



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
Monday, September 13, 2010

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 5:00 p.m.**

REGULAR MEETING begins at 7:00 p.m.

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**Mayor Lou Ogden**

**Council President Chris Barhyte  
Councilor Monique Beikman  
Councilor Joelle Davis**

**Councilor Jay Harris  
Councilor Donna Maddux  
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 [www.ci.tualatin.or.us](http://www.ci.tualatin.or.us), 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" on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org).

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

**- SEE ATTACHED AGENDA -**

## 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.

1. The Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report to the Council.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
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, 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.



**A. CALL TO ORDER**

Pledge of Allegiance

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. Tualatin Youth Advisory Council Update
2. Community Enhancement Award Presentation
3. Commuter/High Speed Rails Update
4. "People for Libraries" Presentation
5. Tualatin Elementary Arts Foundation (TEAF) After School Program

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Commission 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 (Item Nos. 1 – 2)**

Page No.

*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 Work Session and Meeting of April 24, 2010,.....  
the Special Work Session of August 2, 2010, and the Work Session and  
Meeting of August 23, 2010
2. Community Involvement Committee Appointments .....
  - Steve Klingerman – Planning Advisory Committee, partial term ending 08/31/11

**E. PUBLIC HEARINGS – Legislative or Other**

1. Public Hearing to Consider an Ordinance Requiring Developers to Mitigate Development .....  
Impacts on Public Water, Sanitary Sewer and Stormwater Lines; and Amending TDC  
1.020 and 1.032 (PTA-09-08)

Ordinance No. **1310-10** Requiring Developers to Mitigate Development  
Impacts on Public Water, Sanitary Sewer and  
Stormwater Lines; and Amending TDC 1.020  
and 1.032 (PTA-09-08)

**F. PUBLIC HEARINGS – *Quasi-Judicial***

1. Public Hearing to Consider an Ordinance Changing the Planning District Designation .....  
From Low-Density Residential (RL) to Medical Center (MC) of Parcels of Land  
Located on SW Borland Road (21E 19C 1700 & 2000) and .25 Acres of Abutting  
Right-of-Way; and Amending the Community Plan Map 9-1 (PMA-09-03)  
***[CONTINUED to October 11, 2010]***

**G. GENERAL BUSINESS**

*None.*

**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**

1. Resolution No. **5004-10** Supporting the Washington County Cooperative Library  
Services Local Option Levy Measure 34-180 – November  
2, 2010  
***[Added to the agenda September 13, 2010 by City Council]***

**J. EXECUTIVE SESSION**

**K. ADJOURNMENT**



# CITY COUNCIL SIGN-UP SHEET

DATE: September 13, 2010

PLEASE COMPLETE TO GIVE TESTIMONY

LIMIT TESTIMONY TO THREE MINUTES

	<b>(PLEASE PRINT CLEARLY) Name</b>	<b>Address</b>	<b>E-mail</b>	<b>Representing</b>	<b>Agenda Item(s) or Citizen Comments</b>
1.	Scott Campbell	10925 SW Byron Terrace Tualatin, OR 97062	Scott.Campbell@comcast.net		CC
2.	Jean Butcher	3635 SW 70th Ave Portland 97225		People for Libraries	CC
3.	Carol Bauwien	21735 SW 109th Ter Tualatin OR 97062	<del>carol</del> cogitcb@comcast.net		Blk. St Ext. Poole Duany
4.					
5.					
6.					
7.					
8.					

Council Update September 13, 2010

TUALATIN YOUTH  
ADVISORY COUNCIL



# Welcome New Members!



- Gimena Olguin
- Anna Wilson
- Gillian Downey
- Nick Gellos
- Grant Hughes
- Jena Hughes
- Shivali Kadam
- Jessica Zamora
- Mandy Pozo
- Maddie Simmons

# Movies on the Commons

- Over 1000 people attended this summer
- Audience loves the new screen!
- Finished with a bonus movie at Browns Ferry Park on August 28<sup>th</sup>.



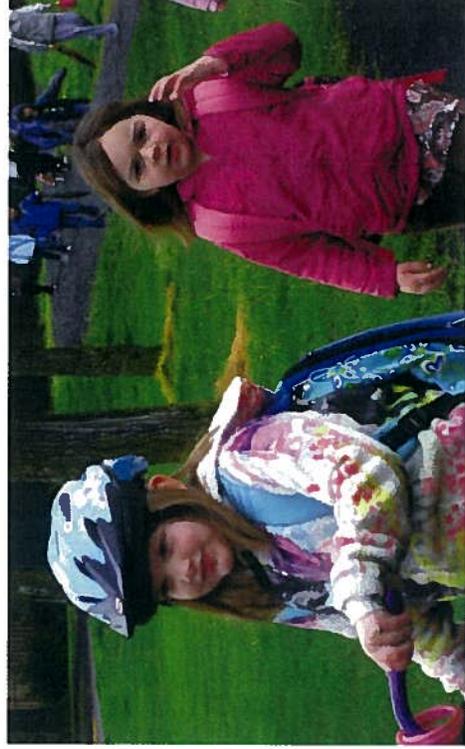
# TualalaFest 2010



- Friday, August 13th, 6-9pm
- Tualatin Community Park
- 350+ people attended
- This year's winner was Nyborg!

# Coming Soon...

- Haunted House 2010!
- International Walk + Bike to School Day
- 7<sup>th</sup> Annual West Coast Giant Pumpkin Regatta
- And lots, lots more!



**See you next month!**



Submitted at Citizen Comment  
portion of 9/13/10 Council  
meeting - Item B-5

Help Save Tualatin Elementary's Arts  
Foundation (T.E.A.F) After School Program for  
Free!

All we need is our vote at:

[http://www.refresheverything.com/helptualatin  
elementaryartsfoundation](http://www.refresheverything.com/helptualatin<br/>elementaryartsfoundation)

To vote: Use your emails to make accounts  
(you will never be bothered by creating these  
accounts). Also text in another vote by  
texting 100321 to •Pepsi (73774). If you  
have an Facebook account, you can cast  
another vote there.

Thank you for your support to give our  
students the opportunities to get hands-on  
experiences in the arts at Tualatin  
Elementary!!!



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 9-13-10

Recording Secretary M. Smith /sjr

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** September 13, 2010

**SUBJECT:** APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETING OF APRIL 26, 2010, SPECIAL WORK SESSION OF AUGUST 2, 2010 AND WORK SESSION AND MEETING OF AUGUST 23, 2010

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**ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes of the Work Session and Meetings of April 26, 2010, and August 23, 2010, and Special Work Session of August 2, 2010.

**RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

**FINANCIAL IMPLICATIONS:**

There are no financial impacts associated with this item.

**Attachments:** A. Minutes



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF APRIL 26, 2010

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Mike City Engineer McKillip, Don Hudson, Finance Director; Paul Hennon, Community Services Director; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Maureen Smith, Recording Secretary

ABSENT: None.

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

**A. CALL TO ORDER**

Mayor Ogden called the work session to order at 5:00 p.m.

*Council reviewed the Consent Agenda with no changes.*

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Tree Preservation Changes*

Assistant Planner Colin Cortes presented ongoing information on tree preservation regulations and research staff conducted on other cities regulations. Council briefly reviewed and discussed the memorandum submitted by staff and asked for information to be brought back in one year for further review.

2. *Urban Growth Boundary Expansion Discussion*

Community Development Director Rux gave a brief presentation on information from Metro on the urban growth boundary expansion. Brief discussion followed on the expansion process that is done by Metro.

3. *Regional Transportation Plan (RTP) Update*

City Manager Sherilyn Lombos distributed a letter with comments from the "North Tualatin Friends" group. If getting comments tonight from Council will finalize and get signatures and send on to Metro. Ms. Lombos said the change is, the main issue is the draft is "while Tualatin road over the Tualatin River and.....and as it currently stands,.....North Tualatin didn't like the proposed language and wanted it to say not "as it currently stands....".

Council discussed the varying language proposed for the letter to Metro regarding Tualatin's position on the RTP. Other parts of the letter were in agreement by Council. Council made adjustments to the Metro letter and asked to receive copies of the final version from staff.

Extensive discussion by Council followed. It was suggested looking at the City's transportation system with a type of advisory committee that could review transportation-related issues and provide advice to Council. It was mentioned previous discussion was held on how the City currently addresses advisory committees and the importance of getting information to the advisory committees. Having the committee come before Council on a regular basis was suggested, and that the committee could also jointly meet with the Tualatin Planning Advisory Committee (TPAC).

Discussion continued by Council on the merits of having a separate standing committee. It was suggested to have TPAC be the standing group to deal with day-to-day transportation issues, giving them a full agenda and allow for TPAC to become more involved. A separate committee that was something similar to the "Tualatin Tomorrow" process was suggested that could work with TPAC on various issues, not just transportation-related issues.

Gathering a sufficient amount of citizens was mentioned of which Council believes is possible, and it was also suggested that councilors be part of the committee. Having enough diversity was also mentioned. Putting together a process in the next few months and taking a look at the broader issue of empowering the current committees was mentioned. Starting out as a "steering committee" was the suggested way to proceed.

It was suggested one or two councilors attend an upcoming TPAC meeting to explain what Council is looking to accomplish, the parameters of a steering committee, and the idea of a permanent Council liaison on TPAC.

3. *Discussion Regarding Possible Charter Amendment*

City Manager Lombos distributed a petition initiative that was filed on a proposed Charter amendment entitled "Protection of City Owned Parks and Open Spaces" which would require voter approval of any

Council discussed the initiative and Councilor Maddux' believes the initiative is too broad, and she noted her opposition to the initiative process because it forces voters to make decisions that are not fully known.

City Manager Lombos explained how the process would be done to place the initiative on the ballot. The group is looking to get on the November 2, 2010 ballot and will need to turn in the signature petitions in August to allow for verification of signatures to meet the deadlines for the November election.

It was mentioned that the petitioners have two years to turn in their petition. Community Services Director Paul Hennon explained and City Attorney Brenda Braden added that the petition is proposing if there is any change needed to a park, such as right-of-way that would be needed, voters would need to approve such a change. The question is whether there is interest by Council in referring the issue to the ballot. Council discussed the possible ramifications if the proposed amendment were passed.

Council discussed options that could take place. One is for Council to refer the initiative to the ballot and save on signature gathering. Councilor Truax said he will not vote to refer the initiative to the ballot, while Council President Barhyte commented he believes there will be a sufficient amount of signatures to put this on the ballot.

Councilor Harris said he would be in favor of referring it, but he needs a comprehensive definition of "parks" such as pedestrian walkways, etc.

Chief Petitioner Cathy Holland replied to the Council discussion of their interest in looking at modifying the proposed initiative, however Ms. Holland said their group will not be presenting another version back to Council. She said they have two years to get the initiative on the ballot, but if Council wants to submit language that the majority would support they may take a look at what would be proposed but could not promise anything would change.

Council discussed possible wording changes to the initiative petition, and suggested this be given to the Tualatin Parks and Recreation Committee (TPARK) for a review of the proposed initiative with a chance to modify the current language to some degree.

It was suggested having no more than three councilors at the TPARK meetings on how to propose changes and whether to refer. City Manager Sherilyn Lombos commented it puts staff in an awkward position. Mayor Ogden said a working group could get together to discuss any possible modifications, and Councilor Barhyte said he would be willing to review with TPARK. Councilor Maddux reiterated her position that the proposal is too broad, and she along with Councilors Truax and Beikman are not interested in pursuing further discussion, with the remaining Council in agreement to review the initiative with TPARK.

**C. CITIZEN COMMENTS – N/A**

**D. CONSENT AGENDA**

Council reviewed the Consent Agenda at the beginning of the work session with no changes.

**E. PUBLIC HEARINGS – *Legislative or Other***

N/A

**F. PUBLIC HEARINGS – *Quasi-Judicial***

N/A

**G. GENERAL BUSINESS**

N/A

**H. ITEMS REMOVED FROM CONSENT AGENDA**

N/A

**I. COMMUNICATIONS FROM COUNCILORS**

City Manager Lombos and Mayor Ogden explained about reopening the hearing on the Central Urban Renewal District amendment and taking testimony, whether it should be a smaller amendment, and to look at the 20% definition, etc. It was explained on how the process could work at this hearing with discussion and deliberation.

City Manager Lombos briefly reviewed the upcoming public meetings and events.

Councilor Harris said the Washington County Consolidated Communications Agency WCCCA (9-1-1) increased their budget, can't operate with a level of service.

Councilor Maddux said she will be speaking at the Rotary Club regarding the Family Resource Center (FRC)..

**J. EXECUTIVE SESSION**

*None.*

**K. ADJOURNMENT**

The work session adjourned at 6:58 p.m.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith

A handwritten signature in blue ink that reads "Maureen Smith". The signature is written in a cursive style and is positioned above a horizontal line.



TUALATIN CITY COUNCIL MEETING MINUTES OF APRIL 26, 2010

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: Councilor Beikman\* [\* denotes excused]

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

**A. CALL TO ORDER**

Mayor Ogden called the meeting to order at 7:08 p.m.

The Pledge of Allegiance was led by Council President Barhyte.

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Tualatin Tomorrow Presentation Key Focus Area – Growth, Housing, and Town Center*  
Growth, Housing and Town Center Focus Lead Beth Roach gave a PowerPoint presentation on a year in review of the Growth, Housing and Town Center focus area. Ms. Roach mentioned the upcoming inaugural Farmers Market, and thanked Council for their support on being able to move this forward.

City Manager Sherilyn Lombos added the City's Facebook page is now live, and can also follow the City on Twitter and YouTube. There will also be a "Council Corner" set up and an RSS feed on the website.

2. *Proclamation Declaring the Month of May 2010 as "National Historic Preservation Month" in the City of Tualatin*  
Councilor Davis read the proclamation declaring National Historic Preservation month in the City of Tualatin.
3. *Prescription Discount Card Program Update*  
Human Resources Program Coordinator Debra Bullard gave a brief PowerPoint presentation reviewing the National League of Cities (NLC) program, which was officially launched in October, 2009. Ms. Bullard also noted that NLC will produce a "water bill stuffer" to get information about the program out to the community.

4. *Tualatin Library Advisory Committee Annual Report [moved to Presentations portion]*  
Library Manager Abigail Elder and Library Advisory Committee member Marge Congress were present and gave a brief PowerPoint presentation on the Library Advisory Committee's annual report. Among other issues in the past year, this was also the year for review of the complicated Washington County Cooperative library formula for funding distribution.

Mayor Ogden thanked the committee and also the "Friends of the Library" for the work that has been done and for all the volunteers that help in the library.

Councilor Jay Harris briefly explained the process of annexing into the Library District of Clackamas County on the ballot for the May 18, 2010 primary election. He explained it would affect the portion of Tualatin residents located in Clackamas County to continue access to Washington County libraries. Washington County residents have nothing to lose by passing the measure as it will not affect their taxes whatsoever. Community Services Director Hennon further explained that it requires a combined vote of all electors, but in addition Clackamas County voters will need to affirm the vote or it will not pass.

5. *Mayor Ogden* noted a number of people were present to comment on this issue and he wanted to make sure everyone is aware this was addressed in the work session portion of the meeting. A request was made to the City Council to send a letter to Metro about removing Project 10731 from the Regional Transportation Plan (RTP).

### C. CITIZEN COMMENTS

*Dolores Hurtado, Tualatin, OR*, wanted to thank Council for their actions earlier this evening in sending a letter to Metro in response to the concerns of citizens to withdraw Project 10731 from the Regional Transportation Plan (RTP). Next is to convince Metro this project has too many flaws and reacts negatively to neighborhoods and the Tualatin atmosphere. Ms. Hurtado also wanted to thank the Council for the recommendation to establish a City "Transportation Advisory Committee".

Mayor Ogden commented on how citizen involvement can create outcomes and Council can end up making decisions without enough citizen involvement. Council looked to increase public involvement and participation, and get with the social media side, etc. to convey as much information disseminated as possible.

*Linda Moholt, 19181 SW 55<sup>th</sup> Court, Tualatin, OR* said as a resident of Tualatin and Clackamas County, wanted to go on record to note her support of the measure on the ballot regarding Clackamas County residents ability to use the Library's full services.

*Kathy Newcomb, 17515 SW Cheyenne Way, Tualatin, OR*, noted that she and her husband endorse the library measure and the "pool" measure, and happy that citizens have gone to the trouble of supporting the pools for children. Ms. Newcomb also mentioned citizen involvement and a meeting that has been set in May with City Manager Lombos to further discuss ways to reach the public. Ms. Newcomb also mentioned transportation in Tualatin, and how it could better be addressed. She suggested land could be purchased for "park and rides" or something similar to assist with getting transit increased in Tualatin.

**D. CONSENT CALENDAR**

MOTION by Councilor Harris, SECONDED by Councilor Maddux to adopt the Consent Agenda as read:

1. Approval of the Work Session and Meeting Minutes of March 22, 2010
2. Authorize Concession Agreement with Alder Creek Canoe and Kayak for Provision of Canoe and Kayak Livery Services at Brown's Ferry Park
3. Resolution No. 4972-10 Awarding the Bid for the 2010/2011 Pavement Maintenance Schedule

MOTION CARRIED.

**E. PUBLIC HEARINGS – Legislative or Other**

1. Public Hearing on an Ordinance Considering a Substantial Amendment to the Urban Renewal Plan for the Tualatin Central Urban Renewal Project, Increasing the Maximum Indebtedness and Adding Projects to Address Blight; and Amending TDC 30.010 and TDC Map 9-3 (PTA-09-10)
- 

Mayor Ogden reopened the public hearing and noted it was continued from March 22, 2010.

Community Development Director Doug Rux presented the staff report and entered the entire staff report into the record. The staff report outlines the elements and some of the issues associated with the proposal of a "not to exceed 20% maximum indebtedness increase" to the Central Urban Renewal District (CURD).

Community Development Director Rux reviewed information from the staff report on the project proposals and the associated costs, which are 2009 dollars, and a 3% inflation factor would be included. Another component is the revenue side, and the original calculations included low, medium, and high scenarios. Further explained is the "20% scenario" and if Council were to consider a "not to exceed 20% maximum indebtedness increase" there would still need to be discussion with the overlapping taxing districts but would not require concurrence. The Report continues with what the options are and Community Development Director Rux added it is important to note that increasing the maximum indebtedness as low as one-cent is considered a "substantial amendment."

**COUNCIL DISCUSSION**

Discussion by Council on the bridge and the understanding that there is ownership by other jurisdictions than just Tualatin, and Community Development Director Rux went on to explain the total cost of the project is indicated, not just Tualatin's portion.

Revenue estimates were mentioned, and Community Development Director Rux explained how funding would happen if development occurred at a certain timeline.

Council held considerable discussion on the issues surrounding the pros and cons of increasing the maximum indebtedness not to exceed amount of 20%. Council President Barhyte asked and Community Development Director Rux explained if Council did a 20% increase that went over \$7.4 million, the overlapping districts could object, or there could be concurrence by the districts.

Council discussion followed on associated costs with the proposed projects and the scope of each at various levels, and how long they would take to be developed. Community Development Director Rux continued to explain in detail each project's scope and the costs with the original versus the proposed now.

*Tualatin Valley Fire & Rescue (TVFR) District Fire Chief Mike Duyck*, was present and said they would be prepared to give concurrence under the \$7.5 million scenario and would be happy to take back to the TVFR Board, but if it increases over 20%, the board may not agree.

PROPONENTS (in favor of 20% increase or less)

*Jan Giunta, 17655 SW Shawnee Trail, Tualatin, OR*, thanked staff for information she received, and expressed her concerns on the corresponding loss of revenue by the various taxing districts, the length of time to complete projects, and what type of commercially viable projects will be brought to Tualatin. Ms. Giunta said after looking at the East Commons project considered if the project costs could be decreased and if it could be built without sidewalks to lower the cost, she could support it. It was asked and answered the approximate costs without sidewalks or with different widths and what it would entail having only lighting done without the other work. Ms. Giunta recommends narrowing the time frame, narrowing the scope, and narrowing the cost.

***A break was taken from 9:00 p.m. to 9:12 p.m.***

*Linda Moholt, Tualatin Chamber of Commerce*, distributed information on the Chamber's support of urban renewal and the support of the 20% increase recommended by City staff for the CURD, and noted letters that are in support of the continuation of urban renewal. Ms. Moholt read briefly from a letter submitted and asked that Council put road improvements and infrastructure forward. Ms. Moholt said the Chamber would like to encourage the efforts with other entities to start work with moving forward with a southern arterial, and mentioned that Metro Councilor Carl Hosticka said this is the most viable solution for the region, rather than Tualatin taking the entire burden.

*Steve Titus, 10170 SW Sedlak Court, Tualatin, OR*, said he is not opposed to development but asked about the projects list, in particular the Boones Ferry Road project, from SW Martinazzi Avenue to SW Upper/Lower Boones Ferry intersection. Community Development Director Rux explained the project is proposed to widen Boones Ferry Road to a five-lane cross section, replace the bridge and install streetscape enhancements. It was asked and explained the design configuration of the road widening, and the idea is to make the intersection work better.

*Jack Broome, 18815 SW Boones Ferry Road, Tualatin, OR*, said his initial thoughts were to do away with urban renewal completely and start over with some type of traffic plan and if the addition of more roads is the answer. Funds shouldn't be spent widening Tualatin-Sherwood Road. Tualatin should take a look at what's been done and for whom and a lot of money is spent turning over the automobile for people that don't live here. The automobile is not the answer, and nothing is mentioned about rapid transit. Mr. Broome said urban renewal should be abandoned, but if it isn't, he may be willing to support the 20% increase.

*David Emami, Lake Oswego, OR*, said urban renewal has benefited Tualatin and has brought people to the city, and as a Tualatin downtown landowner, suggested looking at the leftover projects to see how they could be finished. Taking a look at urban renewal gives an opportunity of what developers can build what is commercially viable. Mr. Emami said if Council proceeds with the 20% increase he wants the freedom to use his property the best and most efficient way.

## OPPONENTS

*Arne Nyberg, representing Nyberg Limited Partnership, lives in Rivergrove and noted a history of difficulty in working with the City. Mr. Nyberg believes it has reached a point where enough is enough and questioned where the "blight" is. Mr. Nyberg said he disagreed with some of the choices Council has made, and there is a need to support schools and the fire district, and urban renewal dollars should be returned to the taxing districts. My Nyberg's opinion is it would be best to close the district.*

*Steve Schopp,, 10475 SW Helenius, Tualatin, OR, commented that urban renewal should end and Council return the funds to the City's coffer. Council can then decide at a future date what projects would benefit the citizenry. Mr. Schopp said urban renewal tax increment financing is the adoption of less prudent spending and knowingly spending on projects when other taxing jurisdictions have higher priorities.*

*Richard Dreyfus, 21103 SW Jameico Court, Tualatin, OR, said he has attended previous Council meetings and believes letting the CURD expire, and the remaining funds to be put into something such as a "capital improvement" fund. Mr. Dreyfus said if it doesn't benefit the citizens it shouldn't be done.*

*George Vigileos, 18230 SW Shawnee Trail, Tualatin, OR, said he has heard just letting the district expire, and the first question is if Council has any desire to have the frozen tax base relinquished, and the funds returned to the city. Mr. Vigileos said urban renewal and tax increment financing is controversial and asked Council to consider what their own interests and commitment is to holding onto the frozen tax base.*

*Kathy Newcomb, 17515 SW Cheyenne Way, Tualatin, OR mentioned the \$300,000 that is coming from the CURD, not including the Leveton district funds, makes the total funds closer to \$800,000. Ms. Newcomb said that is in part why she suggested increasing transit use.*

Mayor Ogden asked and Community Development Director Rux reiterated the direction the hearing could go with respect to process. It was asked if a motion is made to close the district and it fails, how would the hearing be able to proceed.

## COUNCIL DISCUSSION

Council President Barhyte said he would be in favor of making a motion to close the district. Councilor Maddux said she would be interested in pursuing the \$7.5 million and completing the Martinazzi project, a direct benefit to businesses. Councilor Maddux added although the City doesn't need concurrence from the taxing districts, it would be good to have. Councilor Harris said he is in support of that project and concept, but is concerned about the timeline, Councilor Truax said it is disappointing after having discussed this for the last few years of Council's vision for the downtown. Although he would be in support of the full package in other circumstances, the 20% increase would not be enough to make a difference. Councilor Davis said the City will be redoing the Transportation System Plan (TSP) and from that will a reprioritized list that she believes Council should putting funding towards. Councilor Davis said doesn't want to restrict the taxing district at this point.

Mayor Ogden asked and urban renewal attorney Jeannette Launer said the question is whether it is sufficient opportunity for the public to be heard on a proposal on something other than the \$120 million that was proposed. Ms. Launer said given how the hearing has proceeded it would be hard pressed to believe there has not been enough opportunity to comment. Legislative hearings are not bound by the same evidentiary matters as with

quasi-judicial, and how this has been handled with the public testimony that has come in, the hearing could close and Council could proceed with a determination.

Discussion followed and Council asked and Community Development Director Rux explained the timeline of what it would take to construct the East Commons project with regards to funding. Council continued discussion on the merits of continuing the district at a 20% increase or to close.

Mayor Ogden closed the public hearing.

MOTION by Council President Barhyte, SECONDED by Councilor Davis to close the Central Urban Renewal District on June 30, 2010 and to deny the ordinance as presented. (PTA-09-10)

Discussion on Motion

Ms. Launer mentioned it doesn't require a motion to close down the district but Council can just choose to not to take any action on the ordinance.

MOTION CARRIED. [Vote: 6-0-1; Beikman absent]

**F. PUBLIC HEARINGS – Quasi-Judicial**

1. Public Hearing to Consider a Resolution for a Conditional Use Permit for an Outdoor Pet Day Care in the General Commercial (CG) Planning District at 17650 SW Lower Boones Ferry Road (Tax Map 21E18BC, Tax Lot 1400) (CUP-10-01)

Mayor Ogden opened the public hearing and noted a request has been received from the applicant to continue the hearing to June 28, 2010.

MOTION by Councilor Maddux, SECONDED by Councilor Davis to continue the hearing to June 28, 2010. MOTION CARRIED. [Vote: 6-0-1; Beikman absent]

**G. GENERAL BUSINESS**

1. Tualatin Library Advisory Committee Annual Report

***This Item was heard at the Presentations portion of the meeting.***

**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. EXECUTIVE SESSION**

*None.*

**J. COMMUNICATIONS FROM COUNCILORS**

Council President Barhyte announced the month of May is the Walk + Bike to School Month, and said kids will be walking to school the whole month. The City is sponsoring the event, and in addition on May 5, there will be a "Walk to School" day.

**K. ADJOURNMENT**

MOTION by Councilor Harris SECONDED by Councilor Davis to adjourn the meeting at 10:38 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith

  
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# City of Tualatin

www.ci.tualatin.or.us

APPROVED BY TUALATIN CITY COUNCIL

Date 9-13-10

Recording Secretary M. Smith

## SPECIAL CITY COUNCIL/DEVELOPMENT COMMISSION MEETING MINUTES OF AUGUST 2, 2010

PRESENT: Mayor/Chairman Lou Ogden; Councilors/Commissioners Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax

ABSENT: None.

### STAFF

PRESENT: Sherilyn Lombos, City Manager; Doug Rux, Community Development Director, Mike McKillip, City Engineer; Paul Hennon, Community Services Director; Brenda Braden, City Attorney; Dan Boss, Operations Director; Don Hudson, Finance Director; Carina Christensen, Assistant to the City Manager, Aquilla Hurd-Ravich, Senior Planner; Colin Cortes, Assistant Planner; Maureen Smith, Recording Secretary

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The special work session was called to order at 5:08 p.m. at the Tualatin Operations Center.

1. ANNOUNCEMENTS – None.

2. ITEMS DISCUSSED

A. *Debrief of Recent Urban Renewal Project*

City Manager Lombos began discussion on urban renewal in Tualatin. The Central Urban Renewal District (CURD) and Leveton District recently closed, and the CURD process, in particular, had difficulty and did not achieve the original purpose/goal. Taking a look back to see what can be learned from the CURD and how it finished can be useful.

City Manager Lombos reviewed with Council various desired outcomes ranging from what was learned for use in future projects, understanding what went well with the urban renewal process and what could be modified, and understanding what was helpful and what was not.

Council members each expressed their thoughts on what happened with urban renewal and their ideas on how it could be better addressed for any possible future urban renewal districts. Discussion followed. It was mentioned it would be helpful to have issues/items presented in a more visual fashion. The size of Tualatin 20-30 years ago and the growth that has happened since then and how development has brought additional problems was also discussed.

Council continued to discuss the frustration of citizens on issues that could happen in their neighborhoods, and items that get presented in a plan, such as the Transportation System Plan (TSP), or the I-5 / 99W Connector project, which began back in the '70s. Also what could be done to better address issues to adequately address citizen concerns was discussed. It was noted the proposed Blake Street extension is an issue that has arisen with neighbors.

Discussion continued on how to get information disseminated and how Council could better understand the information that is presented by staff on a particular issue. It was suggested that Council could informally meet among themselves to review and better understand an issue to be talk with citizens in a knowledgeable manner.

Staff reviewed how potential controversial issues could be addressed, such as the "Blake Street" extension. Council discussed ways to be *proactive* versus reactive, having a type of mechanism to be able to immediately address an issue.

It was suggested having at least three councilors available at any one time to address a particular issue and hold a preliminary type of "open house" to make sure Council understands the specific issue thoroughly and be consistent as possible.

Staff will report back to Council in the coming months on how to move forward.

***A break was taken from 6:37 p.m. to 6:48 p.m.***

***B. Transportation System Plan Update Kick-Off***

City Manager Sherilyn Lombos began the discussion on the Transportation System Plan (TSP) update. Among other reasons, it is appropriate now because of Metro's pending adoption of the Regional Transportation Plan (RTP), requiring Tualatin's TSP to be updated by 2012. The goal is to understand what is on the horizon, the scope of the TSP and to get Council direction.

A PowerPoint was presented with four different TSP and projects topic areas; implementing Council/community goals; work plan and interrelationships between individual projects; Tualatin Planning Advisory Committee (TPAC)/TSP Transportation Committee; and citizen involvement. Implementation of the Council/community goals include Tualatin Tomorrow, the Strategic Management Plan, state and regional compliance, and the FY 2010/11 budget.

Discussion followed. It was mentioned and City Engineer Mike McKillip said consultants factor in what is happening in the region and beyond and what other cities are doing with regards to their transportation planning. It was also asked and responded to what would happen if Tualatin did not comply with regional requirements. City Manager Lombos reviewed the "daisy wheel" of projects that are integral and are all on the work plan for the coming year. A map of "Tualatin Plans and Projects" was displayed to graphically show where the plans/projects are located.

A flow chart of the projects was reviewed, beginning with the summer of 2010 through winter 2010, starting with creating land use assumptions and employment numbers. From winter 2010 through winter 2011 is the TSP, with winter 2011 through fall 2012, utilizing outputs and finalize plans.

Community Development Director Doug Rux explained and reviewed with Council a project spreadsheet on the areas of focus – Southwest Concept Plan, Economic Development Strategy, Southwest Area Urban Renewal, Highway 99W Corridor Plan, Town Center Plan, Basalt Creek Concept Plan, and Tonquin Trail Master Plan.

Community Services Director Paul Hennon reviewed the Tonquin Trail Master Plan and said currently in the middle of the study, and staff will be providing an update to Council in the near future. A Parks and Recreation Master Plan update was also mentioned and Council also requested a discussion on funding in preparing for parkland, etc. Staff will come back with a menu of possible ways to fund parkland acquisition.

Under the third flow chart area, City Engineer McKillip reviewed the 99W Corridor Plan. It was mentioned not having busses included in mass transit, and it was suggested that Tualatin pursue something to have transit or similar.

City Manager Lombos said as the process proceeds stakeholders will be identified, etc. City Engineer McKillip reviewed and explained a timeline/process to follow for the TSP. Staff is currently working on the public involvement process for the TSP. A chart of issues/modeling assumptions/evaluation criteria that should be done was reviewed. City Engineer McKillip continued with following a process to manage the TSP and how the flow would work to have the opportunity of continual discussions along the way. It was suggested to make sure that the process flow includes the loop around each of the stopping points, and not necessarily be a linear process, and make certain some key decision points are determined early on.

City Manager Lombos distributed a "Spectrum of Public Participation" information sheet and explained how it would work and tie into citizen involvement which involves not only Council, but the various advisory committees. City Manager Lombos said more will be discussed at the August 23, 2010 Council Work Session. City Manager Lombos continued with the "citizen involvement" piece of the process. It was asked and answered what other cities have done with their recent TSP process.

City Manager Lombos concluded with the "Next Steps" and mentioned some suggestions that have been made on what to name the actual work plan. It was suggested the ad hoc committee is the entity to name the process, and that it should be understandable to everyone. It was also mentioned that Council would like to see what other cities have done, such as Milwaukie, and the citizen involvement process.

3. EXECUTIVE SESSION  
None.

4. ADJOURNMENT  
The special work session adjourned at 8:09 p.m.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith



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TUALATIN CITY COUNCIL WORK SESSION MINUTES OF AUGUST 23, 2010

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax, Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Mike McKillip, City Engineer; Kent Barker, Police Chief; Paul Hennon, Community Services Director; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Carl Switzer, Parks and Recreation Manager; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; Maureen Smith, Recording Secretary

ABSENT: Councilor Donna Maddux\* [*\* denotes excused*]

**[Unless otherwise noted, MOTION CARRIED indicates all in favor.]**

**A. CALL TO ORDER**

Mayor Ogden called the work session to order at 5:04 p.m.

*Council reviewed the Consent Agenda with no changes.*

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Community Enhancement Award Discussion*

Arts Advisory Committee member Richard Hager provided information on the Community Enhancement Award recipient, and gave a brief explanation of the award and how the selection was arrived at. Mr. Hager circulated the award plaque for view by Council.

2. *Allowing Chickens in Residential Areas – postponed to a date to be determined*

3. *Discussion of Poole Quarry Site Land Use Application (in Clackamas County)*

Community Director Doug Rux gave a brief explanation of the Poole Quarry land use application filed in Clackamas County. The proposed site is south of Tonquin Road, west of Morgan Road. Community Development Director Rux explained that Mayor Ogden will be testifying at an upcoming hearing at Clackamas County on the issue.

Assistant Planner Cindy Hahn presented some background information. The proposed surface aggregate mining operation, which is owned by Tri-County Investments is zoned Rural Residential Farm Forest (RRFF-5) and located 0.8 mile west of Tualatin's southwest neighborhood, south of the Tri-County Gun Club. The proposed quarry will operate for approximately 15-20 years starting in 2011, and be open from 7:00 a.m. to 6:00 p.m.,

Monday-Friday and Saturdays 8:00 a.m. to 5:00 p.m. Saturdays. Drilling and blasting will be restricted to the hours of 9:00 am to 4:00 pm Monday through Friday. There will be no operation on Sundays and legal holidays. The main access will be from SW Morgan Road, with a secondary access from SW Tonquin Road. It is outside Metro's service district boundary. Currently the land designation is part undesignated, part rural reserve. A large amount of trucks would be traveling in and out of the site, with 80% of traffic going east of Tonquin Road. Assistant Planner Hahn described the various utilities surrounding the property. Also, attached the conditions of approval that have been proposed.

It was asked and Community Development Director Rux explained the issues that would affect Tualatin; such as truck traffic up to 390 trucks per day; noise issues, testing and monitoring not set up to deal with residential areas; buffering issues, and affect the possible construction of 124<sup>th</sup>. Wilsonville has concerns about environment, water discharge, and also truck traffic. Sherwood is currently evaluating.

Staff will be gathering factual information to deal with this issue and get back to Council for review, and to testify at the county's hearing. Discussion followed on getting as much information as possible and staff will get information on the City's website, Twitter, RSS feed, Facebook, and it was also asked to put information on FlashNews Alert. It was asked how this can be dealt with and explained how the process works with a Hearings Officer. Community Development Director Rux noted a staff report is going to be available in the next few days. Discussion followed. It was mentioned that to possibly have Metro brought into this discussion, with respect to the Urban Growth Boundary (UGB) expansion.

### 3. *Conditional Uses Allowed in Residential Zones*

City Manager Lombos began the discussion on Council consideration of conditional uses currently allowed in residential that are no longer suitable or compatible with residential development.

Associate Planner Will Harper presented a PowerPoint on PTA-09-09, review of conditional uses in residential planning districts and examples of existing conditional use facilities/activities.

A table of conditional uses in residential planning districts was reviewed with Council and determining whether each conditional use listed is suitable or should be removed.

Discussion followed and it was asked and answered that the City has authored its own rules when it comes to conditional use permits process.

Council continued review and determination of conditional uses listed in the table, and will review electrical substations and nursing homes/assisted living at a future work session. It was suggested to also revisit the City's conditional use permit process.

## **C. CITIZEN COMMENTS**

N/A

## **D. CONSENT AGENDA**

Council reviewed the Consent Agenda at the beginning of the work session with no changes.

**E. PUBLIC HEARINGS – Legislative or Other**

N/A

**F. PUBLIC HEARINGS – Quasi-Judicial**

N/A

**G. GENERAL BUSINESS**

N/A

**H. ITEMS REMOVED FROM CONSENT AGENDA**

N/A

**I. COMMUNICATIONS FROM COUNCILORS**

Councilor Davis noted she has been asked to be a member of the Washington County Human Rights Council Executive Committee.

**J. EXECUTIVE SESSION**

None.

**K. ADJOURNMENT**

The work session adjourned at 7:00 p.m.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith

  
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## TUALATIN CITY COUNCIL MEETING MINUTES OF AUGUST 23, 2010

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: Councilor Donna Maddux\* [*\* denotes excused*]

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

### **A. CALL TO ORDER**

Mayor Ogden called the meeting to order at 7:09 p.m.

The Pledge of Allegiance was led by Councilor Davis.

### **B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Tualatin Tomorrow Presentation – Parks, Recreation & Natural Areas (PRN)*  
Focus Area Lead Connie Ledbetter said she has lived in Tualatin for 16 years and has appeared before Council many times over the years, and reviewed the plans and progress taking place. At the next Tualatin Parks Advisory Committee (TPARK) meeting on September 14, 2010, there will be a discussion on the “dog park.” Engineering has begun a multi-year project to improve water quality, such as swales, and may be a role for citizens at a later time. In addition to Tualatin Tomorrow, she is also the representative from TPARK on the Tualatin-Sherwood Road Improvement Project and the Tonquin Trail Steering Committee.

Mayor Ogden thanked Ms. Ledbetter for her work, and particularly the Tonquin Trail project.

### **C. CITIZEN COMMENTS**

*Kathy Newcomb, 17515 SW Cheyenne Way, Tualatin, OR, was present regarding the Commerce Government Affairs Committee (GAC) report on the parks protection initiative. Ms. Newcomb is one of the chief petitioners and wants to refute errors in their report. Ms. Newcomb referred to the Charter and the franchise agreement that is in place on the PGE utility addressing any utility concerns in parks. Ms. Newcomb said the chief petitioners at one time were invited to comment on the GAC report but weren't notified. Mayor Ogden suggested Ms. Newcomb meet with the Chamber, and suggested Ms. Newcomb's reference to City ordinances, etc. that she could get with staff on that discussion.*

**D. CONSENT CALENDAR**

Councilor Truax noted he was not at the August 9, 2010 meeting and would not be voting on Item 1, Approval of the August 9, 2010 Minutes. MOTION by Councilor Harris, SECONDED by Councilor Davis, to adopt the Consent Agenda as read:

1. Approval of the Minutes of the Work Session and Meeting of August 9, 2010
2. Approval of a Change of Ownership Liquor License Application for Wong's Chinese Restaurant
3. Approval of a Change of Ownership Liquor License Application for Players
4. Resolution No. 5002-10 Authorizing a Personal Services Agreement with Whitecrest, LLC for Provision of Coffee Service at the Tualatin Public Library

MOTION CARRIED.

**E. PUBLIC HEARINGS – Legislative or Other**

*None.*

**G. GENERAL BUSINESS [moved to this portion of the agenda]**

1. Resolution No. 5003-10 Approving an "Amended and Restated" Development Agreement Between the City of Tualatin, Tigard-Tualatin School District and Marquis Companies

This item was heard first on the agenda. A process question was asked and City Manager Sherilyn Lombos explained how the three hearing items are linked and will be presented.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. For Council consideration is an "Amended and Restated" Non-Statutory Development Agreement between the City of Tualatin, the Tigard-Tualatin School District (TTSD) and Marquis Companies for development of a senior living project on the former Tualatin Elementary School site located on SW Boones Ferry Road. The Amended and Restated DA will succeed a June 8, 2009 DA between the same parties and is linked to plan amendments PMA-09-01, PMA-10-01, and PTA-10-02.

Associate Planner Harper gave a brief background on the project. A DA was first done in June, 2009 addressing various issues, and there are two new plan amendments and a restated DA. It continues the work of TTSD and Marquis to use the western acreage for a senior living community, and to change that portion to Medium-Low Residential (RML) planning district designation. Also there is a plan text amendment (PTA) that proposes a change to Chapter 75 of the Tualatin Development Code (TDC) to allow a new public street intersection on Boones Ferry Road that would provide public street access into the property. Associate Planner Harper said the amended DA brings it all up to date. Also another step is the architectural review (AR) process currently is in review. Associate Planner Harper noted all the planning steps, before development, is one of the most extensive he's recalled. The DA ties all the planning processes together.

*Scott Miller, applicant, Marquis Companies, 4560 SE International Way, Milwaukie, OR 97222* was present and said he concurred with staff's recommendations.

*Kelley Hossaini, attorney, 111 SW Fifth Avenue, Portland, OR, 97204*, representing the Tigard-Tualatin School District (TTSD) said the main reason she is present is in Section 4 of the DA of what happens if Marquis does not develop. She also noted the property is composed of three separate, legal lots, Lot 3 remaining RML, and if Marquis does not end up purchasing that lot. Ms. Hossaini distributed a handout to Council and indicated that most of the surrounding properties are zoned mostly RML, and TTSD is requesting that Lot 3 remains RML.

OPPONENTS – None.

#### COUNCIL DISCUSSION

Council expressed concerns about traffic and the access management, and leaving Lot 3 as RML.

Discussion followed on the reasoning of allowing Lot 3 to remain RML, what Marquis is planning to develop and the number of proposed units. It was asked and answered about the process Marquis plans on as to what will be developed first which will depend on what will end up being "sold" first.

Discussion on the intersection and restricting access to in/out only traffic, of which Mr. Miller said Marquis would not want to do and added it would not necessarily relieve traffic problems.

It was asked and explained about the "fee simple" process. It was asked and Mr. Miller agreed to having the fee simple language put into the DA of selling to an individual, not a buyer purchasing a lot of housing and renting out the units.

There was concern about the building remaining on Lot 3 and having it demolished since it has been there for quite awhile. Mr. Miller said they are dealing with federal funding and there are restrictions on what they can do. Asked and answered that Marquis will act as broker on the "cottages" and there will be some type of Homeowners Association, and stipulations on how an owner can resell their home. It was asked and agreed to by Marquis to also include this in the DA.

Mayor Ogden closed the testimony part of the DA hearing.

#### COUNCIL DELIBERATION

Council discussed process and the addition of language in the DA to ensure the integrity of the development to include the issue of resell would be coordinated by Marquis, who would be the broker; whatever is built will have some sort of homeowners association that provides for front yards, entrance of structures, etc.; requirement that goes with change of ownership in a fee simple transaction; and also that 55+ and older designation stays in perpetuity even if the ownership changes

City Manager Lombos explained the process and how the DA could be handled to include the language Council has discussed at this meeting. Discussion followed. Discussion on making sure to have owner/occupied units and with a homeowners association in place should be able to address any issues with regards to renting.

Mayor Ogden recessed the hearing.

**F. PUBLIC HEARINGS – Quasi-Judicial**

1. Public Hearing to Consider an Ordinance Changing the Planning District Designation from Low-Density Residential (RL) to Medium Low-Density Residential (RML) of Parcels of Land Located on SW Sagert Street (Tax Map 2S123DD, Tax Lot 500-Western Portion), and .29 Acres of Abutting Right-of-Way and Amending the Community Plan Map 9-1 (PMA-10-01)

Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.765(5) and (6)] and opened the public hearing. No bias or ex parte contact noted.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. The property is owned by the Tigard-Tualatin School District, and the applicant is Marquis Companies. Marquis proposed to develop 7.3 acres on the western portion of the 12.75 acres old Tualatin Elementary School site. The plan map amendment (PMA) seeks to allow development of allowing various forms of attached housing including townhouses and condominiums and garden apartments on commons lots over 7.3 acres of Phases II-IV of the development. A subdivision creating residential lots and associated public streets is contemplated. The PMA includes staff report analysis of the criteria.

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

**APPLICANT**

*Kirsten Van Loo, Emerio Design, 6900 SW 105<sup>th</sup> Avenue, Suite C, Beaverton, OR, 97008*, land use planner representing the applicant, noted Marquis Companies has done a significant market study since the last time they were before Council 18 months ago. After further analysis and the current economic climate, their decision is to include nursing and skill facilities, and have independent living units in a separate style, a more traditional type of home. Ms. Van Loo explained the current technology today allows seniors to age in place, either independently or quasi-independently. Marquis scrapped plans and did a new development and put together a master plan scheme. From 18 months ago to today, even to build first phase, Ms. Van Loo explained the planned independent living style units will have attached single level townhouse style homes, with attached housing. This PMA is the first step.

Ms. Van Loo noted in contemplating the next hearing it is a plan text amendment (PTA) to have a public intersection on Boones Ferry Road. Ms. Van Loo explained the process of starting with the PMA, PTA, and Architectural Review (AR) processes. Another part is storm water issue and they are working with the City Engineer and Clean Water Services (CWS) to manage water quality facility and storm water.

*Scott Miller, Marquis Companies, Inc., 4560 SE International Way, Suite 100, Milwaukie, OR 97222*, applicant, was present to answer any questions.

*Chris Stanley, Green Light Transportation, 5723 NE 10<sup>th</sup> Avenue, Portland, OR 97211*, traffic engineer for the project, was present and reiterated the ways that staff and the applicant looked at a number of various configurations that could be done. Mr. Stanley explained the site and its current access points and noted the proposed access providing flexibility of the site. Mr. Stanley said the goal was to design a site with the least traffic impact and a development that is flexible and providing more than one access is a key element. Access of Sagert and access on Boones Ferry Road provides flexibility and also provides emergency services an easy access point. Mr. Stanley said from a traffic standpoint this project generates a fraction of a large type development.

PROPONENTS/OPPONENTS – None.COUNCIL DISCUSSION

Council discussed various aspects of the development. Distance from Logan Street and access into the project was discussed and whether there would be a potential conflict of turning issues. It was asked and explained that the Logan Street access is temporary. Mr. Stanley said the traffic study was done to look at those types of concerns. Having driveways align is the perfect solution but with constraints and existing development identifying the issues and come up with mitigating issues.

Council continued discussion on concern regarding access issues. The left-turn movement coming out of the site onto Boones Ferry Road, particularly during the AM and PM peak times was extensively discussed. Mr. Miller explained how the access points would work on the proposed site and that they current do not own Lot 3. It was explained that the applicant has purchased Lots 1 and 2, and has an option for Lot 3. It was noted by not having Lot 3 in the mix is problematic, and Ms. Van Loo explained the applicant is not prepared to financially sign on to the entire site at this time.

Mr. Miller spoke regarding the initial discussion of what was approved when it was 4+ acres and access was off Boones Ferry Road. He explained they have reduced impact to site from what was approved earlier by Council. Mr. Miller believes it is safe and there has to be the two access points, and noted Marquis may possibly not have purchased the site if there wasn't an access off Boones Ferry Road. Mr. Miller also added that the City's Architectural Review Board (ARB) wanted the frontage on Boones Ferry Road.

***A break was taken from 9:24 p.m. to 9:39 p.m.***

Council continued with discussion. After the initial process and knowing what they know now, Ms. Van Loo noted they may have approached the process differently. The applicant, TTSD, and staff did agree it is appropriate to rezone the entire site at one time as one planning district. Discussion continued about the timing of the phases and when demolition would begin. Mr. Miller said construction of the main building takes approximately 15 months to complete, and while construction is taking place Marquis will submit a subdivision application for Phase II, depending on how the units sell. Mr. Miller said they are not certain when Lot 3 will happen, but they hope to move forward in the next few years. The community center will be tied to completion of most of Phase I and Phase II.

It was asked and answered if Phase III doesn't happen there would be very little change to the trip numbers at the other entrances, including the western portion if it is changed from RL to RML. The traffic engineer noted that minor street approaches operate at a low capacity, and there is enough capacity that the intersections would not fail. Multi-family will likely generate lower trip generations. Queuing of the left-turn lane on southbound Boones Ferry Road, east of Sagert was also discussed.

Process questions were asked and sequencing of approval of the PMA, PTA, and DA. It was asked about having no more than 50 units on Lot 3. Marquis is okay with that. Ms. H said couldn't tell TTSD tonight, but did talk to super about place restriction on Lot 3, that lot couldn't be developed with an apartment complex, or something like that. Asked and Ms. H said would probably agree to not having increased density on Lot 3 with RML designation. District would probably agree to no CUP that would increase density of Lot 3, Ms. H said go out on a limb with that.

No other testimony presented by the applicants. Mayor Ogden closed the public testimony

portion of the public hearing.

### COUNCIL DELIBERATION

MOTION by Councilor Truax, SECONDED by Councilor Davis to grant PMA-10-01, to change the planning district designation from Low-Density (RL) Residential to Medium Low-Density Residential (RML) of parcels of land on the western portion of the old Tualatin Elementary School site with frontage on the north side of SW Sagert Street, and to the centerline of the abutting public right-of-way. MOTION CARRIED.

Ordinance No. **1308-10** Changing the Planning District Designation from Low-Density Residential (RL) to Medium Low-Density Residential (RML) of Parcels of Land Located at SW Sagert Street (Tax Map 2S123DD, Tax Lot 500-Western Portion), and .29 Acres of Abutting Right-of-Way and Amending the Community Plan Map 9-1 (PMA-10-01)

MOTION by Councilor Truax, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Truax, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. (Maddux absent.) MOTION by Councilor Truax, SECONDED by Councilor Beikman to adopt the ordinance. MOTION CARRIED. [*Vote 6-0-1; Maddux absent*]

2. Public Hearing to Consider an Ordinance Amending the Existing Access Management for Street Connecting to SW Boones Ferry Road and Amending TDC 75.120 and Map 75-1 (PTA-10-02)
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Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.765(5) and (6)] and opened the public hearing. No bias or ex parte contact noted.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. The request is for a plan text amendment (PTA) amending the existing Access Management for a street connecting to SW Boones Ferry Road, to allow location and construction of a new public street access on the west side of SW Boones Ferry Road for the development of the Marquis Retirement/Senior Care Community project.

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

### APPLICANT

Kirsten Van Loo, representing the applicant, said staff did excellent job of identifying four benefits for a public street; provide public street connectivity between the site; provides direct access for emergency vehicles into the site; avoids a lengthy cul-de-sac street on the western portion of the development; and recognizes the existing Boones Ferry Road driveways are eliminated with the redevelopment. Ms. Van Loo said it is unique that Tualatin's Development Code is the only code she knows of in Oregon that spells out specific access issues. The main reason for a public street access is to facilitate division of land between Lots 1, 2, and 3. The initial development request has changed and Mr. Van Loo explained how the access points are now proposed.

Traffic Engineer Stanley spoke on the analysis done based on trip generation. The proposed plan is measurably less trips than if it develops as single-family residential, multi family residential etc. and is significantly less than when the school was operating. Mr. Stanley went on to discuss the decreased trip generations that would happen and that they also looked at vehicle queues and all of the driveways provide sufficient access. The goal has been to design a site that doesn't create operational issues and minimizes any impact. Mr. Stanley said although he recognizes concern on the Boones Ferry Road access it does enable flexibility of the access point and went on to explain how trips fit into the proposed development and how best would work with the existing traffic.

#### COUNCIL DISCUSSION

Council discussed cul-de-sacs and the temporary cul-de-sacs that are currently existing. Continued discussion on the access and left turning movements on Boones Ferry Road and whether the traffic engineers look at all of the characteristics such as site distance, etc. The median speed of the roadway was mentioned and how the center lane "refuge" breaks up the gaps for motorist. It was asked and answered by City Engineer Mike McKillip that there is a procedure in the Development Code for staff to be able to close or restrict access issues based on Council direction.

Mayor Ogden closed the testimony portion of the public hearing.

#### COUNCIL DELIBERATION

Council discussed process direction.

Mayor Ogden reopened the public hearing.

Ms. Van Loo wanted to add she understands concerns of traffic coming in and out of Boones Ferry Road, but the applicant has submitted two separate traffic reports, provided immense documentation, and has concurrence of the City Engineer, and there is no evidence to support that full access is not safe.

Mayor Ogden again closed the testimony portion of the public hearing

#### COUNCIL DELIBERATION

MOTION by Councilor Truax, SECONDED by Councilor Beikman to accept PTA-10-02 amending the TDC, Chapter 75, Section 75.120 – Boones Ferry Road and Map 75-1 to allow location and construction of a new public street access on the west side of SW Boones Ferry Road for the development of the Marquis Retirement/Senior Care Community Project.

##### Discussion on Motion

Councilor Barhyte said he hopes the "refuge" lane works and although he is in favor of the project this is not necessarily a good idea. Councilor Harris said he wasn't convinced and is still concerned about left turn movements from Boones Ferry Road. Mayor Ogden said he will vote no and believes it should be right-in/right-out only on Boones Ferry Road, and concerns during AM and PM peak times and suggested a substitute Motion.

AMENDMENT TO MOTION by Mayor Ogden to include "right-in/right-out only" on Boones Ferry Road. MOTION DIED for lack of a SECOND.

Discussion on Motion

Councilor Davis commented that the access on Boones Ferry Road can change if it becomes a problem, and added that Council wasn't questioning the integrity of the traffic engineers.

MOTION CARRIED. [Vote: 4-2-0; YES – Barhyte, Beikman, Davis, Truax; NO – Harris, Ogden; ABSENT – Maddux]

Ordinance No. 1309-10 Amending the Existing Access Management for Streets Connecting to SW Boones Ferry Road and Amending TDC 75.120 and Map 75-1 (PTA-10-02)

MOTION by Councilor Truax, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Truax, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was taken. [YES - Barhyte, Beikman, Davis, Truax; NO – Harris, Ogden; ABSENT – Maddux] MOTION by Councilor Truax, SECONDED by Councilor Beikman to adopt the ordinance. MOTION CARRIED. [Vote: 4-2-1; YES - Barhyte, Beikman, Davis, Truax; NO – Harris, Ogden; ABSENT – Maddux].

**G. GENERAL BUSINESS**

1. Resolution No. 5003-10 Approving an "Amended and Restated" Development Agreement Between the City of Tualatin, Tigard-Tualatin School District and Marquis Companies

Council reopened the hearing and revisited discussion on the Development Agreement.

City Manager Lombos recited the language put together by the City Attorney, proposed by Council on the changes/additions to the DA. Discussion followed and concern was expressed about the maintenance of the buildings such as paint, roofing, etc. Mr. Miller explained that the homeowners association would address basic maintenance and as the cottages are owner occupied, paint and roof replacement, etc. would be their responsibility. community Development Director Rux added there are standards in the TDC that would address this.

It was proposed by Mayor Ogden, and in support by Councilors Harris and Barhyte, to require right-in/right-out only on Boones Ferry Road. Councilor Truax said, and Council Davis agreed this has vastly improved traffic and does not support right-in/right-out only. Brief discussion followed.

Mayor Ogden closed the hearing.

MOTION by Councilor Barhyte, SECONDED by Councilor Truax to accept the Amended and Restated Development Agreement with the conditional changes as read and amended. MOTION CARRIED. [Vote: 4-2-1; YES – Barhyte, Beikman, Davis, Truax; NO – Harris, Ogden; ABSENT - Maddux]

**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. EXECUTIVE SESSION**

*None.*

**J. COMMUNICATIONS FROM COUNCILORS**

Community Development Director Doug Rux distributed to Council a schedule from Metro on their Community Investment Strategy open houses, and also a multi-page summary. On September 13, 2010, Council will be getting from staff a summary of issues that may need to be commented on that will be due to Metro.

**K. ADJOURNMENT**

MOTION by Councilor Beikman, SECONDED by Councilor Harris to adjourn the meeting at 11:09 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith

A handwritten signature in blue ink, appearing to read "Maureen Smith", is written over a horizontal line.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 9-13-10  
Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager  
**FROM:** Maureen Smith, Executive Assistant *Maureen Smith*  
**DATE:** September 13, 2010  
**SUBJECT:** COMMUNITY INVOLVEMENT COMMITTEE APPOINTMENTS

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**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><b>Individual</b></i>	<i><b>Committee/Board</b></i>	<i><b>Term</b></i>
Steve Klingerman	Planning Advisory Committee	Partial Term Ending 08/31/11

**FINANCIAL IMPLICATIONS:**

Not applicable.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 9-13-10

Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Doug Rux, Community Development Director *DR for DR*  
Colin Cortes, Assistant Planner *C.C.*

**DATE:** September 13, 2010

**SUBJECT:** AN ORDINANCE REQUIRING DEVELOPERS TO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND AMENDING TDC 1.020 AND 1.032 (PTA-09-08)

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### ISSUE BEFORE THE COUNCIL:

City Council consideration of a Plan Text Amendment (PTA) with the purpose of making more explicit that developers are required to mitigate the effects of site development or redevelopment on public sanitary sewer, stormwater, and potable water lines when proposed development would generate demand at or in excess of their capacity. The amendment would require development agreements as the preferred tool to ensure mitigation.

### RECOMMENDATION:

- The Tualatin Planning Advisory Committee (TPAC) voted 5-0 on August 3, 2010 recommending that the City Council approve PTA-09-08 with allowance for staff to revise the draft amending text to specify when a development agreement would or would not be required.
- Staff recommends that the City Council consider the staff report and supporting attachments and provide direction.

### EXECUTIVE SUMMARY:

- This matter is a land use action requiring a legislative public hearing.
- This matter is a Plan Text Amendment (PTA) to the Tualatin Development Code (TDC).
- The applicant is the Engineering Division.
- The request is to make more explicit that developers are required to mitigate the effects of site development or redevelopment on public sanitary sewer, stormwater, and potable water lines when proposed development would generate demand at or in excess of their capacity.

- The amendment establishes an additional plan amendment approval criterion.
- A development agreement is an agreement between either the City or the Tualatin Development Commission and a developer that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, improvements, and any other mutually agreed to terms and requirements.
- The amendment would reinforce a growing use of development agreements by strongly encouraging their frequent use as part of plan amendment applications, particularly to meet the additional plan amendment approval criterion.
- The City Council last examined this issue during the work session on July 26, 2010.
- The Council provided direction that staff return to the Council during a public hearing with a legislative Plan Text Amendment (PTA).
- A conflict between the City and a developer over mitigation following a Plan Map Amendment (PMA) precipitated the amendment. Refer to the Background section in Attachment A.
- Before granting the proposed PTA, the City Council must find that the application meets the plan amendment criteria listed in TDC 1.032. The Analysis and Findings section of this report (Attachment B) examines the application.
- Because the amendment is a legislative action, the 120-day rule codified in Oregon Revised Statutes (ORS) 227.178(2) is not applicable.

#### **OUTCOMES OF DECISION:**

Approval of the PTA request would result in the following:

1. Maintenance of consistent expectations among planning district designations; master plans for potable water, stormwater management, and sanitary sewer; and land use actions about the effects of private site development and redevelopment on public infrastructure.
2. Establishes a requirement that developers preclude or remedy any inconsistency related to sewer, stormwater, or water prior to private site development or redevelopment and that development agreements be used to further this purpose as part of PMAs and PTAs.

Denial of the PMA request would result in the following:

1. Future conflicts over inconsistent expectations among planning district designations; master plans for potable water, stormwater management, and sanitary sewer; and land use actions about the effects of private site development and redevelopment on public infrastructure.
2. The lack of a requirement that developers preclude or remedy any inconsistency related to sewer, stormwater, or water prior to private site development or redevelopment would perpetuate future conflicts.

#### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the TPAC and staff recommendations are:

- Recommend the Council approve the proposed PTA with alterations.
- Recommend the Council deny the request for the proposed PTA.
- Continue the discussion of the proposed PTA and return to the matter at a later date.

**FINANCIAL IMPLICATIONS:**

The FY 2010/11 budget accounts for the cost of City-initiated land use applications.

**DISCUSSION:**

The amendment would amend the TDC as shown in Attachment C.

**PUBLIC INVOLVEMENT:**

The City met the notice requirements for a legislative plan amendment by publishing a newspaper ad with notice of hearing in the August 26<sup>th</sup> edition of the *Times* and posting notice of hearing in at least two public places.

- Attachments:**
- A. Background
  - B. Analysis and Findings
  - C. Draft Ordinance

## **ATTACHMENT A:**

### **PTA-09-08: BACKGROUND**

The issue began with the Alexan Bridgeport project (AR-08-09) at 18067 and 18075 SW Lower Boones Ferry Road. The Alexan was made possible through a Plan Map Amendment (PMA-07-01) that rezoned 0.75 acres of a 9.0-acre site from Light Manufacturing (ML) to General Commercial (CG) Planning District. Following the PMA, the applicant applied for a PTA (PTA-07-04) to apply the Mixed Use Commercial Overlay District (MUCOD). This allowed the project to be mixed use and include residences.

Upon site development, the City and the developer conflicted over the need to upsize public lines for sewer, stormwater, and water. The master plans for these lines set their capacity and were premised on the planning district designations illustrated on the Community Plan Map (Map 9-1), including the original designations of the site, which were General Commercial (CG) and Light Manufacturing (ML) Planning Districts. The developer erroneously claimed that the City's approval of the PTA exempted the developer from upsizing these lines to accommodate greater development.

Though the conflict abated in the City's favor, it prompted the City Engineer to consider a PTA to make more explicit that approval of a PMA or PTA does not exempt a developer from needed public infrastructure improvements that are determined through Architectural Review (AR). The Plan Map Amendment criterion in Tualatin Development Code (TDC) Section 1.031(4) can be read such that it addresses the issue, yet it doesn't explicitly address the issue.

The master plans assume development as indicated by planning district designations and system development charges (SDCs) are premised on planned development increasing demand for sewer, stormwater, and sewer. Rezoning are typically upzonings, which further increase demand on public lines. SDCs do not account for such discrepancies.

A development agreement is an agreement between either the City or the Tualatin Development Commission and a developer that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, improvements, and any other mutually agreed to terms and requirements.

Two recent examples of the use of development agreements are those for the Marquis project on the Old Tualatin Elementary property at 19945 SW Boones Ferry Road and for the Legacy Meridian Park Medical Center expansion project at 6021 SW Borland Road. This appears to indicate a Council willingness to make use of development agreements routine.

## **ATTACHMENT B:**

### **PTA-09-08: ANALYSIS AND FINDINGS**

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below:

#### **1. Granting the amendment is in the public interest.**

Protecting public infrastructure and the public investment in it is a prime objective of municipal government to meet the goal of protecting public health, safety, and welfare.

The issue that the amendment addresses began with the Alexan Bridgeport project (AR-08-09) at 18067 and 18075 SW Lower Boones Ferry Road. The Alexan was made possible through a Plan Map Amendment (PMA-07-01) that rezoned 0.75 acres of a 9.0-acre site from Light Manufacturing (ML) to General Commercial (CG) Planning District. Following the PMA, the applicant applied for a PTA (PTA-07-04) to apply the Mixed Use Commercial Overlay District (MUCOD). This allowed the project to be mixed use and include residences.

Upon site development, the City and the developer conflicted over the need to upsize public lines for sewer, stormwater, and water. The master plans for these lines set their capacity and were premised on the planning district designations illustrated on the Community Plan Map (Map 9-1), including the original designations of the site, which were General Commercial (CG) and Light Manufacturing (ML) Planning Districts. The developer erroneously claimed that the City's approval of the PTA exempted the developer from upsizing these lines to accommodate greater development.

Though the conflict abated in the City's favor, it prompted the City Engineer to consider a PTA to make more explicit that approval of a PMA or PTA does not exempt a developer from needed public infrastructure improvements that are determined through Architectural Review (AR). The Plan Map Amendment criterion in Tualatin Development Code (TDC) Section 1.031(4) can be read such that it addresses the issue, yet it doesn't explicitly address the issue.

The master plans assume development as indicated by planning district designations and system development charges (SDCs) are premised on planned development increasing demand for sewer, stormwater, and sewer. Rezoning are typically upzonings, which further increase demand on public lines. SDCs do not account for such discrepancies.

The TDC provides the City the authority to require developers to mitigate the effects of redevelopment on public infrastructure and services, including sanitary sewer, stormwater, and potable water lines, when proposed development would generate demand at or in excess of capacity. Making the requirement more explicit for this class of infrastructure would be redundant, yet would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and precludes the waste of City time and energy that might have again been spent in conflict with a future developer.

Granting the amendment is in the public interest. Criterion "A" is met.

**2. The public interest is best protected by granting the amendment at this time.**

As examined for Criterion A, granting the amendment is in the public interest. Granting the amendment at this time is best because making the requirement more explicit for public lines would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and precludes the waste of City time and energy that might have again been spent in conflict with a future developer.

Granting the amendment at this time best protects the public interest.

**3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

The master plans for sewer, stormwater, and water are part of the Tualatin Community Plan (TDC Chapters 12-14). These establish the objectives and policies against which the City compares a PMA to determine if a PMA meets plan amendment criteria relating to these public facilities and services.

Of the three classes, malfunction of sanitary sewer is most hazardous to public health. TDC 13.055 acknowledges that prohibition of sanitary sewer overflows (SSOs) that might occur during worst case system demand. Prohibition is in keeping with both Clean Water Services (CWS), the Washington County sewer and stormwater agency, and the U.S. Environmental Protection Agency (EPA). The EPA defines SSOs as "discharges of raw sewage from municipal sanitary sewer systems" (25 August 2010 <http://cfpub.epa.gov/npdes/faqs.cfm#74>). The EPA website explains that while SSOs occasionally occur in almost every sewer system, when SSOs happen frequently it means a sewer system is malfunctioning and that six common problems can cause chronic SSOs, of which two are relevant to the issue that the amendment addresses:

- Undersized Systems: Sewers and pumps are too small to carry sewage from newly-developed subdivisions or commercial areas.

- Sewer Service Connections: discharges occur at sewer service connections to houses and other buildings; some cities estimate that as much as 60% of overflows comes from the service lines.

Though the City prevailed in the conflict that led to the amendment, without the amendment, further conflicts could arise and there would remain the chance that the City might not always prevail, leading to systems becoming undersized relative to redevelopment and discharges occurring at sewer service connections.

The proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion "C" is met.

#### **4. The following factors were consciously considered:**

##### **The various characteristics of the areas in the City.**

The factor applies in that as the city matures, there will be more redevelopment. Redevelopment can involve Plan Map Amendments that introduce greater density and intensity of land use that conflicts with the land uses assumed by the City master plans for sanitary sewer, stormwater, and potable water lines. Because of this, the amendment addresses an incident that otherwise would likely repeat itself. In short, the development characteristics of a near built-out Tualatin factor as support for the amendment.

##### **The suitability of the areas for particular land uses and improvements in the areas.**

The factor is not relevant to the proposed amendment because as a legislative Plan Text Amendment it does not affect any planning district designation or related regulation and involves no physical improvements.

##### **Trends in land improvement and development.**

As examined earlier for Criterion B, because there will be further development and redevelopment within the city, without the amendment there would be a continued amount of conflict over mitigation of the effects of redevelopment than there would otherwise be.

##### **The needs of economic enterprises and the future development of the area.**

The factor is not relevant to the proposed amendment because as a legislative Plan Text Amendment it does not logically affect the needs of economic enterprises and the future development of an area.

**Needed right-of-way and access for and to particular sites in the area.**

The proposed amendment has no relation to any particular planning district and needed rights-of-way or access.

**Natural resources of the City and the protection and conservation of said resources.**

The proposed amendment has no relation to the protection and conservation of natural resources.

**Prospective requirements for the development of natural resources in the City.**

The proposed amendment has no relation to development of natural resources in the city.

**And the public need for healthful, safe, aesthetic surroundings and conditions.**

Protecting public infrastructure and the public investment in it is a prime objective of municipal government to meet the goal of protecting public health, safety, and welfare. Granting the amendment factors in the public need for healthful, safe, aesthetic surroundings and conditions because making the mitigation requirement more explicit for public lines would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR. This ensures that these lines function to maintain public health and prevents their hazardous malfunction from exceeding capacity.

**Proof of change in a neighborhood or area**

Neither the applicant nor staff assert proof of change in a neighborhood or area.

**Mistake in the Plan Text or Plan Map.**

Neither the applicant nor staff assert a mistake in the Plan Text or Plan Map.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.**

Because the amendment does not relate to residential use, the criterion is not applicable.

## **6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.**

Of the 19 statewide planning goals, staff determined that the applicable one is Goal 11, "Public Facilities and Services," which is, "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Oregon Administrative Rules (OAR) 660-015-0000(11) explains that "timely, orderly, and efficient arrangement" refers to "a system or plan that coordinates the type, locations, and delivery of public facilities and services in a manner that best supports the existing and proposed land uses."

The TDC provides the City the authority to require developers to mitigate the effects of redevelopment on public infrastructure and services, including sanitary sewer, stormwater, and potable water lines, when proposed development would generate demand at or in excess of capacity. A Plan Map Amendment (i.e. rezoning) that is an upzoning often introduces a discrepancy between the capacity planned for the original land use and the capacity needed for redevelopment. Making more explicit the requirement to mitigate this discrepancy would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and preserves a timely, orderly, and efficient arrangement of public facilities and services.

Of the three classes, malfunction of sanitary sewer is most hazardous to public health. TDC 13.055 acknowledges that prohibition of sanitary sewer overflows (SSOs) that might occur during worst case system demand. Prohibition is in keeping with both Clean Water Services (CWS), the Washington County sewer and stormwater agency, and the U.S. Environmental Protection Agency (EPA). The EPA defines SSOs as "discharges of raw sewage from municipal sanitary sewer systems" (25 August 2010 <http://cfpub.epa.gov/npdes/faqs.cfm#74>). The EPA website explains that while SSOs occasionally occur in almost every sewer system, when SSOs happen frequently it means a sewer system is malfunctioning and that six common problems can cause chronic SSOs, of which two are relevant to the issue that the amendment addresses:

- **Undersized Systems:** Sewers and pumps are too small to carry sewage from newly-developed subdivisions or commercial areas.
- **Sewer Service Connections:** discharges occur at sewer service connections to houses and other buildings; some cities estimate that as much as 60% of overflows comes from the service lines.

Though the City prevailed in the conflict that led to the amendment, without the amendment, further conflicts could arise and there would remain the chance that the City might not always prevail, leading to systems becoming undersized relative to redevelopment and discharges occurring at sewer service connections.

The amendment would broaden and strengthen these requirements and therefore continue to comply with Goal 11 and meet the minimum statute requirements.

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

The Urban Growth Management Functional Plan (UGMFP), codified in Metro Code 3.07, neither precludes the amendment nor directly addresses the issue that the amendment addresses. The criterion is met.

**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

Because the amendment does not relate to vehicle trip generation, the criterion is not applicable.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REQUIRING DEVELOPERS TO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND AMENDING TDC 1.020 AND 1.032 (PTA-09-08)

WHEREAS upon the application of the City of Tualatin Engineering Division, a public hearing was held before the City Council of the City of Tualatin on September 13, 2010, related to a Plan Text Amendment of the TDC; amending TDC 1.020 and 1.032 (PTA-09-08); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on September 13, 2010, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [ - ],

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated September 13, 2010, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 1.020 is amended by adding in alphabetical order the following definitions with the remainder of TDC 1.020 unchanged:

Development Agreement. An agreement between either the City or the Tualatin Development Commission and a developer that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, improvements, and any other mutually agreed to terms and requirements.

Urban Growth Management Agreement (UGMA). An agreement between the City and Clackamas County establishing a process for coordinating comprehensive planning and development in a geographically defined area composed of both area within city limits and unincorporated properties.

Urban Planning Area Agreement (UPAA). An agreement between the City and Washington County establishing a process for coordinating comprehensive planning and development in a geographically defined area composed of both area within city limits and unincorporated properties.

Section 2. TDC 1.032 is amended to read as follows:

Before granting an amendment to the Plan Text or Plan Map of the Tualatin Development Code (TDC), including the Tualatin Community Plan, the Council shall find that:

- (1) Granting the amendment is in the public interest.
- (2) The public interest is best protected by granting the amendment at this time.
- (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.
- (4) The following factors were consciously considered: the various characteristics of the areas in the City; the suitability of the areas for particular land uses and improvements in the areas; trends in land improvement and development; property values; the needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area; natural resources of the City and the protection and conservation of said resources; prospective requirements for the development of natural resources in the City; and the public need for healthful, safe, aesthetic surroundings and conditions. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.
- (5) The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are:

$$(TCR - SMR) * CSR = NC$$

$$(NC * CFF) / CSP = MNP$$

$$(MNP \text{ or } MPS) * CSP = AC$$

Where:

TCR	=	Total number of classrooms.
SM R	=	Special mandated classrooms.
CSR	=	Average class size policy for regular rooms.
NC	=	Normal capacity.
CFF	=	Core facility factor (kitchen, cafeteria, restrooms, offices, gym, music, mechanical: 0.12 for K-8 schools and 0.15 for 9-12 schools.
CSP	=	Average class size policy for portables.
MN P	=	Maximum number of portables, rounded up to the nearest whole number, <u>or</u>
MP S	=	Maximum number of portables allowed on site, as determined by existing school capacity, above, or allowed by the City of Tualatin through land use decisions such as, but not limited to, conditional use permits.
AC	=	Additional capacity.

(6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

(7) Granting the amendment is consistent with the Metropolitan Service District' s Urban Growth Management Functional Plan.

(8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

(9) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, 13.015, and 14.040. This criterion may be satisfied by the applicant entering into a development agreement with the City to assure that water, sanitary sewer, and surface

13.015, and 14.040. This criterion may be satisfied by the applicant entering into a development agreement with the City to assure that water, sanitary sewer, and surface water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.

(10) The applicant has entered into a development agreement.

(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.

(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9).

INTRODUCED AND ADOPTED this 13th Day of September, 2010.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

ORDINANCE NO. 1310-10

AN ORDINANCE REQUIRING DEVELOPERS TO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND AMENDING TDC 1.020 AND 1.032 (PTA-09-08)

WHEREAS upon the application of the City of Tualatin Engineering Division, a public hearing was held before the City Council of the City of Tualatin on September 13, 2010, related to a Plan Text Amendment of the TDC; amending TDC 1.020 and 1.032 (PTA-09-08); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on September 13, 2010, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [6-0] in favor with Councilor Truax absent,

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated September 13, 2010, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 1.020 is amended by adding in alphabetical order the following definitions with the remainder of TDC 1.020 unchanged:

Development Agreement. An agreement between either the City or the Tualatin Development Commission and a developer that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, improvements, and any other mutually agreed to terms and requirements.

Urban Growth Management Agreement (UGMA). An agreement between the City and Clackamas County establishing a process for coordinating comprehensive planning and development in a geographically defined area composed of both area within city limits and unincorporated properties.

Urban Planning Area Agreement (UPAA). An agreement between the City and Washington County establishing a process for coordinating comprehensive planning and development in a geographically defined area composed of both area within city limits and unincorporated properties.

Section 2. TDC 1.032 is amended to read as follows:

Before granting an amendment to the Plan Text or Plan Map of the Tualatin Development Code (TDC), including the Tualatin Community Plan, the Council shall find that:

- (1) Granting the amendment is in the public interest.
- (2) The public interest is best protected by granting the amendment at this time.
- (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.
- (4) The following factors were consciously considered: the various characteristics of the areas in the City; the suitability of the areas for particular land uses and improvements in the areas; trends in land improvement and development; property values; the needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area; natural resources of the City and the protection and conservation of said resources; prospective requirements for the development of natural resources in the City; and the public need for healthful, safe, aesthetic surroundings and conditions. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.
- (5) The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan

amendment or for a residential land use regulation amendment. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are:

$$(TCR - SMR) * CSR = NC$$

$$(NC * CFF) / CSP = MNP$$

$$(MNP \text{ or } MPS) * CSP = AC$$

Where:

TCR	=	Total number of classrooms.
SMR	=	Special mandated classrooms.
CSR	=	Average class size policy for regular rooms.
NC	=	Normal capacity.
CFF	=	Core facility factor (kitchen, cafeteria, restrooms, offices, gym, music, mechanical: 0.12 for K-8 schools and 0.15 for 9-12 schools.
CSP	=	Average class size policy for portables.
MNP	=	Maximum number of portables, rounded up to the nearest whole number, <u>or</u>
MPS	=	Maximum number of portables allowed on site, as determined by existing school capacity, above, or allowed by the City of Tualatin through land use decisions such as, but not limited to, conditional use permits.
AC	=	Additional capacity.

(6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

(7) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

(8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

(9) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020,

water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.

(10) The applicant has entered into a development agreement.

(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.

(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9).

INTRODUCED AND ADOPTED this 13th Day of September, 2010.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

APPROVED AS TO LEGAL FORM

*Brenda L. Brader*

CITY ATTORNEY



6605 SE Lake Road, Portland, OR 97222 • PO Box 22109 Portland OR 97209-2109  
 Phone: 503-884-0360 Fax: 503-820-3433  
 E-mail: [legals@commnewspapers.com](mailto:legals@commnewspapers.com)

**AFFIDAVIT OF PUBLICATION**

State of Oregon, County of Washington, SS I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of *The Times* (serving Tigard, Tualatin & Sherwood), a newspaper of general circulation, published at Beaverton, in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

**City of Tualatin  
 Notice of Hearing/PTA 09-08  
 TT11488**

A copy of which is hereto annexed, was published in the entire issue of said newspaper for  
 1

week in the following issue:  
**August 26, 2010**

*Charlotte Allsop*

Charlotte Allsop (Accounting Manager)  
 Subscribed and sworn to before me this August 26, 2010.

*Robin A. Bugan*  
 NOTARY PUBLIC FOR OREGON  
 My commission expires

Acct #108462  
 Attn: Stacy Crawford  
 City of Tualatin  
 18880 SW Martinazzi Ave  
 Tualatin, OR 97062

Size: 2 x 8.5  
 Amount Due: \$153.85\*  
 \*Please remit to address above.

**NOTICE OF HEARING  
 CITY OF TUALATIN, OREGON**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Monday, September 13, 2010**, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

**PLAN TEXT AMENDMENT (PTA)—AN ORDINANCE REQUIRING DEVELOPERSTO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND ADDING A NEW SECTION TO TDC CHAPTER 1 (PTA-09-08)**

In plain language, this amendment makes explicit that developers must increase the capacity of public lines if their developments generate demand that exceeds operating capacities.

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.



Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact Colin Cortes at (503) 691-3024.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
 City Recorder  
 Publish 8/26/2010

TT11488

# AFFIDAVIT OF POSTING

STATE OF OREGON                    )  
  ) SS  
COUNTY OF WASHINGTON        )

I, Stacy Crawford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted four copies of the Notice of Hearing on the 19<sup>th</sup> day of August, 2010, a copy of which Notice is attached hereto; and that I posted said copies in four public and conspicuous places within the City, to wit:

1. City of Tualatin - Police Department
2. City of Tualatin - City Center Building
3. City of Tualatin - Community Development
4. City of Tualatin - Library

Dated this 19<sup>th</sup> day of August, 2010.

Stacy Crawford  
Stacy Crawford

Subscribed and sworn to before me this 19<sup>th</sup> day of August, 2010.

Maureen A Smith  
Notary Public for Oregon  
My Commission expires: July 4, 2013



RE: AN ORDINANCE REQUIRING DEVELOPERS TO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND ADDING A NEW SECTION TO TDC CHAPTER 1 (PTA-09-08)

EXHIBIT B



# City of Tualatin

[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Monday, September 13, 2010**, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA)—AN ORDINANCE REQUIRING DEVELOPERS TO MITIGATE DEVELOPMENT IMPACTS ON PUBLIC WATER, SANITARY SEWER AND STORMWATER LINES; AND ADDING A NEW SECTION TO TDC CHAPTER 1 (PTA-09-08)

In plain language, this amendment makes explicit that developers must increase the capacity of public lines if their developments generate demand that exceeds operating capacities.

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact Colin Cortes at (503) 691-3024.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

## **PTA-09-08: ANALYSIS AND FINDINGS**

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below:

### **1. Granting the amendment is in the public interest.**

Protecting public infrastructure and the public investment in it is a prime objective of municipal government to meet the goal of protecting public health, safety, and welfare.

The issue that the amendment addresses began with the Alexan Bridgeport project (AR-08-09) at 18067 and 18075 SW Lower Boones Ferry Road. The Alexan was made possible through a Plan Map Amendment (PMA-07-01) that rezoned 0.75 acres of a 9.0-acre site from Light Manufacturing (ML) to General Commercial (CG) Planning District. Following the PMA, the applicant applied for a PTA (PTA-07-04) to apply the Mixed Use Commercial Overlay District (MUCOD). This allowed the project to be mixed use and include residences.

Upon site development, the City and the developer conflicted over the need to upsize public lines for sewer, stormwater, and water. The master plans for these lines set their capacity and were premised on the planning district designations illustrated on the Community Plan Map (Map 9-1), including the original designations of the site, which were General Commercial (CG) and Light Manufacturing (ML) Planning Districts. The developer erroneously claimed that the City's approval of the PTA exempted the developer from upsizing these lines to accommodate greater development.

Though the conflict abated in the City's favor, it prompted the City Engineer to consider a PTA to make more explicit that approval of a PMA or PTA does not exempt a developer from needed public infrastructure improvements that are determined through Architectural Review (AR). The Plan Map Amendment criterion in Tualatin Development Code (TDC) Section 1.031(4) can be read such that it addresses the issue, yet it doesn't explicitly address the issue.

The master plans assume development as indicated by planning district designations and system development charges (SDCs) are premised on planned development increasing demand for sewer, stormwater, and sewer. Rezoning are typically upzonings, which further increase demand on public lines. SDCs do not account for such discrepancies.

The TDC provides the City the authority to require developers to mitigate the effects of redevelopment on public infrastructure and services, including sanitary sewer, stormwater, and potable water lines, when proposed development would generate demand at or in excess of capacity. Making the requirement more explicit for this class of infrastructure would be redundant, yet would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and precludes the waste of City time and energy that might have again been spent in conflict with a future developer.

Granting the amendment is in the public interest. Criterion "A" is met.

**2. The public interest is best protected by granting the amendment at this time.**

As examined for Criterion A, granting the amendment is in the public interest. Granting the amendment at this time is best because making the requirement more explicit for public lines would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and precludes the waste of City time and energy that might have again been spent in conflict with a future developer.

Granting the amendment at this time best protects the public interest.

**3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

The master plans for sewer, stormwater, and water are part of the Tualatin Community Plan (TDC Chapters 12-14). These establish the objectives and policies against which the City compares a PMA to determine if a PMA meets plan amendment criteria relating to these public facilities and services.

Of the three classes, malfunction of sanitary sewer is most hazardous to public health. TDC 13.055 acknowledges that prohibition of sanitary sewer overflows (SSOs) that might occur during worst case system demand. Prohibition is in keeping with both Clean Water Services (CWS), the Washington County sewer and stormwater agency, and the U.S. Environmental Protection Agency (EPA). The EPA defines SSOs as "discharges of raw sewage from municipal sanitary sewer systems" (25 August 2010 <http://cfpub.epa.gov/npdes/faqs.cfm#74>). The EPA website explains that while SSOs occasionally occur in almost every sewer system, when SSOs happen frequently it means a sewer system is malfunctioning and that six common problems can cause chronic SSOs, of which two are relevant to the issue that the amendment addresses:

- Undersized Systems: Sewers and pumps are too small to carry sewage from newly-developed subdivisions or commercial areas.

- **Sewer Service Connections:** discharges occur at sewer service connections to houses and other buildings; some cities estimate that as much as 60% of overflows comes from the service lines.

Though the City prevailed in the conflict that led to the amendment, without the amendment, further conflicts could arise and there would remain the chance that the City might not always prevail, leading to systems becoming undersized relative to redevelopment and discharges occurring at sewer service connections.

The proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion "C" is met.

#### **4. The following factors were consciously considered:**

##### **The various characteristics of the areas in the City.**

The factor applies in that as the city matures, there will be more redevelopment. Redevelopment can involve Plan Map Amendments that introduce greater density and intensity of land use that conflicts with the land uses assumed by the City master plans for sanitary sewer, stormwater, and potable water lines. Because of this, the amendment addresses an incident that otherwise would likely repeat itself. In short, the development characteristics of a near built-out Tualatin factor as support for the amendment.

##### **The suitability of the areas for particular land uses and improvements in the areas.**

The factor is not relevant to the proposed amendment because as a legislative Plan Text Amendment it does not affect any planning district designation or related regulation and involves no physical improvements.

##### **Trends in land improvement and development.**

As examined earlier for Criterion B, because there will be further development and redevelopment within the city, without the amendment there would be a continued amount of conflict over mitigation of the effects of redevelopment than there would otherwise be.

##### **The needs of economic enterprises and the future development of the area.**

The factor is not relevant to the proposed amendment because as a legislative Plan Text Amendment it does not logically affect the needs of economic enterprises and the future development of an area.

**Needed right-of-way and access for and to particular sites in the area.**

The proposed amendment has no relation to any particular planning district and needed rights-of-way or access.

**Natural resources of the City and the protection and conservation of said resources.**

The proposed amendment has no relation to the protection and conservation of natural resources.

**Prospective requirements for the development of natural resources in the City.**

The proposed amendment has no relation to development of natural resources in the city.

**And the public need for healthful, safe, aesthetic surroundings and conditions.**

Protecting public infrastructure and the public investment in it is a prime objective of municipal government to meet the goal of protecting public health, safety, and welfare. Granting the amendment factors in the public need for healthful, safe, aesthetic surroundings and conditions because making the mitigation requirement more explicit for public lines would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR. This ensures that these lines function to maintain public health and prevents their hazardous malfunction from exceeding capacity.

**Proof of change in a neighborhood or area**

Neither the applicant nor staff assert proof of change in a neighborhood or area.

**Mistake in the Plan Text or Plan Map.**

Neither the applicant nor staff assert a mistake in the Plan Text or Plan Map.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.**

Because the amendment does not relate to residential use, the criterion is not applicable.

## **6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.**

Of the 19 statewide planning goals, staff determined that the applicable one is Goal 11, "Public Facilities and Services," which is, "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Oregon Administrative Rules (OAR) 660-015-0000(11) explains that "timely, orderly, and efficient arrangement" refers to "a system or plan that coordinates the type, locations, and delivery of public facilities and services in a manner that best supports the existing and proposed land uses."

The TDC provides the City the authority to require developers to mitigate the effects of redevelopment on public infrastructure and services, including sanitary sewer, stormwater, and potable water lines, when proposed development would generate demand at or in excess of capacity. A Plan Map Amendment (i.e. rezoning) that is an upzoning often introduces a discrepancy between the capacity planned for the original land use and the capacity needed for redevelopment. Making more explicit the requirement to mitigate this discrepancy would provide clearer and more explicit signal to developers that a PMA does not preclude mitigating the effects of development or redevelopment through AR and preserves a timely, orderly, and efficient arrangement of public facilities and services.

Of the three classes, malfunction of sanitary sewer is most hazardous to public health. TDC 13.055 acknowledges that prohibition of sanitary sewer overflows (SSOs) that might occur during worst case system demand. Prohibition is in keeping with both Clean Water Services (CWS), the Washington County sewer and stormwater agency, and the U.S. Environmental Protection Agency (EPA). The EPA defines SSOs as "discharges of raw sewage from municipal sanitary sewer systems" (25 August 2010 <http://cfpub.epa.gov/npdes/faqs.cfm#74>). The EPA website explains that while SSOs occasionally occur in almost every sewer system, when SSOs happen frequently it means a sewer system is malfunctioning and that six common problems can cause chronic SSOs, of which two are relevant to the issue that the amendment addresses:

- **Undersized Systems:** Sewers and pumps are too small to carry sewage from newly-developed subdivisions or commercial areas.
- **Sewer Service Connections:** discharges occur at sewer service connections to houses and other buildings; some cities estimate that as much as 60% of overflows comes from the service lines.

Though the City prevailed in the conflict that led to the amendment, without the amendment, further conflicts could arise and there would remain the chance that the City might not always prevail, leading to systems becoming undersized relative to redevelopment and discharges occurring at sewer service connections.

The amendment would broaden and strengthen these requirements and therefore continue to comply with Goal 11 and meet the minimum statute requirements.

**7. Granting the amendment is consistent with the Metropolitan Service District' s Urban Growth Management Functional Plan.**

The Urban Growth Management Functional Plan (UGMFP), codified in Metro Code 3.07, neither precludes the amendment nor directly addresses the issue that the amendment addresses. The criterion is met.

**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

Because the amendment does not relate to vehicle trip generation, the criterion is not applicable.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 9-13-10

Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Doug Rux, Community Development Director *DR*  
William Harper, Associate Planner *[Signature]*

**DATE:** September 13, 2010

**SUBJECT:** ORDINANCE CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) OF PARCELS OF LAND LOCATED ON SW BORLAND ROAD (21E 19C 1700 & 2000) AND .25 ACRES OF ABUTTING RIGHT-OF-WAY; AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-03)

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### ISSUE BEFORE THE COUNCIL:

City Council consideration regarding the request for a Plan Map Amendment (PMA) to change the Planning District designation from Low-Density Residential (RL) to Medical Center (MC) of parcels of land located at 6001, 6021, 6031, and 6041 SW Borland Road (21E 19C 1700 & 2000) and to the centerline of the abutting public right-of-way (ROW) of SW Borland Road. The applicant has requested the public hearing continued from July 12, 2010 and scheduled for September 13, 2010 be continued to October 11, 2010.

### RECOMMENDATION:

Staff recommends the noticed public hearing for PMA-09-03 be continued to October 11, 2010 at 7:00 p.m.

### EXECUTIVE SUMMARY:

- This matter is a proposed Plan Map Amendment to the Community Plan Map 9-1 of the Tualatin Development Code (TDC) and the City Council will consider the matter in a quasi-judicial public hearing.
- The proposed amendment is an application submitted by Mr. Larry Hill and Legacy Health Systems (LHS) to change the Planning District designation of the 19.6 acre LHS property adjacent to Meridian Park Medical Center from an RL designation to a MC designation.
- The September 13 hearing was continued from the initial public hearing for the Legacy Health System (LHS) Plan Map Amendment (PMA-09-03) held at the November 9, 2009 Council Meeting, the January 25, 2010 meeting, the February

8, 2010 meeting, the March 8, 2010 meeting and the July 12, 2010 meeting. The initial November 9, 2009 hearing was continued to allow time for Legacy and City staff to prepare a Development Agreement (DA) that would address issues raised by neighbors and the Council. The subsequent continuances were also to allow the public to receive additional information about the amendment proposal and provide their input to LHS and the Council.

- At the July 12 public hearing for the DA and PMA-09-03, persons testifying and Council members raised questions and concerns about the provisions of the July 12 version of the DA. The Council asked Legacy to meet with a representative group of residential neighbors and City staff to work out their differences with the provisions of the proposed DA. Legacy agreed, and the public hearing was continued to September 13, 2010.
- Meetings attended by a group of residential property owners, LHS, City Council members and City staff to discuss the "Legacy Meridian Park Development Agreement" were held on July 27 and August 5. To incorporate the discussions among the parties in the two meetings and in separate meetings after August 5 and to allow time to finalize an acceptable version of the DA with a "small group", LHS agreed to continue the September 13 hearing date. In an email message on August 25, 2010, Mr. Hill requested that the public hearing for PMA-10-01 and consideration of the DA be continued (to the October 11 meeting) and granted an extension of the 120-Day Rule.

**FINANCIAL IMPLICATIONS:**

The Applicant paid the required application fee, which is contained in the FY 09/10 budget for revenue.

**PUBLIC INVOLVEMENT:**

A Notice of Hearing for the continued September 13, 2010 public hearing for PMA-10-03 was sent to the extended list of property owners who are in the required notice area, in an enlarged notice area to include residential areas further east of the subject property and persons who have participated in the process or requested notice. A courtesy letter was sent on August 30, 2010 informing the persons on the LHS/PMA-09-03 mailing list of the request for a continuance to the October 11 date.

RESOLUTION NO. 5004-10

A RESOLUTION SUPPORTING THE WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES LOCAL OPTION LEVY MEASURE 34-180 - NOVEMBER 2, 2010

WHEREAS, the Washington County Cooperative Library Services (WCCLS) was created in May of 1976, to serve all the residents of Washington County; and

WHEREAS, the WCCLS has served a county that has grown from 196,000 in 1976 to over half a million people in thirty four years, and the population of Washington County has increased 12 percent in the last five years while over the same period, the circulation of library materials has increased 63 percent; and

WHEREAS, the citizens of the City of Tualatin and the surrounding areas benefit from this service by the increased number of books and programs for our youth; and

WHEREAS, the WCCLS levy provides approximately 25% of the annual operating funds of the Tualatin Public Library; and

WHEREAS, since 2007 Tualatin's circulation has increased by 79% and programs offered to the community have increased by 157%; and

WHEREAS, if the levy were to fail, funding for the Tualatin Public Library would be reduced by \$412,000, resulting in cuts in hours, books purchases and programs; and

WHEREAS, all citizens benefit from the cooperative services provided by WCCLS through its 15 locations throughout the County; and

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

The Mayor and City Council strongly support the passage of the Washington County Cooperative Library Services Local Option Levy, Measure 34-180 on the November 2, 2010 ballot and encourage all residents of Tualatin to vote in favor of the levy.

ADOPTED by the City Council of the City of Tualatin this 13<sup>th</sup> day of September, 2010.



Sherilyn Lombos  
City Recorder



Lou Ogden  
Mayor