



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
Monday, May 11, 2009

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 5:30 p.m.**

REGULAR MEETING begins at 7:00 p.m.

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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 (voice) or 503.692.0574 (TDD). 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 5 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 192.660(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**

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1. Tualatin Youth Advisory Council Presentation
2. Presentation of the "Commitment to Youth" Award to Mayor Lou Ogden
3. Proclamation Declaring May 11 – 15, 2009 "National Police Week" in the City of Tualatin..... 5
4. Proclamation Proclaiming May 17 – 23, 2009 "Public Works Week" in the City of Tualatin .....6
5. Proclamation Designating the Week of May 17 – 23, 2009 as "Emergency Medical .....7  
Services Week" in the City of Tualatin
6. Update on the City's Efforts Regarding a Whistle-Free, Quiet Zone

**C. CITIZEN COMMENTS**

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

**D. CONSENT AGENDA (Item Nos. 1 – 7)**

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*The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and the 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." At that time, any member of the audience may comment on any item pulled 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.*

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5. Resolution No. 4881-09 Awarding the Bid for the Norwood Pump Station .....59
6. Resolution No. 4882-09 Authorizing an Amendment to the Intergovernmental .....62  
Agreement with the City of Lake Oswego
7. Resolution No. 4883-09 Approving the SW Seneca Street Sanitary Sewer Extension .....69  
Project Agreement between the City of Tualatin and the  
Tualatin Development Commission

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

None.

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

None.

**G. GENERAL BUSINESS (Item No. 1)**

1. Update from ODOT Regarding the I-5 Tualatin River – Willamette River Section Project.....77

**H. ITEMS REMOVED FROM CONSENT AGENDA**

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

**I. COMMUNICATIONS FROM COUNCILORS**

**J. EXECUTIVE SESSION**

**K. ADJOURNMENT**



# CITY COUNCIL SIGN-UP SHEET

DATE: May 11, 2009

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.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

# Proclamation

## *Proclamation Declaring May 11 – 15, 2009 “National Police Week” in the City of Tualatin*

WHEREAS the Congress of the United States of America has designated the week of May 11 – 15, 2009 to be dedicated as “National Police Week” and May 15<sup>th</sup> of each year to be “Police Memorial Day” in honor of the Federal, State and Municipal Officers who have been killed or disabled in the line of duty; and

WHEREAS it is known that approximately every 57 hours an American Police Officer will be killed or disabled in the line of duty somewhere in the United States and that the State of Oregon lost two officers during the tragic bombing incident in Woodburn on December 12, 2008; and

WHEREAS the City of Tualatin is proud of our law enforcement officers and wish to recognize their commitment to the public safety profession; and

WHEREAS the Tualatin Police Department provides the highest quality service for our citizens, preserving human rights, lives and property; and

WHEREAS the Tualatin Police officers are committed to the highest professional standards, working in partnership with our citizens, to meet the challenges of reducing crime, creating a safe environment, and improving our quality of life.

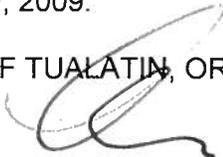
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON that:

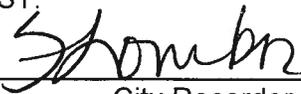
The week of May 11 – 15, 2009 is hereby proclaimed “Police Week” in the City of Tualatin to call attention to Tualatin Police Officers for the outstanding service they provide to our community.

The City Council also calls upon our citizens to express their thanks to the men and women who make it possible for us to leave our homes and family in safety each day and return to our homes knowing they are protected by men and women willing to sacrifice their lives if necessary, to guard our loved ones, property, and government against all who would violate the law.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

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

ATTEST:  
BY  \_\_\_\_\_  
City Recorder

# Proclamation

## *Proclamation Proclaiming May 17 - 23, 2009 "Public Works Week" in the City of Tualatin*

WHEREAS public works services in our community are an integral part of our citizens' everyday lives; and

WHEREAS the support of an understanding and informed citizenry is vital to the efficient operation and construction of public works systems such as water, sewer, streets, parks, and drainage; and programs such as building maintenance, park maintenance, emergency management, and solid waste management; and

WHEREAS the health, safety, and comfort of this community greatly depends on design, construction, and maintenance of these facilities and services; and

WHEREAS the quality and effectiveness of these facilities, as well as their planning, design, construction and maintenance is vitally dependent upon the efforts and skill of public works employees and officials; and

WHEREAS the efficiency of the qualified and dedicated personnel who provide public works are materially influenced by the people's attitude and understanding of the importance of the work they perform.

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

May 17 - 23, 2009 is proclaimed as *Public Works Week* in the City of Tualatin.

Tualatin residents are urged to acquaint themselves with the issues involved in providing our public works services and to recognize the contributions which public works employees and officials make everyday to our health, safety, comfort, and quality of life.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

# Proclamation

## *Proclamation Designating the Week of May 17 - 23, 2009 as "Emergency Medical Services Week" in the City of Tualatin*

WHEREAS emergency medical services (EMS) is a vital public service; and

WHEREAS the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS emergency medical teams consist of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others; and

WHEREAS the members of emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS Americans benefit daily from the knowledge and skills of these highly-trained individuals; and

WHEREAS it is appropriate to recognize the value and the accomplishments of emergency medical services providers; and

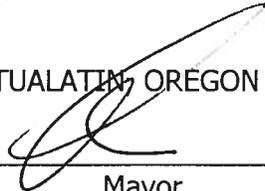
WHEREAS injury prevention and the appropriate use of the EMS system will reduce national health care costs.

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

The week of *May 17 - 23, 2009* is hereby proclaimed "*Emergency Medical Services Week*" and everyone in the community is encouraged to observe this week with appropriate programs, ceremonies, and activities.

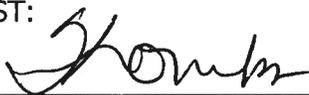
CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

  
Mayor

ATTEST:

BY \_\_\_\_\_

  
City Recorder



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 5-11-09  
Recording Secretary W. Smith

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

**FROM:** Sherilyn Lombos, City Manager 

**DATE:** May 11, 2009

**SUBJECT:** APPROVAL OF THE MINUTES FOR THE SPECIAL WORK SESSION OF APRIL 20, 2009, AND THE WORK SESSION AND MEETING OF APRIL 27, 2009

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**ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes for the Special Work Session of April 20, 2009.

**RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

**FINANCIAL IMPLICATIONS:**

There are no financial impacts associated with this item.

**Attachments:** Minutes



SPECIAL CITY COUNCIL/DEVELOPMENT COMMISSION MEETING MINUTES OF APRIL 20, 2009

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

STAFF

PRESENT: Sherilyn Lombos, City Manager; Doug Rux, Community Development Director, Mike McKillip, City Engineer; Paul Hennon, Community Services Director, Eric Underwood, Development Coordinator; Carina Christensen, Assistant to the City Manager; Don Hudson, Finance Director; Nancy McDonald, Human Resources Director; Kent Barker, Police Chief; Dan Boss, Operations Director; Brenda Braden, City Attorney; and Maureen Smith, Recording Secretary

OTHERS

PRESENT: Frank Bubenik, Candice Kelly, Tualatin Tomorrow Co-Chairs

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The special work session was called to order at 6:06 p.m. at the Tualatin Police Facility Training Room.

*[Note: Councilors also act as "Commissioners" for the Tualatin Development Commission.]*

1. ANNOUNCEMENTS

City Manager Sherilyn Lombos announcements

2. ITEMS DISCUSSED

A. Budget Discussion

City Manager Sherilyn Lombos began discussion on review of the preliminary FY 2009/10 budget. The first Budget Advisory Committee meeting is scheduled for Monday, May 11, 2009. Staff will incorporate any feedback from Council at this meeting in the final preparation of the FY 2009/10 budget..

General Fund revenues and expenditures were reviewed first. Ms. Lombos said expenditures are down and revenues are up approximately 4%. Increased revenues accounts for, in part, to grants received by the City, the rental license program, the expanded municipal court, and interest.

Various policy issues for Council to consider include Tualatin Tomorrow budget request, snow/ice removal discussion, library issue, recreation discussion, retirement (PERS) reserve, water, sewer and storm drain rates, gas tax trends and the water quality inspection program.

Finance Director Don Hudson displayed a PowerPoint of the total proposed budget, which includes the General Fund, Engineering and Building, Operations, Debt Service and Other Funds, Capital Development Funds and the Tualatin Development Commission budget.

Review of the *revenue* side of the General Fund includes property taxes, franchise fees, state shared revenue, intergovernmental, charges for services, fees and charges, fines and forfeitures, transfers, interest and miscellaneous, with the total revenues up 4.77 percent.

Ms. Lombos reviewed *expenditures* in the budget lines of Council, Administration, Finance, Legal, Court, Planning, Police, Fleet, Building Maintenance, Parks Maintenance, Community Services and Non-Departmental. The Administration through Non-Departmental budgets reflect a savings because of the decrease in PERS rates. Mr. Hudson explained that actuarial studies are done every two years. In addition, cost of living and step increases are frozen at the current year levels, except for Police, currently under contract, and negotiations are ongoing for the general bargaining unit. The rental housing program is included in the Finance budget line.

Funding has not been added for outside legal counsel expenses, and if needed, staff will bring to Council and suggest using Contingency funds. The Court budget line was reviewed and Ms. Lombos explained about the Intergovernmental Agreement (IGA) Tualatin has with the City of Durham needs to be modified for citing tickets into municipal court. The Durham City Administrator did not see a problem with modifying the IGA.

Community Development Director Doug Rux reviewed the Planning budget from the current year to the proposed budget for next fiscal year.

Co-chairs Frank Bubenik and Candice Kelly were in attendance and presented the proposed Tualatin Tomorrow budget for FY 2009/10, and distributed an overview of the strategy progress to date. The proposed budget is up approximately \$1,600 from last year, with minor changes such as increased printing and postage costs, promotional materials, etc. The upcoming fiscal year will also have a full year of the administrative position to help with the workload. The requested budget is included in the proposed Planning budget. Ms. Kelly noted the upcoming Tualatin Tomorrow annual event on April 30, 2009 and invited all Council to attend. Also noted was the successful Health and Safety Fair that was held this past Saturday.

The Police Department budget was reviewed, which includes Administration, Patrol, and Support Divisions. The dispatch contract with Washington County Consolidated Communications Agency (WCCCA) which handles 9-1-1, is up about 7%, and will continue to increase over the next several years. The contract with the Tualatin Police Officers Association (TPOA) will expire soon and negotiations will be starting.

Replacement of two new patrol vehicles is recommended, and also recommended is replacement of three unmarked vehicles. \$50,000 is budgeted, and staff will be applying for a grant to supplement the \$100,000 needed for the vehicles.

Police Chief Kent Barker has been working with TriMet on a "Westside Force" to enhance the safety of mass transit. TriMet's proposal is to contribute 110% of the City's cost for a Tualatin law enforcement officer. It has been added to the proposed budget and will be at least a four-year commitment by TriMet. Chief Barker added that all the jurisdictions in Washington County have committed to providing at least *one* employee for transit safety, except for Sherwood and Tualatin at this point.

Fleet Services was reviewed, with *expenditures* down approximately 20%, due mainly to decreased PERS costs, decreased fuel costs, and a shop truck purchase from last year's budget.

The Facilities budget increased with a variety of maintenance work proposed and the addition of proposed snow removal equipment. Maintenance projects include commuter rail station maintenance, electrical/lighting support for the Library, replacement carpet at Police, Council Building painting and Chambers carpet replacement. The Senior Center is in need of a security system and they have requested an upgrade to the automatic door for the building entrance.

Operations Director Dan Boss reviewed the snow removal program, and staff has discussed how to best address snow events, in light of the December 2008 snowstorm. Staff has also looked at coordination with other agencies and a possible sidewalk removal program. Capital investments will be needed for the type of program proposed. Mr. Boss explained what equipment the City currently has, much of which is aging or ineffective. Recommended is two walk behind snow blowers at \$1,250 each from General Fund in Facilities and Parks Maintenance. A new ten-yard dump truck is at a cost of \$160,000 split among the following divisions: Facilities (General Fund), \$20,000; Parks Maintenance (General Fund) \$20,000; Water (Operations Fund) \$40,000; Sewer (Operations Fund) \$40,000; and Street (Operations Fund) \$40,000. Snow plow for new 10 yard dump truck \$15,600 – Streets (Operations Fund); slip in sander for 10 yard dump truck (\$14,000) – Streets (Operations Fund); and a snow plow for the 1-ton truck \$7,000 – Streets (Operations).

Councilor Harris mentioned he has been an advocate for this, but questioned whether the equipment needs to be purchased all at one time. Mr. Boss said at a minimum, staff would request replacement of the dump truck. Mayor Ogden said with concessions being asked of employees he is interested in holding off on spending funds on some of the proposed maintenance items. However, the Senior Center door and security system are important.

Discussion followed and Council tabled the issue until the end of the work session.

Expenditures are up 3.5% in the Parks Maintenance Division, in part due to the division's share of the dump truck and snow blower. Also recommended is replacement of an aging 3/4 ton truck, and resurfacing basketball courts at Ibach and Lafky Parks, which are on a five-year cycle.

Councilor Maddux asked and Ms. Lombos said the "dog park" is not included in this budget. Councilor Maddux said her recollection is it would be included in the budget at some point. Community Services Director Paul Hennon explained there were funds allotted in the bond measure (that did not pass), but there are not any other funds allocated. The major elements of a dog park would include fencing, possible gravel path, etc. Discussion followed on what would be the costs for a basic approach to constructing a dog park. Council tabled this item until the end of the discussion.

The Community Services Department, comprised of Administration, Library, and Recreation Divisions was reviewed. Community Services Director Paul Hennon said Library circulation has increased significantly more than projected, and will increase in the next couple years. The Library is "struggling" with its success and subsequently collection development has suffered. Staff is proposing to add an approximately 20 hours a week part-time position. Library funding sources were reviewed. It was asked and answered that the Clackamas County Library District is not included in this budget. Also the coffee service vendor is struggling and may need to be subsidized.

Mr. Hennon gave an overview of recreation programming. Staff is looking to create a recreation program with the existing buildings, staff, etc. and increase/redirect programming already done by staff. A policy decision would be needed to redirect funds that would be needed to get a recreation program going. Various options are available for repurposing of some funds which would give some programming hours each week, and also a part-time recreation position at approximately 13 hours/week to coordinate with instructors, etc.

Discussion followed on having a broad based recreation program that includes more than just teens. Council was in agreement of the importance of providing a recreation program at an enhanced level, and to redirect the small amount of funding needed for such a program. There was some concern expressed about taking away from the youth programming.

Non-Departmental expenditures are down 4%. Proposed is funding for a computer software upgrade, a small amount for a survey and for the train horn noise mitigation. Scaling back on website upgrades and the holiday party.

Mr. Hudson wrapped up the discussion on the General Fund beginning fund balance, total before contingency and reserves, and the unappropriated balance. Setting aside a PERS reserve for the next fiscal year is prudent. The budget "gap" is approximately \$153,000, and not undoable going into the next fiscal year and can be made up, also staff is not recommending dipping into Contingency this fiscal year and to maintain the Contingency and Reserves levels.

City Engineer Mike McKillip reviewed the Engineering and Building fund, which includes the Administration, Engineering, and Building Divisions. The Engineering Division is not working on many development projects, but there are a variety of other projects. There is an increase in franchise permits, and several capital projects are underway this year, etc. The Division is also down one person from last year.

Overtime has been decreased and not contracting with outside consultants. There are more over-the-counter permits than in the past, and staff is also working on upgrading computer skills. Mr. McKillip distributed information on review of building fees in comparison to other cities. Out of eight cities Tualatin's fees are generally in line with other cities, and there are no plans to raise permit fees at this time. There is sufficient operating reserves in each division ranging from three months to six months. Discussion followed.

Water, Sewer and Street Operating Funds were reviewed. Holding off for another year of not increasing water rates, instead taking from the rate stabilization line. Brief discussion followed.

The Sewer Fund local rate is not increasing but the regional portion (Clean Water Services) is. The Storm Drain Fund surcharge is cut by 0.10. Rates have not been raised in this fund since 1998. Mr. McKillip explained there was a lot of capital projects that have been done that are not happening this year accounting for the fund being down. There is a water quality program in the Storm Drain Fund which will require the City to make sure water quality facilities are up to par. Discussion followed on the net revenue being down in water, sewer, and storm drain, reflecting that these funds have traditionally been underfunded.

The Road Operating – Utility Fee has a lower balance due to several projects being done.

Gas tax revenues are down and staff's recommendation is to have a future conversation with Council on this fund and the Road Utility Fee Fund. Brief discussion on streetlights and PGE's use of LEDs.

The Operations Fund is transferring in less which leaves Contingency and Reserves at last year's level. Staff's goal is to have a capital improvement plan, but this budget is not reflecting any funds for a master plan at this point.

The Core Area Parking fund includes some projected construction in the core area, and a 1% tax increase for 2009/10. Staff also wants to have a discussion with Council on this fund not reflecting the true cost. The Science & Technology fund is an extremely limited income fund, and with the economy staff is recommending scaling back on the amount and number of scholarships awarded next fiscal year.

Debt Service Funds were reviewed which include General Obligation, Bancroft Bonds, and Enterprise bonds.

Capital Development Funds, which include Water, Sewer, and Road SDCs were explained. Storm Drain SDCs, Parks Development fund and Water Reservoir Fund were briefly reviewed and explained what comprises each fund.

Transportation Development Tax is a new fund passed by the voters. Local Improvement District and Infrastructure Reserve funds were reviewed. Discussion followed and staff and Council will look at transportation funding for a future discussion.

The Tualatin Development Commission budget was reviewed, which includes Administration, Central Urban Renewal District (CURD) Projects and CURD Bonds. Most is the same as it was last year. The CURD is moving forward as directed by Council. Leveton Projects and Leveton Bonds funds were reviewed, and noted Council's previous direction on closing the district at its end.

Ms. Lombos revisited discussion on the purchase of equipment and a dump truck out of various funds for snow events. Discussion followed and it was asked if the City could live without a dump truck for another year.

Mayor Ogden questioned whether this is the year to spend a substantial amount to buy a snow plow truck. All Council, except Mayor Ogden, favored purchase of a dump truck and the associated equipment. At least costs associated with a dog park was favored by Councilors Harris, Maddux and Truax

MOTION was made by Councilor Maddux, SECONDED by Councilor Truax to take \$30,000 from the General Fund for a scaled down dog park. MOTION DIED.

B. Transportation Funding – I-5 / 99W Connector Alternative 7 Discussion

Transportation funding issues were discussed with Council. Mayor Ogden suggested passing on to Metro that Tualatin is *not* in support of Alternative 7 of the I-5 / 99W Connector Project, but the City will support the southern portion which includes 124<sup>th</sup> / Tonquin. He also suggested not changing the Transportation System Plan (TSP) at this point, but to revisit in the future to take a more in depth look. Discussion of what comprises the TSP and the community awareness of what's in the TSP. Discussion followed.

Mayor Ogden said there is approximately \$20 million dollars available from the now defunct Connector Project, and Washington County is looking to direct the funds to the Tualatin/Sherwood area. Tualatin is looking at \$10 million and the other is \$10 million for Sherwood. Sherwood's first priority would be Adams Street, and any funds left they are interested in directing towards 124<sup>th</sup> Avenue. Council discussed using the funds for the 124<sup>th</sup> Avenue / Tonquin / Boones Ferry alignment. It was asked and answered that if the City moves forward with the alignment it would be better to be in the City of Tualatin instead of Washington County. Also mentioned was looking at the annexing of Tigard Sand and Gravel.

***[Councilor Truax left at 10:03 p.m.]***

Also mentioned was the City of Wilsonville's unhappiness when hearing of Tualatin *not* supporting "Alternative 7". Discussion followed. It was suggested to have a work session to discuss long-range issues and develop a strategy about the area between Tualatin and Wilsonville.

3. EXECUTIVE SESSION – None.

4. ADJOURNMENT

The special work session adjourned at 10:13 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

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



# City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council

Date 5-11-09

Recording Secretary W. Smith

## TUALATIN CITY COUNCIL WORK SESSION MINUTES OF APRIL 27, 2009

**PRESENT:** Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, 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; Kent Barker, Chief of Police; Dan Boss, Operations Director; Nancy McDonald, Human Resources Director; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; Carina Christensen, Assistant to the City Manager; Ginny Kirby, Recording Secretary

**ABSENT:** Lou Ogden \* [\* denotes excused]

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

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

Mayor Pro tem Barhyte called the meeting to order at 5:36 p.m.

### **B. CONSENT AGENDA**

The Consent Agenda for tonight's Council meeting was reviewed by Council.

***The work session recessed at 5:37 p.m. to hold TDC work session.***

***The work session reconvened at 5:39 p.m.***

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

#### ***Sign Design Standards Follow-up***

Will Harper, Associate Planner, briefly went over the background of the Sign Design issues that had previously come to Council in December 2008. The goal this evening is to get direction from Council regarding development of standards for monument and pole signs in the Central (CC) and General Commercial (CG) planning districts. Mr. Harper gave a PowerPoint presentation that addressed the topics covered in the December 8, 2008 work session, an inventory of pole signs, and pole sign options.

Mr. Harper stated there are 77 existing "legal" pole signs; 24 of the existing signs are in the I5 freeway corridor and subject to Federal regulations. Monument signs tend to be more aesthetically pleasing than pole signs. Options to deal with that are: revise dimensional standards, new sign design standards, location restrictions, allow only monument-style freestanding signs and eliminate pole signs altogether.

Staff feels a sign design review process would be an efficient process to use. The single family residential architectural review process is a good model for a process to use for applying sign design standards. It would incorporate the legal land use aspects.

Mr. Harper then addressed the transitioning of existing signs. Options for this could be: revising pole sign standards and creating a sign design review process. New sign design standards allow signs to be redesigned within parameters and can even be lowered. An amortization program would require replacement of non-conforming freestanding signs within a specified time period.

Mr. Harper then covered different scenarios of sign design and pole sign standards and revisions, which included no change to standards, new freestanding sign standards for CC and CG and go through design process.

Councilor Harris asked about use – if a building was demolished, the sign remains and another business makes use of the existing sign; is there a legal precedent to force a sign to be demolished. Brief discussion followed regarding what could be rebuilt and what signage would be allowed. Councilor Truax noted an instance (not in Tualatin) when a business wanted a smaller, less obtrusive sign; however, the business was told if they wanted to change the size of the sign, they would have to remove the sign, it could stay only if the size stayed the same (they could change the text only; not size/height). Ms. Braden noted if a use wasn't "used" in a full year, than no longer conforming. Councilor Harris said he would be in favor of having some design standards.

Further discussion followed regarding existing signs and sign heights. One idea was that existing signs (non-conforming) could be modified; signs on arterials/collectors could have pole signs no higher than 15-feet. Major commercial/"larger commercial centers" (such as Haggen's) could have a sign 20-feet in height. Monument signs would be allowed on arterials. Collectors could have signs 15-feet in height in the CC planning district and possibly require some architectural standards.

Staff will bring back a "menu" approach for sign design standards on arterials at a future meeting.

#### ***TPAC Request for Review of "For Lease" Signs***

Doug Rux, Community Development Director, said that TPAC had a discussion regarding the proliferation of "For Lease" signs over the past 6 to 9 months. TPAC had talked about doing an inventory of all the "For Lease" and "For Sale" signs in the City. They also asked for a matrix of other agencies and how they are handling these types of signs. Mr. Rux stated that a complete inventory of these signs would take approximately 80 hours of staff time. A brief investigation showed Tualatin allows a bit larger signs than surrounding jurisdictions. A suggestion was to do an inventory and the Code Enforcement Officer could then cite offenders.

Councilor Davis asked if the City had temporary sign permits that give an expiration date; Mr. Rux responded that the City does not place an expiration date. "For Lease" signs are allowed at a maximum of 32 square feet. Discussion continued regarding type of sign, the size, and that some "For Lease" signs are not posted on buildings with actual tenant space for lease; spaces are available in a different building/city. Some signs are basically being used for "advertising"; people see them, call the listed number and are told the building where the sign is posted has no space, but there is space at another location. "For Lease" signs are not permitted signs.

Enforcement could be done now with what is on the books – sign size exceeding the 32 square feet and vision clearance issues. After further discussion it was decided to:

- \*Do some code enforcement; and
- \*Do survey of other cities and how they handle this issue.

***Council Communications & Roundtable***

Councilor Maddux said that the Chair of the Judiciary Committee was not going to move (regarding the proposed adult business legislation), so the potential measure is done for now.

**D. CITIZEN COMMENTS**

Not applicable.

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

Not applicable.

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

Not applicable.

**G. GENERAL BUSINESS**

**H. ITEMS REMOVED FROM CONSENT AGENDA**

Not applicable.

**I. COMMUNICATIONS FROM COUNCILORS**

**J. EXECUTIVE SESSION**

Pursuant to ORS 192.660(2)(d), an executive session to discuss labor relations began at 6:33 p.m.

**K. ADJOURNMENT**

The meeting adjourned at 6:48 p.m.

Sherilyn Lombos, City Manager

Recording Secretary





# City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council

Date 5-11-09

Recording Secretary MS Smith

## TUALATIN CITY COUNCIL MEETING MINUTES OF APRIL 27, 2009

**PRESENT:** Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, 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; Kent Barker, Chief of Police; Dan Boss, Operations Director; Paul Hennon; Community Services Director; Don Hudson, Finance Director; Nancy McDonald, Human Resources Director; Will Harper, Associate Planner; Carina Christensen, Assistant to the City Manager; Ginny Kirby, Recording Secretary

**ABSENT:** Lou Ogden \* [\* denotes excused]

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

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

Mayor Pro tem Barhyte called the meeting to order at 7:01 p.m.  
Councilor Harris led the pledge of allegiance.

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

1. *New Employee Introduction: Lisa Thorpe, Program Coordinator, Finance*  
Don Hudson, Finance Director, introduced Lisa Thorpe. Ms. Thorpe is the new Program Coordinator in the Finance Department.
2. *Accreditation Presentation – Mr. Joe Simon*  
Police Chief Kent Barker introduced Mr. Joe Simon, Executive Director for Oregon Accreditation Alliance. Mr. Simon congratulated the Tualatin Police Department for all the hard work they have gone through to achieve this distinction. Mr. Simon recognized Jennifer Massey, Program Coordinator for the Police Department, for being the on-site manager of the accreditation. The accreditation is good for a period of three years. He complimented the City for this high level of performance.

Chief Barker stated how much he appreciated Mr. Simon's work on the accreditation process and also thanked Ms. Massey for all the hours of work she put in to make this possible.

3. *Paul Nagy Award*

Sherilyn Lombos, City Manager, presented Police Chief Kent Barker with the Paul Nagy award. Ms. Lombos noted that Chief Barker is one of twelve recipients of this award, which was established fifty years ago. The members of the Oregon

Association of Police Chiefs vote on presentation of this award. Chief Barker received this award because of his service to the State in the aftermath of the bombing in Woodburn in December. Ms. Lombos stated that Chief Barker has provided unparalleled leadership for both the City and Metro region. She thanked Chief Barker for his amazing work as Police Chief and stated that it is an honor to have him as our Chief.

4. *Proclamation Proclaiming the Week of May 10-16, 2009 as "National Historic Preservation Week" in the City of Tualatin*

Councilor Davis read the proclamation.

5. *Tualatin Tomorrow Presentation: Growth, Housing, Town Center*  
Doug Rux, Community Development Director and Beth Roach, Tualatin Tomorrow. Mr. Rux said they are here to speak to the main accomplishments for Tualatin Tomorrow: Growth, Housing, Town Center. Accomplishments, to date, include: implementation of the Tualatin Tomorrow Vision into the City's action plan and into the Town Center plan. The Street Trees update was also part of the Vision, as was the Urban Reserves/Rural Reserves (UR/RR) planning process.

Tualatin Tomorrow has been working on a vision for the UR/RR and Town Center; a viable downtown that includes incorporating the river front. Mr. Rux reiterated that this Thursday, April 29, 2009, is the 2<sup>nd</sup> Annual Tualatin Tomorrow Event at Meridian Park Hospital - Education Center, 5:30 p.m. to 8:00 p.m. Ms. Roach noted that the Annual Event is a "family friendly" event; there will be activities geared for children, they are welcome to attend. Councilor Beikman thanked Ms. Roach for all the hours of work she has put in on Tualatin Tomorrow thus far. It was reiterated that the Annual Event is a "drop in" event; no formal program, come anytime between 5:30 p.m. and 8:00 p.m.

### C. CITIZEN COMMENTS

*Kathy Newcomb, Cheyenne Way, Tualatin.* Ms. Newcomb said she first wanted to thank everyone for the legislation to get the Stars project "under control". Second, she was mainly asking about the Tualatin Road extension. Their house is one-half mile north of the potential project. Ms. Newcomb asked if the partnership is a legal, binding agreement. It states it has to be a unanimous agreement; and if no consensus, it would not go further. Ms. Newcomb said she understands this is not how the vote went; it was 60% in favor, not 100%. She said at TPARK they had not been notified of this potential project. Ms. Newcomb asked if an update could be provided regarding Mayor Ogden's and Tom Brian's intent that this project is being dropped, is there a letter from Mr. Brian going to be sent. Mayor Pro tem Barhyte said an update could be given at the next Council meeting on May 11, 2009 so everyone is on the same page with information. Ms. Newcomb said that would be appreciated.

*Jean Nations, Owner of Clean A. Maniacs, SW Coho Court, Tualatin.* Ms. Nations stated that both Texas and Ohio have proclaimed April 27, 2009-May 1, 2009 as National "Cleaning for a Reason" week. This is a week that some cleaning companies will be

offering free cleaning services for women dealing with cancer. If you know of anyone who could make use of this service, Ms. Nations asked for folks to contact her company.

**D. CONSENT AGENDA**

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

1. Approval of Minutes for the Work Session and Meeting of April 13, 2009
2. Approval of 2009 Liquor License Renewal Late Submittal – Nacho Mama’s Mexican Restaurant
3. Approval of a New Liquor License Application for 501 Sports Café & Bar
4. Resolution No. 4877-09 Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 4857-09
5. Resolution No. 4878-09 Authorizing Mayor Ogden to Sign a Memorandum of Understanding Between the City and the Stafford Hamlet

MOTION CARRIED.

**E. PUBLIC HEARINGS** - Legislative or Other  
None.

***General Business was moved to this portion of the meeting.***

**G. GENERAL BUSINESS**

1. Resolution No. 4879-09 Authorizing Renaming the Tualatin/Durham Senior Center to the Juanita Pohl Center

Paul Hennon, Community Services Director, stated this issue is brought by the Senior Center Steering Committee, TPARK, and Durham City Council. Mr. Hennon introduced Stephen Ricker, Chair, Senior Center Steering Committee; Joe Lipscomb, Steering Committee member; and Debbie Whiteman, TPARK member.

Mr. Hennon said the reason for proposed name change is to appeal to a wider “audience”. It is a popular movement across the country to remove the word “senior” as this can be a barrier for those who don’t view themselves as “seniors”. Mr. Hennon noted that Juanita Pohl spent many years providing leadership in the City. The Pohl family made many monetary contributions to the Tualatin school, but the reason for wanting her name to be placed on the Center is to honor all her volunteer work.

Mr. Ricker stated this is in honor of her great contributions of time to the establishment of the Senior Center. Mrs. Pohl had a large hand in getting a grant that helped facilitate the building of the Center. Among her contributions are chairing the Center’s program committee and spending countless hours doing fundraising.

Mr. Lipscomb noted the growth of the Center in the last few years. Ms. Whiteman said that in discussions with TPARK, all were in agreement to move forward with the request to change the name of the Senior Center to the Juanita Pohl Center.

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to adopt the resolution authorizing the renaming of the Tualatin/Durham Senior Center to the Juanita Pohl Center. MOTION CARRIED.

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

1. Conditional Use Permit for the Stafford Hills Racquet & Fitness Club (SHR&F Club) as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax Lot 900) (CUP-09-01)

Resolution No.     - - -     Granting a Conditional Use Permit for the Stafford Hills Racquet & Fitness Club as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax lot 900) (CUP-09-01)

***[hearing continued to May 26, 2009]***

Mayor Pro tem Barhyte read language required by legislation before a comprehensive plan or land use regulation and opened the public hearing. Councilor Harris recused himself as his company has done some consultant work for this project.

Will Harper, Associate Planner, entered the entire staff report and attachments into the record. This is a Conditional Use Permit (CUP 09-01) by Zupancic for a 40-foot building height and for a racquet club. This property is located on the south side of SW Nyberg Lane, between 65<sup>th</sup> Avenue and the single family homes to the east. To the north (north side of Nyberg Lane) is Brown's Ferry Park and Stonestrow Apartment complex. There is greenway going through the westerly portion of the property, also affected by wetlands area contained on the property. Approximately five acres of the 15.6 acres are proposed for development.

The Zupancic Group is proposing a 91,000 square foot facility to house a racquet club facility. It features indoor and outside tennis courts, 2-story building, outdoor pool and pool terrace, and parking for 131 vehicles. The facility is proposed to be open from 5:30 a.m. to 10:00 p.m. Building height of 40-feet is being recommended by staff (this is 5-feet above allowed height). Staff is also proposing a larger setback; the minimum allowed is 60-feet. All improvements are subject to Architectural Review.

Mr. Harper noted citizen comments had been collected and included in the staff report. Comments from those concerned about the proposed facility were primarily from people who live in close proximity to this facility. Concerns covered setbacks to proposed buildings and the parking. Comments received regarding the parking were directed to adequacy of proposed parking area, and overflow parking and how would

it disturb surrounding neighborhoods. Also, concerns were expressed over lighting, both of parking areas and outdoor courts. Some concerns were expressed regarding the hours of operation.

Mr. Harper stated reiterated that only 5 acres of the 15 acre site are proposed for development. Properties to the east and south look down on the property of the proposed development. Buffering was also an issue expressed by residents. Mr. Harper said that the location of activities has been modified, an earlier site plan had the outdoor pool closer to area residents. Staff has proposed options to make this facility fit better into the area. They want to make sure there is a buffer on the south side where outdoor tennis courts would be located. Staff is also recommending that early morning parking all occur as far west as possible.

The applicant, Mr. Jim Zupancic, Zupancic Group, gave a PowerPoint presentation. The presentation covered the site plan, elevations, showed all attributes of the proposed facility (including indoor and outdoor tennis courts, clubhouse, pool, etc.), conditions of approval, buffering, site utilization, and planned programs. Mr. Zupancic said they want this to be a premier tennis facility.

The traffic study was extensive and showed that there will be acceptable levels of service through the year 2020; the parking study showed the planned parking area will serve the expected level of use. He noted building locations had been readjusted to allow for altered traffic paths in the parking lots. Also included is a large vegetation buffer. The east boundary of the site is where the subdivisions begin; with a total of approximately 800 homes. There are four homes directly affected by this proposed facility. The buffer has been increased in that area and the parking stalls have been adjusted to face away (west) to minimize the impact of headlights at night.

Mr. Zupancic continued with addressing staff's list of conditions for approval. (He noted he was taking them in reverse order.)

6. Lighting Plan. The lights will be downward facing so as to minimize impacts on surrounding properties.

5. Parking Management Plan. This is incorporated as part of the Architectural Review application.

4. Hours of Operation: The word "typically" will be added in the language as some events may go past the "regular" posted hours of closing at night.

3. Parking Restrictions. They anticipate most people will come between 6:00 a.m. and 8:00 a.m. There is a parking management plan that will be proposed (see 5. above). An anticipated issue may come if parking is restricted from the east side of the site, then likely to spill out to neighborhood streets.

2. East Border: Staff has asked that vegetation be 30-feet high to deal with the angle of view. Existing buffer of tall arborvitae and laurel will help, they are proposing to use fast growing cypress in the buffer area.

1. South Border (with Legacy Meridian Park Hospital): Hospital property is significantly higher (40' to 50') than the proposed facility.

Mr. Zupancic said that this will be a "green" building, 80 to 100 construction jobs will be created, 30-40 new family wage jobs will be created, and the facility will be a great "hallmark" for the City. He requested that the PowerPoint/handout be part of the record.

## PROPONENTS

*Kim Hay, West Linn.* Ms. Hay stated she teaches and coaches swimming. There is no pool in West Linn; this would be a great opportunity and wonderful facility. It would be great for kids. She whole-heartedly approves of the proposed facility.

*Sarah Goehler, Lake Oswego.* Ms. Goehler said she agreed with Ms. Hay. The area is sorely in the need of more facilities where children can learn to swim and to learn water safety.

*Bill Leong, Executive Director, Tennis Northwest.* Mr. Leong noted that tennis has been struggling for a number of years; there is an outcry from tennis players for more facilities. On behalf of the tennis playing population – he is in great support of this facility.

*Steve Bloch [not signed up–last name not clear], Lake Oswego.* Mr. Bloch said this would be a great family oriented facility. If more facilities available like this, many more families would take advantage.

*Brent Schafer, Chesapeake Drive, Tualatin.* Mr. Schafer stated he lives east of the proposed site. His family uses Browns Ferry Park often. This would be a great addition, a great asset. It would look better than the site does currently.

*Kathy C. [not signed up–last name not clear], Tigard.* Whole-heartedly in favor. She said she is in a “swim family” and would love to see this built. The family atmosphere would be wonderful.

*Bill Severson, 122<sup>nd</sup>, Beaverton.* Wasn't sure if he was in favor until seeing the presentation. Seeing the facility and jobs created, he is in favor now.

*Annie Miller, Director of Tennis – Lake Oswego for 25 years.* Ms. Miller stated she is heartily in favor. Impressed that Mr. Zupancic has listened to the neighbors. In Oswego a tennis facility backs up to six homes and there is a smaller buffer and there have been minimal issues. She said she is 3,000% in favor; they are overloaded, it would be great to have someplace for them to go. Also, a great idea to keep people fit in a variety of activities, good health benefits.

*Craig Hessler, Maricopa Drive, Tualatin.* Mr. Hessler stated he teaches tennis; lifetime involved in tennis. In favor of the facility, it has a huge upside. There is a groundswell of people looking for a place to go.

## OPPONENTS

*Julie Sepp, Mobile Place, Tualatin.* Ms. Sepp said that Mr. Zupancic stated in a neighborhood meeting that they were giving a generous setback of 10-feet. Come to find out from Planning Division that 10-feet is the required minimum. As part of the proposal is the City going to purchase wetlands, and can they afford to maintain if they do. Are there any hazardous materials such as gas, diesel, etc on this site. What is the impact going to be on the sewer system. How can this be approved, the City's original plan for the area is single family residential. The hours of operation are incompatible with the surrounding area. Noise will have a negative impact on their lives – causing sleep issues which can lead to many other health issues. There will

be impacts on wildlife when mature trees are cut.

The staff report says traffic will be 1,010 trips per day. Single family residential average daily trips are only 58 generated by homes. This does not take into consideration special events, Willowbrook, and when Nyberg Lane floods. She then expressed concerns if the project fails, given time. Then where will be a large vacant building which will equal a hazard and crime. Who will be liable. Single family homes are the only appropriate use for this property. She then stated she felt Councilor Beikman should recuse herself as Mr. Zupancic and Councilor Beikman are friends as they attend the same church and she and Councilor Beikman had a personal altercation in the past.

Councilor Beikman stated that Mr. Zupancic may attend her church, but many people from a great area attend; she does not know Mr. Zupancic.

*Doug Rasmussen, Mobile Place, Tualatin.* Mr. Rasmussen is concerned. He first bought in 2000 for the view, wildlife, and the ¼-acre pond on the property. He is worried his pond will fall dramatically; it dropped 3" to 4" after moving in from the surrounding development. He asked that his drawing be entered into the record. Mr. Rasmussen also wanted to know who he would go to if the pond does dry up... who is responsible. He stated that his quality of life will be affected; the ducks will be in danger... there is a duck crossing established from his pond to the pond across the street to the north. Mr. Rasmussen asked that Council reconsider this proposal and deny for anything but single family residential.

*Angela Wrahtz, Mobile Place, Tualatin.* Ms. Wrahtz stated that a new neighborhood association is forming, they have 178 signatures of people who want to be a part of it, she is aware they need 51% participation. Ms. Wrahtz went on to say that after reading the application, she had many concerns. She does not want this issue to be voted upon this evening; please hold the record open for the 7 days. Ms. Wrahtz feels that not all of the approval criteria of the TDC, requirement #4 (pg 65 of application) are being met for the following reasons:

- \* It will disrupt and interfere with the normal use of single family residences along the west side of Mobile Place.
- \* It limits/impairs the resale value of properties along the west side of Mobile Place. Sale prices would have to be considerably less for successful sale.
- \* The facility is being "billed" as a neighborhood recreation center, however this plan is for a regional facility.
- \* Quality of life will be damaged due to an extreme increase in traffic and parking problems that carry over into the neighborhoods. Traffic will backup on Nyberg Lane waiting at the traffic signal.

Ms. Wrahtz noted that there was no mention in the staff report of maximum capacity of the facility. The parking lot looks inadequate. She feels it will be a high-end, fee-prohibitive facility, not accessible to many. The headlights and noise in early hours of the morning will be very disruptive. She said there were inconsistencies in the application materials. The more than 10 unbuildable acres could be acquired by the City. She feels this facility is in conflict with the surround area; too large for this site, it is "on top of" Fox Hill 3. Ms. Wrahtz stated that substantial traffic is a big concern of all people who have emailed her. She asked that a decision be held off until some of these design problems can be addressed.

*Mark Coolican, Mobile Place, Tualatin.* Mr. Coolican said he feel TDC Section 40.030(l) language is overly broad. If the CUP is granted, this athletic club must be an athletic club and not replaced by anything else in the future. He asked if the pool water treatment used chlorine; concerned about the amount of chlorine that would be stored on-site. He asked that this be investigated and possibly have TVF&R report on the safety issues associated with storing chlorine. TDC Section 32.030 – in the event the CUP is granted, based on the uniqueness of this facility, can it be required to be a green LEED building.

*Barbara Fronsach [not signed up—last name not clear], 52<sup>nd</sup> Court, Tualatin.* Ms. Fronsach said they chose Tualatin due to the serenity of the area, they love living near Browns Ferry Park. She noted the family moved here just a couple of years ago from Florida. Very concerned about increased traffic and the safety of her children.

*Steve Tagmire, Natchez Street, Tualatin.* Mr. Tagmire stated he came tonight neither for or against the facility; and still feels that way. No question whether there is a need; the question is, is this the correct location for this facility. Mr. Tagmire said he feels the record should be left open for the 7 days. Early hours of operations could be very disruptive. If you have upwards of 40 employees, how much parking does that leave for actual members. Also, overflow parking for all events will be a problem.

#### REBUTTAL

Mr. Zupancic said he appreciated the continued input and would like to address concerns:

- \* Environmental Impacts: Mr. Zupancic believes in being stewards of the land. He said they have had several discussions with the Wetlands Conservancy and the Audubon Society.

- \* Soils: Extensive geotechnical studies have been performed; soils was determined to be suitable.

- \* RL Zoning: Under RL, uses permitted are broader than single family residential; the 5 acres could support 30 to 35 units. Previously a subdivision was proposed; that did not happen. On the far east side of the building it is lower, set into the hillside, no windows, therefore no light emanating.

Mr. Zupancic introduced Mark Vandehey, traffic engineer, Kittelson & Associates. The traffic has looked at three ways to do estimates. They took the highest of the three, which is approximately 25% higher than the other two. They also over estimated peak hours. They did not assume any of the traffic was coming from the neighborhood; they assumed all was coming from externally. An extensive traffic study was done of the neighborhood. The amount of daily traffic on 50<sup>th</sup> Avenue is within normal fluctuation. They feel the traffic is being adequately addressed.

Parking was the next concern Mr. Vandehey addressed. He said from their perspective there is more than adequate parking for the day-to-day use. For large events, staff has been asked for a parking management plan; this will be done.

Mr. Zupancic introduced Janet Otten, landscape architect. Ms. Otten stated that an on-site study was done and that an arborist had been consulted. She feels they have come up with the best buffer plan possible which incorporates existing plants and trees and then adding to the existing.

Mr. Zupancic said he recognizes this is a change and that they have gone to great lengths to address concerns.

***5 minute break taken at 9:25 p.m.***

Mr. Harper addressed questions and concerns raised by citizens. The issue Ms. Sepp brought up regarding required parking setbacks – in the RL planning district the minimum setback to an adjacent property line is 10-feet, as Ms. Sepp has stated. The impact on the sewer system was questions. Mr. Harper stated he had no answer other than this will be addressed specifically in the AR process and during permitting.

Trips per day was questioned; it is estimated at 1,010 trips per day. For single family, the trip numbers are addressed in the staff report. The issue of stacking multiple conditional use permits had been raised (one for the private club; one for the additional building height). The TDC does allow the one application to deal with different issues.

Mr. Rasmussen had a drawing that was passed out during his comments. The Kozlowski property (15 acres) had a partition (3 home lots) in the past. This partition was never platted and no additional homes ever built.

Mr. Harper said that staff has assisted Ms. Wrahtz and neighbors with the Neighborhood Association application process. This began last year and that application has not yet come in.

There was a question regarding maximum capacity of the facility. This would be best handled by the consultant; that information has not yet been provided and would most likely be looked at during the AR process.

There were several comments that the parking looks inadequate. Parking will be assessed during the AR review. The standards for health facilities/clubs are: one space per 1,000 square feet; approximately 93 parking spaces for this facility. It is not required to consider the pool or outdoor courts; this would push it closer to 130 spaces. All this is looked at in the AR review and could be altered at that time. The issue was brought up regarding setbacks due to additional building height – the part of the building that would be greater than 35-feet is the clubhouse, the parapet wall. The building height is not above allowed for the building closest to the east property line (35' or less, so does not have to meet the 1.5 times setback).

There would be great oversight required of storage of any chemicals on-site (chlorine) as part of development process.

Mayor Pro tem Barhyte stated that the record will be held open for 7 days (until 5:00 p.m. next Monday, May 4, 2009); the hearing will be continued to May 26, 2009. Council deliberation will take place on May 26.

**COUNCIL QUESTIONS**

Councilor Beikman reiterated that if the use is granted for the club, it will stay that use forever. Use granting is to the property. Same use – even with different owner; same use – private club – type of club stay the same.

The question was raised if the City could legally require the facility to have 2009 LEED certification. Mr. Rux said no, he didn't believe so and our code does not require that.

Councilor Maddux asked if there could be conditions on limits of attendance. The parking management plan states shall / may - no requirements on limits for attendance maximum at this time.

Councilor Davis asked about ownership/stewardship for the wetlands. Will Mr. Zupancic keep and maintain? Mr. Zupancic said a letter was received from Clean Water Services stating they would take over "maintenance" of the wetlands and will hold Zupancic Group responsible.

Councilor Truax asked how flooding on Nyberg Lane would be dealt with. In the past a portion or all of Nyberg Lane can flood. If it does flood, access to the facility could be hindered partially or completely. If this happens, there is potential to funnel traffic through neighborhoods. If flooding occurs, would outdoor pool and/or outdoor tennis courts be under water. Mr. Zupancic assured him they are extremely interested in the flooding. The east portion of the site is in the 100-year floodplain. It must be a balanced cut and fill. Flood elevation is 122.25-feet; the street is currently approximately 112-feet. The clubhouse is at 124-feet; building codes require that buildings be a minimum of 1-foot above flood level. Tennis courts are essentially a parking lot with a special coating. The building is designed to open the tall doors and flood waters can come in and go out, and cleanup is relatively quick.

Ray Yancey, architect, stated that the metal building portion where the indoor tennis courts are located is below the allowed height, the activity center will also be under the 35-foot height, as it is built into the grade. The building that will be in the floodplain will be "flood resistant" – concrete and sheet metal. It would just have to be power washed to be cleaned up. The electrical/mechanical will all be in the ceiling area.

Mayor Pro tem Barhyte asked how the pond would be fixed if it is impacted negatively. Mr. Zupancic said they do not believe there will be an impact to Mr. Rasmussen's pond. If there were, it would be mitigated. He said they do not want to have neighbors unhappy because their property is adversely affected. Mr. Zupancic stated that he can pledge that they will be a good neighbor to these folks.

Councilor Truax asked staff how many trips are generated by Willowbrook when it is operating. Paul Hennon, Community Services Director, noted that approximately 300 people participate in Willowbrook, which would generate approximately 600+ trips per day. Councilor Truax reiterated that his big concern is traffic. Willowbrook creates a traffic nightmare on Nyberg Lane. They are allowed to temporarily park on one side of the street. Concerns for evening hours when Willowbrook is using street parking and the projected evening use of the club facility is peaking. Mr. Zupancic commented that they are concerned that Willowbrook participants will want to park in the club parking lot.

Mr. Vandehey asked for clarification of "traffic nightmare". Councilor Truax clarified that so many people attend evening events for Willowbrook, so many cars park on Nyberg Lane (in bike lane), traffic sometimes has to be directed in and out of Browns

Ferry Park. Compared to the impact of over a 1,000 trips per day, he has great concerns of adding to the traffic problems at that time.

Mr. Vandehey said they can gather more traffic information while the record is held open. Discussion continued regarding potential traffic problems during the Willowbrook program. Mr. Vandehey reiterated that the 1,000 trips per day (500 each way) is a conservative estimate ("worst case"); and they can take a closer look at when special events may coincide.

Mayor Pro tem Barhyte asked about connectivity between the facility and the Meridian Park Hospital property. Mr. Zupancic noted there would be a service road on the west side of the property (for pedestrian traffic only).

Councilor Davis asked if outdoor courts are planned for immediate construction or at a later date; Mr. Zupancic said they are planned for now with down-lighting. She asked if there was any possibility of putting employee parking on the back/south side of the property. Mr. Zupancic noted that the service road is in coordination with PGE, as it is a PGE easement.

Mayor Pro tem Barhyte asked how much traffic on Borland Road would come through on 50<sup>th</sup> Avenue and on 57<sup>th</sup> Avenue. Mr. Vandehey stated that 50<sup>th</sup> Avenue traffic would be coming from Borland Road, which comprises approximately 20% of total trips (approximately 200 trips per day will have the potential of using 50<sup>th</sup> Avenue or 57<sup>th</sup> Avenue).

Mayor Pro tem Barhyte then asked about the maximum use of the facility. The "driver" for use is marketing. They can say there will be a limited membership, in that, if you can't get court time you won't be a member. Mr. Zupancic noted that a rough estimate from other clubs is that approximately 80-90 members per court. The intent is to stay very sensitive to member needs and neighborhood needs.

Councilor Truax asked about potable water use. It was stated that no study was done, as yet. As sustainable building techniques will be used, storm water runoff is intended to be used for landscape irrigation.

#### COUNCIL DISCUSSION

None.

Mayor Pro tem Barhyte continued the hearing to May 26, 2009; record open until 5:00 p.m., Monday, May 4, 2009. Bring materials to the office.

#### **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**

None.

**J. EXECUTIVE SESSION**

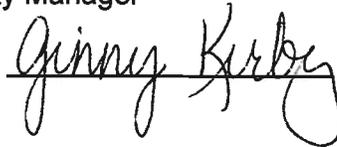
None.

**K. ADJOURNMENT**

The meeting adjourned at 10:20 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in cursive script that reads "Ginny Kirby". The signature is written over a horizontal line that is part of the "Recording Secretary" label.



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 5-11-09  
Recording Secretary U. Smith

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Sherilyn Lombos, City Manager  
**DATE:** May 11, 2009  
**SUBJECT:** APPROVAL OF A NEW LIQUOR LICENSE APPLICATION FOR TEQUERIA EL LAGO

---

**ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve a new liquor license application for Tequeria El Lago Restaurant.

**RECOMMENDATION:**

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Tequeria El Lago Restaurant.

**EXECUTIVE SUMMARY:**

Tequeria El Lago has submitted a new liquor license application. The liquor license is for a New Outlet Limited On-Premises Sales. The business is located at 8145 SW Nyberg Street. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

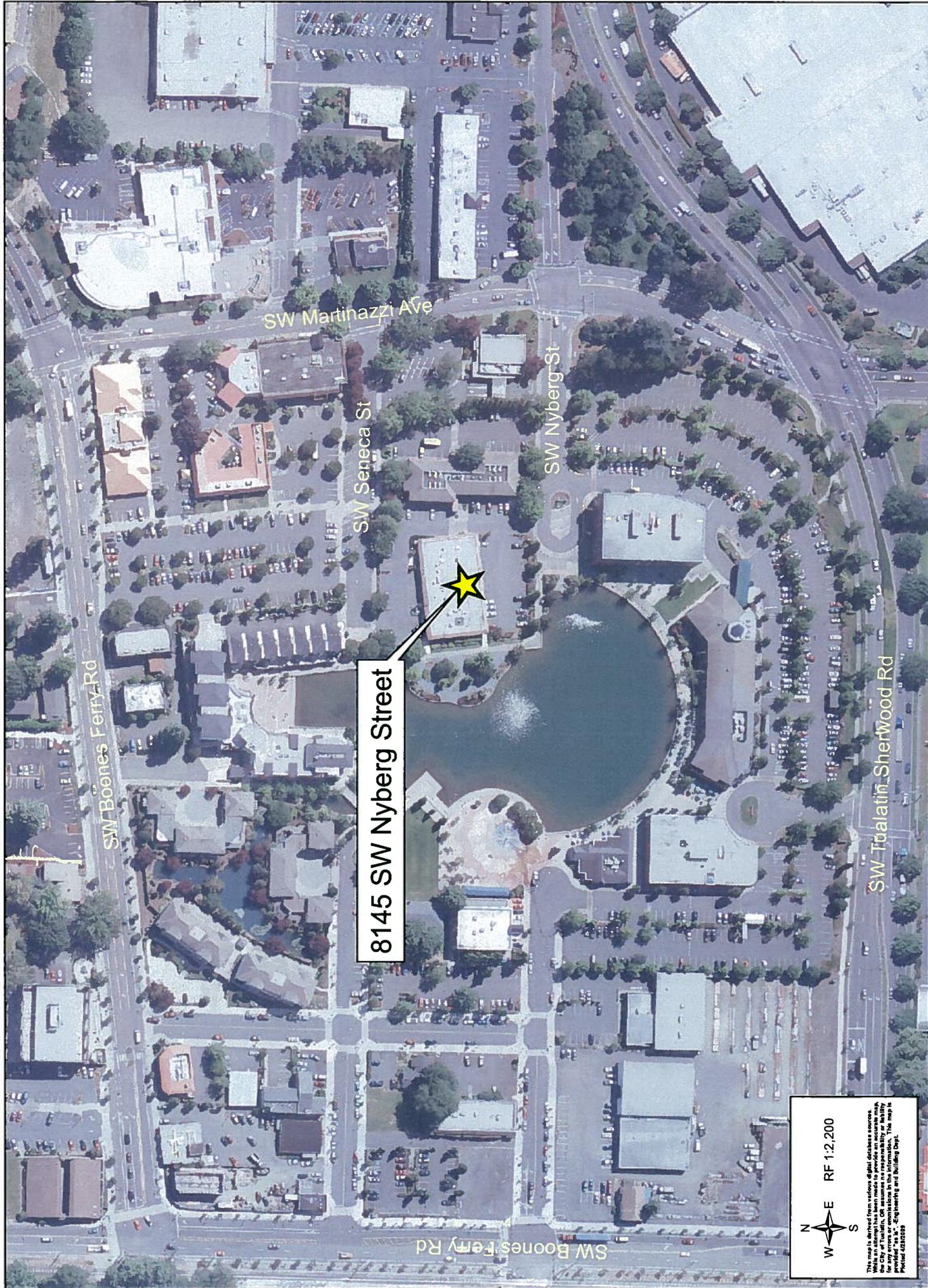
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

**FINANCIAL IMPLICATIONS:**

A fee has been paid by the applicant.

**Attachments:** Vicinity Map

Vicinity Map - Tequeria El Lago Restaurant



8145 SW Nyberg Street

W N E S  
RF 1:2,200

This map is derived from various digital datasets sources. The City of Tualatin, OR, assumes no responsibility or liability for any errors or omissions in the information. The map is Printed 03/2023



Approved By Tualatin City Council

Date 5-11-09

Recording Secretary W. Smith

# STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Paul Hennon, Community Services Department *Paul Hennon*  
 Carl Switzer, Parks and Recreation Coordinator *Carl Switzer*

**DATE:** May 11, 2009

**SUBJECT:** REAUTHORIZE CONCESSION AGREEMENT WITH ALDER CREEK CANOE AND KAYAK FOR PROVISION OF CANOE AND KAYAK LIVERY SERVICES AT BROWN'S FERRY PARK

**ISSUE BEFORE THE COUNCIL:**

The Council will consider reauthorizing of the Concession Agreement for provision of kayak and canoe rentals at Brown's Ferry Park during the summer.

**RECOMMENDATIONS:**

Staff recommends that Council reauthorize the Concession Agreement with Alder Creek Kayak and Canoe.

**EXECUTIVE SUMMARY:**

The original Concession Agreement with Alder Creek Kayak and Canoe was authorized in 2000 and has been reauthorized consecutively since that time. Reauthorization of the Concession Agreement will allow Alder Creek Canoe and Kayak to provide a canoe and kayak livery in the west half of the multipurpose building at Brown's Ferry Park again this summer.

The term of the agreement would be a one-year extension for the calendar year of 2009. The schedule of operations would be:

Limited Schedule

May 23 – June 21	Saturday and Sunday	10:00 AM to 7:00 PM
September 5 – 13	Saturday and Sunday	10:00 AM to 7:00 PM

Expanded Schedule

June 24 – September 4	Saturday and Sunday	10:00 AM to 7:00 PM
	Wednesday – Friday	12:00 PM to 7:00 PM

**STAFF REPORT: REAUTHORIZE CONCESSION AGREEMENT WITH ALDER CREEK CANOE AND KAYAK FOR PROVISION OF CANOE AND KAYAK LIVERY SERVICES AT BROWN'S FERRY PARK**

May 11, 2009

Page 2 of 2

They would offer canoe and kayak rentals beginning on Saturday, May 23<sup>rd</sup> and run through September 13<sup>th</sup>. Weekend operations will be open from 10 AM to 7 PM on Saturday and Sunday for the entirety of the season. From June 24<sup>th</sup> to September 4<sup>th</sup>, operations will be open on Wednesdays through Fridays from 12 PM to 7 PM.

The rental rate schedule shall be as follows:

<b>Craft and Gear</b>	<b>2 Hour Rate</b>	<b>4 Hour Rate</b>	<b>Daily Rate</b>	<b>Additional Hours</b>
Includes paddles, lifejacket, and sprayskirts (for kayaks)				
Sea Kayak - Single	\$15	\$20	\$35	\$10
Sea Kayak - Double	\$15	\$20	\$35	\$10
Canoe - Double	\$15	\$20	\$35	\$10

Alder Creek Kayak and Canoe will provide the City with indemnification and liability insurance.

**FINANCIAL IMPLICATIONS:**

The concession fee will generate \$500 plus ten percent of gross revenues over \$2,000 per month, which historically has generated about \$1,000. The total compensation to the City will be about \$1,500.

**DISCUSSION:**

This has been a popular recreation activity in Tualatin for almost a decade. It draws people to Brown's Ferry Park, encourages physical activity, and provides the opportunity for the community to better connect with the Tualatin River.

C: Tualatin Parks Advisory Committee  
Alder Creek Kayak and Canoe

**CONCESSION AGREEMENT  
(Canoe and Kayak Livery at Brown's Ferry Park)**

This Agreement is between the **City of Tualatin**, ("City") and **Alder Creek Kayak and Canoe**, ("Contractor").

**RECITALS**

- 2 The City of Tualatin owns Brown's Ferry Park, ("Park"), located at 5855 SW Nyberg Lane, Tualatin, OR 97062.
- 3 Contractor has offered to provide a canoe and kayak livery to the public that utilizes the Park and Tualatin River. City is willing to enter into an agreement with Contractor for Contractor's use of the Park in connection with a canoe and kayak livery.
- 4 This Agreement has previously been negotiated with Contractor in response to the City's request for proposals under which contract was the sole responder. Contractor's services will provide an immediate public service.
- 5 Parties recognize and agree that this Agreement is intended to be an extension of the previous contract and to cover Contractor's operation during the current calendar year; from January 1, 2009 through December 31 of 2009, based on mutual agreement. Nothing contained in this Agreement shall be construed as a commitment by the City to renew the Agreement with Contractor or any other party for a future time frame.
- 6 Contractor is capable and prepared to provide canoe and kayak livery services under the terms and conditions set forth, beginning on January 1, 2009.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions, the parties agree as follows:

**1. Term**

- 1.1 This Agreement runs from January 1, 2009 and continues unless earlier terminated or extended by the actions of either party until 12:00 a.m. on January 1, 2010.

**2. Relationship of the Parties**

- 2.1 The parties agree that Contractor is an independent contractor for all purposes and shall not to be considered an agent or employee of the City for any purpose. Contractor shall not assert that it is an agent or employee of the City at any time.
- 2.2 Except as otherwise specified in this Agreement, City has no right to control the manner or method of providing Contractor's services under this Agreement and shall not interfere with any particular aspect of Contractor's or Contractor's employees' duties or performance.
- 2.3 Neither Contractor nor any of its employees under this Agreement is entitled to any of the fringe benefits that City normally provides its employees, including, but not limited to, group health, accident, disability and life insurance, pension plans, workers

compensation, and withholding for taxes and social security obligations; and no withholding or contribution for these purposes shall be made by City. Compensation shall be based strictly on the terms set out in this Agreement, which generally depends upon the number of rentals who pay the fee required by Contractor for canoe and kayak rental.

2.4 Contractor shall bear all costs incidental to Contractor's operation, including, but not limited to, insurance, workers compensation, taxes, and expenses of necessary equipment; and these costs represent part of the consideration for this Agreement. Any equipment or supplies necessary or advisable for the operation of Contractor, including equipment required under this contract, shall be provided by and at Contractor's expense.

2.5 Contractor may use employees, subcontractors, or assistants subject to the following conditions:

2.5.1 No later than the date on which Contractor begins operation, Contractor shall provide City with the names and addresses of such employees, subcontractors, or assistants. This obligation is of a continuing nature, prior to the placement of new employees, subcontractors, or assistants in operation on behalf of Contractor, Contractor shall notify City of their names and addresses.

2.5.2 If Contractor uses employees on this Agreement, Contractor is fully responsible for payment of all withholding required by law, including, but not limited to, taxes, including payroll, income and Social Security (FICA), and for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges for its employees. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall indemnify, defend, and hold City harmless from claims for payment of all such expenses.

2.6 City grants Contractor the exclusive privilege to rent canoes and kayaks to the public on the Park. However, City may enter into agreements or concessions with other contractors for the provision of services to members of the public, so long as such contracts do not unreasonably interfere with Contractor's activities under this Agreement. City's rights in the Park remain paramount.

2.7 Contractor shall make prompt payment of any claim for labor, materials, or services furnished to Contractor by any person in connection with this Agreement as such claim becomes due. Contractor shall not permit any lien or claim to be filed or prosecuted against City or City's property for labor or material furnished. If Contractor fails, neglects, or refuses to make prompt payment of such a claim, City may pay the claim to the person furnishing the labor, materials, or services and recover the amount of the payment from Contractor.

2.8 City has the right to let other contractors, event organizers, and park users operate and use the Park during the term of this Agreement. Contractor shall cooperate with other Park users so that all parties may have a reasonable opportunity to use the limited space involved. City makes no warranties about the condition of the Park, including, but not limited, to Tualatin River water quality or water depth at the boat

dock. Contractor, having examined the conditions and recognizing that the water level of the Tualatin River can fluctuate, uses the premises allowed under this Agreement at its own risk.

- 2.9 No person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of absolute necessity, emergency, or where the public policy absolutely requires it, in which event the person or persons so employed for excessive hours shall receive at least time and a half pay for all overtime in excess of eight hours in a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on each Sunday, New Year's Day on January 1, Memorial Day on the last Monday in May, Independence Day on July 4, Labor Day on the first Monday in September, Thanksgiving Day on the fourth Thursday in November, and Christmas Day on December 25 as provided in ORS 279C.520.
- 2.10 Contractor shall make prompt payment as due to any person, co-partnership, association, or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness or injury to the employees of such Contractor of all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law contract or agreement for the purpose of providing or paying for such service.
- 2.11 No person shall be denied benefits or be subjected to discrimination in receipt of the benefits of services or activities made possible by or resulting from this Agreement because of sex, race, color, creed, marital status, age, disability, or national origin. A violation of this provision is grounds for cancellation, termination, or suspension of the Agreement in whole or in part by City.
- 2.12 The contractor shall demonstrate that an employee drug-testing program is in place.

### **3. Indemnification**

- 3.1 Contractor agrees to indemnify, defend, and save harmless the City, its elected and appointed officials, officers, agents, employees, and volunteers against all claims, suits, judgments, actions, damages, losses, costs, and expenses whatsoever, including, without limitation, attorneys' fees and costs or expenses incidental to the investigation and defense of claims and lawsuits arising from damage to property, injury or death of persons, or any other damage sustained by a person, firm, or corporation, resulting in whole or in part from a wrongful or negligent act, omission, breach, default, or conduct of Contractor, its agents, contractors, subcontractors, servants, licensees, or employees or in any manner arising from exercising the rights, privileges, and concession granted by this Agreement, or any relationship between Contractor and its end-use customers. Contractor shall pay all judgments, with costs, counsel fees, and expenses, which may be obtained against City relating to such claim. This indemnification does not apply to a claim for injury or death to any person or for damage to the person's property, where such claim is asserted solely against

the additional named insured. This section is intended to benefit the City and Contractor, and is not intended for the benefit of any third party.

#### **4. Insurance**

- 4.1 Contractor shall maintain continuous, uninterrupted coverage for public liability and property damage insurance that protects Contractor and City and its officers, agents, and employees from the claims referred to in Section 3. The insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$2,000,000 aggregate, and \$1,000,000 for each occurrence involving property damages plus costs of defense; or a single limit policy of not less than \$2,000,000 covering all claims aggregate, plus costs of defense. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of this Agreement. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, and employees coverage and must apply to claims between insureds on the policy. The insurance shall provide that the insurance shall not be canceled or materially altered without 30 days written notice first being given to the Community Services Director. If the insurance is canceled or materially altered within the term of this Agreement, Contractor shall provide a new policy with the same terms.
- 4.2 Contractor shall maintain a Certificate of Insurance on file with the Community Services Department certifying the coverage required above. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Agreement by City.

#### **5. Concession Fee**

- 5.1 For Contractor's operation during each year of this Agreement and in consideration of City's grant of a concession, Contractor agrees to pay a concession fee of \$500 to the City of Tualatin no later than the date of commencement of operations for 2009, plus 10% of Contractor's gross revenues over \$2,000 per month, to be paid by the tenth of each month of operation.
- 5.1.1 Contractor shall furnish within 10 days of the end of each calendar month a written statement of its calculation of the franchise for payment and how much revenues were collected on a daily basis for the preceding month.
- 5.2 City agrees that it will not require Contractor to pay an additional fee, compensation, or consideration for the utilities, security alarms service, maintenance or inspection of Contractor's facilities, which are covered by this Agreement. Nothing in this Agreement shall give Contractor any credit against a lawful business tax or business license fee, ad valorem property tax levied against Contractor's real or personal property within the city, assessment made against Contractor's property, or other charges lawfully imposed on Contractor's property or business within the city not related to the canoe and kayak livery business.
- 5.3 City's acceptance of any payment due under this Agreement shall not waive any

breach of this Agreement occurring prior to or during the Agreement and shall not preclude City from later establishing that a larger amount was actually due or from collecting any amount due. Time is of the essence in every provision of this Agreement. Failure of City to object to the violation of this Agreement shall not waive City's rights in regard to a subsequent similar breach or of City's right to demand strict performance by Contractor of this Agreement.

## **6. Assignment of Concession**

6.1 Contractor shall not sell, assign, transfer, or convey the concession for any purpose or to another entity without prior consent of the City Council. This Agreement is personal to Contractor and cannot be sold, assigned, transferred, seized or taken by operation of law, or under or by virtue of the execution of legal process, attachment, or proceeding brought against Contractor. If an assignment is approved, Contractor is responsible under this Agreement until a supplemental agreement between City and the assignee has been executed.

## **7. Early Termination**

7.1 This Agreement may be terminated prior to the expiration of the agreed-upon term only in accordance with this section.

7.1.1 By mutual written consent of the parties;

7.1.2 By City, effective upon 7 days prior written notice to Contractor by regular first class mail or in person.

7.1.2.1 City may terminate the Agreement in whole or in part due to default or failure of Contractor to perform services in accordance with this Agreement. City shall be free of liability to Contractor for damages of any kind.

7.1.2.2 If City terminates the Agreement, Contractor's sole remedy and limit of recovery from City shall be limited to the fees paid or payable under 5.1.

7.1.3 By Contractor, effective upon 7 days prior written notice to City by regular first class mail or in person.

7.2 Upon termination of this Agreement, whether or not either party has caused a default or improper termination, City may procure upon reasonable terms and in a reasonable manner services similar to those so terminated.

## **8. Access to Records**

8.1 Contractor shall maintain complete and accurate records of all receipts and expenses relative to Contractor's activities under this contract. These accounts shall be kept in accordance with generally accepted accounting principles. City shall have access at all reasonable times upon request to such books, documents, receipts, papers, and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of one year following

the expiration, completion or termination of this Agreement.

**9. Adherence to Law**

9.1 Contractor shall adhere to all applicable federal and state and local laws, including, but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, minimum and prevailing wage requirements, and City park rules.

**10. Rules of Operation**

10.1 The following specifications and standards shall apply to Contractor's operation:

10.1.1 After each day's operation, all boats shall be stored in the west end of the multipurpose shed or off the Park property unless specific written permission is provided by City. During Contractor's operation, canoes and kayaks not being immediately used may not be stored on the boat dock, but may be stored or displayed on the paved surface in front of the multipurpose shed if an eight foot clear passageway is maintained for pedestrian, bicycle, and maintenance access. Contractor is responsible for all security measures concerning Contractor's equipment except for the security alarm system for the multipurpose shed which the City is responsible for.

10.1.2 At the close of business each day and periodically throughout the day as needed, Contractor shall pick up trash and debris in the immediate vicinity of Contractor's operation and properly dispose of it in receptacles. This includes trash that enters the water and trash generated by spectators and canoe and kayak users. No polluting or foreign substance shall be allowed to enter the Park.

10.1.3 Contractor's employees shall wear a nametag at all times, so that customers can recognize their association with Contractor. Contractor's employees shall be polite and courteous at all times. Upon written notification from City, Contractor shall immediately remove from the job for its duration any employee who is found to be incompetent, disorderly, repeatedly rude to customers, or fails to perform work properly and acceptably.

10.1.4 Contractor's schedule of operation shall be:

Limited Schedule

May 23 – June 21	Saturday and Sunday	10:00 AM to 7:00 PM
September 5 – 13	Saturday and Sunday	10:00 AM to 7:00 PM

Expanded Schedule

June 24 – September 4	Saturday and Sunday	10:00 AM to 7:00 PM
	Wednesday – Friday	12:00 PM to 7:00 PM

This schedule will remain consistent throughout the 2009 season unless otherwise approved in writing by City, and may occur on additional days each week, unless preempted by other city-sponsored events, city maintenance, or unless weather conditions prevent the operation.

10.1.5 The rental rate schedule shall be as follows unless otherwise approved in writing by the City of Tualatin:

<b>Craft and Gear</b>	<b>2 Hour Rate</b>	<b>4 Hour Rate</b>	<b>Daily Rate</b>	<b>Additional Hours</b>
Includes paddles, lifejacket, and sprayskirts (for kayaks)				
Sea Kayak - Single	\$15	\$20	\$35	\$10
Sea Kayak - Double	\$15	\$20	\$35	\$10
Canoe - Double	\$15	\$20	\$35	\$10

Monies may be collected by Contractor in advance; however Contractor shall defend, indemnify, and hold the City harmless from claims made by persons paying advance deposits or charges where services are not furnished and deposited funds are not returned. Fees may be adjusted by written approval of the Community Services Director.

10.1.6 All users shall be 18 years of age or older unless they are accompanied by a parent or a responsible adult person (18 years of age or older.)

10.1.7 Contractor shall obtain and offer Type III Coast Guard approved personal flotation devices in a variety of sizes. All users shall wear life jackets or life vests which are Type III Coast Guard approved at all times when in a canoe or kayak.

10.1.8 If required by the State Marine Board, all boats shall be licensed.

10.1.9 Contractor shall maintain a telephone on-site at the multipurpose shed where reservations may be made and where Contractor is capable of summoning emergency personnel.

10.1.10 Contractor shall continuously maintain a rescue craft and staff trained and tested in its use. The craft may be powered by a motor, but is not required. Contractor shall also maintain a rescue flotation ring, together with at least 50 feet of rope.

10.1.11 There shall be no amplified music. During Contractor's operation and while canoes and kayaks are in use, employees shall not be permitted to use personal sound devices with earphones.

10.1.12 All accidents and complaints shall be reported to City on standard forms approved by City. Customers with complaints shall be given an opportunity to complete a complaint form. Completed forms shall be forwarded to City no later than the next business day.

10.1.13 Contractor shall not discriminate against rental users on the basis of sex, age, race, color, creed, marital status, national origin, or disability.

10.1.14 Contractor shall provide evidence of training in American Red Cross basic first aid and community CPR. At least one employee with such training shall be present during the rental operation at all times. Contractor shall keep and maintain a basic Red Cross first aid kit at the premises during operation.

- 10.1.15 Contractor's rental lease agreement, including any forms of release, shall be subject to approval by the City Attorney.
- 10.1.16 Contractor's signage shall be consistent with the colors and quality of signage used in the Park and be subject to approval by City. Contractor shall post a sign indicating "No Lifeguard on Duty."
- 10.1.17 Prior to beginning operation, Contractor shall provide for all employees training in the proper methods of providing boat rental services to persons with disabilities. Contractor and employees shall follow the training received.
- 10.2 Contractor shall require strict compliance with rules of operation. The following rules will apply to the operation of all canoes and kayaks:
- 10.2.1 Boat users shall remain seated inside the boats at all times. Seating shall not be exchanged by passengers during operation.
- 10.2.2 Contractor shall strictly comply with the limits on the number of passengers on each boat.
- 10.2.3 All boat passengers shall wear personal flotation devices at all times.
- 10.2.4 Contractor may cause the forfeiture of rental time by persons who violate these or other Park rules.
- 10.3 Contractor is responsible for securing all cash and equipment. City is not responsible for losses and Contractor must assume full liability and risk for loss of money and loss or damage of equipment.
- 10.4 All Contractors' equipment, including personal flotation devices and boats, shall be kept in a clean, safe, and operable condition at all times. Cleaning and repair of Contractor's equipment shall occur on Contractor's private property. Every effort shall be made to prevent cleaning materials or other debris from entering the Park. Contractor shall immediately remove from service any canoe or kayak or other equipment, which is in a defective or unsafe condition.
- 10.5 Contractor shall not allow persons who appear to have consumed alcohol or be under the influence of narcotics the opportunity to ride in any boat.
11. City shall not be required to make any repairs, alterations, additions, or improvements to or upon the premises. Contractor shall make no alterations, additions, or improvements to the premises without the express written permission of City. Repairs or alterations necessitated by Contractor's acts, omissions, or operations shall be made at Contractor's expense.
12. Contractor shall use the premises for the purpose of conducting a canoe and kayak livery and related special events, instructional clinics, and classes, and retail sales of canoe livery related items such as sunscreen and visors. The premises shall be used for no other purpose whatsoever without City's written consent. Contractor shall not

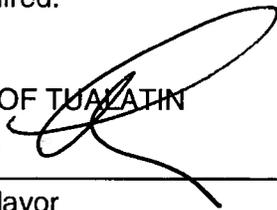
make any unlawful, improper, or offensive use of the premises, nor permit any objectionable noise or odor to escape or to be emitted from the premises, or to do anything or permit anything to be done on the premises in any way tending to create a nuisance.

13. Contractor acknowledges the public has a right to use the boat dock and other facilities of the Park.
14. In case suit or action, including arbitration, is instituted to enforce or interpret the terms, covenants, or conditions of this Agreement or to collect the concession fee which may be due, the losing party agrees to pay such sum as the trial court or arbitrator may adjudge reasonable as attorney's fees and expenses to be allowed the prevailing party in such suit or action, and if an appeal is taken from a judgment or decree in such suit or action, the losing party agrees to pay such further sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees and expenses on appeal.
15. This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement. Contractor acknowledges that Contractor has read this Agreement, understands it and agrees to be bound by its terms and conditions.

16. **City's Representative**

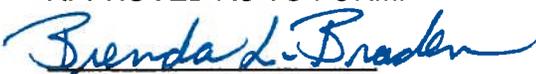
16.1 City's representative is Carl Switzer, Parks and Recreation Coordinator. He is authorized to decide on all issues relating to operations of Contractor where this Agreement indicates City approval is required.

CITY OF TUALATIN

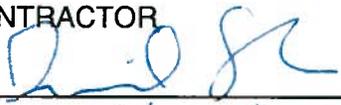
By   
Mayor

Date May 11, 2009

APPROVED AS TO FORM:

  
City Attorney

CONTRACTOR

By   
\_\_\_\_\_

Date 4/29/09



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Doug Rux, Community Development Department *[Signature]*  
Mike McKillip, City Engineer *[Signature]*  
William Harper, Associate Planner *[Signature]*

**DATE:** May 11, 2009

**SUBJECT:** RESOLUTION AUTHORIZING A REVOCABLE PERMIT FOR ARCHITECTURAL FEATURES AT THE ROBINSON CROSSING II BUILDING OVERHANGING PUBLIC RIGHT-OF-WAY OF SW SENECA STREET & SW BOONES FERRY ROAD

---

### ISSUE BEFORE THE CITY COUNCIL:

A request for a revocable permit authorizing the placement of 2<sup>nd</sup> & 3<sup>rd</sup> floor balconies and a building cornice feature on the exterior of the Robinson Crossing II Building that will overhang the public right-of-way (ROW) of SW Seneca Street and SW Boones Ferry Road. The features will not interfere with the necessary ROW or obstruct pedestrian use of the public sidewalk in the ROW.

### RECOMMENDATION:

Staff recommends the City Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

- This is not a legislative or quasi-judicial action, but a permit authorization.
- The applicant is David Emami, the developer of the Robinson Crossing II building that was approved in Architectural Review AR-08-12. The property is in a CC (Central Commercial) Planning District located at 8455 SW Seneca Street (2S1 24BC 3000) and is owned by Mr. Emami. The property is also located in the Central Urban Renewal District (CURD) Block 16, the Central Design District (CDD) and the Core Area Parking District (CAPD) (Attachments A-C).

## STAFF REPORT: Revocable Permit for Robinson Crossing II Building

May 11, 2009

Page 2 of 3

- As approved in AR-08-12, the Robinson Crossing II building is a 3-level multi-tenant commercial (office/retail) building with 2 levels of structured shared parking (full below grade parking plus above grade 1st level parking deck) on the site of the existing Mashita's and VFW buildings which will be demolished with the project. The building has a 6 inch-2 ft. setback from the SW Boones Ferry Road ROW sidewalk on the west and 6 inches to the SW Seneca ROW sidewalk on the south. The approved plans show narrow (3 ft.) balcony features and cornices (2-3 ft.) on the west and south elevations of the buildings that extend beyond the plane of the public ROW for 2.5-3 ft. and approximately 2 ft. respectively (Attachment C). AR-08-12 Condition PFR-32 required a Revocable Permit from the City of Tualatin for building features that extend over the public right-of-way.
- The proposed balconies are located approximately 18 ft. & 30' (2<sup>nd</sup> & 3<sup>rd</sup> floors) above the sidewalks and the cornices are approximately 42 ft. above the sidewalks (Attachment C-Elevations). The balcony and cornice locations will not interfere with ROW improvements and pedestrian use of the sidewalks.
- Revocable permits have been issued in the past for encroachment of architectural features in the ROW including the Whole Foods Market and The Pointe on SW Hazel Fern Road.
- If the revocable permit is approved, the developer can proceed with construction of the Robinson II building with the balcony and cornice features as approved in AR-08-12.

### **OUTCOMES OF DECISION:**

Approval of the request will result in the following:

1. Allows the applicant to construct the Robinson Crossing II Building with 2<sup>nd</sup> & 3<sup>rd</sup> floor balcony and cornice features that extend above the public sidewalks in the SW Seneca Street and SW Boones Ferry Road public ROW.
2. The terms of the Revocable Permit require the building owner's responsibility for the maintenance and liability associated with the balconies & cornices and allows the City to require the balconies to be removed at the building owner's expense.
3. The action is consistent with the issuance of revocable permits for architectural features extending over a public ROW and there are no current conflicts with use or improvements in the public ROW.

Denial of the request will result in the following:

1. The balconies and cornices will not have the authorization of the City to be placed in the ROW and a building permit cannot be issued for the features that extend into the ROW.

### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the City Council are:

- Approve the requested revocable permit with or without conditions.
- Deny the request for the revocable permit.

STAFF REPORT: Revocable Permit for Robinson Crossing II Building

May 11, 2009

Page 3 of 3

- Continue consideration of the requested permit and return to the matter at a later date.

**FINANCIAL IMPLICATIONS:**

Approving or denying the requested permit will not result in financial outlays by the City of Tualatin. Funds have been budgeted in Community Development to process revocable permits.

**PUBLIC INVOLVEMENT:**

No public involvement is required for the revocable permit process.

- Attachments:**
- A. Vicinity Map
  - B. Site Plan
  - C. Robinson Crossing II Building Elevations
  - D. Resolution and Revocable Permit (with Exhibits)





LARRY D. WILSON  
ARCHITECTS  
404 E. 1ST ST. #7  
WANKAMUS WA  
98663  
(360) 696-4722

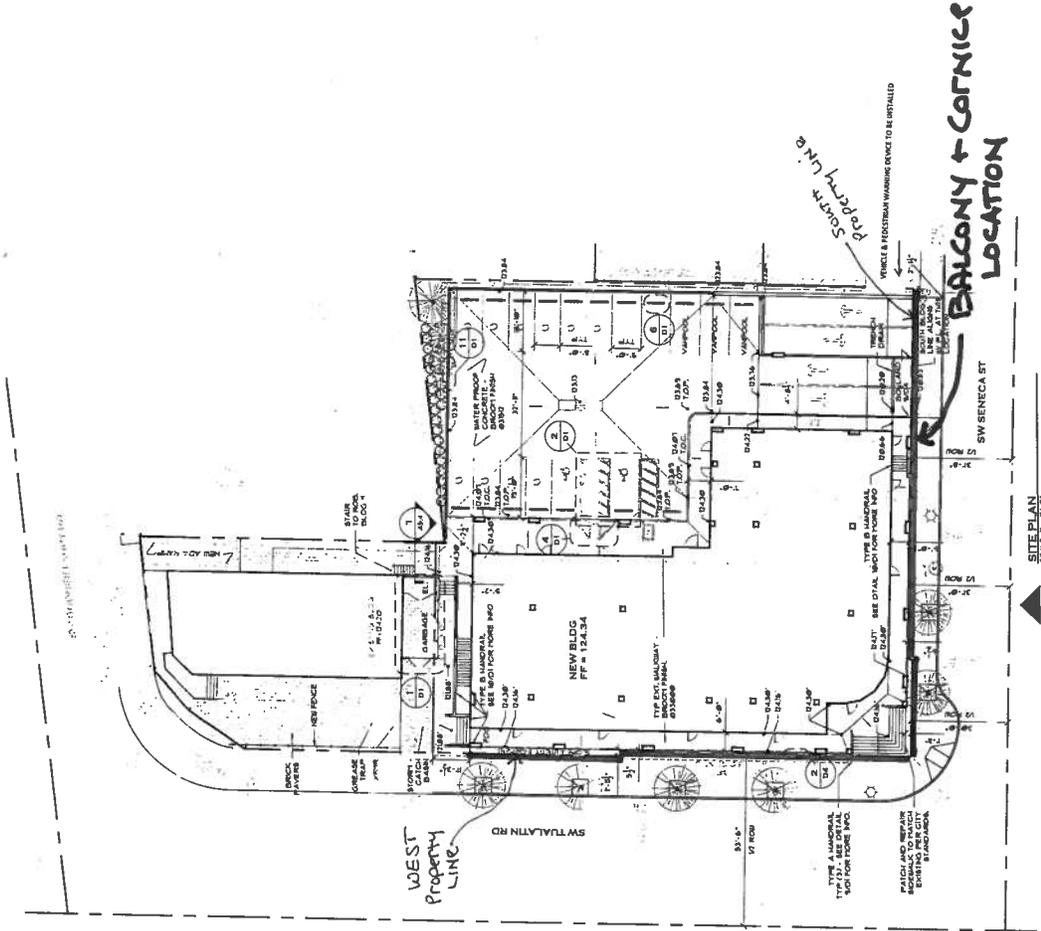


DATE: 09/11/11  
SCALE: AS SHOWN  
DRAWN BY: [Signature]  
CHECKED BY: [Signature]

ROBINSON BUILDING TWO  
1810 SW BOONES FERRY RD.  
TUALATIN, OR, 97062

DATE	SCALE
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DRAWN BY	CHECKED BY
[Signature]	[Signature]

A1.1  
SITE  
PLAN



**SITE NOTES:**  
1. ALL PROPERTY LINE DIMENSIONS ARE BASED ON THE SURVEY AND SHOWN ON THE ASSOCIATED SITE MAP. A PROFESSIONAL SURVEYOR SHOULD VERIFY ALL DIMENSIONS AND LOCATIONS PRIOR TO CONSTRUCTION. CONTACT THE ARCHITECT IMMEDIATELY IF ANY DISCREPANCIES ARE FOUND.  
2. REFER TO CIVIL DRAWINGS FOR ALL UTILITY AND ELEVATION INFORMATION. VERIFY THE DEPTH, LOCATION AND TYPE OF ALL UTILITIES PRIOR TO CONSTRUCTION.  
3. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FOLLOW ALL CITY ORDINANCES AND REGULATIONS. ANY REQUIRED PERMITS OR APPROVALS SHOULD BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

**PARKING - REQUIRED**

MIN. #	32
MAX. #	32
TOTAL #	32
MIN. #	32
MAX. #	32
TOTAL #	32

**PARKING - PROVIDED**

MIN. #	32
MAX. #	32
TOTAL #	32
MIN. #	32
MAX. #	32
TOTAL #	32

**GRAND TOTAL: 64 PARKING SPACES REQUIRED**

**LANDSCAPE LEGEND**

NO. 1 - BUNYONIA	4" - 10"	3' - 0"
NO. 2 - PLANTING	5' - 0"	3' - 0"
NO. 3 - PLANTING	5' - 0"	3' - 0"
NO. 4 - PLANTING	5' - 0"	3' - 0"
NO. 5 - PLANTING	5' - 0"	3' - 0"
NO. 6 - PLANTING	5' - 0"	3' - 0"
NO. 7 - PLANTING	5' - 0"	3' - 0"
NO. 8 - PLANTING	5' - 0"	3' - 0"
NO. 9 - PLANTING	5' - 0"	3' - 0"
NO. 10 - PLANTING	5' - 0"	3' - 0"





RESOLUTION NO. 4880-09

RESOLUTION AUTHORIZING A REVOCABLE PERMIT FOR  
ARCHITECTURAL FEATURES AT THE ROBINSON CROSSING II  
BUILDING OVERHANGING PUBLIC RIGHT-OF-WAY OF SW SENECA  
STREET & SW BOONES FERRY ROAD

WHEREAS the City of Tualatin ("City") wishes to encourage the viability of businesses in the commercial areas of the City; and

WHEREAS the developer of the Robinson Crossing II Building seeks to construct balcony features and building cornice features that extend over the public right-of-way (ROW) under the jurisdiction of the City; and

WHEREAS the City desires commercial development in the downtown area of Tualatin to have a pedestrian orientation and provide architecture compatible with Central Design District standards; and

WHEREAS the City through a Revocable Permit may grant use of public ROW; and

WHEREAS the Permittee will obtain Building Permits for the subject balconies and cornice features.

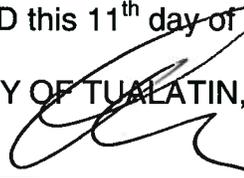
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON that:

Section 1. The attached Revocable Permit is for the purpose of allowing Permittee to obtain Building Permits for balconies and cornices on the Robinson Crossing II Building that extend over the SW Seneca Street and SW Boones Ferry Road ROW adjoining property known as Tax Map 2S124BC, Tax Lot 3000.

Section 2. The attached Revocable Permit is approved and the Mayor is authorized to sign said permit for the purposes stated in this resolution.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

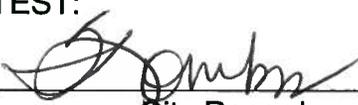
BY 

Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY 

City Recorder

## REVOCABLE PERMIT

The City of Tualatin, Oregon (“City”) grants to David Emami (“Permittee”), a revocable permit to use the public sidewalks in the SW Senca Street and SW Boones Ferry Road public right-of-way (ROW) under the jurisdiction of the City of Tualatin and located in the City of Tualatin, Washington County, State of Oregon, for the purposes and subject to the conditions stated:

See Exhibits “A” (Assessor’s Map showing Subject portion of ROW) and “B” (Assessors Map) that are attached and incorporated by this reference.

The general location of the area is shown on Exhibit “C” (Vicinity Map). This permit is granted to the Permittee for the specific and limited purpose of the installation of Robinson Crossing II Building architectural features that overhang SW Senca Street and SW Boones Ferry Road public ROW adjacent to Permittee’s building as generally depicted in Exhibit “D” (Site Plan; Elevation Plan).

This permit is granted subject to the following conditions:

(1) Permittee shall not construct, place or locate or allow others to construct, place or locate any structures within the permit area described in Exhibits “A” and “B” except for improvements approved by City;

(2) Permittee shall keep and maintain the areas free from all conditions that create a risk of injury or damage to those lawfully using the area, and shall indemnify and hold the City, its officers, agents and employees harmless from any claims for injury, damage or loss of whatsoever nature arising out of or related to the use of the permit area.

(3) At all times during the term of this permit, Permittee shall obtain and continue to carry public liability and property damage insurance in a responsible company with limits of not less than \$500,000.00 for injury to one person, \$1,000,000.00 for injury to two or more persons in one occurrence, and \$100,000.00 for damage to property (or, a single premium and limits policy providing the same coverages) issued by a company or companies authorized to issue such policies in Oregon and naming the City as an insured on said policy or policies of insurance. Certificates evidencing such insurance and bearing endorsements requiring ten (10) days written notice to City prior to any change or cancellation shall be furnished to the City prior to Permittee’s occupancy of the permit area.

(4) Permittee shall obtain building permits and other applicable permits for the architectural features depicted on Exhibit “D” at Permittee’s expense.

(5) Permittee shall provide all necessary maintenance and repair of the public right-of-way, sidewalk, streetsigns, landscaping, street trees & grates, and irrigation located adjacent to and within the Revocable Permit area during construction and during on-going maintenance of the architectural features to the satisfaction of the City.

This Permit may be revoked by the City upon:

(1) A determination of the City Council that the Permittee has violated or failed to satisfy any of the conditions of this permit, or

(2) Upon determination by the City Council that the permit area is required for public purposes, the City Council shall provide written notice of revocation that shall be effective, without further action of either party, 120 days after the date of the notice.

If the City Council declares a revocation of this permit under subparagraph (1), the written declaration shall be mailed to Permittee at the Permittee's address shown on the records of the Washington County Department of Assessment and Taxation. The revocation shall be effective ten (10) days after the date of the written declaration. All rights and interests of the Permittee shall automatically terminate upon the effective date of the revocation.

Prior to the effective date of revocation of this permit, the Permittee, at its expense, shall cause all improvements to be removed from the permit area if so requested in the Declaration of Revocation and re-establish area to its pre-existing condition.

It is acknowledged by the City and the Permittee, that the architectural features must be in compliance with the requirements of the Robinson Crossing II Architectural Review AR-08-12, the Tualatin Development Code and the Oregon Structural Specialties Code (OSSC).

This Permit is granted for the benefit of and the heirs, successors in interest and assigns of the Permittee who shall be bound by the conditions of this Permit.

The parties have executed this permit on the date indicated below.

City of Tualatin, Oregon

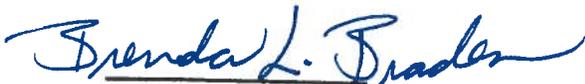
David Emami

BY  May 11, 2009  
Mayor Date

BY \_\_\_\_\_  
Date

BY  May 11, 2009  
City Recorder Date

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY



2 S I 24BC

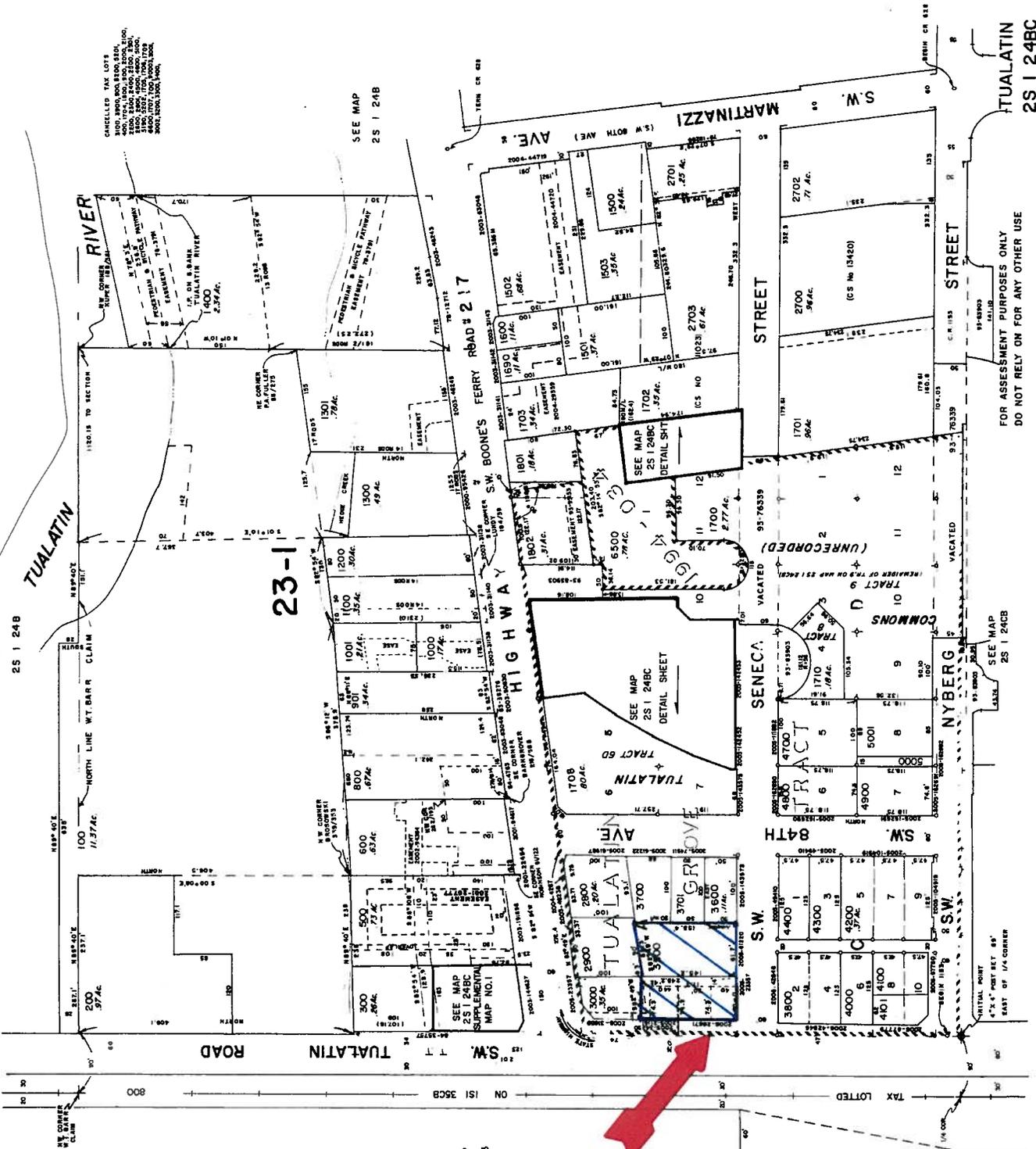
SW 1/4 NW1/4 SECTION 24 T2S R1W W.M.

WASHINGTON COUNTY OREGON

SCALE 1" = 100'

SEE MAP

25 I 24B



SEE MAP

25 I 24B

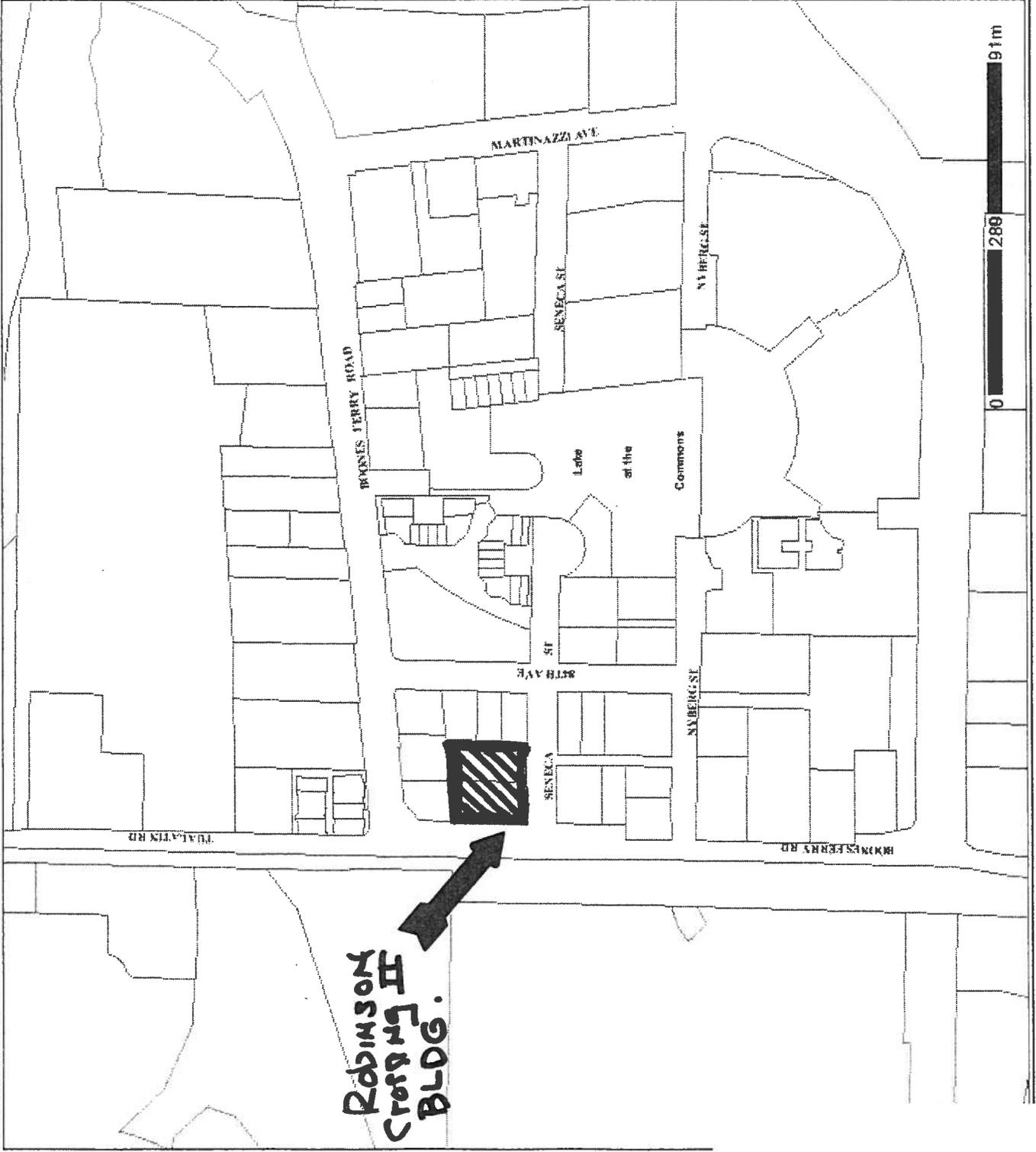
SEE MAP

25 I 23

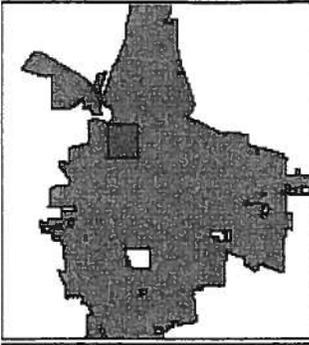
FOR ASSESSMENT PURPOSES ONLY  
DO NOT RELY ON FOR ANY OTHER USE

TUALATIN  
25 I 24BC

TualMap: Area of Interest Map



Robinson  
Crossing II  
BLDG.



YICINITY  
MAP  
REVOCABLE  
PERMIT









# STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council  
Date 5-11-09  
Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager *SL*  
**FROM:** Michael A. McKillip, City Engineer *MCK*  
Kaaren Hofmann, Civil Engineer *KH*  
**DATE:** May 11, 2009  
**SUBJECT:** RESOLUTION AWARDING THE BID FOR THE  
NORWOOD PUMP STATION

---

**ISSUE BEFORE THE COUNCIL:**

Awarding the Norwood Pump Station project to Cedar Mill Construction.

**RECOMMENDATION:**

Staff recommends that the Council adopt the attached resolution awarding the Norwood Pump Station project and authorizing the Mayor to execute a contract with Cedar Mill Construction in the amount of \$624,628.00.

**EXECUTIVE SUMMARY:**

- The budget contains a project to replace the existing pump station that serves the "C" level water system.
- The water demand in the C level has grown beyond the capacity of the existing pump station. This project increases the pump station capacity to meet the current and future C level demands.
- The Invitation to Bid was published in the *Daily Journal of Commerce* on April 2, 9, and 14, 2009.

- The bids for this project were opened on Thursday, April 23, 2009, at 2:30 p.m. Eight bidders responded as follows:

Cedar Mill Construction	\$ 624,628.00
Stellar J Corporation	\$ 655,274.00
Stouder General Construction	\$ 666,208.00
Schneider Equipment Inc	\$ 675,208.00
Contractors Inc	\$ 699,998.00
TEK Construction Inc	\$ 700,208.00
Stettler Supply Co	\$ 706,046.00
Triad Mechanical Inc	\$ 730,208.00

- The Engineer's Estimate for the work was \$680,000.00
- The lowest responsible bidder is Cedar Mill Construction at \$624,628.00.

**OUTCOMES OF DECISION:**

Awarding of the contract will result in the following:

1. Construction of the proposed project will provide the following:
  - a. Service Level C fire and domestic flows and capacity for future growth.

Not awarding the contract will result in the following:

1. All work on the project will stop.
  - a. C level may not have adequate fire and domestic flows.

**FINANCIAL IMPLICATIONS:**

Funds are available for this project in the Water System Development Charge Fund and the Water Reservoir Fund.

**Attachments:**      A. Resolution

RESOLUTION NO. 4881-09

RESOLUTION AWARDING BID FOR THE NORWOOD  
PUMP STATION

WHEREAS the project was advertised in the *Daily Journal of Commerce* on April 2, 9, and 14, 2009; and

WHEREAS eight proposals were received prior to the close of the bid period on April 23, 2009; and

WHEREAS Cedar Mill Construction submitted the lowest responsible bid for the project in the amount of \$624,628.00; and

WHEREAS there are funds available for this project in the Water System Development Charge Fund and the Water Reservoir Fund.

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

Section 1. The contract is awarded to Cedar Mill Construction.

Section 2. The Mayor and City Recorder are authorized to execute a contract with Cedar Mill Construction in the amount of \$624,628.00.

Section 3. The City Engineer is authorized to execute Change Orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

By \_\_\_\_\_

  
Mayor

ATTEST:

By \_\_\_\_\_

  
City Recorder

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 5-11-09  
Recording Secretary M. Smith

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Michael A. McKillip, City Engineer 

**DATE:** May 11, 2009

**SUBJECT:** RESOLUTION AUTHORIZING AMENDMENT TO INTERGOVERNMENTAL AGREEMENT WITH CITY OF LAKE OSWEGO

---

### ISSUE BEFORE THE COUNCIL:

Council will consider an amendment to the current Intergovernmental Agreement (IGA) with Lake Oswego for sanitary sewer service to change the service boundary. This change will provide sanitary sewer service to a portion of Lake Oswego that drains into Tualatin.

### RECOMMENDATION:

Staff recommends Council adopt the attached resolution authorizing the Mayor and City Recorder to sign the attached amendment.

### Background

The 1982 IGA established a territory comprised of certain properties in the City of Tualatin whose wastewater would be collected by Tualatin's system, but which would ultimately be conveyed to Portland's Tryon Creek wastewater treatment plant via Lake Oswego's collection system. Administrative procedures were established to compensate Lake Oswego for its role as "middleman." The original agreement can be characterized as a broad brush attempt to respond to the needs of the time—it was understood that amendments would be required from time to time in response to unanticipated administrative and other needs. Section A. 2. of the 1982 agreement states: "The service area may be modified by mutual agreement in writing of Oswego and Tualatin." In 1992, the two City Councils approved a boundary amendment to permit a number of properties in Lake Oswego's service area who were experiencing septic system failures to drain into Tualatin's collection system. Again, the wastewater's destination was the Portland treatment plant, but in this instance Tualatin assumed the middleman role.

**EXECUTIVE SUMMARY:**

The impetus behind changing the existing service boundary is the development approval of a subdivision in Lake Oswego that has no reasonable access to Lake Oswego's collection system, but can access Tualatin's. The destination is the Portland treatment plant with Tualatin assuming the role of middleman.

The proposed boundary amendment is illustrated on the Service Area map attached to this report. The proposed amendment modifies the service area boundary at two locations. Close-up illustrations of Areas A and B are attached to the proposed Amendment Agreement.

Area A

This area encompasses a newly developed 12-lot subdivision in Lake Oswego located on the westerly extension of Frost Street, and two lots of record abutting the subdivision's north boundary. The site cannot obtain gravity sewer service from Lake Oswego's system, but is able to obtain gravity service from Tualatin's sewer system on the south side of the railroad tracks. (The south side of the railroad right-of-way is the common city limit line between Lake Oswego and Tualatin.) In the early planning process for the subdivision, the applicant and the City Engineers of the two cities agreed that Tualatin's sewer system was better situated to provide sewer service. Lake Oswego offered to initiate an amendment to the service area boundary to include this site. In the design process, it became apparent that the two abutting lots to the north should also be included for topographic reasons, and a pipe was extended to the subdivision's north line to facilitate future connection.

Area B

This area is proposed to correct an inadvertent omission in the 1992 boundary amendment. This area is located at the east end of McDuff Court, and includes Lot 4, part of Lot 3, and part of an open space tract in the plat of Childs Road Estates.

**FINANCIAL IMPLICATIONS:**

This area drains naturally to Tualatin. The area is limited, so there is no financial impact.

- Attachments:**
- A. Resolution
  - B. Service Area Map
  - C. Amendment to IGA

RESOLUTION NO. 4882-09

RESOLUTION AUTHORIZING THE MAYOR AND CITY  
RECORDER TO SIGN AN AMENDMENT TO THE  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY  
OF TUALATIN AND THE CITY OF LAKE OSWEGO

WHEREAS the City adopted Resolution No. 1179-82 on September 27, 1982,  
that authorized an updated Intergovernmental Agreement (IGA) with Lake Oswego for  
sanitary sewer collection; and

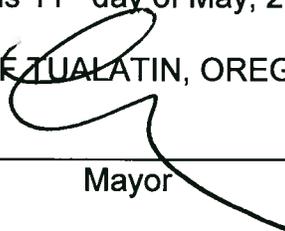
WHEREAS the service boundary needs to be modified.

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

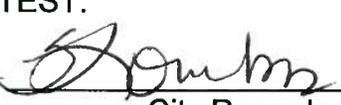
Section 1. The Mayor and City Recorder be authorized to sign the attached  
amendment to the IGA with Lake Oswego.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

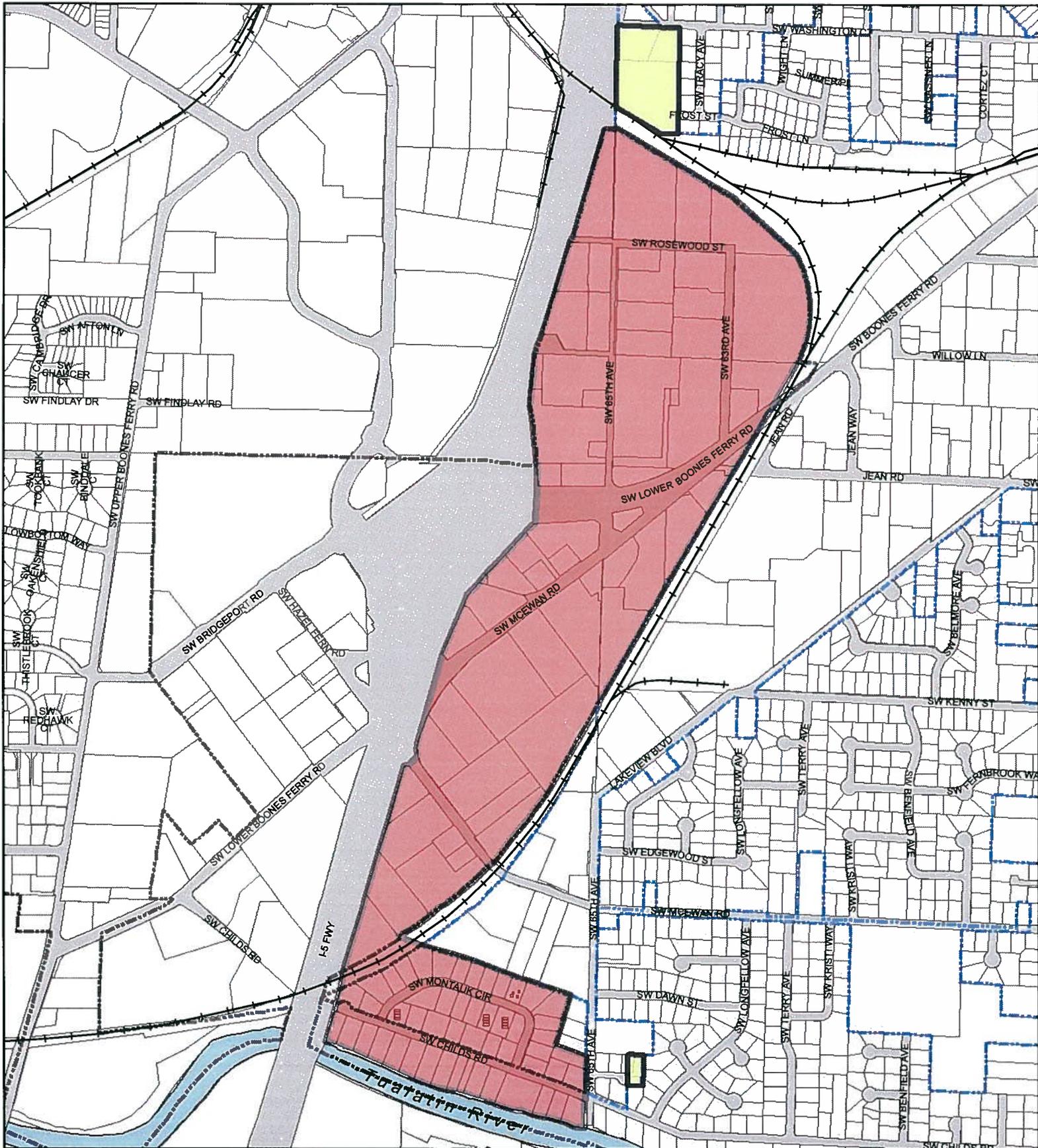
BY  \_\_\_\_\_  
Mayor

ATTEST:

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

Approved as to legal form:

  
City Attorney



- Lake Oswego
- Lake Oswego/Tualatin IGA
- Tualatin
- Proposed Amendment

RF 1:9,000



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 04/24/2009

**Amendment to the Tualatin/Lake Oswego Intergovernmental Agreement for Sanitary Sewer Service**

THIS AMENDMENT is entered into by the City of Tualatin, a municipal corporation of the State of Oregon, hereinafter referred to as "Tualatin," and the City of Lake Oswego, a municipal corporation of the State of Oregon, hereinafter referred to as "Lake Oswego."

WHEREAS on September 27, 1982 Tualatin and Lake Oswego entered into an intergovernmental agreement (amended on January 25, 1993) for sanitary sewage collection and treatment, which identifies a service area boundary; and

WHEREAS Tualatin and Lake Oswego desire to modify the service area boundary;

NOW THEREFORE, the parties agree as follows:

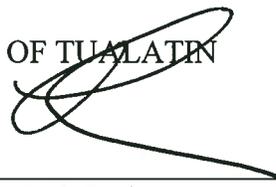
- A. The service area boundary of the intergovernmental agreement between Lake Oswego and Tualatin for sanitary sewage collection and treatment (executed on September 27, 1982 and modified on January 25, 1993) is hereby modified to include the areas shown on Exhibits A and B, attached hereto and incorporated herein by reference.
- B. The effective date of this amendment is the last date of signature by the parties.

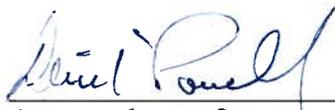
This agreement is executed in duplicate originals.

CITY OF LAKE OSWEGO

CITY OF TUALATIN

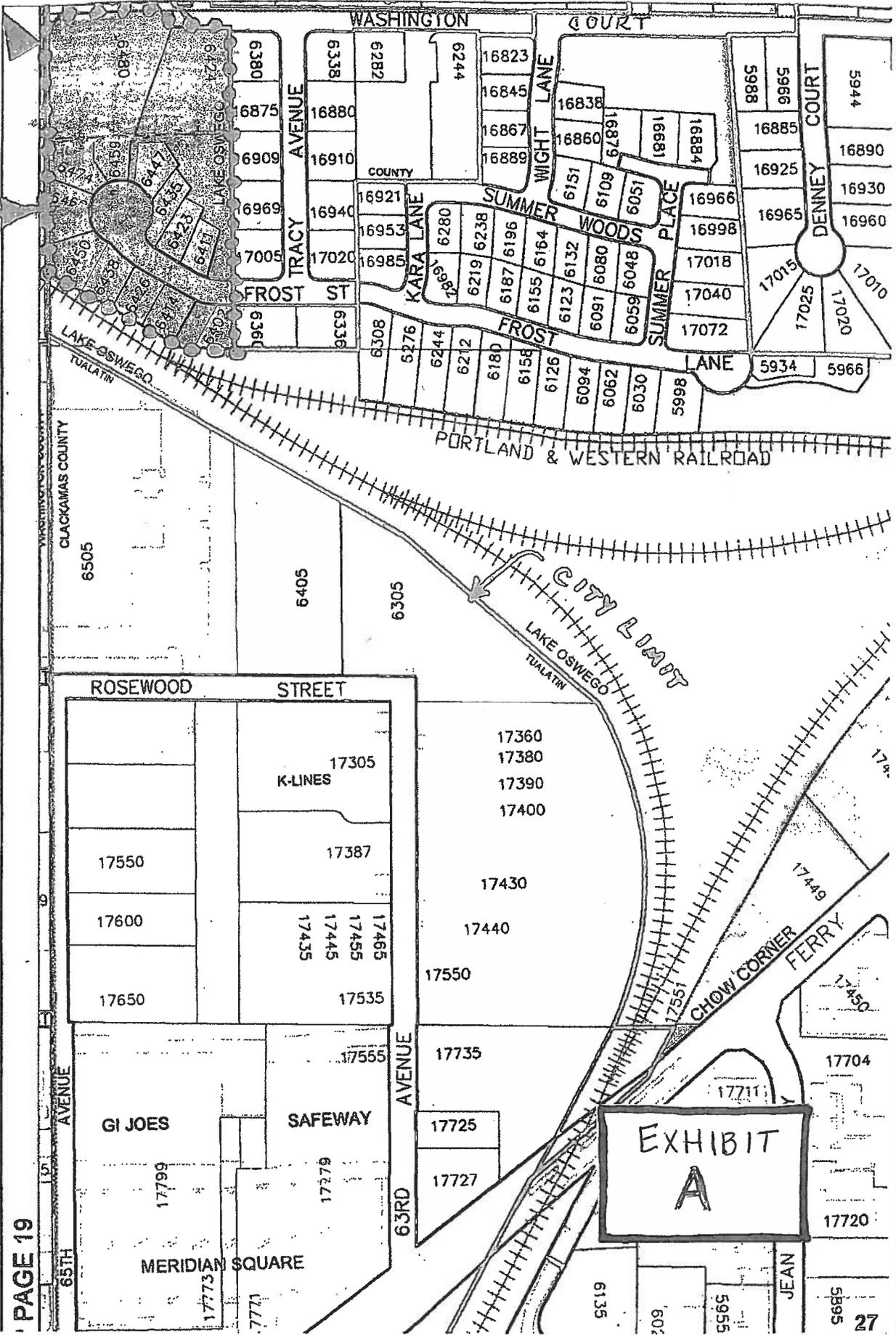
By:   
Jack D. Hoffman, Mayor *Kristin Johnson*  
Dated: 4/9/09 *Presiding Officer*

By:   
Lou Ogden, Mayor  
Dated: May 11, 2009

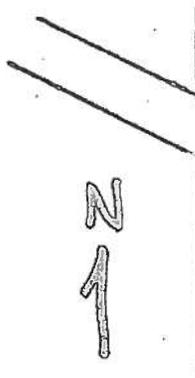
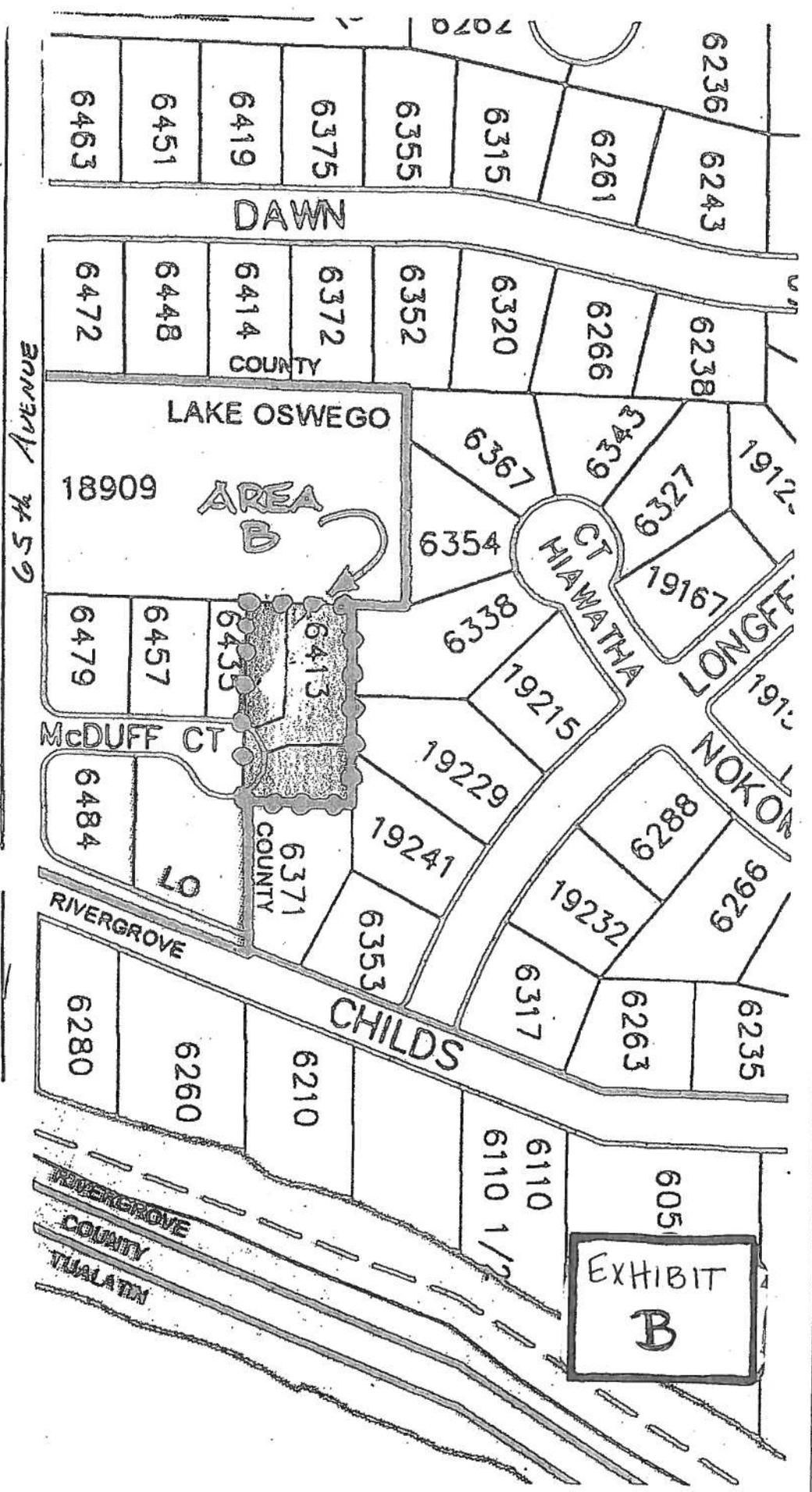
  
Approved as to form  
*City Attorney*

  
Approved as to form

AREA  
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2  
1





Approved By Tualatin City Council

Date 5-11-09

Recording Secretary MSM

## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Michael A. McKillip, City Engineer *McK 16K*  
Doug Rux, Community Development Director *DR*

**DATE:** May 11, 2009

**SUBJECT:** RESOLUTION APPROVING THE SW SENECA STREET  
SANITARY SEWER EXTENSION PROJECT AGREEMENT  
BETWEEN THE CITY OF TUALATIN AND THE TUALATIN  
DEVELOPMENT COMMISSION

---

### ISSUE BEFORE THE COUNCIL:

Should the City of Tualatin enter into an agreement with the Tualatin Development Commission for future reimbursement of costs to construct a sewer line in SW Seneca Street from SW 84<sup>th</sup> Avenue west to approximately SW Boones Ferry Road?

### RECOMMENDATION:

Staff recommends the City Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

- This request is not a public hearing.
- This is a request for the City of Tualatin and Tualatin Development Commission (Commission) to enter into an agreement for potential reimbursement of costs for a sanitary sewer line that was not constructed as part of the Tualatin Commons West project funded by the Commission.
- Urban Renewal Block 16 - western one-half for the block bounded by SW Seneca Street, SW 84<sup>th</sup> and SW Boones Ferry Road is served by a public sanitary sewer line located in an easement which connects to a public line located in SW Seneca Street which then runs south in the ally adjacent to the

Red Public Parking Lot and connects to a line in SW Nyberg Street. (Attachment A)

- To allow redevelopment of property in this area a new sanitary sewer line is necessary to maximize the redevelopment potential. The redevelopment includes the Robinson I and Robinson II projects on Block 16 and future redevelopment of Urban Renewal Block 15. (Attachment B)
- Redevelopment concepts for this area were being discussed with property owners and the City as the Tualatin Commons West project was concluding which did not allow adequate time to include the sanitary sewer project in a cost efficient manner.
- As redevelopment concepts were being finalized and land use approval obtained it was identified that a new sanitary sewer line needed to be constructed in SW Seneca Street between SW 84<sup>th</sup> Avenue and SW Boones Ferry Road. This line was identified to be approximately 195 feet in length. (Attachment C)
- The Commission does not currently have sufficient funds to construct this line and the City through its Sewer Operating Fund has adequate funds.
- The attached Agreement allows the Commission the option to reimburse the Sewer Operating Fund for constructing the sanitary sewer line if the City Council authorizes increasing the maximum indebtedness amount of the Central Urban Renewal District Plan (CURD), which is currently being evaluated.
- The City Council has not provided past direction on reimbursement associated with construction of this sanitary sewer line.
- ORS 457(5) allows an agency "To install, construct or reconstruct streets, utilities and site improvements in accordance with the urban renewal plan." ORS 457.190(1) states "An urban renewal agency may borrow money and accept advances, loans, grants and any other form of financial assistance from the federal government, the state, county or other public body, or from any sources, public or private, for the purposes of undertaking and carrying out urban renewal projects."
- There are no criteria applicable to this request.

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

Council approval of the resolution would result in the following:

1. Approval of the Agreement allows the option for the Commission to reimburse the Sewer Operating Fund for the cost of constructing the sanitary sewer line.

Denial of the resolution would result in the following:

1. No reimbursement for construction of the sanitary sewer line would be possible.

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

The alternatives to the staff recommendation are:

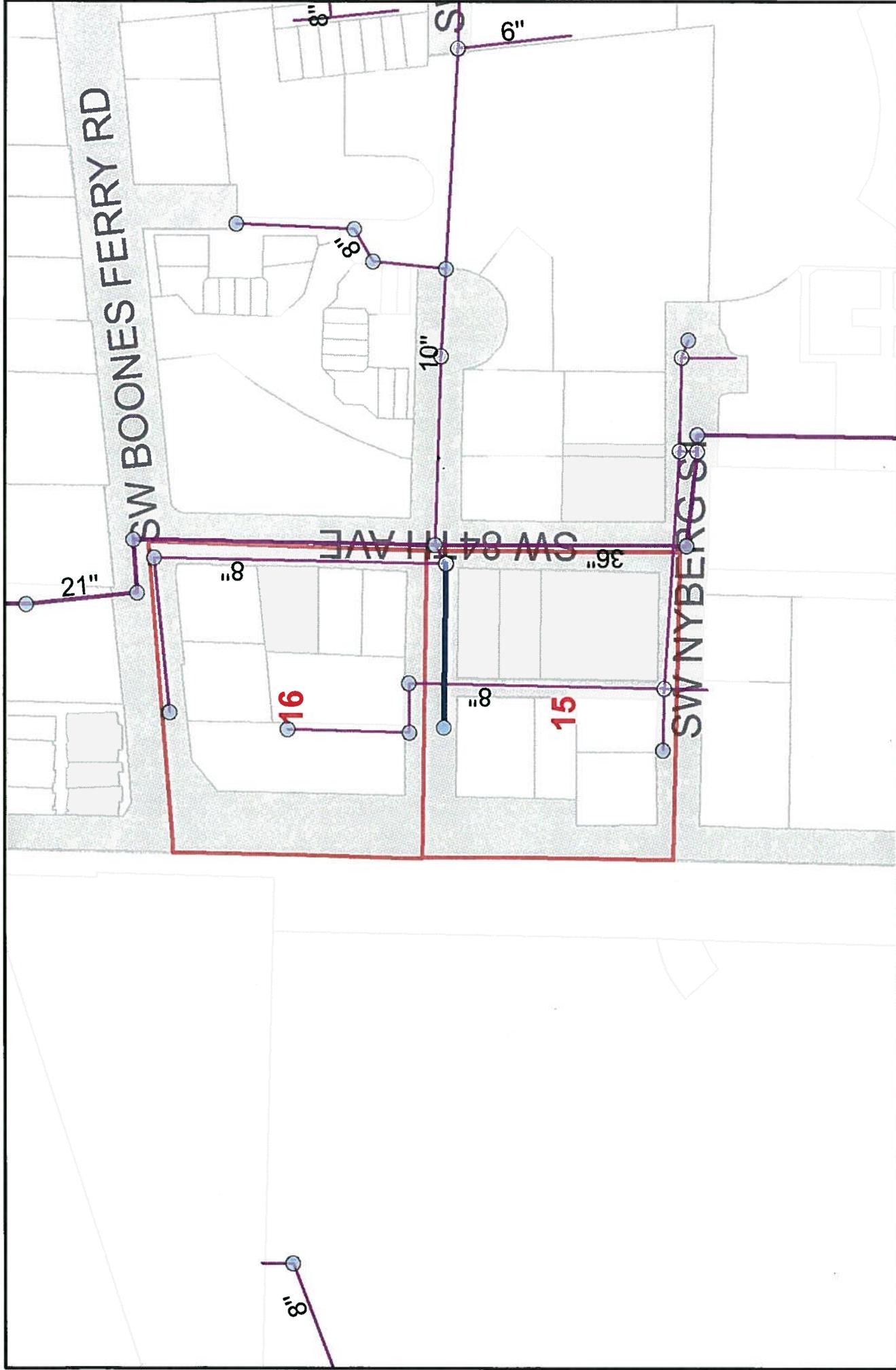
1. Direct staff to return to Council with an alternate resolution
2. Direct staff to return to Council with additional information
3. Take no action.

**FINANCIAL IMPLICATIONS:**

Funds have been budgeted in the Sewer Operating Fund to construct the sanitary sewer line.

- Attachments:**
- A. Existing Sewer Line Location
  - B. Urban Renewal Block 15 and 16
  - C. Proposed Sewer Line Location

# Central Urban Renewal Blocks 15 & 16: New Sanitary Sewer



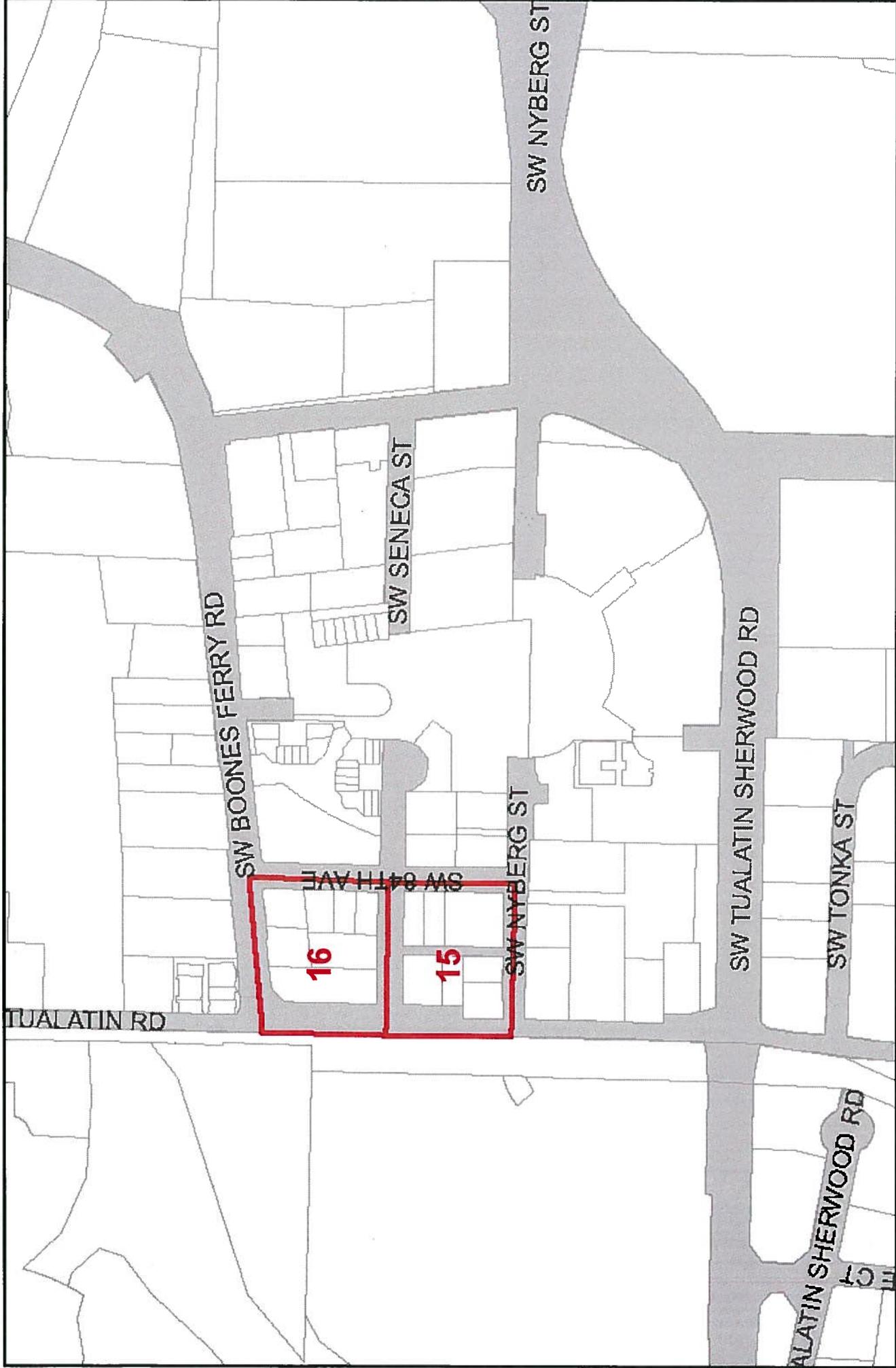
This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 4/29/2009



RF 1:1,800

- New Sewer Line
- City of Tualatin Sewer Line
- Clean Water Services Sewer Line
- Urban Renewal Area Blocks
- Parcels
- Manhole

# Central Urban Renewal Blocks 15 & 16



Urban Renewal Area Blocks

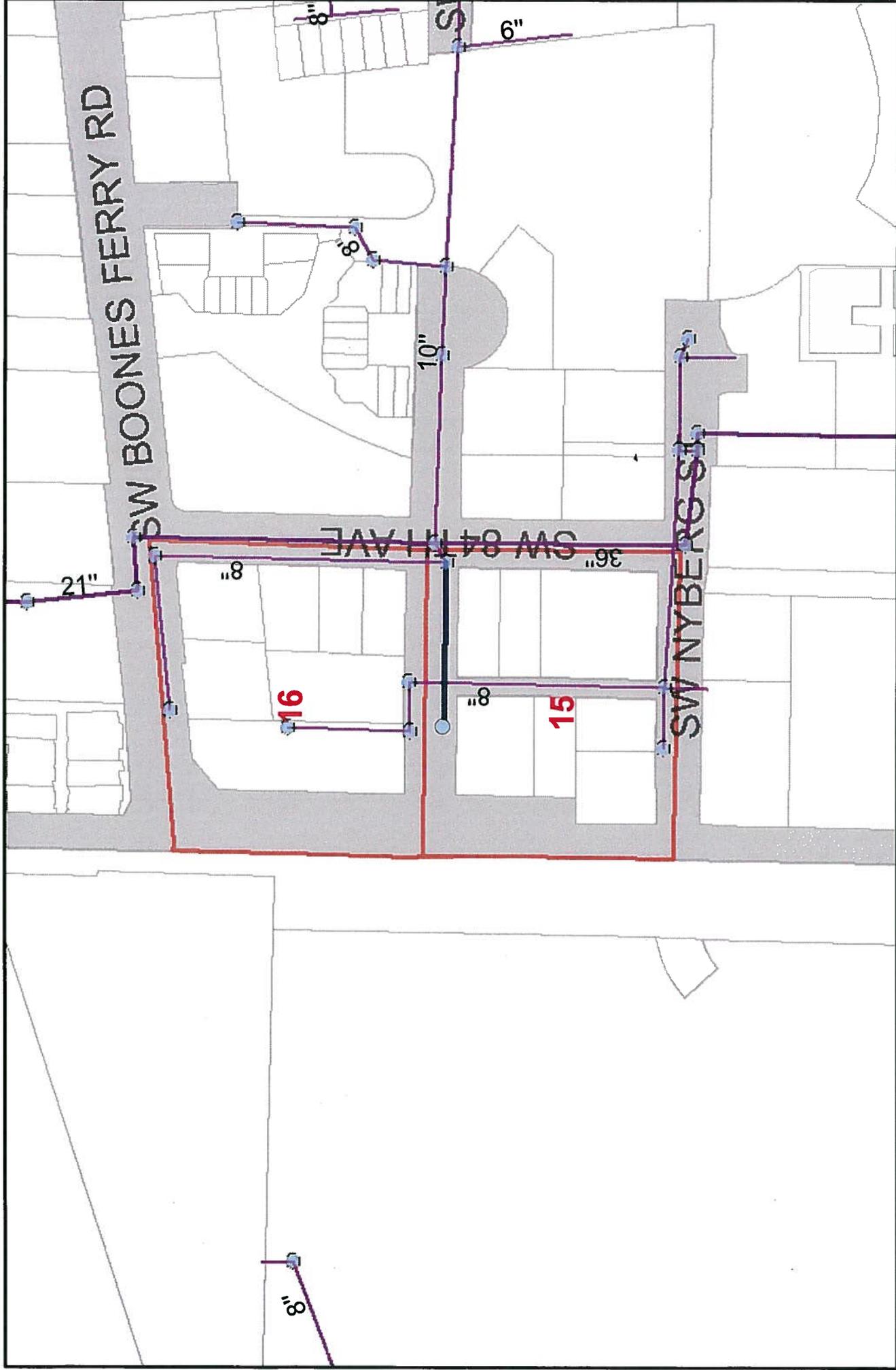
Parcels



RF 1:3,600

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 4/29/2009

# Central Urban Renewal Blocks 15 & 16: New Sanitary Sewer



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 4/29/2009



RF 1:1,800

RESOLUTION NO. 4883-09

RESOLUTION APPROVING THE SW SENECA STREET SANITARY  
SEWER EXTENSION PROJECT AGREEMENT BETWEEN THE CITY  
OF TUALATIN AND THE TUALATIN DEVELOPMENT COMMISSION

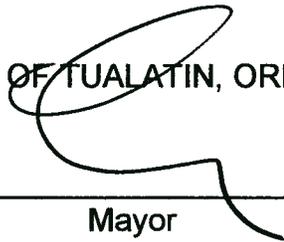
WHEREAS the City Council has reviewed the Agreement for potential reimbursement of construction costs associated with the Seneca Street Sanitary Sewer project.

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

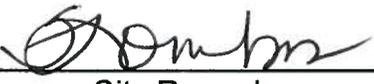
Section 1. The Mayor is hereby authorized to sign the Agreement, Exhibit 1.

INTRODUCED AND ADOPTED this 11th<sup>th</sup> day of May, 2009.

CITY OF TUALATIN, OREGON

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

ATTEST:

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

Approved as to legal form:

  
\_\_\_\_\_  
City Attorney

RESOLUTION NO. 4883-09

SW SENECA STREET SANITARY SEWER EXTENSION PROJECT  
AGREEMENT BETWEEN THE CITY OF TUALATIN AND THE TUALATIN  
DEVELOPMENT COMMISSION

WHEREAS, the Tualatin Development Commission, the Urban Renewal Agency for the City of Tualatin, has an uncompleted component of its Tualatin Commons West project, which is in its plan, specifically a sewer project to be installed on Seneca Street between 84<sup>th</sup> and Boones Ferry Road; and

WHEREAS, the sewer line is needed at this time for development reasons; and

WHEREAS, the Tualatin Development Commission does not currently have sufficient money to fund the project; and

WHEREAS, the City of Tualatin has money in its sewer fund that can pay for the project now; and

WHEREAS, it is in the public interest, health and safety for this project to proceed at this time; and

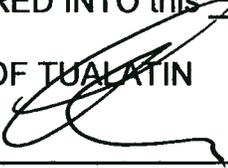
WHEREAS, sometime in the near future the City may decide to increase the maximum indebtedness of the Central Urban Renewal Plan.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The City of Tualatin agrees to construct the Seneca Street sewer project referenced above on behalf of the Development Commission at this time, using sewer fund revenue to pay for the project.
2. The Tualatin Development Commission agrees that if in the future, the City increases the maximum indebtedness of the Central Urban Renewal Plan and to complete projects in the District, the Commission may reimburse the City for the costs of the Seneca Street sewer project, if allowed by law.

ENTERED INTO this 11 day of MAY, 2009.

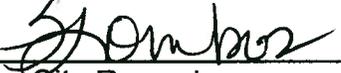
CITY OF TUALATIN

By   
Mayor

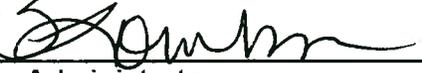
TUALATIN DEVELOPMENT COMMISSION

By   
Commission Chair

ATTEST:

By   
City Recorder

ATTEST:

By   
Administrator

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY



Approved By Tualatin City Council  
Date 5-11-09  
Recording Secretary MSAMK

# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *sl*

**FROM:** Michael A. McKillip, City Engineer *Max*

**DATE:** May 11, 2009

**SUBJECT:** I-5 Tualatin River-Willamette River Section Project Update

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### ISSUE BEFORE THE COUNCIL:

Representatives from ODOT will be at the meeting to give an update on the project.

### RECOMMENDATION:

This is an informational update. No action is requested.

### EXECUTIVE SUMMARY:

ODOT is working on a pavement rehabilitation and facility upgrade project on I-5 in Tualatin. The project extends from the Tualatin River to the Willamette River. The work is scheduled to be performed in the summer of 2009 and 2010. Most of the work will be done a night similar to other I-5 work in recent years.

**Attachments:** Slides



# City of Tualatin Project Elements

- New Paving and Striping
- Widen Left Side Shoulders
- Water Quality Facilities
- New Guide Signs
- New Southbound Auxiliary Lane Between I-205 and the North Wilsonville Exit (Elligsen Road/Stafford Road)
- New Sound Wall from I-205 to north of Norwood Road



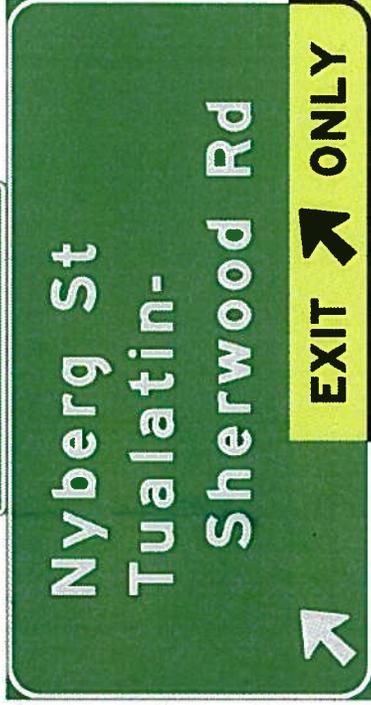
Oregon Department  
of Transportation



# New Signage – Format and Message

Proposed Signs:

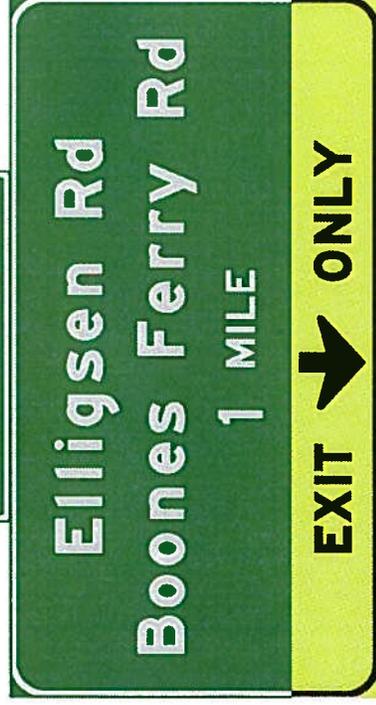
EXIT 289



Existing Signs:



EXIT 286



EXIT 286

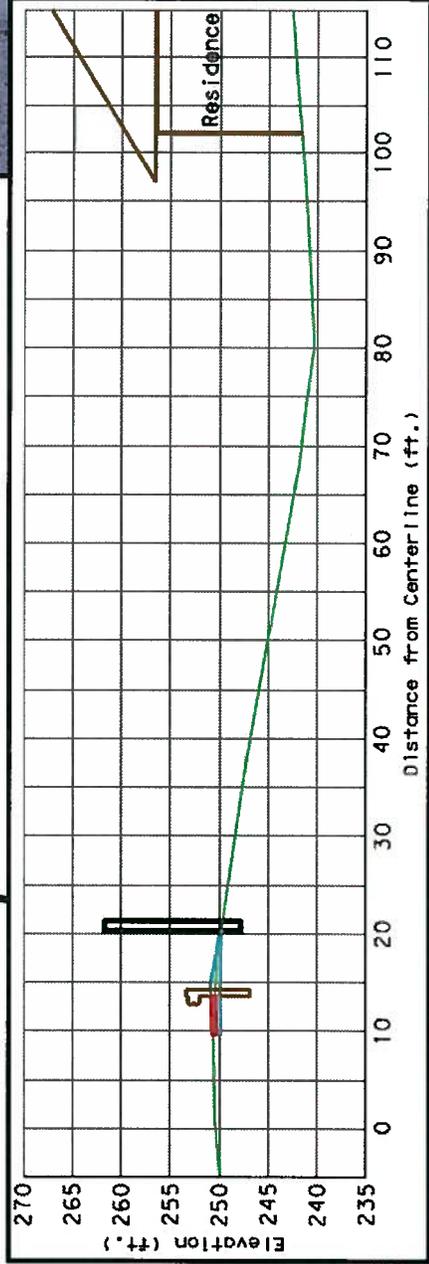
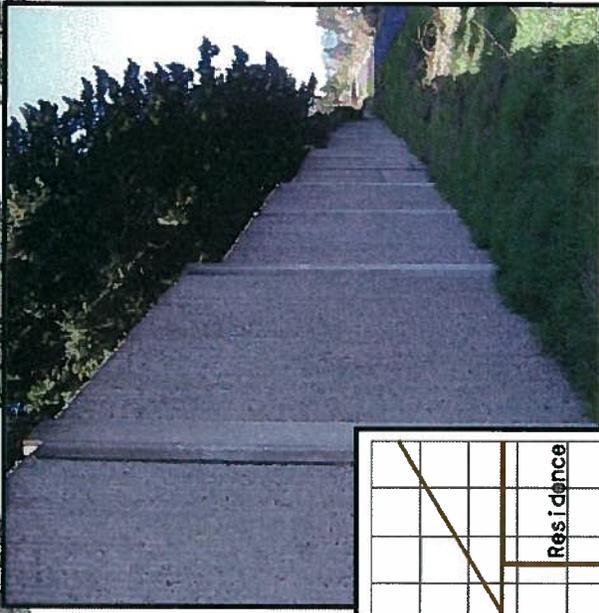
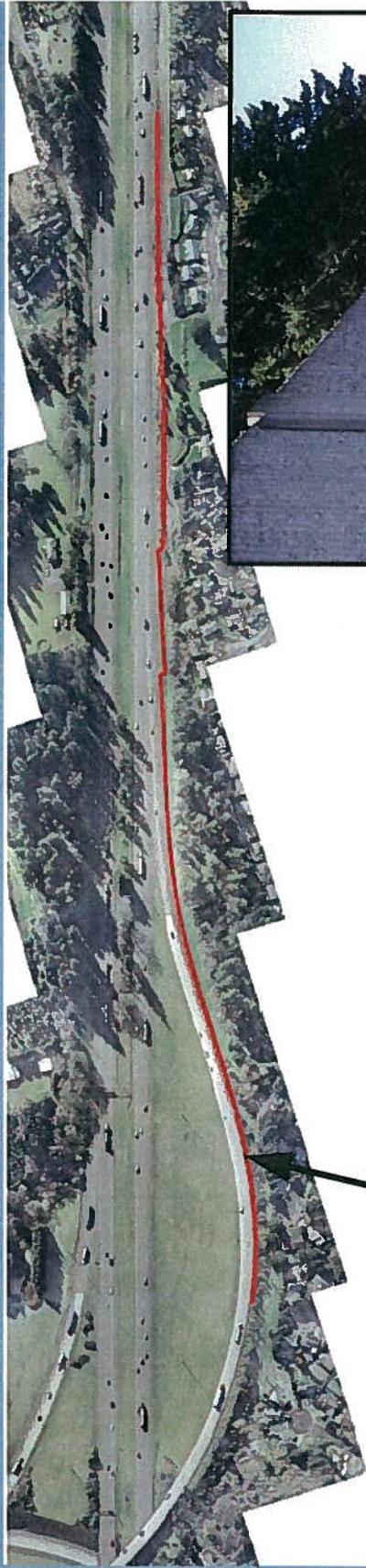


MSA

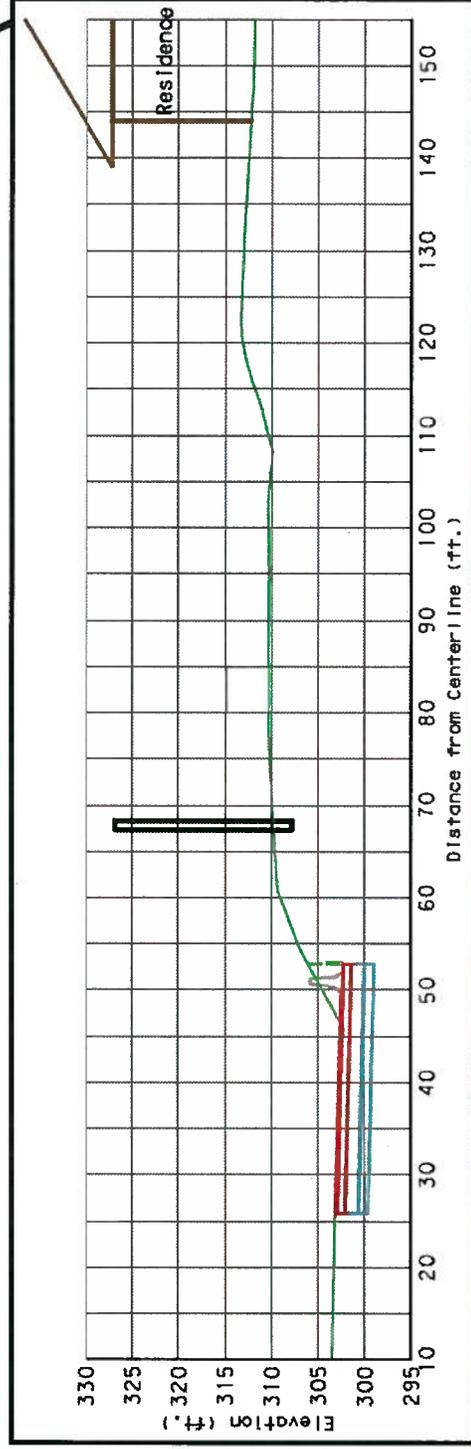
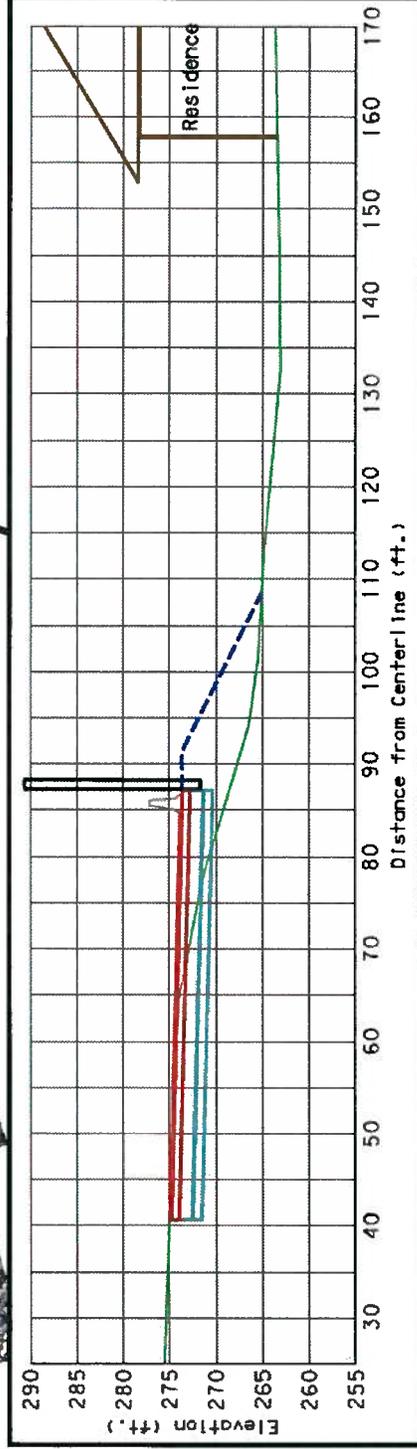
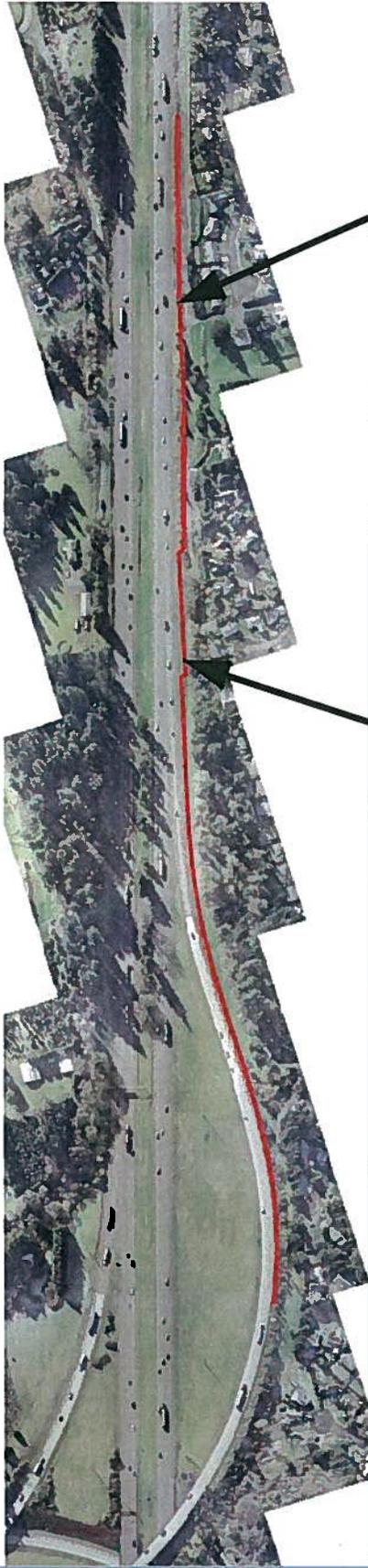
Oregon Department  
of Transportation



# New Sound Wall



Oregon Department of Transportation



Oregon Department of Transportation



## Sound Wall Facts

- Length: 3,850 ft.
- Height: Varies from 6 to 20 ft.
- 61+ Residences to Have Noise Reduced to Within Allowable Levels
- Noise will be Reduced from Approx. 74 dB to 63 dB
  - 74 dB is Equivalent to a Backhoe 30 ft. Away
  - 63 dB is Equivalent to a Television 10 ft. Away

**MSA**



Oregon Department  
of Transportation

## Open Houses

- Community Meeting for Sound Wall Date, Time, Place To Be Determined (likely May)
- General Open House Date, Time, Place To Be Determined (likely June)
- City Noise Variance for Nighttime Construction has been Obtained
- 24-Hour Hotline: Number To Be Determined
- Project Website: [www.oregon.gov/ODOT/HWY/REGION1/I5Pres3/index.shtml](http://www.oregon.gov/ODOT/HWY/REGION1/I5Pres3/index.shtml)

**MSA**



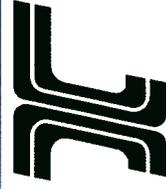
Oregon Department  
of Transportation

# Construction Schedule – Main Elements

- 1st Season to be Completed by Oct. 31, 2009:**
  - NB from the Willamette River to the Tualatin River– All Work Except Some Permanent Signing
  - SB from Elligsen Rd. to Wilsonville Rd. – All Paving and Permanent Striping
  - SB from Wilsonville Rd. to the Willamette River – All Work
- 2nd Season to be Completed by Oct. 31, 2010:**
  - SB from the Tualatin River to Elligsen Rd. – All Work
  - SB from the Elligsen Rd. to Wilsonville Rd. – All Remaining Work



Questions?



Oregon Department  
of Transportation