AMOUNT	CURRENT QTY	CURRENT AMOUNT
CO #4.2	Concrete Mailing	LS	1.0	\$ 5,773.52	5,773.52	1.0	5,773.52	1	\$ 5,773.52	-	\$ -
CO #4.3	Move Vault at Tualatin Rd/Scoones Ferry Intersection	LS	1.0	\$ 1,946.74	1,946.74	100%	1,946.74	100%	\$ 1,946.74	(#)	\$ -
CO #4.4	Timber Retaining Wall - PGE	LS	1.0	\$ 471.27	471.27	1.0	471.27	1	\$ 471.27	-	\$ -
CO #4.5	Irrigation System Credit	LS	1.0	\$ (2,000.00)	-2,000.00	1.0	(2,000.00)	1	\$ (2,000.00)	-	\$ -
					3.00						
	Sub Total				\$ 196,254.95		\$ 202,176.47		\$ 202,176.47		\$ -
	TOTAL WORK COMPLETED TO-DATE				\$ 2,779,242.75		\$ 2,740,247.90		\$ 2,712,626.55		\$ 17,621.34
	LESS 5% RETENTION						\$ 137,012.39		\$ 136,151.33		\$ 881.07
	NET ESTIMATE						\$ 2,603,235.50		\$ 2,586,495.22		\$ 16,740.28
	LESS PRIOR PAYMENTS						\$ 2,586,495.22				\$ -
	TOTAL BALANCE DUE						\$ 16,740.28				\$ 16,740.28

SW 124th Avenue Cost Recovery

February 14, 2011





PROPERTY	LINEAL FOOTAGE	PERCENT TOTAL LINEAL FOOTAGE	PROPOSED RECOVERY CHARGE
2S1 27B/00400	780	15.52%	\$48,449.90
2S1 28A/00100	1340	26.67%	\$83,234.44
2S1 27B/00200	350	6.97%	\$21,740.34
2S1 21DD/00201	395	7.86%	\$24,535.53
2S1 28A/00300	780	15.52%	\$48,449.90
2S1 27B/00300	990	19.70%	\$61,494.10
2S1 22C/01600	390	7.76%	\$24,224.94
TOTAL	5025	100.00%	\$312,129.15

APPROVED BY TUALATIN CITY COUNCIL
Date 2-7-11
Recording Secretary [Signature]

TO: Honorable Mayor and Members of the City Council
THROUGH: Aquilla Hurd-Ravich, Acting Planning Manager
FROM: William Harper, Associate Planner
DATE: 02/14/2011
SUBJECT: Sign Variance for Legacy Bridgeport Clinic in the General Commercial (CG) Planning District at 18010 SW McEwan Road (Tax Map 2S113DD, Tax Lot 1800) (SVAR-10-01)-REQUEST FOR CONTINUANCE-

ISSUE BEFORE THE COUNCIL:

City Council consideration of a request for a continuance of a public hearing for a Sign Variance that would allow a taller freestanding pole sign with increased sign face height and increased sign face area from the maximum allowed by the Tualatin Development Code Chapter 38 Sign Regulations for properties in the General Commercial (CG) Planning District.

RECOMMENDATION:

Upon opening the scheduled and noticed public hearing for SVAR-10-01, the Council should consider the request for a continuance submitted by the Applicant on February 8, 2011. In an email message, the SVAR-10-01 applicant (Mr. Larry Hill of Legacy Health Systems) requested that the February 14, 2011 hearing be continued to late March. Staff recommends the public hearing be continued to the March 28, 2011 Council Meeting.

Attachments:

TO: Honorable Mayor and Members of the City Council
THROUGH: Aquilla Hurd-Ravich, Acting Planning Manager
FROM: William Harper, Associate Planner
DATE: 02/14/2011
SUBJECT: Attachments to Item F-1 - Staff Report Regarding SVAR-10-01.

ISSUE BEFORE THE COUNCIL:

A request for a Sign Variance that would allow a taller freestanding pole sign with increased sign face height and increased sign face area from the maximum allowed by the Tualatin Development Code Chapter 38 Sign Regulations for properties in the General Commercial (CG) Planning District.

RECOMMENDATION:

Staff recommends the City Council consider the staff report and supporting attachments and provide direction.

EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- The applicant is Thomasina Gabriele, representing Legacy Health Systems for a Legacy Medical Group (LMG)-Bridgeport Clinic building tenant. SilverKing LLC is the owner of the 1.56 acres, Tax Lot 1800 (Map 2S113DD) subject property located at 18010 SW McEwan Road in the CG Planning District. The development on the property consists of a 10,000 s.f. one-story building with parking and landscaping. The property has two ingress/egress accesses on the adjoining SW McEwan Road frontage. The vicinity of the site includes commercial development to the north and east, self-storage businesses and the NW Natural Service Yard (across SW McEwan Road to the south) in the ML (Light Manufacturing) Planning District. The I-5 Freeway north bound lane is approximately 90 ft. from the subject property (west of SW McEwan Road) and approximately 195 ft. from the SilverKing Building west tenant entrance. A Vicinity Map, a Tax Map and a Site Map are included as Attachments A, B & C respectively. The applicant's materials including a site plan are included as Attachment D.
- Legacy Medical Group (LMG)-Bridgeport Clinic occupies a 5,200 sq. ft. portion of the SilverKing Building that opened when the tenant improvements were completed in the Fall of 2010. The other building tenant is an office use. The applicant describes the clinic as:

"...a primary care clinic with both internal medicine and family practice physicians. In addition, Legacy Laboratory Services has a phlebotomist on site to do lab draws for all clinic hours of operation." (Attachment D, pg. 1).

The LMG-Bridgeport Clinic utilizes an existing freestanding monument sign located on the subject property's SW McEwan Road frontage. The existing freestanding monument sign was approved in S-10-019 with a sign height of 4.5 ft. and a sign face area of 39 sq. ft.

- LMG-Bridgeport Clinic seeks the Sign Variance to allow a taller pole sign, increased

sign face height and additional sign face area for location on the SilverKing property. The Sign Code allows freestanding monument signs and pole signs in the CG Planning District with the standards in TDC 38.220 (1)(a, c) (Attachment F). A freestanding pole sign on the SilverKing property would be subject to the standards of TDC 38.220(1)(c), allowing a sign height of 15 feet, a sign face height of 8 feet and a sign face area of 48 square feet.

- A property owner such as SilverKing LLC that is seeking to obtain sign permit approval to erect a freestanding pole sign that does not meet the standards of the Sign Code in TDC Chapter 38 has two options: 1. obtain Council approval of a Sign Variance to allow the proposed sign or, 2. obtain Council approval of a Plan Text Amendment to TDC Chapter 38 to change the standards for a freestanding sign.
- The Legacy Bridgeport Clinic application seeks a variance to allow the “The proposed pole sign is 35 feet above grade with the sign face beginning 23 feet above grade and sign face area of 78 square feet” (Attachment D pg. 1). In the Introduction, the applicant states:

“The property is adjacent to I-5, but not visible from the freeway. Access to the property is convenient from I-5, via the Lower Boones Ferry exit. However, wayfinding to the address on SW McEwan is confusing.” (Attachment D, pg. 1).

In the narrative, the applicant states:

“Patients coming to the clinic mostly drive to the clinic via the freeway, exit onto SW Lower Boones Ferry Road and then turn and drive nearly one half mile on little known SW McEwan Road.” “...already there have been patients reporting they could not find the clinic...” “The proposed sign, visible from both directions on I-5 would assist in marking the location of the clinic and assure patients they are driving in the right direction and they will arrive after traveling some distance on McEwan.” (Attachment D, pp 1-2).

“The proposed sign size and height are necessary to provide visibility from Interstate 5 in both the northbound and southbound approaches, create a presence and provide a landmark for patients that have overshot the nearest north or south freeway exits and have difficulty finding the clinic.” (Attachment D, pg. 6)

- The Applicant has prepared a narrative that describes the sign variance request and addresses the Sign Variance approval criteria (Attachment D). Attachment E is the Background Information and staff has reviewed the Applicant’s material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F).
- In response to concerns about the large size and unattractive appearance of a number of freestanding pole signs in the commercial areas of Tualatin, the City Council amended the Sign Code in June 2008 (Ordinance 1261-08) to remove tall and large freestanding pole signs as allowed signs in the vicinity of the I-5 Freeway interchanges (SW Nyberg Street and SW Lower Boones Ferry Road) and in the Central Commercial (CC) & General Commercial (CG) Planning Districts. The amendment also revised provisions for non-conforming freestanding signs to allow oversized freestanding signs to remain indefinitely or be altered if the sign height and size are reduced. The existing 45 ft. tall, 250 square foot area pole signs located in the vicinity of the SilverKing property (ie. Burger King, Motel 6, Carl's Jr.) are non-conforming signs and new signs of that size are no longer allowed by the Sign Code.
- As a means to improve the appearance of freestanding signs in commercial

areas of Tualatin, the City Council amended the Sign Code in May 2010 (Ordinance 1302-10) to add provisions for design standards and a "Level I" review process for freestanding signs in the CC & CG Planning Districts, restricting freestanding pole signs to Collector and Local Commercial streets, and revisions to TDC 35.200 Non-Conforming Signs allowing structural modifications to non-conforming freestanding signs. New freestanding signs are subject to the Sign Design Standards of TDC 38.075.

- The City Council has both granted and denied Sign Variances. The following applications were approved: SVAR-92-01 for the Best Western (Pole Sign-Height increase) and SVAR-09-01 for Dick's Sporting Goods (Wall Sign-Face Height and Area increase). The following applications were denied: Sign Variances SVAR-92-02 for Sweetbrier Inn (Pole sign-Increased Height & Area); SVAR-95-01 for Ben Lake Building (Additional Freestanding Sign); SVAR-95-02 for Michaels Crafts (Wall Sign-Increased Height & Area); and SVAR-96-01 for GI Joe's (Wall Sign -Increased Height).
- The application was submitted on October 22, 2010 and determined complete on November 18, 2010. The statutory 120th day within which a decision must be made is March 18, 2011. This hearing is on day 88. A public hearing notice was mailed to property owners within 1,000 feet of the subject property.
- The applicable policies and regulations that apply to the proposed Sign Variance include: TDC 6.030 Commercial Planning District Objectives; TDC 20.030-Sign Design Objectives; TDC Chapter 33-Variances; TDC Chapter 38-Sign Regulations.
- Before granting the proposed sign variance, the City Council must find that the sign variance criteria 1-6 listed in TDC 33.022 are met: The Analysis and Findings (Attachment F) examines the application in respect to the criteria for granting a Sign Variance. In the Analysis and Findings, Staff finds that the applicant has not demonstrated that Sign Variance Criteria 1, 2, & 4 [(1) Hardship circumstances; (2) Hardship not created by choice, and; (4) Preservation of a property right possessed by others in the same Planning District] are met.

OUTCOMES OF DECISION:

Approval of the Sign Variance request as proposed by the applicant will result in the following:

1. Allows Legacy Medical Group-Bridgeport Clinic to obtain a sign permit for and erect a freestanding pole sign with a sign height of 35 ft. and sign face height of 12 ft. and 78 square feet of sign face area on the subject property, located in a CG Planning District.

Approval of the Sign Variance with conditions chosen by the Council can address the following Sign Code standards that apply to the proposed sign and issues related to ensuring location of the sign outside the public right of way, protection of trees and stating terms of non-conformance if the applicant's medical clinic or a succeeding medical clinic use no longer occupy the subject property. The following issues were identified by staff in the Analysis & Findings Attachment F with recommended conditions.

1. Remove or relocate the existing freestanding monument sign on the SilverKing property frontage in compliance with TDC 38.220(1)(a) (remove existing monument sign or relocate 300 ft. or more from the proposed pole sign);
2. Compliance with the Sign Design standards for freestanding signs in TDC 38.075 (meet sign structure and exterior design element requirements);

3. Locate the proposed sign outside the public right of way (clearly identify SW McEwan Road property boundary).
4. Ensure existing trees in the public right of way or on Interstate 5 property will be protected from removal based on claims of obscuring or interfering with visibility of a sign approved by the proposed variance.
5. Decide if the approved sign with the varied sign dimensions can or cannot remain on the SilverKing property at such time the medical clinic use that justified the sign variance is no longer located on the property.

Denial of the Sign Variance request will result in the following:

1. The applicant will not be allowed to construct the proposed pole sign with the increased sign height, increased sign face height and sign face area greater than 48 sq. ft.

ALTERNATIVES TO RECOMMENDATION:

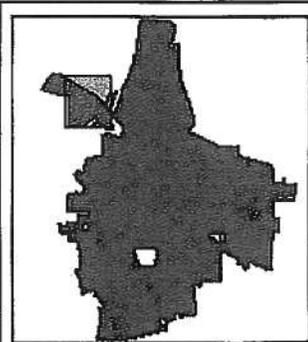
The alternatives for the Council are:

- Approve the proposed Sign Variance with findings and conditions to support a determination that the applicant has met each of criteria 1-6 in TDC 33.022.
- Deny the request for the proposed Sign Variance with findings that state which criteria in TDC 33.022 the applicant has failed to meet.
- Continue the discussion of the proposed Sign Variance and return to the matter at a later date.

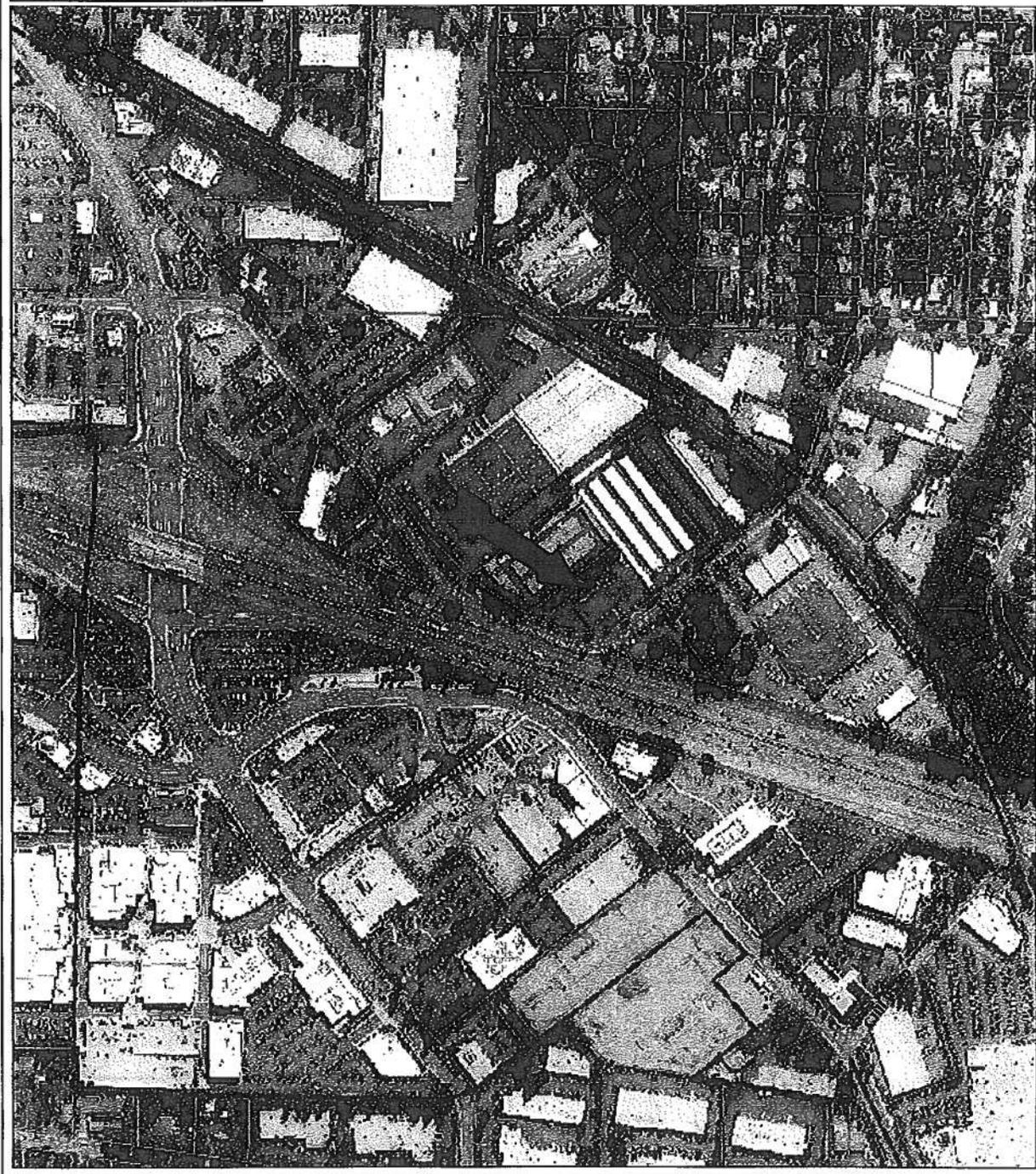
FINANCIAL IMPLICATIONS:

The applicant submitted the required \$646.00 fee with the Sign Variance SVAR-10-01. Revenue for Sign Variances has been budgeted for Fiscal Year 10/11.

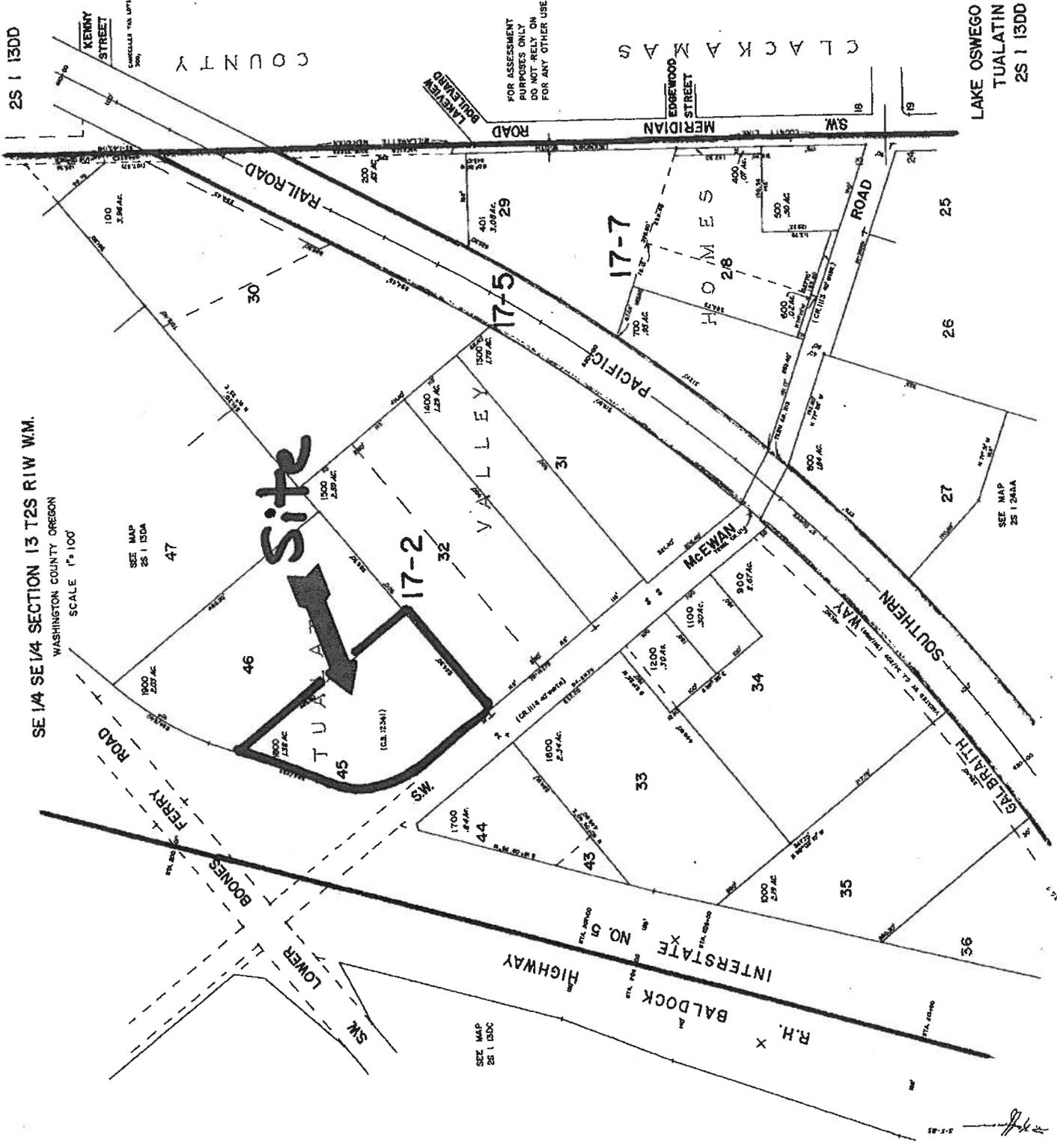
Attachments: A-C Vicinity, Tax and Aerial Maps
 D Application Narrative
 E Background & Public Involvement
 F Analysis & Findings
 G Freestanding Sign Standards (CC/CG)



Scale 1:6,240
1 in = 520 ft



ATT
A



SE 1/4 SE 1/4 SECTION 13 T2S R1W W.M.
 WASHINGTON COUNTY OREGON
 SCALE 1" = 100'

CLACKAMAS COUNTY

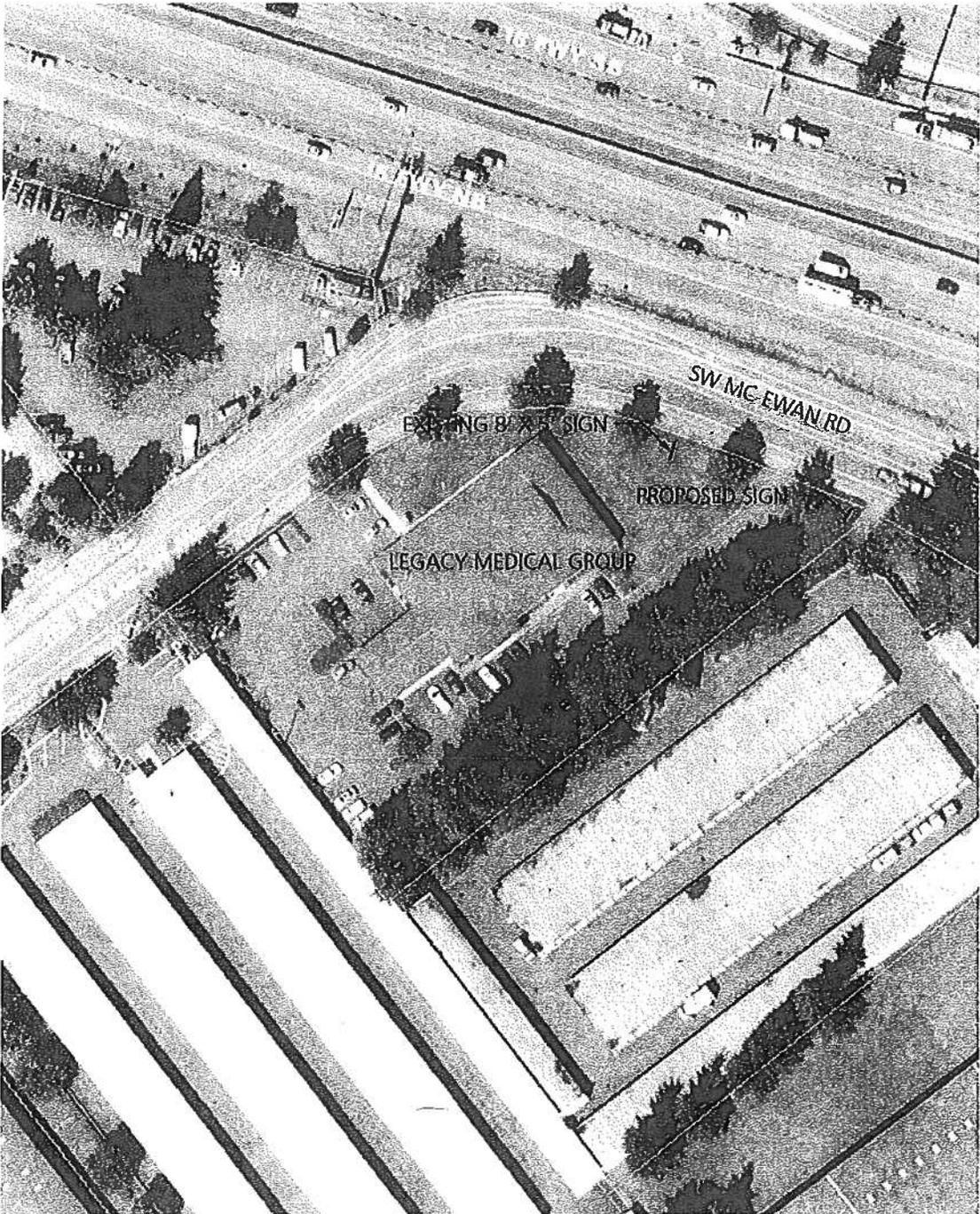
LAKE OSWEGO
 TUALATIN
 2S 1 13DD

FOR ASSESSMENT
 PURPOSES ONLY
 DO NOT RELY ON
 FOR ANY OTHER USE

Site

ATT B

Exhibit 2
Sign Plan



ATT C



City of Tualatin

www.ci.tualatin.or.us

SIGN VARIANCE APPLICATION

BUSINESS NAME LMG - BRIDGEPORT CLINIC CONTACT PERSON ^{CINDY} HALDERSON PHONE 503-692-2193
 ADDRESS 18010 SW McEwan CITY LAKE OSWEGO STATE OR ZIP 97035
 APPLICANT'S NAME THOMASINA GABRIEL PHONE 503-312-8002
 ADDRESS 2424 NW NORTHROP CITY PORTLAND STATE OR ZIP 97210

AS THE PERSON RESPONSIBLE FOR THIS APPLICATION, I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND THE INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE.

APPLICANT'S SIGNATURE Thomasina Gabriel DATE 10/22/10
 PROPERTY OWNER'S NAME Legacy Health System PHONE 503-415-5675
 ADDRESS 1919 NW Lovejoy CITY Portland STATE OR ZIP 97209
 PROPERTY OWNER'S SIGNATURE _____ DATE _____
 Power of attorney/letter of authorization required if not signed by owner.

BUILDING OWNER'S NAME _____ PHONE _____
 (If different than property owner.)
 ADDRESS _____ CITY _____ STATE _____ ZIP _____

BUILDING OWNER'S SIGNATURE _____ DATE _____
 Power of attorney/letter of authorization required if not signed by owner.

VARIANCE REQUEST

A BRIEF STATEMENT OF THE VARIANCE REQUESTED AND THE SIGN ORDINANCE SECTION NO. VARIANCE TO POLE SIGN DEVELOPMENT STANDARDS FOR HEIGHT 33.220.1.c.iii 35'; height of sign face iv: 23', and sign face area v: 78 SF.
 SUBMIT SEPARATE SHEETS WITH THE SUPPORTING MATERIAL ADDRESSING THE SIGN VARIANCE CRITERIA [TDC 33.020 (6-11)] AND EXPLAINING WHY AND HOW THE REQUESTED VARIANCE MEETS THE CRITERIA.

PROJECT INFORMATION

PLANNING DISTRICT C.G. PROPOSED/EXISTING USE MEDICAL CLINIC
 TAX MAP NO. T 02 S R 0 W 513 TAX LOT NO. 25113 0001800 PARCEL SIZE 1.36 ACRES

Date App Rcvd: _____ Received by _____ Date App Complete _____
 Receipt # _____ Variance Fee _____ Circle one: Cash Check Credit Card
 Sign Variance Case No. _____



GABRIELLE
DEVELOPMENT SERVICES

WRITTEN STATEMENT FOR LEGACY BRIDGEPORT CLINIC SIGN VARIANCE

Introduction

Legacy Medical Group (LMG) Bridgeport Clinic is a primary care clinic with both internal medicine and family practice physicians. In addition, Legacy Laboratory Services has a phlebotomist on site to do lab draws for all clinic hours of operation. It is conveniently located for residents of Lake Oswego, Tigard, and Tualatin. The property is adjacent to I-5, but not visible from the freeway. Access to the property is convenient from I-5, via the Lower Boones Ferry exit. However, wayfinding to the address on SW McEwan is confusing.

The clinic serves a broad patient population of all age groups, a broad range of socio-economic statuses, and a mix of commercially and government insured, as well as some uninsured. In addition to appointments, walk-ins are accepted on a space-available basis and can generally be accommodated with same-day or next day appointments. The clinic accepts Medicare patients. Since finding a provider that accepts Medicare is often difficult, patients often drive from far distances to seek care.

This written statement addresses the approval criteria for granting a sign variance to the 38.220.1 (c) Pole Sign Development Standards in the CG General Commercial zone for iii height above grade: 15 feet, iv height of sign face: 8 feet, and v sign face area: 48 square feet. The proposed pole sign is 35 feet above grade with the sign face beginning 23 feet above grade and a sign face area of 78 square feet.

Section 33.022 Criteria for Granting a Sign Variance.

No sign variance shall be granted by the City Council unless it can be shown that approval criteria (1)-(6) are met:

(1) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same planning district, and the conditions are a result of lot size or shape or topography over which the applicant or owner has no control.

The Bridgeport Clinic is located on a street generally running parallel and adjacent to the I-5 freeway. Patients coming to the clinic mostly drive to the clinic via the freeway, exit onto Lower Boones Ferry Road and then turn and drive nearly one half mile on little known SW McEwan Road. The length and curves of SW McEwan Road create hardship in the form of making patients unsure that they are going the right way as they travel beyond the business parks and other commercial uses. This uncertainty is exacerbated by the curves that make it difficult to see ahead and the curve prior to the clinic which makes it appear that the road is ending or is going to reconnect with the freeway. The clinic has been open

2424 NW Northrup
Portland, OR 97210
971-252-1363
503.312.8002 (cell)

one month, and already there have been patients reporting that they could not find the clinic and returned home or turned around thinking they had missed it and arrived twenty to thirty minutes late for their appointment. The proposed sign, visible from both directions on I-5 would assist in marking the location of the clinic and assure patients they are driving in the right direction and that they will arrive after traveling some distance on McEwan.

(2) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances or from the financial situation of the applicant or owner or the company, or from regional economic conditions.

The distance from the freeway exits and the curve in the road did not result from any action of current or previous owners. The property was selected after an extensive search for a suitable building that could best serve residents of the area. Given the commercial and suburban nature of the service area, there were no properties available whose location would be found more easily by patients using signs that met the sign code standards.

(3) The variance is the minimum remedy necessary to eliminate the hardship.

The area and height of the sign is the minimum needed to be visible from the freeway and to be readable. Mayer/Reed studied the view corridors from the I-5 to propose a sign location that could be seen from either direction with enough time for a driver to read it and prepare to exit the freeway.

(4) The variance is necessary for the preservation of a property right of the owner substantially the same as is possessed by owners of other property in the same planning district, however, nonconforming or illegal signs on the subject property or on nearby properties shall not constitute justification to support a variance request.

The variance will preserve the ability for the hospital and its clinics to best serve the needs of the patients similar to other hospital clinics in the area such as Providence.

(5) The variance shall not be detrimental to the general public health, safety and welfare, and not be injurious to properties or improvements in the vicinity.

The sign will be constructed to be safe with quality materials and design that will not detract from the properties or improvements in the vicinity. Legacy has retained Mayer/Reed, a highly recognized sign designer, and Pathway Design/Vancouver Sign Group, an experienced sign contractor, to ensure the best methods of construction and the highest quality of design.

(6) The variance shall not be detrimental to the applicable Sign Design Objectives, TDC 20.030.

The following addresses the pertinent Sign Design Objectives. Where applicable, an explanation addresses a group of related objectives.

- (1) Preserve the right of free speech exercised through the use of signs.
The proposed sign will allow Legacy to inform its patients of the clinic location.
- (2) Protect the public health, safety and welfare.

The location, size and design of the sign is not detrimental to this criteria. The services provided at the clinic serve the health needs of residents of Lake Oswego, Tigard, and Tualatin, as well as for I-5 commuters coming from surrounding communities. The health needs of all patients, but especially low income and Medicare patients that have few healthcare options and often travel long distances to have access to a provider, will benefit from being able to see the clinic location from the freeway.

- (3) Protect persons and property in rights-of-way from unsafe and dangerous signs that distract, rather than inform, motorists, bicyclists and pedestrians.

The sign presents a straight-forward message identifying the clinic in a restrained manner that is consistent with Legacy corporate design standards for signage. Sign placement will not distract, or create site line problems for motorists traveling SW McEwan, or for motorists entering or exiting the property.

- (4) Protect persons and property from unsafe and dangerous signs due to natural forces, including but not limited to wind, earthquakes, precipitation and floodwaters.

The sign will be fabricated and installed to all applicable codes.

- (5) Protect persons and property from unsafe and dangerous signs due to improper construction, repair and maintenance.

As noted in Criteria 4 above, the sign will be engineered by a licensed structural engineer and will be fabricated and installed by licensed sign contractor. Legacy has the staff and capacity to maintain the sign to the same level as other Legacy properties and campuses. The placement of the sign and the use of a logo make the sign an easy-to-understand marker for motorists.

- (6) Protect and enhance the visual appearance of the City as a place to live, work, recreate, visit and drive through.

- (7) Protect and enhance the quality streetscapes, architecture, landscaping and urban character in Tualatin.

- (8) Protect and enhance property values.

- (9) Protect and enhance the City's economy.

- (10) Ensure the number, height and dimensions of signs allowed adequately identifies a business or use and does not result in sign clutter.

The design fits with a sign typology that Mayer/Reed is designing for Legacy that will be a clean, consistent, informative identity to its buildings and campuses throughout the region. The sign will use high quality, long lasting materials for the pole – painted steel – and the sign cabinet – aluminum with an internally illuminated acrylic sign face. Materials, appearance and workmanship will be similar to the existing monument sign located on the property. The size of the sign is the minimum required to provide needed identity and way-finding for patients. The existing monument sign will be removed to comply with having only one sign per frontage.

- (11) Allow greater sign heights and dimensions for Major Commercial Centers.

The property does not meet the definition of a Major Commercial Center.

- (12) Allow only temporary signs on a property with no building.
The proposal is for a permanent sign.
- (13) Allow no new permanent sign, or a change of face on an existing permanent sign, on a property with an unoccupied building.
The building is occupied.
- (14) Allow permanent signs only on buildings, or parts of buildings, that are occupied.
The sign is not on a building.
- (15) Regulate the number, height and dimensions of temporary signs.
The proposed sign will be permanent.
- (16) In the manufacturing and institutional planning districts allow permanent freestanding monument signs, but not permanent freestanding pole signs.
The property is not in a manufacturing or institutional planning district.
- (17) In the residential planning districts sign numbers, heights and dimensions for dwelling units shall be restricted and for conditional uses shall be consistent with the use.
The property is not in a residential planning district.
- (18) Allow indirect and internal illumination in residential planning districts for conditional uses.
The property is not in a residential planning district, however the sign will be internally lit.
- (19) Allow greater sign diversity in the Central Urban Renewal District's Central Design District for uses on properties abutting the City owned promenade around the Lake of the Commons.
The property is not in this district.
- (20) The wiring for electrically illuminated freestanding signs shall be underground and for wall signs shall be in the wall or a race.
The wiring will be underground.
- (21) Adopt sign regulations for the Mixed Use Commercial Overlay District that are consistent with the type and high quality of developments desired in the District. New sign types to be allowed are wall-mounted plaques and in-laid floor signs.
The property is not in this district.
- (22) Adopt Sign Design standards and a Sign Design Review process for freestanding signs in commercial districts that encourage attractive and creative signage with varied design elements such as proportionally wider sign bases or pylons, a mix of exterior materials that have a relationship to building architecture, use of dimensional lettering and logos with halo or internal lighting and is consistent with the high quality of developments desired in commercial districts.
The proposed sign is made of steel, aluminum and acrylic. The sign face includes a logo

and is internally lit.

(23) In Central Commercial and General Commercial planning districts, allow permanent freestanding monument signs on Arterial Streets, and restrict permanent freestanding pole signs to Collector or Local Commercial Street frontages.

The property is in a General Commercial planning district. The proposed freestanding pole sign is located on a local commercial street frontage.

(24) Create an incentive for improvement of existing freestanding signs and adopt provisions allowing non-conforming freestanding signs in commercial districts to retain non-conforming sign status when structurally altered subject to improved compliance with Sign dimension and Sign Design standards

The proposed sign is a new sign although there was an existing pole sign previously on the property.

Exhibit 1
Sign Illustration



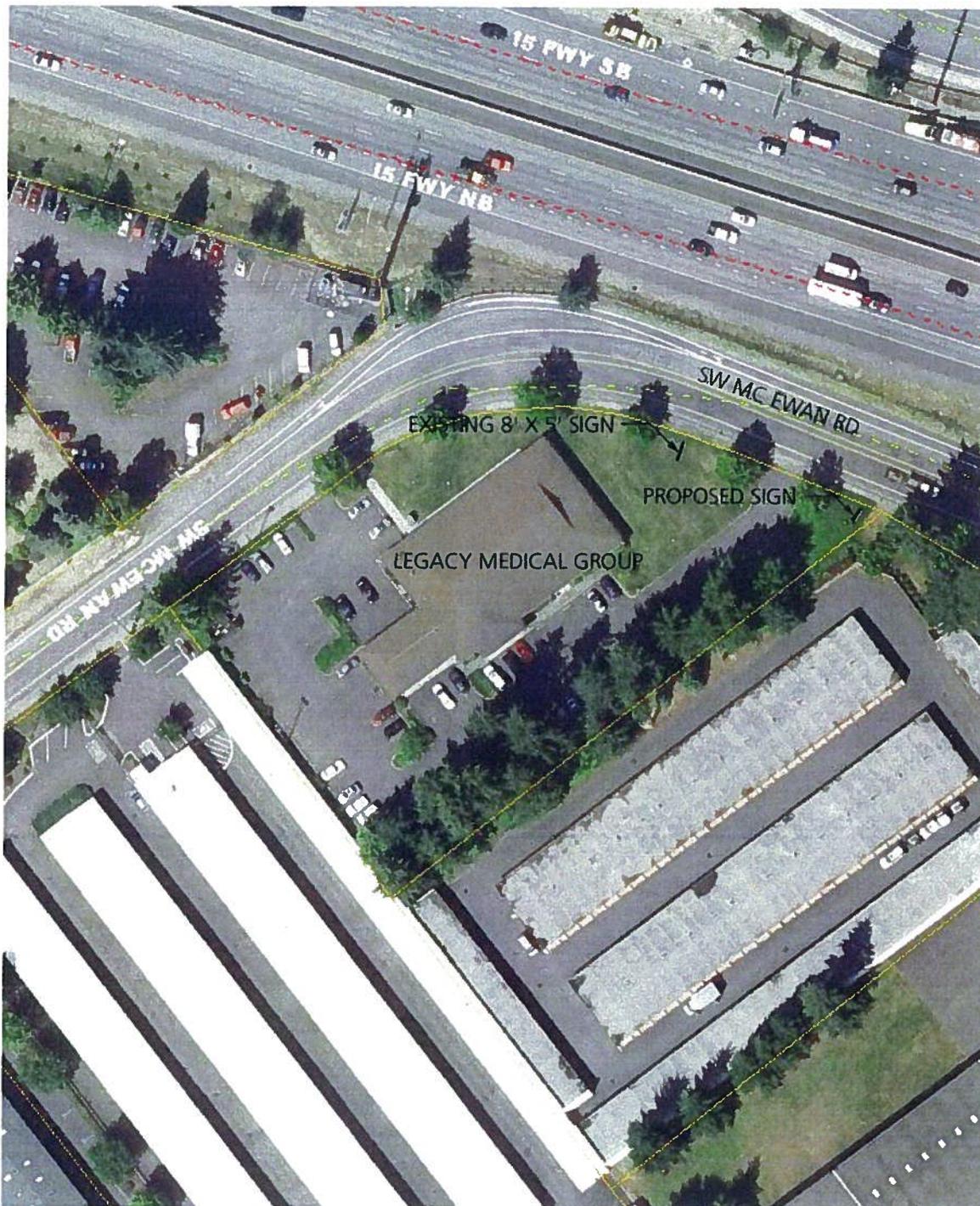
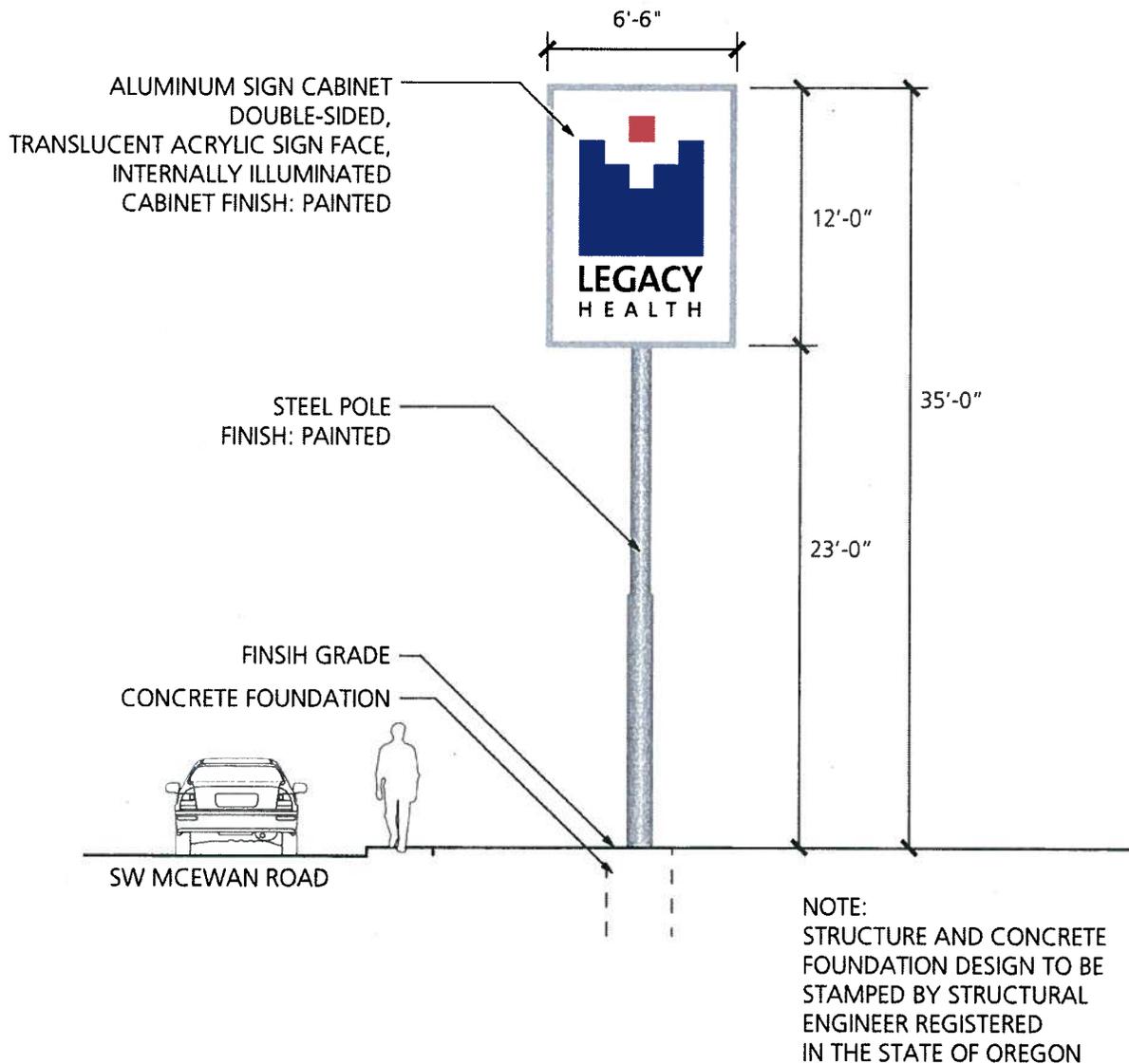


Exhibit 3
Sign Construction



PROPOSED POLE SIGN SIZES
HEIGHT ABOVE GRADE: 35'-0"
HEIGHT OF SIGN FACE: 23'-0"
AREA OF SIGN FACE: 78 SQ. FT.

POLE SIGN CODE REQUIREMENTS
HEIGHT ABOVE GRADE: 15 FT MAX
HEIGHT OF SIGN FACE: 8 FT MAX
AREA OF SIGN FACE: MAX 48 SQ. FT.

SCALE: 1/8" = 1'

ATTACHMENT E

SVAR-10-01: BACKGROUND INFORMATION

Pertinent background information obtained from the submitted application for SVAR-10-01 and other supporting documents is summarized in this section.

The applicant is Thomasina Gabrielle, representing Legacy Health Systems for Legacy Medical Group (LMG)-Bridgeport Clinic building tenant. SilverKing LLC is the owner of the 1.56 acre, Tax Lot 1800 (Map 2S113DD) subject property located at 18010 SW McEwan Road in the CG (General Commercial) Planning District.

Legacy Medical Group Bridgeport Clinic occupies a portion of the SilverKing Building on the property. The other building tenant is a general office. The building was constructed as a State Farm Insurance Claim Center as approved in Architectural Review AR-81-25. There have been minor modifications to the building after State Farm sold the facility and commercial office uses occupied the building. LMG remodeled the interior of the north portion of the building and began operating in September of 2010. A monument style sign identifying the LMG clinic was erected on the property as per sign permit S-10-19.

The applicant describes the LMG clinic as:

“...a primary care clinic with both internal medicine and family practice physicians. In addition, Legacy Laboratory Services has a phlebotomist on site to do lab draws for all clinic hours of operation.” (Attachment D, pg. 1).

The applicant seeks to erect a pole sign to increase visibility and identification of the business direct to persons traveling the nearby I-5 freeway and to the adjoining section of SW McEwan Road. The proposed Sign Variance would allow a taller sign, increased sign face height and additional sign face area over what is currently allowed in CG Planning District.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting at the SilverKing Building on October 13, 2010, to explain the Sign Variance proposal to neighboring property owners and to receive comments. Aside from the applicants' representatives, no one attended the meeting.

ATTACHMENT F

SVAR-10-01: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 33.022(1)-(6) must be met if the proposed Sign Variance to allow the Legacy Medical Group-Bridgeport Clinic a pole sign with an increased sign height, sign face height and sign face area is to be granted. The Applicants prepared a narrative that addresses the Sign Variance criteria (Attachment D). Staff has reviewed the Applicants' material and included pertinent excerpts with each of the criteria in the analysis and findings below.

1. A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same planning district, and the conditions are a result of lot size or shape or topography over which the applicant or owner has no control.

The LMG-Bridgeport Clinic is a tenant in the SilverKing Building located on the 1.56 acres, Tax Lot 1800 (Map 2S113DD) subject property located at 18010 SW McEwan Road in the CG Planning District (Attachments A-C). The building faces west toward SW McEwan Road and a segment of the I-5 Freeway. The I-5 Freeway north bound lane is approximately 90 ft. from the subject property (west of SW McEwan Road) and approximately 195 ft. from the SilverKing building west tenant entrance. The site elevation (near the property's north entrance driveway) is approximately 179 ft. compared to the 176-182 ft. elevation of the I-5 North-Bound lanes opposite the SilverKing property.

The property consists of the SilverKing Building with 2-3 tenant spaces, a large landscaped area on the SW McEwan Road frontage, a parking area on the east side of the building and two accesses to SW McEwan Road,

The property currently has a low-profile freestanding monument style sign west of the building and adjacent to the SW McEwan Road right-of-way. The Sign Regulations for the CG Planning District allows a property such as the subject property with over 1.5 acres in size and over 500 ft. of public street frontage to have up to 2 freestanding monument signs with a maximum height of eight (8) ft. and 40 sq. ft. of sign face area. One of the freestanding signs allowed may be a freestanding pole sign a maximum height of 15 ft. and 48 sq. ft. of sign face area.

The LMG-Bridgeport Clinic application proposes a variance to allow the proposed pole sign to be "...35 feet above grade with the sign face beginning 23 feet above grade and sign face area of 78 square feet" (Attachment D pg. 1). The reasons for the larger freestanding pole sign dimensions are given as:

"The property is adjacent to I-5, but not visible from the freeway. Access to the property is convenient from I-5, via the Lower Boones Ferry exit. However, wayfinding to the address on SW McEwan is confusing." (Attachment D, pg. 1).

“...already there have been patients reporting they could not find the clinic...” “The proposed sign, visible from both directions on I-5 would assist in marking the location of the clinic and assure patients they are driving in the right direction and they will arrive after traveling some distance on McEwan.” (Attachment D, pp 1-2). “The proposed sign size and height are necessary to provide visibility from Interstate 5 in both the northbound and southbound approaches, create a presence and provide a landmark for patients that have overshot the nearest north or south freeway exits and have difficulty finding the clinic.” (Attachment D, pg. 6)

In addressing Criterion 1 (Attachment D, pp. 1-2), the applicant states:

“The Bridgeport Clinic is located on a street generally running parallel and adjacent the I-5 freeway. Patients coming to the clinic mostly drive to the clinic via the freeway, exit onto SW Lower Boones Ferry Road and then turn and drive nearly one half mile on little known SW McEwan Road. The length and curves of SW McEwan road create hardship in the form of making patients unsure that they are going to right way as they travel beyond the business parks and other commercial uses. This uncertainty is exacerbated by the curves that make it difficult to see ahead and the curve prior to the clinic which makes it appear that the road is ending or is going to reconnect with the freeway. The clinic has been open one month (reported in October 2010) and already there have been patients reporting they could not find the clinic and returned home or turned around thinking they had missed it and arrived twenty to thirty minutes late for their appointment. The proposed sign, visible from both directions on I-5 would assist in marking the location of the clinic and assure patients they are driving in the right direction and that they will arrive after traveling some distance on McEwan.”

“Legacy Health’s service area for the Bridgeport Clinic is an extension of the Legacy Meridian Park Hospital and is primarily accessed from the Interstate 5 corridor that is adjacent to the property.” (Attachment D, pg. 6)

Sign Variance Criterion 1 requires finding there is a “hardship” and there are physical circumstances present on a property that are unique or uncommon when compared to other properties in the same planning district. It is the most difficult criteria to meet for a variance applicant. Staff finds that the applicant for the SilverKing property/LMG-Bridgeport Clinic does not provide information that supports a claim that a “hardship” caused or created by “...exceptional or extraordinary conditions applying to the property that do not generally apply to other properties in the same planning district” exists in the case of the SilverKing subject property or for the LMG Bridgeport Clinic tenant/applicant.

The subject property and building were constructed by the original developer in 1981 with a site and building location close to and oriented toward the I-5 Freeway and Lower Boones Ferry Road and a street frontage on SW McEwan Road that were approved in Architectural Review and were appropriate and suitable for commercial businesses that

were located there at the time. The State Farm Insurance Claim Center business which was an office and commercial service use and a subsequent general office use that were in the building from 1982 through 2010 did not claim or identify hardship conditions for the businesses or for their customers due to poor exposure to I-5 or a location on SW McEwan Road away from the I-5 Exit 290 Interchange.

The SilverKing property's site configuration, orientation to an adjoining Collector Street, location off of an arterial street or freeway interchange and limited exposure to traffic on I-5 are common development characteristics of office buildings in Tualatin commercial districts. Examples include the office buildings in the Sagert Office Park (Express Personnel, Morton & Associates, South Park Place Building), South Center Office Park, Bridgeport Crossing and the Providence Medical Clinic. These examples exhibit similar circumstances to the SilverKing property where some visibility from I-5 is available to the office development, but prolonged signage exposure or direct access is not possible due to the nature of freeway traffic (55-60 MPH typical speed), presence of trees and other buildings narrowing the view of a freeway driver, and the location of the property in respect to access from the two freeway interchanges at SW Nyberg Street and SW Lower Boones Ferry Road in Tualatin. None of the office buildings in Tualatin enjoy direct access from a I-5 freeway interchange and few have more than intermittent or minimal sign exposure to freeway drivers that would be sufficient to allow a freeway driver to identify a office building or business and exit the freeway at the closest interchange. The subject property's lack of direct and unobstructed visibility from I-5 freeway traffic to a sign and direct street access from a freeway interchange off ramp is a common situation. It is not shown to be an exceptional or extraordinary condition that does not apply generally to other commercial (CC or CG) Planning District properties. It does not create or result in a hardship.

While most commercial developments and buildings in Tualatin do not enjoy direct and unobstructed visibility to I-5 freeway traffic, some businesses or commercial centers have locations abutting the freeway and take advantage of any freeway exposure with wall or freestanding signs to present their message. In the vicinity of the subject property are several restaurant, motel and service station businesses on SW McEwan Road that have tall and large non-conforming pole signs (formerly known as Freeway Oriented Signs) that were established in the 1970's and 80's and allowed at the two I-5 interchanges until 2009. No office buildings or medical facilities have been or are eligible for the freeway oriented pole signs.

Like the large majority of other commercial properties in Tualatin, the SilverKing Building / LMG Bridgeport Clinic business does not have a large freeway-oriented pole sign consistent with the sign regulations in effect since the property was developed. The lack of direct and unobstructed visibility from I-5 freeway and interchange traffic to a taller, larger sign is not an exceptional or extraordinary condition present on the subject property that: 1. Does not apply generally to other commercial (CC or CG) Planning District properties, and; 2. Creates or results in a hardship.

The topography of the SilverKing site and subject property remains relatively unchanged since development in 1980's with a favorable elevation relative to SW McEwan Road (building and site similar in elevation) and to the elevation of the I-5 Freeway northbound lanes at Exit 290 (similar to the freeway surface). Except for the maturing of landscaping and trees and some lane widening on I-5, the building's visibility to SW Lower Boones Ferry Road is relatively unchanged from the time the development was constructed. The SilverKing Building's relative elevation to SW McEwan Road and the surrounding topography are not unfavorable and do not create an exceptional or extraordinary situation on the subject property.

The application has not demonstrated that the SilverKing building or the LMG Bridgeport Clinic tenant is subject to a hardship created by exceptional or extraordinary conditions that do not apply generally to other commercial (CC or CG) Planning District properties.

Criterion 1 is not met.

To identify a hardship and justify a variance remedy, the applicant's reasons rely on the statement of certain factors associated with operation of a medical clinic and the perceived needs of clinic patients and visitors that were applied to the subject location. Unless conditioned in a decision to approve a sign variance, the sign approved by a variance may remain as a legal, conforming sign indefinitely and available to all uses, purposes and messages. Over time and with a change in the tenancy or ownership of the SilverKing Building, the stated justification for the sign may no longer be present or the sign owner no longer may be interested in displaying a message that achieves the purpose that the variance may have been granted for. To ensure that a sign variance for the taller, larger commercial sign will continue to serve the purposes it was granted for and not be taken over for a use not associated with a medical clinic, Staff recommends that if the proposed sign variance is approved, the following condition of approval be considered:

1. The variance for the SilverKing freestanding pole sign is intended to serve a medical clinic. If a medical clinic ceases to occupy the Silver King Building for a period of 180 days or more, the Sign Variance will become void. The freestanding sign approved in the Sign Variance will be removed by the property owner within 60 days of notification by the City that the condition of approval must be met or the sign removed or replaced as per applicable sign regulations.

2. The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances or from the financial situation of the applicant or owner or the company, or from regional economic conditions.

In addressing Criterion 2 (Attachment D, pg. 2), the applicant states:

“The distance from the freeway exits and the curve in the road did not result from any action of current or previous owners. The property was selected after an extensive search for a suitable building that could best serve residents in the area. Given the commercial and suburban nature of the service area, there were no properties available whose location would be found more easily by patients using signs that met the sign code standards.”

As addressed under Criterion 1 above, the existing physical and property conditions on the SilverKing Building are relatively unchanged since the area was developed in the early 1980's. The conditions present today are minor changes from the early 80's mostly the result of improvements to the I-5 freeway (lane widening, maintenance of vegetation along the east side of the freeway). There is no evidence that conditions of visibility or exposure are any worse than when the subject property was developed. The actions of the previous owners and developers of the subject property and building did not create the physical circumstances of the property's current visibility to SW McEwan Road or to the I-5 freeway.

There is no evidence that lack of direct freeway visibility for a pole sign is an exceptional circumstance or condition. The desire for signage that would increase the visibility of a message from the I-5 freeway over and above the visibility and other advantages that the property possesses today is a choice and decision by the property owner or tenant. There is no evidence that there is a hardship to overcome for the SilverKing Building property.

The LMG-Bridgeport Clinic is concerned about providing adequate information to patients as to the clinic's location and giving patients a clearer idea on the way to get to the clinic from I-5 or Lower Boones Ferry Road. This application focuses on using a pole sign to identify the property. There is no evidence as to what degree this method will improve the directional and wayfinding needs of persons visiting the clinic. Other methods of addressing the concern such as advertising, maps, on-freeway message panels are not provided in the application.

Compliance with Criterion 2 is undetermined due to the lack of evidence of a hardship and establishing any alternative ways to achieve the applicant's stated purposes.

3. The variance is the minimum remedy necessary to eliminate the hardship.

In addressing Criterion 3, the applicant states:

“The area and height of the sign is the minimum needed to be visible from the freeway and to be readable. Mayer/Reed studied the view corridors from the I-5 to

propose a sign location that could be seen from either direction with enough time for a driver to read it and prepare to exit the freeway (Attachment D, pg. 2)

“The proposed sign size and height are necessary to provide visibility from Interstate 5 on both the northbound and southbound approaches, create a presence and provide a landmark for patients that have overshot the nearest north or south freeway exits and have difficulty finding the clinic.” (Attachment D, pg. 6)

“The sign is scaled for the viewing distance and traffic speed on Interstate 5 and will be optimally placed on the property to be visible for both northbound and southbound Interstate 5 traffic. The proposed sign size and height has taken into consideration vehicular sight lines that are limited by mature tree canopies on adjacent properties and topography between Interstate 5 and the site.” (Attachment D, pg. 6)

“The application is not requesting tree removal or retention of the existing monument sign, which will free up location options for the proposed pole sign. The applicant acknowledges that the final sign location and Tualatin Development Code Section 38.075(4) Sign Design Standards will need to be addressed as a condition of approval. The existing monument sign will be replaced by wall mounted signs to provide identity to (SW) McEwan Road.” (Attachment D, pg. 6)

Staff agrees generally with the applicant’s statements about the scale of the proposed sign dimensions relative to the available exposure to Interstate 5. On the basis of visibility and purpose, the proposed 35 ft. pole sign height and 78 square feet in sign face area is supportable.

The application indicates the proposed sign will not require any tree removal on or off the subject property, that the sign will be located on private property (not in the SW McEwan Road ROW) and that the Sign Design standards of TDC 38.220(4) for freestanding signs in the CG Planning District will apply. For the protection of trees and to establish the adequacy of the sign as a minimum remedy to justify a variance, Staff recommends that if the proposed sign variance is approved, the following conditions of approval be considered:

2. To ensure the protection of trees in the vicinity of the SilverKing property, if trees are removed from public or private property for the purpose of improving the visibility of the SilverKing freestanding pole sign, the Sign Variance will become void and the sign approved in the Sign Variance will be removed by the property owner within 60 days of the tree removal.
3. Except as approved by sign variance, freestanding signage on the SilverKing property shall be subject to all applicable Tualatin Development Code (TDC) standards for freestanding signs in the General Commercial Planning District including the Sign Design requirements of TDC 38.220 and TDC 38.075.

Based on the information provided by the applicant and with the suggested conditions of approval, Criterion 3 is met.

4. The variance is necessary for the preservation of a property right of the owner substantially the same as is possessed by owners of other property in the same planning district, however, nonconforming or illegal signs on the subject property or on nearby properties shall not constitute justification to support a variance request.

In addressing Criterion 4, the applicant states:

“The variance will preserve the ability for the hospital and its clinics to best serve the needs of patients similar to other hospital clinics the area such as Providence.”
(Attachment D pg. 4)

Staff finds that there is no evidence presented in the application and no provisions in the TDC establishing that visibility of signs or a business location from the I-5 freeway is a property right possessed by businesses located in the CG or other commercial Planning Districts. As addressed in the findings of Criterion 1, other medical clinics or commercial office developments in commercial areas have the same or less sign visibility from the I-5 freeway and have locations that are accessed via a network of streets and not immediately accessed from a freeway interchange. Other retail commercial centers in the CG or even CC Planning Districts have similar or even less exposure to the I-5 freeway, freeway interchanges or to an arterial street compared to the SilverKing Building. While some commercial properties enjoy the benefits of adjacency or proximity to the I-5 freeway and direct travel routes to the property, each individual property or development has its own physical location, site, building and sign conditions that are advantages or disadvantages. There is no property right or entitlement for the visibility or exposure of a sign associated with a particular location or development in the CG Planning District.

The SilverKing property is in the vicinity of a number of non-conforming freeway-oriented pole signs associated with the I-5 Exit 290 interchange and located on commercial properties with businesses such as Burger King, Motel 6 and Carl's Jr. The nearby non-conforming signs do not constitute justification for a variance to allow a taller and larger pole sign.

The Silver King property is 1.56 acres in size and has over 500 ft. in frontage on the adjoining public street (SW McEwan Road) and is eligible for two freestanding monument signs subject to a minimum 300 ft. separation distance [TDC 38.220(1)(a)(i)]. One of the freestanding signs may be a pole sign. The applicant proposes to remove the existing monument sign on the SilverKing property and locate a freestanding pole sign to a position near the north driveway. This is an option for signage that the SilverKing property has and the applicant has chosen to forgo at this time. No property right is alleged for the opportunity to have multiple freestanding signs.

The variance is not necessary to preserve a property right that other properties in the CG Planning District possess.

Criterion 4 is not met.

5. The variance shall not be detrimental to the general public health, safety and welfare, and not be injurious to properties or improvements in the vicinity.

In addressing Criterion 5, the applicant states:

“The sign will be constructed to be safe with quality materials and design that will not detract from the properties or improvements in the vicinity. Legacy has retained Mayer/Reed, a highly recognized sign designer, and Pathway Design/Vancouver Sign Group, an experienced sign contractor, to ensure the best methods of construction and the highest quality design.” (Attachment D pg. 2)

Staff agrees that the public health, safety and welfare will not be damaged by allowing a larger pole sign and there will not be injury to nearby buildings or properties in the vicinity of the SilverKing Building.

Criterion 5 is met.

6. The variance shall not be detrimental to the applicable Sign Design Objectives, TDC 20.030.

The applicant addresses Sign Design Objectives Section 20.030 (1-5, 10 & 22-24) (Attachment D, pp 2-4) as follows:

- Objective 2 (Public Safety, Health and Welfare), the applicant states that the “...location size and design of the sign is not detrimental to this criteria.”
- Objective 3 concerns distracting signs and the applicant states that “Sign placement will not distract, or create sight line problems for motorists traveling SW McEwan, or for motorists entering or exiting the property.”
- Objective 5 calls for protection from unsafe and dangerous signs due to improper construction. The Applicant states the sign will be designed and constructed by professional engineers and installers.
- Objective 10 regards sign design for business identification and avoiding sign clutter. The Applicant describes the proposed sign design and function of providing way finding for patients of the LMG Bridgeport Clinic.

Staff agrees that Tualatin Community Plan objectives in TDC Chapter 20 (Sign Design) listed by the applicant are applicable to the SilverKing Building/LMG-Bridgeport Clinic variance request. Staff provides an alternative evaluation of the balance of the applicants' interests and the public interest in the objectives when considering a sign variance for larger signs.

20.030(6) "Protect and enhance the visual appearance of the City as a place to live, work, recreate, visit and drive through."

20.030(7) "Protect and enhance the quality streetscapes, architecture, landscaping and urban character in Tualatin."

20.030 (10) "Ensure the number, height and dimensions of signs allowed adequately identifies a business or use and does not result in sign clutter."

The TDC sign regulations were implemented in accordance with the three objectives listed above, balancing the allowed number and size of signs and the quality of community aesthetics with the basic needs of business for identification. Each planning district has a specific set of wall and freestanding sign standards based on the basic use, the level of activity associated with a use, the size of the development and considerations of general locations in the City such as downtown or on busier public streets. The current standards are intended to meet the public interest objectives in 20.030(6, 7 & 10). There is no evidence in this Sign Variance application that the existing freestanding sign standards for the CG Planning District are insufficient to adequately identify a business or use such as the SilverKing Building or the LMG-Bridgeport Clinic tenant.

While Staff disagrees with applicant's contentions the sign variance is needed and a conclusion that the applicable sign objectives are entirely satisfied with the sign variance proposal, the applicants' discussion of the applicable objectives is sufficient to meet Criterion #6.

Staff Conclusion

Based on the application and the above findings and analysis, the proposed SilverKing LLC/LMG-Bridgeport Clinic Sign Variance for a pole sign does not meet Criteria 1, 2 and 4 in TDC 33.022.

Section 38.220 Signs Permitted in the Central Commercial (CC) and General Commercial (CG) Planning Districts.

(1) Section 38.220 does not apply to the Mixed Use Commercial Overlay District, see Section 38.225. No sign shall be permitted in the CC or CG Planning Districts for permitted and conditional uses except the following:

(a) Monument signs are permitted. If used, the following standards apply:

(i) Number: One for a single frontage lot. Two for a single frontage lot with a minimum of 1.5-2.0 acres in lot area and 500 feet of frontage on one public street, provided the signs are not less than 300 feet apart from each other. Two for a corner lot with two or more frontages, provided the signs are not less than 300 feet apart from each other. Two for a through lot with two or more frontages, provided no more than one sign is on each frontage.

(ii) Number of Sides: No more than two.

(iii) Height Above Grade: No higher than eight feet, except a Major Commercial Center sign may be up to 10 feet.

(iv) Area: No more than 40 square feet, except a Major Commercial Center sign may be up to 55 square feet.

(v) Letter, Symbol, Logo, Size: Letters, symbols and logos shall be at least one foot high measured from the top of the letter/symbol/logo to the bottom of the letter/symbol/logo. Numbers may be less than one foot high.

(vi) Illumination: Subject to Sign Design Review Standards of TDC 38.075, direct, indirect or internal.

(vii) Location: No greater than 30 feet from the frontage property line along the public right-of-way.

(viii) Design: Subject to Sign Design Review Standards of TDC 38.075.

(c) Pole signs are permitted in place of the monument signs allowed in TDC

38.220(1)(a) above, except on an Arterial Street frontage. If used, the following standards apply:

(i) Number: One for a single Collector or Local Street frontage lot. Two for a corner lot with two or more Collector or Local Street frontages, provided the signs are not less than 300 feet apart from each other. Two for a through lot with two or more Collector or Local Street frontages, provided no more than one sign is on each frontage. Notwithstanding the preceding sentences in TDC

38.220(1)(c)(i), a Major Commercial Center is limited to one freestanding pole sign.

(ii) Number of Sides: There is no restriction, except Major Commercial Center Signs are limited to two sides.

(iii) Height Above Grade: No higher than 15 feet, except the Major Commercial Center Sign may be up to 20 feet.

(iv) Height of Sign Face: No higher than eight feet, except the Major Commercial Center Sign may be up to 10 feet.

(v) Area: No more than 48 square feet, except the Major Commercial Center sign may be up to 100 square feet.

(vi) Letter, Symbol, Logo, Size: See TDC 38.220(1)(a)(v).

(vii) Illumination: Subject to Sign Design Review Standards of TDC 38.075, direct, indirect or internal, except the Major Commercial Center sign shall not be direct.

(viii) Mechanical Reader-board: For churches, cinemas and theaters, the sign may be a mechanical reader-board.

(ix) Design. Subject to Sign Design Review Standards of TDC 38.075.

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Becky Savino, Program Coordinator
Paul Hennon, Community Services Director

DATE: 02/14/2011

SUBJECT: 2010 Annual Report of the Tualatin Arts Advisory Committee

ISSUE BEFORE THE COUNCIL:

The Council will receive the 2010 Annual Report of the Tualatin Arts Advisory Committee (TAAC).

RECOMMENDATION:

Accept the annual report.

EXECUTIVE SUMMARY:

The Tualatin Arts Advisory Committee (TAAC) was established by Ordinance 815-90, adopted by Council on October 22, 1990 and incorporated into the Tualatin Municipal Code as Chapter 11-5. The enabling ordinance requires the TAAC to file an annual report with the Council including a summary of the committee's activities during the preceding year and other matters and recommendations the committee deems appropriate.

The role of the TAAC is to encourage greater opportunities for recognition of arts in Tualatin; to stimulate private and public support for programs and activities in the arts; and to strive to ensure excellence in the public arts collection. The committee consists of seven members appointed by Council. In addition, one Council member serves as a committee Council liaison. The Community Services Department provides the TAAC with limited staff support. The TAAC meets monthly or more often as needed.

Current members of the TAAC are: Buck Braden, Richard Hager, Art Barry, Gary Thompson, Carol Dersham and Dawn Upton. Donna Maddux served as Council liaison in 2010.

FINANCIAL IMPLICATIONS:

The TAAC operates with a general fund allocation of \$11,500. This subsidy is leveraged with approximately \$25,000 in revenue from corporate sponsorships for the Concerts on the Commons and ArtSplash sales receipts to support the various programs sponsored by the City through the TAAC.

Attachments: A - 2010 TAAC Activity Report
B - TAAC PowerPoint Presentation



2010 ACTIVITY REPORT

Tualatin Arts Advisory Committee

The following is a summary of the most significant accomplishments of the TAAC in 2010 and a summary of current projects.

1. ArtSplash 2010



ArtSplash 2010, Tualatin's 15th annual art show and sale, was held at the Tualatin Commons July 23-25, 2010. Fifty-four local artists sold \$19,000 of art (a 4% increase in sales over the previous year). Over 3,000 art enthusiasts attended the three-day event that was filled with art, music, and activities for children.

ArtSplash net revenue this year was \$5,927, after expenses. This revenue was accomplished by reducing related expenses and through local donations. These proceeds are used to support ArtSplash and other programs of the TAAC. More than fifty volunteers, including members of TAAC, donated their time and energy to support this community event.

2. Concerts on the Commons



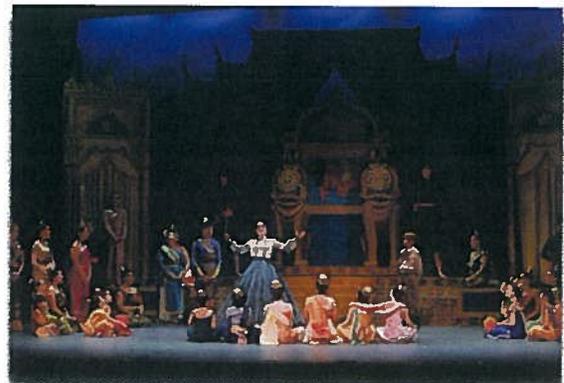
The Concerts on the Commons weekly outdoor summer concert series held at the Tualatin Commons every Friday night during July and August continued to be sponsored by the TAAC and 20 other local businesses. The concerts this past summer were funded with \$15,600 in monetary and in-kind sponsorships.

Eight concerts were held in a variety of genres with each concert attended by an average of 500 to 1,000 people of all ages.

3. Support of Outside Agencies

a. Broadway Rose

The TAAC made a direct contribution of \$500 to the Broadway Rose Theatre Company, a local non-profit organization. These funds help the theatre company leverage other funding.



During their 2010 season, the Broadway Rose Theatre Company presented: A Chorus Line, The King and I, Forbidden Broadway, Honky Tonk Angels and G.I. Holiday Jukebox at their New Stage Theatre.

b. Tualatin Heritage Center

The TAAC sponsored art at the Heritage Center that would otherwise not have occurred. The annual contribution of \$1,000 allows the Heritage Center to offset their building rental costs and helps to provide high-quality creative art programs and exhibits.



A Holiday Strings Concert was held during the month of December which featured students of local conductor, Rodel Flores.



The "Women of Watercolor" held their first watercolor show in September 2010. Over 20 watercolor artists featured their paintings. Participating artists were students of artist, Linda Aman, who holds monthly classes at the Heritage Center.

The second "Big Little Art Show" was featured in April 2010 with several hundred patrons attending. Fifteen vendors featured a wide variety of media for sale. Each vendor donated an art/craft piece for the Tualatin Historical Society fundraising auction.

c. Lumiere Players

The TAAC made a contribution of \$500 to the Lumiere Players, Tualatin's own community theatre group. These funds were used for advertising and marketing their plays. Two plays were produced by Lumiere Players in 2010. A rollicking Texas comedy "Southern Hospitality" had many sold-out performances during the month of March. Lumiere Players featured a drama by James Still called "Amber Waves" with eleven performances during October 2010.

4. **Visual Chronicle**

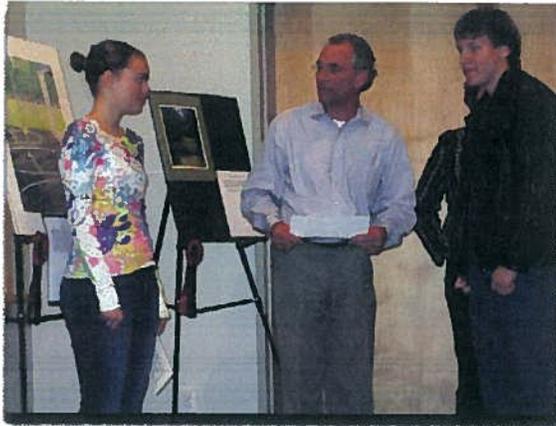
The purpose of the Tualatin Visual Chronicle is to create a visual record of Tualatin in various mediums including prints, drawings, paintings and photographs which document the life of the Tualatin community, capturing elements of the past and present, thereby providing an archival record and resource. The Chronicle was started in 1995.

The City now has 186 pieces of art in the Visual Chronicle which has three sections: General Collection, Student Collection, and Historical Collection. TAAC members recently participated in hanging art in the lobby of City Offices and refreshing the art collection in other City buildings.

a. General and Historical Collections

No purchases were planned in FY 09/10.

b. Student Collection



In partnership with Tualatin High School, 2010 marks the fourth year of the student section of the Visual Chronicle. Over 30 students in grades 9 through 12 at Tualatin High School participated in the program. Along with their submitted artwork, students were asked to submit a short essay describing their art and explaining why they chose the location of their project.

Those students whose art was selected for inclusion in the Student Visual Chronicle were chosen by Tualatin High School teacher Jeannine Miller. A total of six pieces of artwork were purchased from the student art submissions. Mayor Lou Ogden presented the students with awards at a reception held in the Community Room at the Tualatin Public Library on February 25, 2010. A new award in 2010 was the “People’s Choice Award” that was voted on by over 80 community members attending the reception.

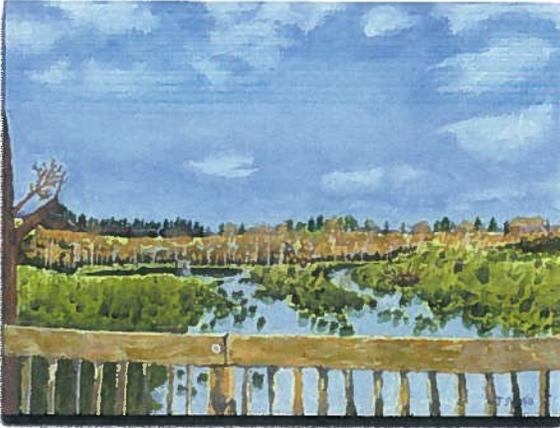
Photographs of the six purchased artwork pieces follow:



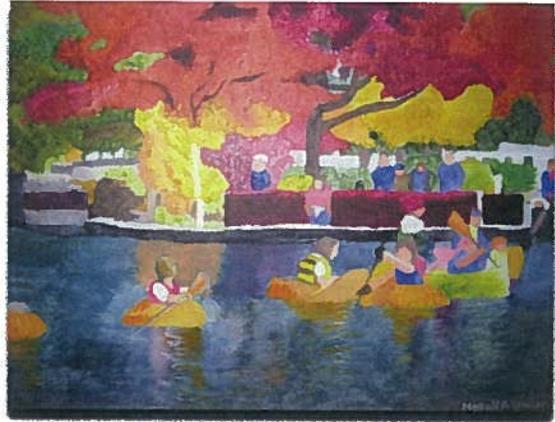
1. *“Tualatin Road” Acrylic painting
by Victoria Herstedt*



2. *“Barn at Brown’s Ferry” – Acrylic painting
by Eloise Loen*



3. "Hedges Creek Wetlands" – Acrylic Painting
by Tyler Stark



4. "Tualatin Pumpkin Regatta" – Acrylic Painting
by Natalie Toyer



5. "Tether Balls" – Pencil Drawing
by Haley Snippen



6. "From My Back Porch Looking Out" –
Photograph by Mikendy Lee

Grant Received

Staff received a Community Cultural Participation Grant award in the amount of \$2,000 from the Cultural Coalition of Washington County and Oregon Cultural Trust to fund a broader student participation in the Visual Chronicle in FY 09/10.

5. Community Arts Enhancement Award

The TAAC developed the Community Arts Enhancement Commendation to publicly recognize significant contributions to the enhancement of the arts in the community.

After careful consideration, the TAAC recommended to the City Council that the inaugural award be given to the Lumiere Players. Tualatin is very proud to have this high-quality theatre company serve its community. During the time they have been housed at the Tualatin Heritage Center, they have produced over 20 plays.



A plaque was presented by Mayor Ogden to Hal Long, founder and president of the Board and Lynn Wolf, Co-founder and treasurer of the Board at a Council Meeting on September 13, 2010.

6. Current Projects

a. Gateway Feature & Monument Sign Project

TAAC members Richard Hager, Art Barry and Gary Thompson are participating on the Gateway Ad-Hoc Committee offering input on selection of the gateway feature as well as recommending that spaces be identified and set aside for future installation of art at intersections.

The Committee supports the Council's goals with this project and is eager to provide its assistance in whatever ways it can.

b. Other Projects

In 2010 (which spans the FY09/10 and FY10/11 annual budgets), the TAAC plans to continue to produce ArtSplash, the ArtWalk, Concerts on the Commons, Visual Chronicle, and to consider support of outside agencies.

c: Tualatin Arts Advisory Committee (TAAC)



Tualatin Arts Advisory Committee
(TAAC)

2010 Annual Report

Committee Members

- Buck Braden, Chair
- Richard Hager
- Art Barry
- Gary Thompson
- Carol Dersham
- Dawn Upton

Council Liaison in 2010 – Donna Maddux

Staff – Becky Savino

Committee Role

The role of the TAAC is to:

- Encourage greater opportunities for recognition of arts in Tualatin
 - Stimulate private and public support for programs and activities in the arts
 - Strive to ensure excellence in the public arts collection.
-

ArtSplash



- 15th Annual Art Show & Sale
 - Held July 23-25 at Tualatin Commons
 - Fifty-four artists sold over \$19,000 of art
 - Over 3,000 people attended
-

Concerts on the Commons



- Eight concerts were held on Friday nights at the Tualatin Commons during July & August
- Sponsored by over 20 local businesses
- Over 500 music lovers attended each concert

Outside Agency Support

➤ TAAC annual contribution of \$1,000 to the Heritage Center promotes art programs such as:

- Music concerts/recitals
- Hosting Lumiere Players
- Women of Watercolor art show
- "Masque Alfresco" performance
- The "Big Little Art Show"



Outside Agency Support

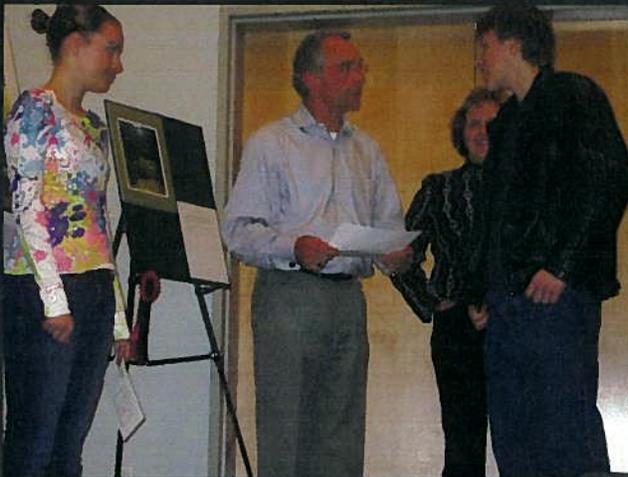


- Broadway Rose Theatre: \$500 contribution
 - Lumiere Players: \$500 contribution
-

Visual Chronicle

- 186 total pieces of art in Visual Chronicle collection
 - Collection consists of three sections:
 - General
 - Historical
 - Student
-

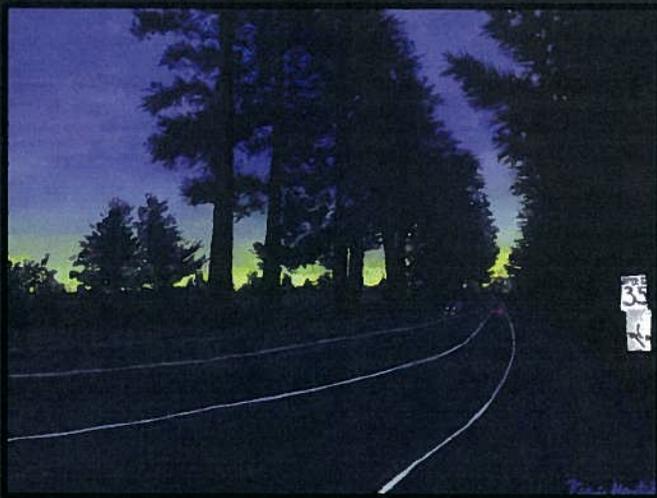
Student Visual Chronicle



Partnership with Tualatin High School

- Over 30 students in grades 9 – 12 participated
- Reception held on Feb. 25, 2010 at the Library
- Six artwork pieces purchased by the City, including "People's Choice" painting

Student Visual Chronicle Purchases

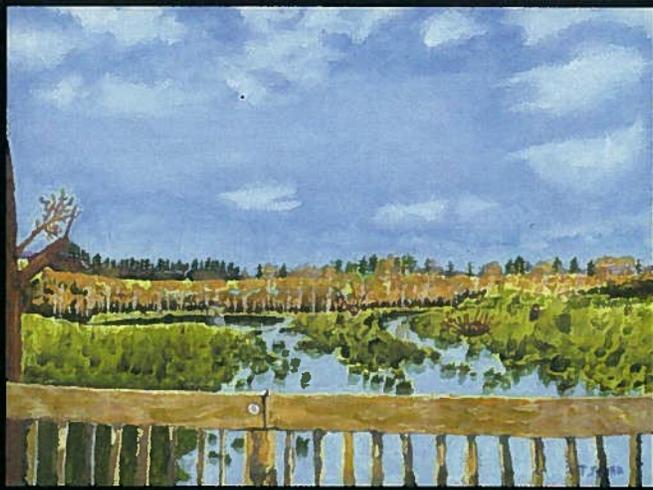


"Tualatin Road" by Victoria Herstedt

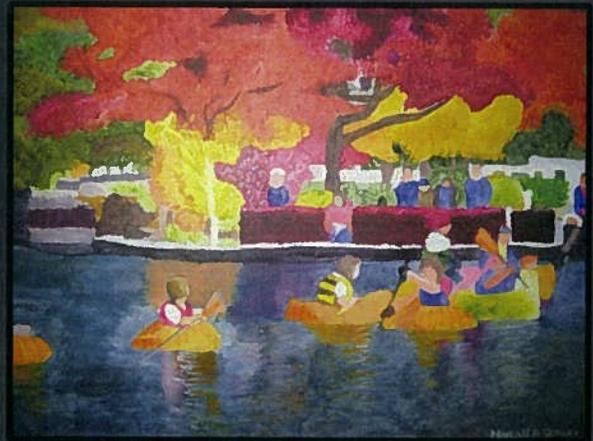


"Barn at Brown's Ferry" by Eloise Loen

Student Visual Chronicle Purchases



"Hedges Creek Wetlands" by Tyler Stark



"Tualatin Pumpkin Regatta" by Natalie Toyer

Student Visual Chronicle Purchases



"Tether Balls" by Haley Snippen



"From my Back Porch Looking Out"
by Mikendy Lee

Community Arts Enhancement Award

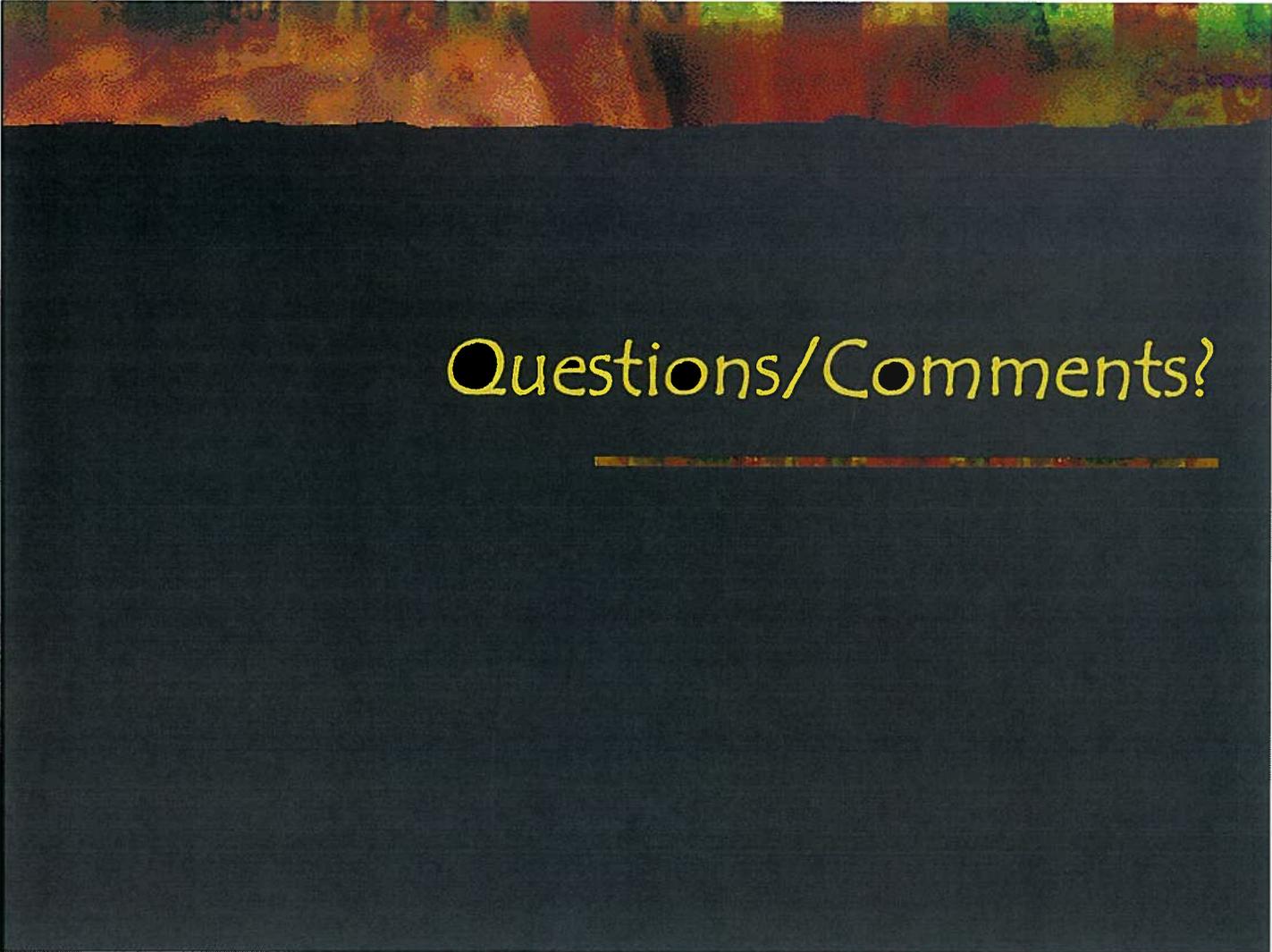


To recognize significant contributions to arts in the community

➤ Inaugural award was presented to local theatre company, Lumiere Players, at Council Meeting on Sept. 13, 2010

Upcoming Projects

- Update brochure for ArtWalk
 - Plan for Concerts on the Commons
 - Acquire artwork for Visual Chronicle, General Collection through RFP process
 - Acquire artwork for Visual Chronicle, Student Collection
 - Continue to seek grant opportunities for support of programs and activities
 - Identify Community Arts Enhancement Award recipient(s)
 - Plan for ArtSplash 2011
 - Refresh public artwork in public areas of City buildings
-



Questions/Comments?

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Carl Switzer, Parks & Recreation Manager
Paul Hennon, Community Services Director

DATE: 02/14/2011

SUBJECT: 2010 Tualatin Heritage Center Annual Report

ISSUE BEFORE THE COUNCIL:

The Council will receive the 2010 Tualatin Heritage Center Annual Report.

RECOMMENDATION:

The Tualatin Park Advisory Committee recommends that Council accept the report.

EXECUTIVE SUMMARY:

In 2005, the City of Tualatin, Tualatin Development Commission, and the Tualatin Historical Society partnered to create the Tualatin Heritage Center in an old Methodist Church building which was relocated to the Sweek Pond site and renovated for public use. The City's partnership with the Tualatin Historical Society to preserve a historic structure for public use has provided the community a venue for historical, cultural, and environmental education, recreation and enrichment, and social gatherings.

February 11, 2011 marked the sixth anniversary of operation of the Tualatin Heritage Center. The program and facilities at the Heritage Center have developed measurably in the last six years and 2010 proved to be another successful year. In 2010, more than 7,000 people came to the Heritage Center for programs and activities.

The *Agreement for Operation of Tualatin Heritage Center* contains a provision that the Tualatin Historical Society provide the City an annual report of its Heritage Center operations. Presentation of the attached report fulfills this obligation (see Attachment A for the 2010 Tualatin Heritage Center Annual Report).

Attachments: A - 2010 HC Annual Report
B - 2010 HC PowerPoint Presentation

2010 Tualatin Heritage Center Annual Report

Prepared by Larry McClure, Center Director

This City of Tualatin and Tualatin Historical Society partnership flourishes while single-focus museums in Clackamas County have now closed and others in our region are struggling or are open only for limited hours. The Heritage Center offers glimpses into Tualatin's rich and colorful past as some 7000 persons passed through the building in the past year, many for other purposes and many visiting more than once a week or month.



Hours of Operation

Hours of operation continue to be guaranteed 4 hours on weekdays and evenings/weekends for special events open to the public, but the average is now 5 hours. Over 80 renters used the building in the past 12 months, including the City and other nonprofit organizations.

The original Center mission did not incorporate some of the unusual activities that are popular, such as evening Clothing Swaps and noon-time Pilates. Some of our history-related activities have attracted such large crowds that we moved them to the Library community room or Winona Grange. The fifth anniversary celebration this year will be Sunday, February 6 at 2 p.m. at Winona Grange focusing on Tualatin's Ice Age period.

Education and Lifelong Learning

All three public elementary schools send their 4th grade classes for a living history experience (hundreds of students, teachers, parent chaperones and THS volunteers over a 4-day period in May). A popular antiques "road show" by local appraisers draws new visitors each year. A monthly coffee for "oldtimers" attracts a regular group of 6-8 men. A City-sponsored series of evening wine classes enjoyed steady participation and the hosts appreciate the welcoming environment at the Heritage Center.



Heritage and Cultural Awareness

Monthly public meetings arranged by Tualatin Historical Society involved nearly 600 person-visits (many repeaters). Committees working on various special projects brought in another 400 person-visits (e.g. the history of Tualatin Fire Department, Ice Age Floods grant activities)



Since this was an election year, we experienced higher than normal use for political campaigns and election information events. City-related meetings such as Tualatin Tomorrow and an interagency Tonquin Trail planning committee are examples of public use. An estimated 250 visits were logged for these purposes and we would like to host more if Citizen Involvement Organizations are created in Tualatin.

Environmental Awareness

We saw a small decrease in participation for monthly birdwalks and a program on dragon flies hosted by the Wetlands Conservancy (50 person visits). As our new partnership with the Ice Age Floods Institute grows, we expect a major jump here as local residents learn more about geology, paleontology, archeology and other aspects of natural history. These monthly offerings will primarily be held on weekday evenings to accommodate working people and students. This has been a serious problem for the historical society which attracts primarily retired persons to week-day afternoon meetings.



Performing and Visual Arts

Over 1500 persons came through our doors the past 12 months for three art shows, four plays, two violin recitals, and a monthly “jam” session for hammered dulcimer players from around Oregon. We were given a piano by the historic Itel family (original school bus operator) which should enhance the music aspect of our venue. Well-known water color artist Linda Aman, formerly of Tualatin and now living in Boise, continues to “commute” monthly to offer three days of her popular classes using the Heritage Center. The Heritage Center continues to hang items from the Tualatin Visual Chronicle. Kathy Boyd and Phoenix Rising, a Tualatin bluegrass band with a wide following, again offered a spring concert in April. Lumiere Players, Tualatin's own community theatre, produced three plays in FY2010. On the third weekend in August, we again enjoyed very successful three-night performances by Masque Alfresco, a group of Washington County actors who have revived a medieval style of slapstick comedy staged on our patio before sunset.



Use of facility by Local Businesses

Tualatin Chamber of Commerce uses THC for several Friday morning “networking” events each year. Over 500 persons (many repeaters) attended these early gatherings. Oil Can Henry, with regional headquarters in Tualatin, rents THC for monthly meetings with managers (350 person visits). Linda Aman, water color artist, rents THC for three days each month for classes (nearly 500 person visits). Examples of their users have been Rayburn Plumbing, Kiwanis, Haggen Market and Pharmacy.



Family Celebrations

Here is where we've seen the most expansion of use in calendar 2010:

- 1 engagement party with 40 guests
- 2 weddings with 195 persons involved
- 1 wedding reception with 75 guests
- 6 birthday parties with 285 participants
- 1 baby shower with 25 family and friends
- 6 memorial services with 425 participants
- 2 Christmas parties with 179 visitors



All renters receive a paid monitor as part of their rental fee. This monitor is either a THS volunteer or paid City monitor. Regular users, like water color teacher Linda Aman, do not require on-site monitoring.

Revenues and Expenditures FY10 (ending June 30)

Revenues during FY10 to maintain operations for both the Center and Historical Society were \$49,470. Income included rentals of \$14,704; City of Tualatin operational support \$7,100; THS membership dues, \$5,104; donations and memorials of \$13,700,983; fundraisers such as our engraved bricks and Wine Tasting and Auction netted \$11,182 and an Arts Advisory Committee \$1000 grant to help underwrite arts-related offerings (such as rehearsal time for Lumiere Players). Given tight economic times, this income was heartening thanks to generous donors and memorials. We have also saved on personnel expense by having a staff assistant paid by Experience Works (a federal employment program for older adults seeking to enter the workforce)..

Expenditures for the same period included \$21,714 for our part-time assistant director (Lindy Hughes), \$4,476 for contracted services (such as accounting, equipment repair, videography), \$1282 for telephone, \$693 for alarm system, \$1,234 for equipment purchases, \$1480 for printing, \$1,167 for insurance, \$1989 for supplies and various other expenditures for a grand total of \$39,631.



Accidents

None

Participant Evaluations and Surveys

By all accounts, people visiting the center and participating in programs are pleased and many return more than once. For example, the knitting group that meets twice monthly started with 3 or 4 older women and has grown to 22 girls and women of various ages. We make some of our programming decisions based on headcounts.

Staffing Changes

Some 40 volunteers continue to make up the core of our operations. One example of an outstanding volunteer comes several days a week from Beaverton. No staffing changes were made this year. Lindy Hughes is an extraordinary on-site coordinator who makes everything work.

Marketing Efforts

Monthly newsletters reach THS members, but our most effective outreach comes through the monthly City of Tualatin GetOut Guide. The Times and Oregonian are also valued disseminators. Our website is enjoying more visibility. A growing number of partnerships with other organizations (like Tualatin-based Wetlands Conservancy and Willowbrook) has led to interesting events and activities. In fall 2010 we launched a new collaboration with the Lower Columbia Chapter of the Ice Age Floods Institute thanks to a tourism plan developed by a consultant funded by a grant from the Washington County Visitors Association. This activity will be reported in more depth next fiscal year.

Building Custodial and Maintenance Concerns

None. We continue to appreciate the diligent work of Clayton Reynolds and his team for oversight of this historic building as well as Bob Martin's crew for landscape care. THS volunteers plant the flower beds around the patio, thanks in part to donations from Garden Corner in Tualatin. Pioneer Days 4th graders from all three Tualatin elementary schools look forward to planting flowers and vegetables to the western edge of our lot each May.

**FY2010
Tualatin Heritage Center
Annual Report**

Fifth anniversary of a successful City/THS partnership

- Anniversary celebration coming up Sunday, February 6 at historic Winona Grange on Tualatin's Ice Age history
- We promised to keep the Center busy
- Staffed 10-2 weekdays, but longer thanks to over 80 users
- Similar local and state facilities are in jeopardy but we continue to flourish

Our mission

- Education and Lifelong Learning
- Heritage and Cultural Awareness
- Personal Growth and Enrichment
- Civic Engagement
- Environmental Awareness
- Performing and Visual Arts
- Business Functions
- Family Celebrations

Education and Lifelong Learning

- Pioneer Days for all fourth graders in Tualatin public elementary schools
- Discussion groups
- Book clubs
- Wine classes







Cultural History and Heritage

- Monthly THS programs feature interesting speakers
- Exhibits and displays change regularly at THC and Tualatin Library
- Collections of local memories continue such as Tualatin's rural fire department and mementos of former Tualatin Elementary School

Althea Pratt-Broome describes Christmases at Historic Sweek House





Civic Engagement

- Community meetings, such as Tualatin Tomorrow
- Rentals by political campaign organizations
- Neighborhood association meetings
- Kiwanis Club awards dinner
- Youth sports organizations
- Scouts

Personal Growth and Enrichment

- Knitting group grows from 3 persons our first year to over 20 wanting to learn from each other
- Pilates class helps participants find their “inner core”
- Ride the Rails groups encourage participants to try WES and Max and learn about metropolitan history and resources (as early residents in Tualatin also did)



Use of Center by local businesses

- Chamber of Commerce holds early Friday morning networking sessions several times a year
- Oil Can Henry, headquartered in Tualatin, holds monthly manager meetings at the Center
- Other companies hold seminars and sales meetings when a warm, friendly setting is desired



Environmental Awareness

- Monthly birdwalks around Sweek Pond led by Wetlands Conservancy
- Outdoor exhibits such as an erratic rock likely rafted to our area on an ice flow some 14,000 years ago (moved from an ODOT storage yard)





Performing and Visual Arts

- Monthly art classes by popular watercolor artist Linda Aman whose students have formed new local group
- Lumiere Players and Masque Alfresco delight audiences
- New piano may attract more concerts and recitals
- Three art shows draw many viewers













Family Celebrations

- 1 engagement party with 40 guests
- 2 weddings with 195 persons involved
- 1 wedding reception with 75 guests
- 6 birthday parties with 285 participants
- 1 baby shower with 25 family and friends
- 6 memorial services with 425 participants
- 2 Christmas parties with 179 visitors





Financial Underpinning

- Reduced rates for Tualatin renters and ticketed events
- Free admission for everyday activities
- Total income for 2010: nearly \$50,000 which includes City subsidy of \$7,100; rental fees of about \$15,000; donations of about \$14,000 and fundraisers totaling \$12,000
- Expenditures in 2010: about \$40,000 which includes a part-time coordinator/manager and related operational expenses such as equipment, supplies, insurance, communication.





New and coming events

- Monthly evening programs with a focus on natural history to attract persons unable to attend weekday functions
- Travel discussion group
- High tech sound system recently purchased from Light Wave, local Tualatin firm
- Need better data projector in the future

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kathy Kaatz, Program Coordinator
Daniel J. Boss, Operations Director

DATE: 02/14/2011

SUBJECT: Ordinance Relating to Solid Waste Management and Amending Franchise Territory with United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties; and Rescinding Ordinance No. 1140-03

ISSUE BEFORE THE COUNCIL:

Incorporating all territory within the City for the exclusive franchise to United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties by revising Ordinance 1140-03, Section 4.

RECOMMENDATION:

The original franchise agreement declares the holders of the existing solid waste franchise to conduct solid waste collections, solid waste management, and resource recovery within the City to be United Disposal Services, Inc., Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., all doing business as Allied Waste Services, Inc. The distinction between the companies of Rossman and United Disposal were based upon territory.

These services were split by territory as defined below:

- For all territory located within the City, except for property lying east of Interstate 5 freeway and north of the Tualatin River, and further excepting property east of SW 50th Avenue and south of the Tualatin River is United Disposal, Inc.
- For all territory located within the City limits, east of Interstate 5 freeway and north of the Tualatin River and east of SW 50th Avenue and south of the Tualatin River is Rossman Sanitary Services, Inc.
- The holder of the exclusive franchise within the City to conduct a drop box pickup and disposal services is Keller Drop Box, Inc.

United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties Inc. is requesting an amendment to the existing franchise agreement to consolidate the territories for all services within the City limits to United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties.

Staff recommends that Council amend the franchise agreement to consolidate the service territories into one combined area inclusive of all territory within the City limits.

OUTCOMES OF DECISION:

The amendment to this agreement will have no impact on the rates nor the service levels. Some customers will see a change in the day their service is provided as noted in the letter attachment, and United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties will be notifying customers in a timely manner prior to the change.

FINANCIAL IMPLICATIONS:

The amendment to the existing franchise agreement will have no financial impact on the agreement.

Attachments: A - Allied Request Letter
 B - Ordinance



January 25, 2011

Sherilyn Lombos
City Manager
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

Dear Ms. Lombos:

As provided under Ordinance No. 1140-03, United Disposal Service, Inc, Rossman Sanitary Service, Inc., and Keller Drop Box, Inc., are all listed as current certificate holders for the collection of solid waste for the City of Tualatin. These companies are owned by Allied Waste Service, Inc. We request the City designate all of these companies as: United Disposal Services, Inc./dba Allied Waste of Clackamas and Washington Counties.

This change will enable United Disposal Services, Inc. /dba Allied Waste of Clackamas and Washington Counties, to collect waste in the area now served by its sister company, Rossman Sanitary Services, Inc. Specifically:

“all territory located within the City limits, east of the Interstate 5 Freeway and north of the Tualatin River, and east of SW50th Avenue and south of the Tualatin River.”
(Ordinance No. 1140-03, Section 4, item (b), sub-section (2)).

Changes proposed for Section 4, item (b) eliminates the need for subsections (1) and (3).

This will allow us to provide a more efficient service, with better utilization of assets. The rates in each agreement are identical, and the service levels will not change for those customers affected by this change. Some customers will see a change in the day their service is provided, and we will notify customers in a timely manner if they are in that group. I have attached a list of customer addresses that are affected by this change, for your reference.

I appreciate your attention to this request, and welcome questions or comments.

Best Regards,

A handwritten signature in black ink, appearing to read 'Carol Dion', written over a horizontal line.

Carol Dion
General Manager
Allied Waste of Clackamas and Washington Counties

Attachment

TUALATIN COMMERCIAL - 469 TO 455

Red Tuesday: are day changes from Wednesday

KIRKMAN LAB
17305 63RD AVE
TUALATIN OR 97062

BERREY PROPERTIES
6305 ROSEWOOD ST
LAKE OSWEGO OR 97035-5388

INDUSTRIAL CASTOR & WHEEL
7019 MCEWAN RD Tuesday
LAKE OSWEGO OR 97035-7830

MEINEKE MUFFLERS
17717 SW BOONES FERRY RD
LAKE OSWEGO OR 97034

L G INTERNATIONAL
6700 BRADBURY CT
LAKE OSWEGO OR 97035-7872

RENAISSANCE DESIGN CENTER
16889 65TH AVE
LAKE OSWEGO OR 97035-7865

CARL'S JR
17929 MCEWAN RD
LAKE OSWEGO OR 97035

WELLPARTNER PHARMACY
6405 ROSEWOOD ST
LAKE OSWEGO OR 97035-5284

BURGER KING # 4221
17971 MCEWAN RD
TUALATIN OR 97062

PERFECT LOOK #123 Tuesday
17777-A BOONES FERRY RD
LAKE OSWEGO OR 97035

NW NATURAL GAS
7100 MCEWAN RD
LAKE OSWEGO OR 97035-7838

DOLAND NW LLC
17571 65TH AVE
TUALATIN OR 97062

CASCADIA EYE CARE
17777 UPPER BOONES FERRY RD
LAKE OSWEGO OR 97035

FAHEY MACHINERY CO INC
17605 65TH AVE
TUALATIN OR 97062

THE DIFFERENCE Tuesday
17750 LOWER BOONES FERRY RD
LAKE OSWEGO OR 97035-5226

HALTINER SHEET METAL FAB.
17555 65TH AVE
TUALATIN OR 97062-3554

VAN SPECIALTIES
17420 63RD AVE
LAKE OSWEGO OR 97035-5208

BLUE RIBBON CONSTRUCTION
17410 63RD AVE
LAKE OSWEGO OR 97035-5208

GALLOPS SADDLERY
17937 MCEWAN AVE
SUITE 1
TIGARD OR 97224-7774

TIMBERCON
17387 63RD AVE
LAKE OSWEGO OR 97035-5205

PUREMIST CORPORATION
7023 MCEWAN RD
LAKE OSWEGO OR 97035-7830

BOONES FERRY CHEVRON
17830 BOONES FERRY RD
LAKE OSWEGO OR 97034

PUBLIC STORAGE PUB064343
7095 MCEWAN RD
TUALATIN OR 97062

PUBLIC STORAGE PUB023413
17990 MCEWAN RD
TUALATIN OR 97062

CAT CARE PROFESSIONAL **Tuesday**
17888 MCEWAN RD
LAKE OSWEGO OR 97035-7875

BACKYARD BIRDSHOP
16949 65TH AVE
LAKE OSWEGO OR 97035-7866

PHIL'S AUTO CLINIC **Tuesday**
17360 63RD AVE
LAKE OSWEGO OR 97035-5206

HOLLANDER CONSULTANTS
18010 MCEWAN RD
LAKE OSWEGO OR 97035-7868

GRANPA'S GARDENWARE CO **Tuesday**
17380 63RD AVE
LAKE OSWEGO OR 97035-5206

MOTEL 6 0047
17950 SW MCEWAN RD
PORTLAND OR 97224-7218

CHILDRENS HOUR ACADEMY
17650 65TH AVE
LAKE OSWEGO OR 97035

SIMPLEX GRINNELL
6305 ROSEWOOD ST
SUITE A
LAKE OSWEGO OR 97035-5388

INTEGRA
17600 SW 65TH AVE
LAKE OSWEGO OR 97035

SAVVY DESIGN INC **Tuesday**
17455 63RD AVE
LAKE OSWEGO OR 97035-5207

GEODYNE **Tuesday**
17360 63RD AVE
LAKE OSWEGO OR 97035-5206

BAJA FRESH
17805 65TH AVE
LAKE OSWEGO OR 97035-5203

THE LITTLE GYM OF LAKE OS
17890 BOONES FERRY RD
LAKE OSWEGO OR 97035

M BANK **Tuesday**
17898 SW MCEWAN RD
TIGARD OR 97224-7217

WALGREENS #9625
17850 LOWER BOONES FERRY RD
LAKE OSWEGO OR 97035-5228

SPACE AGE FUEL #27
17895 BOONES FERRY
LAKE OSWEGO OR 97035

FEDERAL EXPRESS 256825
6505 ROSEWOOD ST
STATION 256825
LAKE OSWEGO OR 97035-7864

MOTEL 6 1348
17959 SW MCEWAN RD
PORTLAND OR 97224-7206

24 HOUR FITNESS TFH000491
17942 SW MCEWAN RD
PORTLAND OR 97224

CREATION COMPOSITS, LLC **Tuesday**
17370 63RD AVE
LAKE OSWEGO OR 97035-5206

PACIFIC COLLECTION **Tuesday**
7021 MCEWAN RD
LAKE OSWEGO OR 97035-7830

ARBYS - SMURFIT DEBTOR
17771 BOONES FERRY RD
LAKE OSWEGO OR 97035

SUBWAY SANDWICH
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

PANDA EXPRESS PEX001689
17799 SW 65TH AVE
TUALATIN OR 97062

X3 LLC
17435 63RD AVE
LAKE OSWEGO OR 97035-5207

Tuesday

BASKIN ROBBINS ICE CREAM
17773 LOWER BOONES FERRY RD A
LAKE OSWEGO OR 97035-5268

GLASS DOCTOR
6510 ROSEWOOD ST
LAKE OSWEGO OR 97035-7856

THE POINTE @ BRIDGEPORT
7300 SW HAZELFERN RD
TIGARD OR 97224-7715

PROJECTUS
6750 BRADBURY CT
LAKE OSWEGO OR 97035

Tuesday

PLAYERS
17880 MCEWAN RD
LAKE OSWEGO OR 97035-7875

MERIDIAN CORP CENTER
6405 ROSEWOOD ST
TUALATIN OR 97034

WU'S OPEN KITCHEN
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

KAADY CAR WASH
17701 BOONES FERRY RD
LAKE OSWEGO OR 97035

PRESTIGE CLEANERS
17727 BOONES FERRY RD
LAKE OSWEGO OR 97035

INTEGRATED BAKING
6405 ROSEWOOD ST #C
LAKE OSWEGO OR 97035-5284

A I C
17555 63RD AVE
LAKE OSWEGO OR 97035-5209

DICK BARLESS AUTO SERVICE
7025 MCEWAN RD

NORTHWEST COMPOUNDERS
17972 SW MCEWAN RD
PORTLAND OR 97224-7218

STARS CABARET
17939 SW MCEWAN RD
PORTLAND OR 97224-7205

FAMOUS DAVES BBQ
7121 SW NYBERG ST
TUALATIN OR 97062-8224

BERREY PROPERTIES
17773 BOONES FERRY RD
LAKE OSWEGO OR 97035

BULL MT MECHANICAL
6520 ROSEWOOD ST
LAKE OSWEGO OR 97035

COUNTRY CLUB CLEANERS
17773 A BOONES FERRY RD
LAKE OSWEGO OR 97035

OREGON DEPT. OF REVENUE
6405 ROSEWOOD ST
TUALATIN OR 97062

CHADWICK CO
17685 65TH AVE
LAKE OSWEGO OR 97035-7800

SUPERIOR IN-BOARD REPAIR
17530 63RD AVE
LAKE OSWEGO OR 97035-5210

PIPER'S RUN
6835 CHILDS RD
LAKE OSWEGO OR 97035-7807

SAFEWAY PHARMACY #1047
17779 BOONES FERRY RD
TUALATIN OR 97034

OSWEGO STORAGE
7055 MCEWAN RD
TUALATIN OR 97062

DOROTHY TESTER SALES
17390 63RD AVE

Tuesday

LAKE OSWEGO OR 97035-7830

LAKE CAR CARE JOINT VNTUR
17705 BOONES FERRY RD
LAKE OSWEGO OR 97035

GOLDEN KEY MINI STORAGE Tuesday
6725 BRADBURY CT
LAKE OSWEGO OR 97035-7872

NORTHWEST TEXTBOOK DEPOS
17970 MCEWAN RD
TUALATIN OR 97062

SOUTH LAKE CENTER PARTNER
BOONES FERRY & 65TH
TUALATIN OR 97062

TUALATIN OR 97062

FUDDRUCKERS
17815 65TH AVE
TUALATIN OR 97062

MILLER'S HOMESTEAD INN
17933 MCEWAN AVE
PORTLAND OR 97224-7204

PIONEER COMMERCIAL CENTER
17937 MCEWAN RD
TUALATIN OR 97062

TACO BELL
17873 SW MCEWAN RD
TUALATIN OR 97062

ORDINANCE NO. 1318-11

AN ORDINANCE RELATING TO SOLID WASTE MANAGEMENT AND AMENDING FRANCHISE TERRITORY WITH UNITED DISPOSAL SERVICES, INC. dba ALLIED WASTE OF CLACKAMAS AND WASHINGTON COUNTIES; AND RESCINDING ORDINANCE NO. 1140-03.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Title.

This ordinance shall be known as the "Solid Waste Management Ordinance.

Section 2. Purpose, policy and scope.

It is the public policy of the City of Tualatin to regulate solid waste management by:

- (a) Insuring safe, economical, and comprehensive solid waste service;
- (b) Insuring service rates and charges that are just and reasonable and adequate to provide necessary public service;
- (c) Prohibiting rate preferences and other discriminatory practices;
- (d) Providing technologically and economically feasible resource recovery by and through the franchisees.

Section 3. Definitions.

Except where the context clearly indicates a different meaning, the definitions appearing in ORS Chapters 459 and 459A and regulations promulgated thereunder are applicable to this ordinance. The singular includes the plural and vice versa. As used in this ordinance, the following words have the meanings as follows:

- (a) "City" means the City of Tualatin. When the city limits are extended, the City shall include the extended geographic boundaries.
- (b) "Collection franchise" means a franchise, issued by the City authorizing a person to provide collection service, for use of City streets.
- (c) "Compaction" means the process by which material is shredded, manually compacted or mechanically compacted.

(d) "Compensation" includes:

(1) Any type of consideration paid for service including, but not limited to rent, the proceeds from resource recovery, any direct or indirect provision for the payment of money, goods, services or benefits by tenants, lessees, occupants or similarly situated persons;

(2) The exchange of service between persons; and

(3) The flow of consideration from a person owning, possessing or generating solid waste to another person who provides services or from a person providing services to another person owning, possessing or generating solid waste. Compensation does not include the benefits, incidental advantages or tax advantages resulting from the donation of services or any form of solid waste.

(e) "City Council" means the City Council of the City of Tualatin;

(f) "Curbside/roadside" means a location within three feet of the edge of a public street, excluding such area separated from the street by a fence or enclosure. The "street" may be a public alley if the franchisee desires to pick up receptacles from the alley. For residences on a flag lot or other private driveway, or a private street not meeting the standards, "curbside" shall be the point where the driveway or street intersects the public street, or at such other location agreed upon between the franchisee and customer or as determined by the City.

(g) "Franchisee" means the person or persons to whom a franchise is granted by the City Council pursuant to this ordinance. A franchise may be delineated as to the form or geographic boundaries of service to be provided. Except as otherwise provided, within the defined geographic locations of the City, such franchise shall grant exclusive rights to provide service and solid waste management services for compensation.

(h) "Generator" means the person who produces the solid waste and recyclable material and places it for collection and disposal. The term does not include a person who manages an intermediate function of altering or compacting the material after it has been produced by the generator and placed for collection and disposal.

(i) "Hazardous waste" has the meaning defined in ORS 466.005.

(j) "Infectious waste" means biological waste, cultures and stocks, pathological wastes and sharps as defined in ORS 459.386 and 459.387.

(k) "Mixed recyclables" means two or more recyclable materials collected together that are not separated, in the combination of materials allowed by the City.

(l) "Organic waste" means materials that can be biologically synthesized by plants or animals from simpler substances, are no longer suited for their intended purpose and are readily broken down by biological processes into soil constituents. Organic waste includes, but is not limited to food waste, yard debris, paper and putrescible materials that are generally a source of food for bacteria.

(m) "Person" means an individual, partnership, association, corporation, cooperative, trust, firm, estate or other private legal entity.

(n) "Placed for collection" means solid waste, recyclable materials or yard debris that has been placed by the generator for collection by the franchisee in accordance with the terms of this ordinance.

(o) "Processing" means an operation where collected, source separated, recyclable materials are sorted, graded, cleaned, identified or otherwise prepared for end use markets.

(p) "Rate" means the amount approved by the City as a charge for service rendered and charged by the franchisee, including the franchise fee, to users of the service.

(q) "Recyclable materials" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material, or other materials as may be designated by the City.

(r) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste, including energy recovery, material recovery, recycling and reuse of solid waste.

(s) "Solid waste" means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, grass clippings, compost, tires, manure, equipment and furniture; sewage sludge, septic tank and cesspool pumping or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts of vehicles; discarded home or industrial appliances; vegetable or animal solid and semi-solid wastes, dead animals and other wastes; but the term does not include:

(1) Hazardous waste as defined in ORS 466.005;

(2) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals;

(3) Beverage containers subject to reuse or refund provisions in ORS 459.810.

(t) "Solid waste collection service" or "service" means collection of solid waste and recyclable materials, and the transportation, storage and disposal or resource recovery of the materials to an approved disposal facility or facility accepting recyclable materials.

(u) "Solid waste management" means the prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

(v) "Source separate" means the removal of recyclable materials by the generator from the solid waste that is to be landfilled.

(w) "Special waste" means this waste shall have the meaning defined in the Metro Code. The collection of special waste shall be controlled by this ordinance.

(x) "Transfer site" or "transfer facility" means a facility used as an adjunct to collection vehicles, a resource recovery facility, or a disposal site between the collection of the waste/solid waste and disposal site, including but not limited to a concrete slab, pit, building, hopper, railroad gondola or barge. Transfer site or transfer facility may also mean resource recovery facility where mixed materials are brought and sorted to remove recyclable materials. Transfer site or transfer facility does not include a self-propelled, compactor type solid waste collection vehicle into which scooter, pickups, small packers or other satellite collection vehicles dump collected solid waste for transport to a transfer site, disposal site, landfill or resource recovery site or facility.

(y) "Waste" means useless or discarded materials.

(z) "Yard debris" means organic solid waste material generated from residential or commercial landscaping or gardening activities and includes grass clippings, branches, shrubs, weeds and other woody waste not larger than six inches in diameter.

Section 4. Exclusive franchise and exceptions.

(a) Exclusive franchise. Pursuant to the Tualatin City Charter, section 4 and ORS 459A.085, the City hereby exercises its authority to franchise the service and solid waste management service within the City. When a franchise is granted by the City under this ordinance, the franchise shall be the exclusive right, privilege and franchise to provide service and solid waste management service within a defined geographic boundary within the City as of the date the franchise is granted. For the purpose of this franchise, the franchisee shall have the exclusive right to use the public

rights-of-way of the City. Except as otherwise provided in this ordinance, no other person shall provide, offer to provide, or advertise for the performance of service or solid waste management service for any person on any real property in the City.

(b) Except as provided in paragraph (3) of this subsection, the following person are declared the holders of an exclusive franchise to conduct solid waste collection, solid waste management and resource recovery within the City:

~~(1) For all territory located within the City, except for property lying east of the Interstate 5 freeway and north of the Tualatin River and further excepting property east of SW 50th Avenue and south of the Tualatin River, United Disposal Service, Inc., 9500 SW Boechman Road, Wilsonville, Oregon 97070.~~

~~(2) For all territory located within the City limits, east of the Interstate 5 Freeway and north of the Tualatin River, and east of SW 50th Avenue and south of the Tualatin River, United Disposal Services, Inc. dba Allied Waste of Clackamas and Washington Counties, ~~Rossman Sanitary Service Inc., 100 S. Wilda Road, West Linn, OR 97034.~~~~

~~(3) The holder of an exclusive franchise within the City to conduct a drop box pickup and disposal service is Keller Drop Box, Inc., 10295 SW Ridder Road, Wilsonville, Oregon 97070.~~

(c) Regulations may be adopted by resolution of the City Council to administer this ordinance.

(d) The exclusive right, privilege, and franchise granted under subsection (a) is subject to the following exceptions:

(1) A person may engage in the collection of source separated materials for recycling or resource recovery, but only for the purpose of raising funds for a charitable, civic or benevolent activity under the following conditions:

(A) Such activity shall be conducted in accordance with the terms and conditions in this ordinance, regulations adopted under this ordinance and the notice submitted to the City as required.

(B) A prior written notice of such activity shall be prepared and signed by the person intending to engage in such activity, or an authorized representative and delivered to the City, which notice shall specify the geographic areas and

times in which such activities are intended to take place.

(2) A person may transport solid waste that such person produces, directly to an authorized disposal site or recycling or resource recovery facility. The solid waste produced by a tenant, licensee, occupant or person other than the owner of the leased, occupied or licensed premises shall be considered produced by the tenant, licensee, occupant or person and not produced by the landlord or property owner.

(3) A person may contract with the State or a federal agency to provide service to such agency under a written contract with such agency.

(4) The Council may grant an exclusive franchise to provide drop box service.

5) A person may engage in the practice of towing or otherwise removing damaged, discarded or abandoned vehicles or parts of vehicles, so long as such activity is conducted in compliance with applicable state and local laws.

(6) A person may engage in the practice of pumping, transportation, and disposal of septic tank and cesspool pumpings or other sludge, provided such activity is conducted in compliance with applicable state and local laws.

(7) A person who engages in an occupations, such as gardener, landscaper, grounds keeper, or construction contractor for a property owner or tenant in the City and who produces thereby small volumes of solid waste as a result of such work for a property owner or tenant in the City may transport such solid waste in such person's own equipment where the solid waste produced is incidental to the particular job the person is performing.

Section 5. Franchise term.

The rights, privilege and franchise granted by this ordinance is considered as a continuing five-year franchise, subject to termination as follows:

(a) Unless grounds exist for suspension, modification or revocation of the franchise under this ordinance, the franchise is granted for a continuing five-year term. Upon the fifth anniversary of the grant or renewal of the franchise, the particular franchise shall be renewed for an additional five-year term unless the City sends written notice of termination to the franchisee. The City may give notice at any time, however,

termination may not occur prior to five years following the notice of termination.

(b) If a franchisee desires to terminate service or solid waste management service under this ordinance, the franchisee shall give the City and any other franchisees not less than two years prior written notice of its intent to terminate service and obligations under the franchise and this ordinance.

(c) When a franchisee gives notice to voluntarily terminate the franchise, the remaining franchisees shall have the first right and option to purchase all or part of the equipment and geographic territory of the terminating franchisee at a price to be agreed upon by the parties. The remaining franchisees shall exercise this first right and option within six months following the notice by the terminating franchisee.

Section 6. Franchise fee.

(a) In consideration of the rights, privileges and franchise granted by this ordinance, the franchisee shall pay to the City three percent of the gross receipts collected each year by the franchisees for service, for solid waste management service, and for the sale of recycled materials within the City. Provided that the City gives at least 60 days advance written notice to the franchisee, the City may adjust the amount of the franchise fee by resolution in an amount not prohibited by law.

(b) Payment shall be made according to the following schedule: For the period from January through March, payment shall be made in the immediately following April; for the period from April through June, payments shall be made in the immediately following October; and for the period from October to December, payment shall be made in the immediately following January.

(c) Payments shall be accompanied by a complete statement setting forth the gross receipts collected during the preceding quarter. Upon request from the City, the franchisee shall provide written confirmation or other acceptable means of substantiation of particular items or information being submitted.

Section 7. Franchise responsibility.

(a) The franchisee shall dispose of solid waste collected at a site approved by the City, Metropolitan Service District (Metro) and the Department of Environmental Quality (DEQ), and recover resources from the solid waste in compliance with ORS Chapter 459 and 459A and any rules and regulations adopted pursuant to those chapters, including but not limited to any solid waste reduction plan or plans adopted by the City by resolution in conjunction with Washington County and in furtherance of criteria approved for such plans by Metro and DEQ.

(b) The franchisee shall provide and keep in force a public liability

insurance policy that provides coverage for bodily injury, including personal injury and property damage insurance, and including automobile coverage that will protect the franchisee from all things or damage that may arise from operations under or in connection with the franchise, including all operations of subcontractors. The insurance shall provide coverage for not less than \$100,000 for injury to a single person, \$500,000 to a group of persons within a single occurrence, and \$50,000 for property damage within a single occurrence or where the limits of liability for public bodies under ORS 30.270 are raised, then in accordance with such raised liability limits. The insurance shall be evidenced by a certificate of insurance filed with the City Recorder within 30 days of the granting of the franchise and thereafter upon renewal or modification of the policy. Such insurance shall be maintained in full force and effect and shall name the City of Tualatin, its officers, agents and employees as named insureds. The insurance shall not be modified or cancelled without at least 30 days prior written notice by certified mail to the City.

(c) The franchisee shall provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary service and solid waste management service; but where necessary the franchisee may subcontract with others to provide certain types of specialized service in accordance with this ordinance.

(d) Except as otherwise provided, all vehicles used in the collection and/or transportation of waste shall be equipped with a metal body of the compactor type that is leak-proof to the greatest extent possible. If a franchisee uses a specially designed, motorized local collection vehicle for transporting solid waste over short distances from residential or commercial stops to waiting trucks, the container portion of such vehicle shall be equipped with a cover, adequate to prevent scattering the load. If a pickup truck or open bed truck is used by a franchisee, the load shall be covered with an adequate cover to prevent scattering the load. All vehicles shall be operated in conformity with all ordinances of the City. All vehicles shall be properly licensed, registered and equipped in compliance with the State of Oregon's motor vehicle laws.

(e) The franchisee shall allow a pro rata credit on the regular monthly charge for service and waste management service where services are cancelled for three weeks or more, but no such prorata shall be allowed for services that are cancelled for less than three weeks.

(f) The franchisee is not obligated to provide service or solid waste management service to non-owners of property where the landlord or owner does not request and pay the bill, unless the payment has been guaranteed in advance by the property owner.

(g) The franchisee may terminate service and solid waste management service to a customer for non-payment by the customer within 45 days of the mailing of the bill. The franchisee may require advance payment in the future from a previously non-paying customer before resuming service.

(h) Each franchisee shall furnish a bond in a form acceptable to the City that will insure the faithful performance by the franchisee of the service that the particular franchisee is required to provide under this ordinance. The amount of the bond shall be \$5000.

(i) The franchisee shall respond to any written or oral complaint regarding the franchisee's service no later than the work day immediately following the date of the complaint.

(j) The franchisee shall provide the Opportunity to Recycle in accordance with ORS chapter 459A. The franchisee shall comply with all rules and regulations adopted by the Department of Environmental Quality and the Metropolitan Service District, if any.

(k) The franchisee whose territory includes the following City-owned facilities shall provide service at those facilities at no charge to the City:

- (1) The Community Center;
- (2) The Senior Center;
- (3) The Lafky House;
- (4) The Community Park, located long the Tualatin River; and
- (5) The Parks Administration Building.

Such consideration shall be in addition to other consideration provided by such franchisee.

(l) Except as otherwise provided, the franchisee shall not give a rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of, or resource recovered. This paragraph shall not prohibit uniform classes of rates based upon length of haul, time of haul, type or quantity of solid waste handled, or location of customers, so long as such rates are reasonably based upon the cost of the particular service and are approved by the City Council in the same manner as other rates. This provision shall not prohibit the franchisee from negotiating for or agreeing to either purchase or charge from recyclable materials collected from commercial customers based on quantity or quality of such materials, so long as comparable rates are offered to customers of the same class.

(m) The franchisee shall not assign or transfer the franchise, a part of the franchise, or anything pertaining to the franchise without the approval of the City Council. The Council may approve the assignment or transfer if the proposed transferee qualifies for service under all applicable standards and requirements of this ordinance, state law and regulations. Nothing contained in this ordinance shall be construed as

prohibiting a pledge or assignment an interest in the franchise or monies due for service as financial security by a franchisee so long as the franchisee remains primarily responsible for obligations under this ordinance. Such assignment shall be subject to all proper setoffs in the nature of franchise fees owing to the City.

(n) The franchisees shall be responsible for providing collection of infectious waste, as defined in ORS 459.386, either directly or through a sub-contract, subject to the prior approval by the City. Such collection shall be provided in a manner that meets the requirements of state statutes and regulations promulgated by the Department of Environmental Quality and the State Health Division.

Section 8.

Service provided under this franchise shall be subject to the supervision of the City Manager or the City Manager's designee. The franchisee shall, at reasonable times, permit inspection of this facilities, equipment, personnel and records as they relate to the service and solid waste management service provided under this ordinance. The franchisee shall file an annual report in the manner provided by the City by resolution.

Section 9. Suspension, Modification or Revocation of Franchise.

(a) The City Council may suspend, modify or revoke a franchise upon a finding that the holder of the franchise has committed any of the following acts:

(1) Willfully violated this ordinance or ORS Chapter 459 or 459A or any rule promulgated under these chapters;

(2) Materially misrepresented statements in an application for a franchise, the annual report of gross receipts or any other report, including but not limited to a recycling or solid waste management program report;

(3) Willfully refused to provide adequate service in the defined service area;

(4) Willfully refused a request for inspection of facilities, equipment, personnel or records;

(5) Operated or provided service or waste management service within the city limits without a franchise or in violation of a franchise or condition attached to such franchise from the City Council.

(b) When the City Council, the City Manager, or the City Manager's

designee receives information, indicating a violation of this section, the City shall provide a written notice of such violation to the non-complying franchisee. The notice shall provide a description of the alleged violation, and shall provide a reasonable opportunity to correct the violation.

(c) Upon receipt of the written notice of violation, the non-complying franchisee shall have 30 days from the date the notice was mailed to comply or to request a public hearing before the City Council. The franchisee's request for a public hearing must be in writing. If a public hearing is held, the franchisee and other interested persons shall have a reasonable opportunity to present information and testimony in oral, written and electronic form.

(d) The Council shall adopt written findings of fact and conclusions that will support or deny the alleged violations. On the basis of such findings, the Council may suspend, modify or revoke the franchise of the non-complying franchisee or condition such action upon continued non-compliance with the alleged violation. The franchisee shall comply with the time specified in the notice or with the order of the City Council.

Section 10. Preventing Interruption of Service.

If the City Council finds an immediate and serious danger to the public that creates a health hazard or serious public nuisance, the City Council may, after not less than 24 hours prior to written notice to the particular franchisee, authorize another person to temporarily provide service under this ordinance, or the City may elect to provide the service itself. Upon request from the franchisee, a public hearing shall be provided before the City Council. However, unless the Council decision to authorize another person to provide temporary service is rescinded, the temporary service may continue to be provided by another person or the City. The franchisee shall permit the use of franchisee's real property, facilities and/or equipment to provide such temporary service. The City Council shall cause the return of any such property of the franchisee upon abatement of the health or nuisance hazard. If the power under this section is exercised, the scheduled fees and charges for service shall prevail and the franchisee shall be entitled to collect those charges less any actual costs incurred by the City.

Section 11. Services to be Provided; When Such Service May Be Interrupted or Terminated.

(a) The franchisee shall collect solid waste and recyclable materials and provide other services more specifically described by the City by resolution at the various residences, business establishments, and other places within the City where such service is requested and required, promptly, and haul the solid waste and recyclable materials from the City upon the payment of the rates authorized by the rate schedule approved by the City Council by resolution.

(b) A franchisee shall not terminate service to any or all of its customers under this franchise except in accordance with this ordinance. Service may be interrupted or terminated when:

(c) The street or road access is unavoidably blocked through no fault of the franchisee if there is no reasonable alternative route or routes to serve all or a portion of its customers. In no event shall the City of Tualatin be liable for any such blocking of access; or

(d) Adverse weather conditions render providing service unduly hazardous to persons or equipment providing such service or if such interruption or termination is caused by an "act of God" or a public enemy.

Section 12. Subcontracts.

A franchisee shall not subcontract with another person on a regular, periodic or long-term basis to provide service or solid waste management service under this contract without prior Council approval. Such subcontract shall not relieve a franchisee of responsibility for compliance with this ordinance.

Section 13. Rates.

The rates for service under this ordinance shall be those rates currently in effect upon the adoption of this ordinance unless modified by the Council. The rates shall remain in effect until a change in rates is approved by the Council. The Council shall establish changes in rates by resolution as it considers necessary from time to time. In determining the appropriate rate to be charged by the franchisee, the Council may consider the following:

(a) The cost of performing the service provided by the franchisee;

(b) The anticipated increase in the cost of providing this service;

(c) The need for equipment replacement and the need for additional equipment to meet service needs; compliance with federal, state or local law or regulations; or technological change;

(d) The franchisee's investment, the value of the business and the necessity that the franchisee have a reasonable rate of return on revenue;

(e) The rates charged in other cities of similar size within the Portland-metropolitan area for similar service;

(f) The public interest in assuring reasonable rates to enable the

franchisee to provide efficient and beneficial service to the residents and other users of the service;

(g) The local wage scales, cost of management facilities, landfill and dumping fees or charges;

(h) Any profit or cost savings resulting from recycling, and any additional costs resulting from recycling;

(i) Any increase or decrease in the franchise fee charged by the City; or

(j) Any other information deemed necessary for a rate review.

Section 14. Public responsibility.

(a) The franchisee, the City and the public shall comply with state law, including but not limited to ORS Chapter 459 and 459A, ORS Chapter 654 (Employment Safety and Health,) and ORS Chapter 656 (Workers' Compensation), and regulations promulgated under those laws by the Department of Environmental Quality, the Workers' Compensation Department, the State Accident Insurance Fund and the Waste Reduction Plan for the Washington County Watershed approved by the City Council. The rules for the administration of the Oregon Safe Employment Act and Oregon Occupational Safety and Health Code shall be complied with. The following requirements shall pertain to service under this ordinance:

(1) No garbage receptacle that is not designed for machine automated lift for individual residence service shall exceed 32 gallons in size nor weigh more than 60 pounds gross loaded weight. Cans shall be tapered so they are larger at the bottom. Sunken refuse cans or containers shall not be installed. All receptacles to be lifted by mechanical means shall be provided by the franchisee.

(2) To protect against injury to employees of the franchisees and to protect against rodent and fire danger, cans shall be rigid and composed of materials that resist splitting or cracking from changes in weather conditions.

(3) The customer shall provide safe access to the pickup point so as not to jeopardize the persons or equipment supplying service or the motoring public.

(4) No person, other than the generator of the materials placed in a container for collection or an employee of the franchisee shall interfere with or remove any solid waste or recycling container from

the location where it has been placed by the generator for collection, or remove, alter or compact, either manually or mechanically, the contents of the container.

(5) No person shall place chemicals, paint, corrosive materials, infectious waste or hot ashes into a container placed for collection service, with the exception that household quantities of chemicals, paint and corrosive materials may be placed by household residents into their own solid waste container when prepared in such a manner as to prevent spillage or leakage of the contents. When materials, customer abuse, fire or vandalism cause excessive wear or damage to a container provided by the franchisee, the cost of repair or replacement may be charged to the collection customer.

(b) To protect the privacy, safety, pets and security of the customers, and to prevent unnecessary physical and legal risk to the franchisee and its employees, a residential customer shall place the container to be emptied outside any locked or latched gate and outside any garage or other building. Nothing contained in this paragraph shall prevent or discourage the use of site obscuring waste receptacle screening for commercial or industrial containers or drop boxes.

(c) Stationary compactors for handling solid waste shall comply with applicable federal and state safety regulations. No such compactor shall be loaded so as to exceed the safe loading design limit or operation limit of the collection vehicles used by the franchisees. A person who wished services for a compactor shall, prior to acquisition of such compactor, inquire of the franchisee as to compatibility with franchisee's equipment or equipment that the franchisee is willing to acquire. No person shall place solid waste or recyclable materials in a Drop Box in an amount that exceeds the legal weight limits of state and local laws or that exceeds the weight limits of manufacturer's specifications for the franchised collector's equipment. Drop boxes shall not be filled beyond the top of the box in order that they may be securely covered.

(d) Putrescible solid waste shall be removed from the premises of a customer at regular intervals not to exceed seven days.

(e) Except as otherwise expressly provided in this ordinance, any person who receives service shall be responsible for payment of the service.

Section 15. Indemnity and Hold Harmless.

(a) Notwithstanding the provision of insurance by the franchisee, the franchisee shall defend, indemnify and save the City harmless from liability or loss because of injury, including death, to any person or damage to any property that may occur or may be alleged to have arisen out of, connected with, or related to

performance of service, solid waste management service or resource recovery as a result, directly or indirectly of franchisee's or its subcontractors' or their servants, agents or employee, acts or omission, and whether or not such injury or damage is jointly attributable to the City's fault or negligence. This obligation shall survive modification, termination or transfer of the franchise. In any and all claims against the City or its agents or employees, these indemnification obligations shall not be limited in any way by any limitation in the amount or type of damages, compensation or benefits payable by or for contractors, workers' compensation acts, disability acts, or other employee benefits.

(b) The franchisee shall make payment promptly, as due to all persons supplying franchisee labor or material for the prosecution of the work provided in this ordinance. The franchisee shall pay all contributions or amounts due the Industrial Accident Fund from such franchisee incurred in the performance of services under this ordinance. The franchisee shall not permit any claim to be filed or prosecuted against the City on account of any service provided. The franchisee shall pay all sums withheld for employees to the Department of Revenue pursuant to ORS 316.167 and other tax laws.

(c) The franchisee shall provide workers' compensation insurance coverage for all persons employed by the franchisee to perform service under this ordinance and assure that all workers will receive the compensation for compensable injuries provided in ORS Chapter 656 either by:

(1) Contributing to the State Accident Insurance Fund as a contributing employer; or

(2) Qualifying as a direct responsibility employer under ORS 656.403 to 656.443. The franchisee shall hold harmless and indemnify the City for any claims, suits, or actions by the franchisee's and all subcontractors' employees including their dependents and including investigations, adjusting and litigation of said claims, valid or not, occasioned by any work and/or services furnished or carried on under the terms of this ordinance.

(d) The franchisee shall make payment promptly as due to any person furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injuries to employees, of all sums that have been agreed to be paid for such services and all monies and sums that may be collected or deducted from employees wages pursuant to ORS Chapter 656 or any negotiated labor-management agreement or policy.

Section 16. Franchisees' Service Requirements.

(a) Subject to review and revision by the City Council, the franchisee may

establish reasonable rules concerning the size, weight and location of containers or compactors, and concerning other matters directly affecting the safety of franchisees' employees and its ability to perform the service with available technology and equipment. The franchisee may also establish such reasonable rules as necessary to comply with weight limits, disposal site requirements, recycling requirements and general requirements of the Oregon Department of Environmental Quality.

(b) Upon the recommendation of the City Manager, if the City Council finds that an applicant for franchise or an existing franchisee under this ordinance cannot or is unwilling to provide service for the collection of solid waste or any required service as defined under this ordinance or resolutions adopted pursuant to this ordinance, the City Council may issue a franchise for joint service with another person who can or is willing to provide that service; provided that in all cases where the City Council finds that the applicant for or the existing franchisee is unable to provide adequate service for particular types or unusually large quantities of solid waste or waste or recyclable materials, the City Council may issue a temporary or permanent franchise to another person for the limited purpose of providing such service. Upon the recommendation of the City Manager, if the City Council finds that the need for service justifies action before a complete investigation and final determination can be made, the Council may issue a temporary franchise valid for a stated period not to exceed six months, entitling a person to serve a defined service area or customer or provide a particular service.

Section 17. City Enforcement and Penalties.

(a) The City, through its designated officers and employees, shall take appropriate steps to protect the rights of the franchisee in the performance of services or waste management service and cooperate with the franchisee in protecting such rights.

(b) Except as otherwise provided, a violation of this ordinance is a civil infraction punishable by a fine not to exceed \$500. Each violation constitutes a separate offense, and each day that a violation is committed or permitted to continue, constitutes a separate offense.

(c) The rights and penalties provided in this ordinance are cumulative, not exclusive, and are in addition to other rights, remedies and penalties available to the City under law.

Section 18. Annexations.

Upon the annexation to the City of additional territory, the provisions of ORS 459.085(3) shall be followed.

Section 19. Violations.

(a) It is unlawful for a person to provide or offer to provide solid waste management service in the City of Tualatin except as provided under Section 4 of this ordinance.

(b) It is unlawful for a person:

(1) Without the permission of the owner or generator of recyclable material to take recyclable materials set out to be collected by a person authorized by the City to provide collection service for that recyclable material, except in accordance with this ordinance;

(2) To remove any recyclable material from a container box, collection vehicle, depot, or other receptacle for the accumulation or storage of recyclable material without permission of the owner or City;

(3) To mix source separated recyclable materials with solid waste in a vehicle, box, container, or receptacle used in solid waste collection or disposal;

(4) To remove solid waste placed for collection by franchisee without the permission of the City or the franchisee.

(c) The violations listed in this Section are subject to the penalties set forth in Section 17 of this ordinance.

INTRODUCED AND ADOPTED this 24th Day of January, 2011.

CITY OF TUALATIN, OREGON

BY _____

Mayor

ATTEST:

BY _____

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Procter
CITY ATTORNEY