



**OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR  
JANUARY 27, 2014**

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Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Assistant City Manager Alice Cannon; Community Services Director Paul Hennon; Finance Director Don Hudson; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Engineering Manager Kaaren Hofmann; Engineer Associate Tony Doran; Management Analyst Ben Bryant; Senior Planner Clare Fuchs

**A. CALL TO ORDER**  
Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:05 p.m.

**B. ANNOUNCEMENTS**

**1. Introduction of City of Tualatin Police K-9 Zoey**

Police Chief Kent Barker introduced the departments new narcotic detection canine Zoey and her handler Police Officer Nick Barkley. The pair became certified as a Canine Unit for narcotic detection on January 21, 2014.

**2. TriMet's Southwest Service Enhancement Plan Open House**

Management Analyst Ben Bryant announced the open house for TriMet's Southwest Service Enhancement Plan. The open house will be held on Thursday, February 13th, 6:30 p.m., at the Tualatin Public Library.

Mayor Ogden stressed the importance of public involvement with this plan and encouraged all citizens to attend.

**3. State of the City and Tualatin Tomorrow Vision Plan Update**

Deputy City Manager Sara Singer announced the State of the City Event to be held Wednesday, January 29th, 5:00 p.m., at the Grand Hotel at Bridgeport. The event will also feature the results of the community outreach for the Tualatin Tomorrow Vision Plan Update. For more information and to RSVP please visit the cities website.

**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.*

Tim Goodman, Comcast Government Affairs, requested that consent agenda item 5 regarding Resolution No. 5181-14 authorization to extend the term of the cable television services agreement with Comcast of Oregon II, Inc. be removed for further discussion.

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, 1) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

MOTION by Council President Monique Beikman, SECONDED by Councilor Joelle Davis to remove item D.5, Resolution No. 5181-14 authorization to extend the term of the cable television services agreement with Comcast of Oregon II, Inc., from the consent agenda.

**Vote: 7 - 0 MOTION CARRIED**

MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes to approve the consent agenda as amended.

**Vote: 7 - 0 MOTION CARRIED**

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of January 13, 2014
2. Consideration of Recommendations from the Council Committee on Advisory Appointments
3. Consideration of **Resolution No. 5178-14** Authorizing a Personal Services Agreement for Concept Planning for the Basalt Creek / West Railroad Areas
4. Consideration of an Intergovernmental Agreement between the City of Portland and the City of Tualatin for Access to the Regional Justice Information Network [RegJIN]

**E. SPECIAL REPORTS**

**F. PUBLIC HEARINGS- Legislative or other**

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

1. Request for Review of the Architectural Review Board Decision Approving the Nyberg Rivers Shopping Center Project Located at 7455-7925 SW Nyberg Street (AR-13-07)

Mayor Ogden opened the public hearing for review of the Architectural Review Board (ARB) decision approving the Nyberg Rivers Shopping Center Project located at 7455-7925 SW Nyberg Street. He read the rules of the hearing in accordance with ORS 197.763(5) and (6) and ORS 197.796(3)(b).

Senior Planner Clare Fuchs and Planning Manager Aquilla Hurd-Ravich presented the staff report. Planner Fuchs summarized the application for the Nyberg Rivers Shopping Center. She stated the request for review was filed by Zian Properties on January 3, 2014. The issues presented by Zian were control of a parcel of ODOT property and the traffic impacts to the area. Planner Fuchs noted that a lot line adjustment was made between ODOT and CenterCal and is waiting to be recorded with the County. She stated that the ARB met on December 3<sup>rd</sup> and 16<sup>th</sup> and significant progress was made on the design since the master plan was approved.

Christy White, Land Use Council for CenterCal, stated on behalf of the applicant they endorse the information provided in the staff report and have submitted a written rebuttal to the appeal. She noted that the issue presented regarding the ODOT property is being resolved and a lot line adjustment has been signed and was approved by the city today.

Gibb Masters, attorney for Cabela's, stated the company is very supportive of this project and hope to have the store open this fall.

**CITIZEN COMMENT**

In Support

Arne Nyberg spoke in support of the development and what it will bring to the downtown area.

In Opposition

Seth King, on behalf of Zian Limited Partnership, stated since the time of the appeal new information regarding the property in question has been brought forward. He expressed concern that CenterCal has not fully demonstrated control over the property at this time and does not meet the standards set forth by the City. He requested Council impose a condition stating CenterCal must have control over the property in question.

**APPLICANT REBUTTAL**

Christy White stated the ODOT property transfer will occur this week and they are willing to accept a condition of approval knowing this will be completed.

**COUNCIL DISCUSSION**

Councilor Davis would like to put this condition in place to ensure that transfer of property is complete.

Councilor Truax thanked the ARB for committing themselves to this process and the decisions they made to get the design of the development to the place it is today.

MOTION by Councilor Ed Truax, SECONDED by Council President Monique Beikman to approve the decision from the Architectural Review Board and the conditions as they were originally outlined.

**Vote: 7 - 0 MOTION CARRIED**

2. Request for Review of the Public Facilities Decision Approving the Nyberg Rivers Shopping Center Project Located at 7455-7925 SW Nyberg Street (AR-13-07)

Mayor Ogden opened the public hearing for review of the Public Facilities Decision approving the Nyberg Rivers Shopping Center Project located at 7455-7925 SW Nyberg Street. He read the rules of the hearing in accordance with ORS 197.763(5) and (6) and ORS 197.796(3)(b).

Engineering Manager Kaaren Hofmann and Engineering Associate Tony Doran presented the staff report. Manager Hofmann summarized the application for the Nyberg Rivers Shopping Center. She stated the request for review was filed by Zian Properties on January 3, 2014. The issues presented for review by Zian were in conformance with the Master Plan and Tualatin Development Code, construction timing of Seneca Street, control of the ODOT property, and traffic impacts to the area. Manager Hofmann addressed the conformance issue stating that CenterCal is in compliance and the decision is still valid. She noted the ODOT property should be in their control shortly as a lot line adjustment was signed today. Other traffic impacts to the area are being mitigated by CenterCal at this time. Manager Hofmann presented proposed language changes to the Public Facilities Condition (PFR) 70 that would address the issue regarding the timing of Seneca Street construction.

Christy White, Land Use Council for CenterCal, stated on behalf of the applicant they are willing to accept the condition of approval as long as the right-of-way is turned over in time and it is clear that occupancy of the shopping center is not based on the timing of completion of Seneca Street. She noted in the master plan Seneca Street is not needed to mitigate impacts to traffic to the area, yet it will preserve optimal function instead.

#### **CITIZEN COMMENT**

##### In Support

None

##### In Opposition

Seth King, on behalf of Zian Limited Partnership, stated the primary concern is in relation to Seneca Street construction. He requested that a condition be imposed to require the construction of Seneca Street prior to occupancy certificates being issued.

Arne Nyberg expressed concerns regarding the right-of-way in question and the vacation of the property.

#### **APPLICANT REBUTTAL**

Ms. White stated according to the master plan CenterCal had to show compliance with Central Urban Renewal District (CURD) Goal 5. She stated CenterCal has met

this goal and emphasized the goal does not suggest that Seneca Street is required to mitigate traffic impacts and therefore should not be tied to the occupancy of the development.

### **COUNCIL QUESTIONS**

Councilor Truax asked about the timing of the transfer of the right-of-way and what would happen if the city is not able to meet that deadline. Manager Hofmann stated that condition currently states that CenterCal would have to pay the city \$360,000 in lieu of construction of the street.

Mayor Ogden asked what would happen if there are issues that cannot be mitigated in relation to the right-of-way and the property is not turned over before April 1<sup>st</sup>, 2014. Manager Hofmann stated CenterCal would then have to make the in lieu of payment.

Councilor Grimes asked if clarifying language regarding the closing of the driveways could be added to the conditions. Assistant City Manager Alice Cannon recited language that could be used to clarify the condition in question.

A recess was taken from 9:56 to 10:05 p.m.

Assistant City Manager Cannon stated during the recess she confirmed with the applicant that they can comply with the condition as it stands and adding the clarifying language regarding the closing of the driveways is acceptable with CenterCal.

Councilor Bubenik asked questions about the April 1<sup>st</sup> date as he thought the intent was to have Seneca Street completed with the opening on the center. Ms. White stated that it is CenterCal's intent to have Seneca Street completed before final occupancy is issued and that they can comply with the condition as it stands.

MOTION by Council President Monique Beikman, SECONDED by Councilor Joelle Davis to approve the Public Facilities Decision with existing conditions and add clarifying language to PFR 71.

### **Discussion**

Mayor Ogden asked a clarifying question regarding the closing of the driveways in the development along Martinazzi. Assistant City Manager Cannon stated that language in the motion would guarantee the closing of these driveways.

**Vote: 7 - 0 MOTION CARRIED**

## **H. GENERAL BUSINESS**

- 1. Resolution No. 5182-14 Declaring the City Council's Intent to Construct an Extension of Seneca Street and a Traffic Signal at the Intersection of Seneca Street and Martinazzi Avenue**

## **PRECEED ITEM G.1**

City Manager Lombos presented the staff report. She noted the City Council directed staff to prepare this resolution at the January 13<sup>th</sup> work session. The Council began discussion on this back in March 2013 and has met seven times since then to discuss this issue. The Nyberg Rivers Master Plan was approved on August 26, 2013 and showed the extension of Seneca Street per the City's Transportation System Plan (TSP) to improve circulation, pedestrian safety and enhance the access to the adjacent development site. The extension of the street would require the demolition of the existing Council Building.

### **CITIZEN COMMENTS**

#### **In Support**

Brett Hamilton expressed concerns regarding pedestrian safety in the area. He stated that the intersection needs upgrades including a traffic signal and crosswalk. He urged the Council to approve the resolution extending Seneca Street.

#### **In Opposition**

Robert Kellogg presented concerns with the lack of improvement in the levels of service, financial impacts, and public opinion not being in favor of the extension. He asked that Council wait and see the impacts to the area before making this decision.

Tom Beall expressed concerns with the cost of the Seneca Street extension and constructing a new building. He would like to see monies instead directed towards the Blake Street curves.

Kathy Newcomb made a recommendation to Council to add signage to the crosswalks near the library and generally spoke in opposition of the extension.

#### **Neutral**

Steve Titus asked the Council for a financial summary of how the tax revenues from the development would offset the costs of constructing a new building.

### **COUNCIL QUESTIONS**

Council President Beikman asked if there would be a increase in tax revenue from the development. City Manager Lombos stated the information had been analyzed to determine the increased assessed value from the development in the past year but does not have current information.

Councilor Bubenik asked about a plan to relocate staff if Seneca Street were to go through. Deputy City Manager Singer shared the information that was presented at a previous work session outlining the relocation of staff.

Council President Beikman addressed comments regarding funding sources for a new building stating Urban Renewal dollars were one of the sources and those funds are limited to where they can be spent based on location.

Council President Beikman asked about earmarking dollars for the street if it is not constructed. City Manager Lombos stated it was a possibility.

Councilor Bubenik and Mayor Ogden asked questions related to the time frame of

earmarked dollars for an extension of Seneca Street. City Attorney Brady stated that if the intent was to build Seneca Street the dollars could be earmarked for a period of time.

Mayor Ogden asked questions centered on the Transportation Development Tax (TDT) credits associated with the development and how that money could be spent.

Council President Beikman asked what CenterCal's obligations are in constructing the street. Manager Hofmann stated CenterCal would be responsible for design and construction of the street, design and construction of the parking lot, and demolition of the building.

Mayor Ogden asked if a parking plan had been developed if the street goes through. Deputy City Manager Singer provided information related to parking on the site.

Councilor Davis asked if the City could direct CenterCal to maximize parking when designing the lot. Manager Hofmann stated that they would design the lot to maximize safety and parking based on the city's construction code.

Council President Beikman asked about the property designated for A Street. City Manager Lombos noted that the transaction for this piece of property has not been completed and the street has not been designed.

Councilor Grimes asked questions related to the Neighborhood Traffic Solutions Program and concerns presented from citizens about funds being better used for the Blake Street Curves. Manager Hofmann stated the monies for that program come from the Gas Tax fund. City Manager Lombos noted that it is in the Capital Improvement Plan to study solutions for that area.

MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes to adopt Resolution No. 5182-14 declaring the City Council's intent to construct an extension of Seneca Street and a traffic signal at the intersection of Seneca Street and Martinazzi Avenue.

### **COUNCIL DISCUSSION**

Council President Beikman stated that the extension should go through now as it will maintain the quality of living at a high level that has become expected from the City's residents. She believes that it is the right thing to do for the businesses, traffic, and library.

Councilor Grimes believes that this is an opportunity to take care of a lot of traffic problems with one solution. She wants to make sure the city is spending money where safety is concerned.

Councilor Truax wants to make the downtown well connected and as safe and accessible for pedestrians as possible. He feels that the community benefit from putting the extension through outweighs the unknowns.

Councilor Bubenik stated that the information gathered from the CIO meetings clearly established that there are two separate issues to address, the street extension and a City Hall building. He would ideally like to see a facilities study completed that shows

all city staff in one building allowing the library to expand. He urged the Council to take action as they may never get back to addressing this issue.

Councilor Davis expressed concerns with the driveway as it currently stands and is in favor of the extension as it will increase safety in the area for pedestrians.

Mayor Ogden stated that the Seneca Street extension would be nice to have but the facts are that it creates more problems than it solves. He noted that his biggest concerns are related to the financial implications of the extension. He feels that there are more cost effective solutions to solve the traffic issues and pedestrian safety in the area. He urged Council to defer the decision.

Councilor Brooksby stated that he is not opposed to the Seneca Street extension but would like to take time to evaluate the information further and have a cohesive plan in place before moving forward.

**Vote:** 4 - 3 MOTION CARRIED

Nay: Mayor Lou Ogden  
Councilor Wade Brooksby  
Councilor Frank Bubenik

#### **I. 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.*

1. Consideration of **Resolution No. 5181-14** Authorizing the Extension of the Term of the Cable Television Services Agreement with Comcast of Oregon II, Inc.

#### Citizen Comments

Tim Goodman, Comcast Governmental Affairs, stated Comcast's issue is not related to the issue of the extension of the contract but with Metropolitan Area Communications Commissions (MACC) decision to enter the formal negotiation process. Comcast is concerned with the financial implications for both parties upon entering into the formal process and they feel that an agreement can be reached using the informal process.

#### Council Discussion

Council President Beikman stated she hopes both parties can come to an agreement a civil fashion.

Mayor Ogden stated he sensed from MACC that since no progress was being made and that there were issues that were sticking points it was necessary for them to enter into the formal process.

Mr. Goodman stated that he feels that those issues can be worked through in an informal way.

Councilor Davis expressed her dissatisfaction with Mr. Goodman's statements and knows that MACC will continue to look out for the City's best interests.



MOTION by Council President Monique Beikman, SECONDED by Councilor Joelle Davis to approve Resolution No. 5181-14 authorizing the extension of the terms of the Cable Television Services Agreement with Comcast of Oregon II, Inc.

**Vote:** 7 - 0 MOTION CARRIED

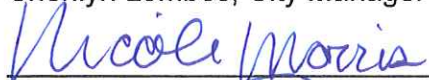
**J. COMMUNICATIONS FROM COUNCILORS**

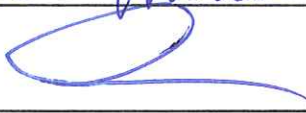
Council President Beikman asked when information regarding the facilities study for the Council Building would be coming back to Council. City Manager Lombos stated discussion would start at an upcoming work session.

**K. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 10:32 p.m.

Sherilyn Lombos, City Manager

 / Nicole Morris, Recording Secretary

 / Lou Ogden, Mayor