



City of Tualatin

TUALATIN CITY COUNCIL

Monday, November 9, 2015

JUANITA POHL CENTER

8513 SW Tualatin Road

Tualatin, OR 97062

WORK SESSION- Canceled
BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Monique Beikman

Councilor Wade Brooksby Councilor Frank Bubenik
Councilor Joelle Davis Councilor Nancy Grimes
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 your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be 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 City website at www.tualatinoregon.gov/meetings, the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

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

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org. Council meetings can also be viewed by live *streaming video* on the day of the meeting at www.tualatinoregon.gov/meetings.

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

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished 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, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

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

TIME LIMITS FOR PUBLIC HEARINGS

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

EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) 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) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 9, 2015

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for November 2015
2. New Employee Introduction- David Valenzuela, Community Services Officer
3. New Employee Introduction- Maya Benham, Legal Assistant
4. New Employee Introduction- Chris Reeves, Utility Technician I

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of October 12 and 26, 2015
2. Consideration of Approval of a New Liquor License Application for Starbucks Coffee #14371

E. SPECIAL REPORTS

1. Tualatin Area Aging Task Force and Ride Connection Update

F. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.

1. Consideration of **Resolution No. 5259-15** Authorizing the City Manager to Enter into an Intergovernmental Agreement with the City of Hillsboro and the Tualatin Valley Water District for a Temporary Connection to the 124th Avenue Pipeline

G. 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.

H. COMMUNICATIONS FROM COUNCILORS

I. ADJOURNMENT

City Council Meeting

Meeting Date: 11/09/2015

ANNOUNCEMENTS: Tualatin Youth Advisory Council Update

ANNOUNCEMENTS

Tualatin Youth Advisory Council Update for November 2015

A. YAC Update



November 9, 2015



TUALATIN YOUTH ADVISORY COUNCIL

Welcome New Members!

- 8th Grade
 - Kathryn Melvin
Hazelbook Middle School
- 9th Grade
 - Daniel Bixel
Tualatin High School
- Still recruiting new members!

West Coast Giant Pumpkin Regatta



Haunted House 2014

- Theme: Haunted Hotel
- Nearly 400 people attended
- Thank you to Facilities staff for helping build the set!



Starry Nights and Holiday Lights

- Friday, December 4
- Choir performances
- Holiday tree lighting
- Visit from Santa
- Crafts
- Holiday cards to soldiers





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 11/09/2015

SUBJECT: Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of October 12 and 26, 2015

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Work Session and Regular Meeting of October 12 and 26, 2015.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session Minutes of October 12, 2015](#)
[City Council Regular Meeting Minutes of October 12, 2015](#)
[City Council Work Session Minutes of October 26, 2015](#)
[City Council Regular Meeting Minutes of October 26, 2015](#)



Present: Mayor Lou Ogden; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Ed Truax

Absent: Council President Monique Beikman; Councilor Nancy Grimes

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;
Present: Community Services Director Paul Hennon; Planning Manager Aquilla Hurd-Ravich;
Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris;
Assistant City Manager Alice Cannon; Management Analyst II Kelsey Lewis; Parks
and Recreation Manager Rich Mueller; Management Analyst II Zoe Monahan; Public
Works Director Jerry Postema; Management Analyst Carrie Severson

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:07 p.m.

1. ***Metro Update with Councilor Craig Dirksen.***

Metro Councilor Greg Dirksen presented an update on Metro activities over the last quarter. He distributed the Regional Snapshot to the Council. The snapshot is a new monthly handout produced by Metro that will be covering different topics of importance.

Councilor Dirksen updated the Council on the SW Corridor Steering Committee meeting. He stated the main barrier to bringing light rail into downtown Tualatin is cost. He noted the federal government process does not allow the committee to discard a option based on cost. The committee in turn has declared the option nonviable and has been removed from consideration.

Mayor Ogden stated Bridgeport Village is the likely terminus for Tualatin. The area is still being studied and he does not want this option removed from the table due to funding capacity. Councilor Dirksen added no further decisions will be made until February.

Councilor Dirksen updated the Council on the Urban Growth Boundary (UGB) remand. The State remanded the study back to Metro and Metro Council is now working on addressing the findings from the State. Metro has been in conversations with Clackamas County regarding the remand but the County is not interested in the direction Metro is heading with the plan. Metro would like to keep the scope narrow and not reopen the boundary map. The first public hearing on the remand was held on October 8 with the majority of participants agreeing to keeping the scope narrow.

Mayor Ogden stated Tualatin's concern with the study is transportation. The

findings of the study don't address the current transportation issues and will not improve traffic in the area. He stated until the issues are addressed Tualatin cannot support the study.

Councilor Dirksen stated when the original study was submitted the transportation portion was part of the 2010 Transportation Plan. The 2010 plan did not include improvements to Borland Road and I-5, a update was completed in 2014 which includes those improvements qualifying them for funding. He noted that including these improvements in the UGB would only qualify them for development sometime in the next 50 years.

Mayor Ogden noted the Regional Mayors group has been meeting and is proposing changes to the UGB process. The group would like to see future plans focus on local aspirations and not on total capacity of the region. The mayors group also proposed the formation of a work group to help meet that goal.

Councilor Dirksen stated Metro does not currently have staff capacity to support a work group while they are working on the remand. He stated in the future he could see the group as a good tool when working through the UGB process.

2. *Outdoor Smoke & Tobacco Free City Spaces Policy.*

Parks and Recreation Manager Rich Mueller and Community Services Director Paul Hennon presented a proposal for a smoke and tobacco free city spaces policy. The proposed policy is in response to Council direction from a prior work session in which Council requested additional information. Manager Mueller presented the history of the proposal to date. The policy was originally brought forward as a initiative from Tualatin Together and ran through the advisory committees for their recommendations. The policy was brought to the Council in July 2014 and the policy was reconfirmed as a priority. Manager Mueller recapped existing practices and policies regarding tobacco uses on City properties. A matrix of surrounding jurisdictions policies was presented. Currently 88 jurisdictions have no smoking and tobacco policies. Manager Mueller stated Council feedback is being requested on scope, locations, schedule, public involvement, pre-mortem, and purpose. Next steps for the policy include public information and involvement and a draft ordinance with policy recommendations.

City Manager Lombos stated the policy is currently in the framing process as part of the decision making process set forth by Council.

Councilor Davis asked why marijuana is considered outside the scope. Director Hennon stated it is covered under other City regulations.

Councilor Bubenik stated he is supportive of smoke free environments around public facilities. He would like to receive City employee feedback on the policy as they will be affected. Councilor Bubenik added he would like to see heavy public involvement around the policy.

Mayor Ogden would like to see smoking only allowed in cars with the windows up. Councilor Davis added the State of Oregon follows that practice. Mayor Ogden added he would like to see rights of ways adjacent to public spaces included in smoke free spaces.

3. *Water Supply Shortage Curtailment Plan.*

Public Works Director Jerry Postema and Management Analyst Carrie Severson presented the draft Water Supply Shortage Curtailment Plan. Director Postema stated the plan addresses drought declarations and the process and procedures for informing and curtailing the public. Analyst Severson stated the City of Tualatin currently contracts with the Portland Water Bureau which requires the City to have a water curtailment plan to help protect the water system in case of drought. The four stages of the draft plan were reviewed. Stage one is a routine summer advisory that promotes conservation. Stage two is a moderate water supply shortage, building off stage one, and encourages voluntary conservation techniques. Stage three is a severe water supply shortage and enacts a mandatory curtailment of outdoor water use. Stage four is a critical water supply shortage and is a mandatory curtailment that prohibits outdoor and non-essential uses. Analyst Severson noted stage one through three are issued by the City Manager and stage four is issued by the Council.

Councilor Bubenik asked why Portland Water Bureau's curtailment triggers are different than the ones laid out in the draft plan. Analyst Severson stated the City's customer base is smaller so the percentages for curtailment are adjusted accordingly.

Councilor Bubenik noted the Portland Water Bureau states earthquake as the biggest threat to Portland. Their plan addressed moving the conduits from over the Sandy River to under it. He asked when that was slated to happen. Director Postema stated they are currently working on seismic updates and do not have a schedule at this time.

Councilor Davis questioned when the Council should become involved in the plan. She would like to see the Council be involved in stage three when mandatory requirements are put in place.

Mayor Ogden asked why the Council is responsible for declaring a stage four curtailment. Director Postema responded in a event of a catastrophic event it would require immediate action. Mayor Ogden would like to see Council notification added to all stages of the plan.

Director Postema stated the next steps are to prepare amendments to the water ordinance to adopt the plan. Mayor Ogden requested public involvement on the ordinance updates to serve as an education tool on the plan.

4. *Civil Exclusion Code.*

City Attorney Sean Brady presented proposed revisions to the civil exclusion process. Attorney Brady explained the current process only applies to the Library and Parks and are two separate processes. The proposed revisions provide for a uniform code, apply to all City facilities, and are issued based upon probable cause, such as felony and misdemeanor acts and violation of rules. The proposed timeline for exclusion is based on the severity of the offense and ranges from thirty days to one year. The proposal also includes an appeal and variance process available through the Municipal Court.

Councilor Davis asked if a exclusion longer than one year could be included. Attorney Brady stated it is not recommended based on due process considerations.

Mayor Ogden asked what enhancements are included. Attorney Brady stated if there is more than one violation within a certain time period the exclusion period could be doubled.

Attorney Brady stated next steps include bringing a draft ordinance back to Council. Mayor Ogden asked what the public involvement plan for the ordinance would be. He would minimally like to see it go before the advisory committees.

5. Council Meeting Agenda Review, Communications & Roundtable.

Councilor Davis proposed a resolution to the Council recognizing the second Monday in October as Indigenous People's Day in Tualatin. She stated draft language is based on the City of Portland and Seattle's resolutions.

Mayor Ogden stated he would only be in favor of the resolution with modifications in language to exclude subjects regarding racism and injustices.

Councilor Brooksby stated he would like to see the resolution put on a future work session for further discussion as he is not in favor of the negative tone of the resolution as presented.

Mayor Ogden stated the resolution is important and applauds the spirit of it. Consensus was reached to forward it to the regular meeting for further discussion and action.

Councilor Bubenik stated the City of Hillsboro and Tigard are considering pulling out of the Community Development Block Grant. He will be discussing the topic further during the regular Council meeting.

ADJOURNMENT

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

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 12, 2015

Present: Mayor Lou Ogden; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Ed Truax

Absent: Council President Monique Beikman; Councilor Nancy Grimes

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; 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; Recreation Supervisor Julie Ludemann; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson; Management Analyst II Kelsey Lewis; Parks and Recreation Manager Rich Mueller; Human Resources Director Janet Newport; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

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

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for October 2015

Members of the Tualatin Youth Advisory Council (YAC) presented a PowerPoint on their latest activities and upcoming events. The YAC will be participating in the West Coast Giant Pumpkin Regatta by hosting the concession stand, pumpkin crafts, face painting, and pumpkin bowling. The annual YAC Haunted House will be held October 21-24, 7-10pm, at the Van Raden Community Center. Monies raised from the two events will be used to allow members to attend the National League of Cities Conference.

2. Proclamation Declaring October 18-24, 2015 as National Friends of the Library Week

Proclamation moved to item E.2

3. Honor Eagle Scout Sid Sylace

Human Resources Manager Janet Newport introduced Sid Sylace. Sid was awarded the honor of Eagle Scout for replacing seven fence posts in the split rail fencing at Jurgen's Park. Mayor Ogden congratulated Sid on receiving the honor of Eagle Scout and presented him with a plaque.

4. West Coast Giant Pumpkin Regatta Announcement

Recreation Supervisor Julie Ludemann invited all citizens to attend the 12th Annual West Coast Giant Pumpkin Regatta to be held on Saturday, October 17, 10am-4pm, at the Tualatin Commons.

C. CITIZEN COMMENTS

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Emily Gonzalez expressed concerns regarding the proposed gas station in the Pony Ridge Area. She asked the Council to consider the risks to children and the impacts on the community.

Ted Saedi spoke about his concerns regarding the proposed gas station in Pony Ridge. His concerns included adverse affects in traffic, safety, property value, and security. He requested a master plan be prepared for the commercial area along Pacific Drive and Hwy 99.

Barbara Ouellette echoed Mr. Saedi's concerns regarding the location of the proposed gas station in the Pony Ridge Area.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Ed Truax to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of September 14, 2015

2. Consideration of Approval of a New Liquor License Application for Oregon Wine Services and Storage
3. Consideration of Approval of a New Liquor License Application for Sharkey's Woodfired Mexican Grill
4. Consideration of **Resolution No. 5253-15** Authorizing Personnel Services Updates for Non-Represented Employees for Fiscal Year 2015-16
5. Consideration of Resolution No. 5254-15 Establishing a Money Purchase Plan (401a) and Serving as a Declaration of Trust of the Vantage Trust Company Trust for the City of Tualatin Management Staff

E. SPECIAL REPORTS

1. Economic Development Video

Management Analyst Zoe Monahan shared the new Economic Development video. She stated the video will be used for business recruitment and awareness about Tualatin's economic development programs.

2. Update on the WCCLS Levy November Election

Library Manager Jerianne Thompson spoke about the countywide Library Services Levy. She stated the levy would replace the five year levy that is expiring. The new levy would be at a rate of twenty-two cents per \$1,000 of assessed value, an increase of five cents. The levy if approved would maintain and expand library services throughout the county. The current levy provides one-quarter of Tualatin's Library funding. She noted the Library is not advocating for or against the levy they are simply providing information to citizens.

Councilor Bubenik noted if the levy passes it would be the first increase to the levy in ten years.

City of Tigard Mayor John Cook and City of Cornelius City Manager Rob Drake spoke in favor of the levy. They encouraged all citizens to vote.

Councilor Bubenik read the proposed resolution.

Mayor Ogden encouraged all citizens to vote.

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Joelle Davis to adopt Resolution No. 5255-15 supporting the Washington County Cooperative Library Services Local Option Levy Measure 34-235 on the November 3, 2015 ballot.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

Marge Congress, President of the Friends of the Library, promoted membership in the organization. She stated the group has donated over \$125,000 to the Library since 2004. The Friends of the Library will be holding a Friendzee on October 24, 4:30-6:00 pm, to promote membership.

Councilor Bubenik read the proclamation declaring October 18-24, 2015 as National Friends of the Library Week.

3. Update of the Safety Levy for the November Election

City of Cornelius City Manager Rob Drake advocated in support of the Public Safety Levy. He stated the current levy supports special enforcement teams, victim's assistance and prosecution services, operations of the jail and work-release center, and emergency shelters for victims of domestic violence. The levy is a five year levy and remains unchanged at the current rate of forty-two cents per \$1,000 assessed value.

4. America's Best Communities Update

Deputy City Manager Sara Singer, Chamber Director Linda Moholt, and America's Best Community (ABC) team members Candice Kelly and John Bartholomew presented an update on the ABC grant. Member Kelly stated the group has begun working and planning for a STEAM mobile maker space. The ABC Team is focusing on this project as part of the quarter finalist round of the grant completion. A video was shared highlighting the ABC Team Vision.

5. Proclamation Recognizing Sara Singer for Her Outstanding Service to the City of Tualatin

Mayor Ogden presented Deputy City Manager Sara Singer with a proclamation recognizing her for her outstanding service to the City of Tualatin during her tenure with the City. He wished her well in future endeavors.

F. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.

1. Consideration of **Ordinance No. 1385-15** Establishing a Residential Parking Zone in David's Fox Run Subdivision

Police Chief Kent Barker presented an ordinance to establish a residential parking zone in David's Fox Run Subdivision. Residents in the subdivision approached the Council on July 27 and requested a parking zone be established. Chief Barker met with residents on August 17 to discuss the issues in the area. Issues presented include nonresident parking in the area, illegal parking, littering, and safety of children. The parking concerns in the area are directly impacted by the increase in residents in the nearby apartment complex and the growth of the Farmington Square Care Facility. Public outreach was conducted in the form of a letter and a survey to residents. Survey results were presented.

PUBLIC COMMENT

In Favor

Brett Hamilton spoke in favor of a parking permit zone. He expressed concerns with the proposed signage including the size and color.

Mark Watts spoke in favor of a parking permit zone. He presented pictures showing illegal parking in the area. Additional concerns presented included noise, trash, and blocking of mailboxes and driveways.

Laura Zepeda spoke in favor of a parking permit zone and echoed the concerns of Mr. Watts.

Cyndi Groth, President of the David's Fox Run Home Owners Association, spoke in favor of a permit parking zone. She stated the HOA has been dealing with concerns from residents for years and believes a permit parking zone is a good solution.

Walt Meihart spoke in favor of a parking permit zone.

Opposed

April Snyder, Executive Director at Farmington Square Care Facility, spoke in opposition of the parking permit zone. She offered suggestions included removal of one of the bike lanes, issuance of permits to the facility for department heads, and the potential use of the church parking lot.

COUNCIL QUESTIONS

Councilor Bubenik asked what would be involved in the removal of a bike lane. Assistant City Manager Cannon stated the area would have to be evaluated before a process for removal could be discussed.

Mayor Ogden asked how the Farmington Square Care Facility got approval without enough parking. Mayor Ogden asked Rich Niskin, Chairman of the Lutheran Church, if they would be open to renting parking spaces to the care facility. Mr. Niskin stated the Church is still evaluating how to proceed.

COUNCIL DELIBERATIONS

Councilor Davis stated she has experienced issues with the parking in the area and is in favor of the parking permit zone.

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis for first reading by title only.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

MOTION by Councilor Ed Truax, SECONDED by Councilor Frank Bubenik for second reading by title only.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis to adopt Ordinance No. 1385-15 Establishing a Residential Parking Zone in David's Fox Run Subdivision.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

G. 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. 5257-15 Recognizing the Second Monday of October as Indigenous People's Day

Councilor Davis proposed a resolution recognizing the second Monday of October as Indigenous People's Day.

MOTION by Councilor Ed Truax, SECONDED by Councilor Frank Bubenik to adopt Resolution No. 5257-15 Recognizing the Second Monday of October as Indigenous People's Day.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Council President Monique Beikman (Absent), Councilor Nancy Grimes (Absent)

MOTION CARRIED

H. COMMUNICATIONS FROM COUNCILORS

Councilor Bubenik stated the City of Hillsboro is considering pulling out of the consortium of cities that make up the Policy Advisory Board (PAB) for Washington County. The PAB is responsible for administering the Community Development Block Grant (CDBG). The City of Hillsboro pulling out would decrease the consortium's funding by 25%. The impact would be July 2018. The decrease in funding could impact the City of Tualatin as many local projects have been funded through the CDBG grant process.

I. ADJOURNMENT

Mayor Ogden adjourned the meeting at 9:13 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



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; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Associate Planner Cindy Hahn; Assistant City Manager Alice Cannon; Management Analyst II Kelsey Lewis; City Engineer Jeff Fuchs; Public Works Director Jerry Postema

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:35 p.m.

1. ***Procedure for Proclamation Requests and Agenda Item Additions.***

City Manager Sherilyn Lombos presented general information on procedures for proclamation requests and agenda item additions. She stated the city charter does not provide guidance on these issues other than to say the Council can adopt their own rules for its proceedings. Manager Lombos explained the current process for proclamation and agenda item requests. She currently recommends current items of this nature be brought up under council communications or by citizens under citizen comment. Her recommendation for future items is to limit the number of proclamations on any given Council meeting, establish appropriate subject matters for approval, and establish a procedure for requests that do not fall into approved categories.

Councilor Truax would like a Councilor to sponsor items and bring them forward at a work session for discussion.

Councilor Bubenik is not interested in creating a subject matter list. He would like to a Councilor sponsor to be required and to have the item brought forward at a work session.

Councilor Grimes would also like to see items brought to a work session before going onto an agenda.

Councilor Davis is not interested in a subject list. She wants to ensure Councilors are not spending time at work sessions word smithing proclamations.

Councilor Bubenik in turn added proclamations would need to be written and submitted by the requesting organization.

Mayor Ogden suggested four categories for approvals. The first three categories

included internal, associate organizations, and community organizations, these categories would not need to have items brought to a work session and could be placed directly on a agenda. The fourth category is a miscellaneous category; all items in this category would need to come before Council. There would be a process for this category that would include an application.

Councilor Brooksby asked about timing of items for discussion. It was agreed by Council there would be a minimum of four weeks required before being placed on a agenda.

Councilor Brooksby asked for a limit on the number of proclamations per meeting. He stated this allows for each proclamation to receive the attention it deserves. Councilors agreed to limit the number to two per meeting.

Council President Beikman added she would like to ensure someone from the requesting organization is present to accept the proclamation.

2. *Update from Our Oregon Presented by Jack Polales.*

Our Oregon Volunteer Jack Polales presented an update. Our Oregon is a group that works to support working Oregon families. The group currently is working on a initiative that would raise Oregon's corporate minimum tax rate by 2.5% for corporations that exceed \$25 million in Oregon sales. The tax increase would help to fund schools, services for seniors, and health care. Mr. Polales presented facts and figures to support their initiative.

3. *Mobile Food Vending and Food Carts Discussion.*

Planning Manager Aquilla Hurd-Ravich and Associate Planner Cindy Hahn presented current regulations and proposed modifications for mobile food vending and food carts. Current regulations were presented including limiting vending to a maximum of 180 days a calendar year, maximum can't size of 16 square feet, and location restrictions. Two options for changing the code were presented. The first option would include limited changes such as an increase in the size of mobile food units and extending or removing the 180 day limit on operations. The second option would provide more extensive changes that would allow for a wider variety of vending units and possible food cart pods.

Councilor Brooksby asked about location requirements. Manager Hurd-Ravich stated the current code requires carts to be located on private property with owner permission.

Mayor Ogden asked for clarification on the current code and what different categories of mobile vendors would look like. Manager Hurd-Ravich provided clarification and explained the four possible categories of mobile food vendors as provided in a example from the City of Beaverton.

Councilor Davis is in favor of option two. She would like to look more extensively at the ordinance and discuss further when more information can be provided by staff.

Councilor Brooksby asked what the time frame on ordinance updates would be.

Manager Hurd-Ravich stated it would take three to five months to make changes.

Councilor Davis asked if the Council would be interested in issuing a temporary variance to the Pupu Shack owners while ordinance changes are in process. Council consensus was reached to not issue a temporary variance.

Mayor Ogden presented concerns with allowing food carts to permanently occupy space in the City. His main concern is with the aesthetics of the carts and their ability to meet the City's high standards. He would be open to seasonally allowing carts.

4. Council Meeting Agenda Review, Communications & Roundtable.

None.

ADJOURNMENT

The work session adjourned at 6:45 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 26, 2015

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; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Street/Sewer/Storm Division Manager Bert Olheiser; Assistant City Manager Alice Cannon; Management Analyst II Kelsey Lewis; City Engineer Jeff Fuchs; Lieutenant Greg Pickering; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:02 p.m.

B. ANNOUNCEMENTS

1. New Employee Introduction- Allen Dahlberg, Public Works Technician I

Public Works Director Jerry Postema introduced Public Works Technician I Allen Dahlberg. The Council welcomed him.

2. Tree For All Award presented by Clean Water Services

Public Works Director Jerry Postema introduced Clean Water Services Watershed Management Department Director Bruce Roll. Mr. Roll stated it is the tenth anniversary of the Tree For All program. The program was originally created to bring all 12 cities in Washington County together to plant trees. This year Clean Water Services issued a challenge to cities to plant one million trees in one year. The challenge started last October and cities not only beat the goal of one million trees but doubled it. Mr. Roll showed a video of the project over the last year. A plaque was presented to the City for its participation in the program.

Mayor Ogden thanked Clean Water Services for the recognition.

3. Proclamation Declaring October 23-31, 2015 as Red Ribbon Week in the City of Tualatin

Members of the StandUp Tualatin group from Tualatin High School came to accept the proclamation. Members explained the group was formed to promote healthy choices through positive social norms. Red Ribbon Week activities were summarized and Councilors were invited to join.

Mayor Ogden read the proclamation declaring October 23-21, 2015 as Red Ribbon Week in the City of Tualatin.

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent 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.

Dale Potts announced the Veterans Appreciation Day Breakfast to be held November 9. The sign-up deadline is November 3. More information can be found on the City's website.

Tracy Swan addressed the Council regarding concerns he has with Police Chief Kent Barker.

Dan Hardy expressed concerns regarding future development of a gas station in the Pony Ridge development. Mayor Ogden directed Mr. Hardy to meet with Community Development staff regarding upcoming public hearings on the subject.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed 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 Frank Bubenik to approve the consent agenda.

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

MOTION CARRIED

1. Consideration of Recommendations from the Council Committee on Advisory Appointments
2. Consideration of **Resolution No. 5256-15** Authorizing the City Manager to Execute Concurrence of Washington County's Vacation of Lower Boones Ferry Road Right-Of-Way for The Pointe At Bridgeport

- 3. Consideration of **Resolution No. 5258-15** to Change the Type of Employee Contributions for the City of Tualatin from Member Paid Pre-Tax (MPPT) to Employer Paid Pre-Tax (EPPT) Contributions and to be Deemed "Picked Up" for Purposes of Internal Revenue Code Section 414(h)(2).

E. 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.

F. COMMUNICATIONS FROM COUNCILORS

Councilor Bubenik reminded citizens to get out and vote on the Library and Public Safety Levies.

G. ADJOURNMENT

Mayor Ogden adjourned the meeting at 7:42 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Nicole Morris, Deputy City Recorder

DATE: 11/09/2015

SUBJECT: Consideration of Approval of a New Liquor License Application for Starbucks Coffee #14371

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a new liquor license application for Starbucks Coffee #14371.

RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Starbucks Coffee #14371.

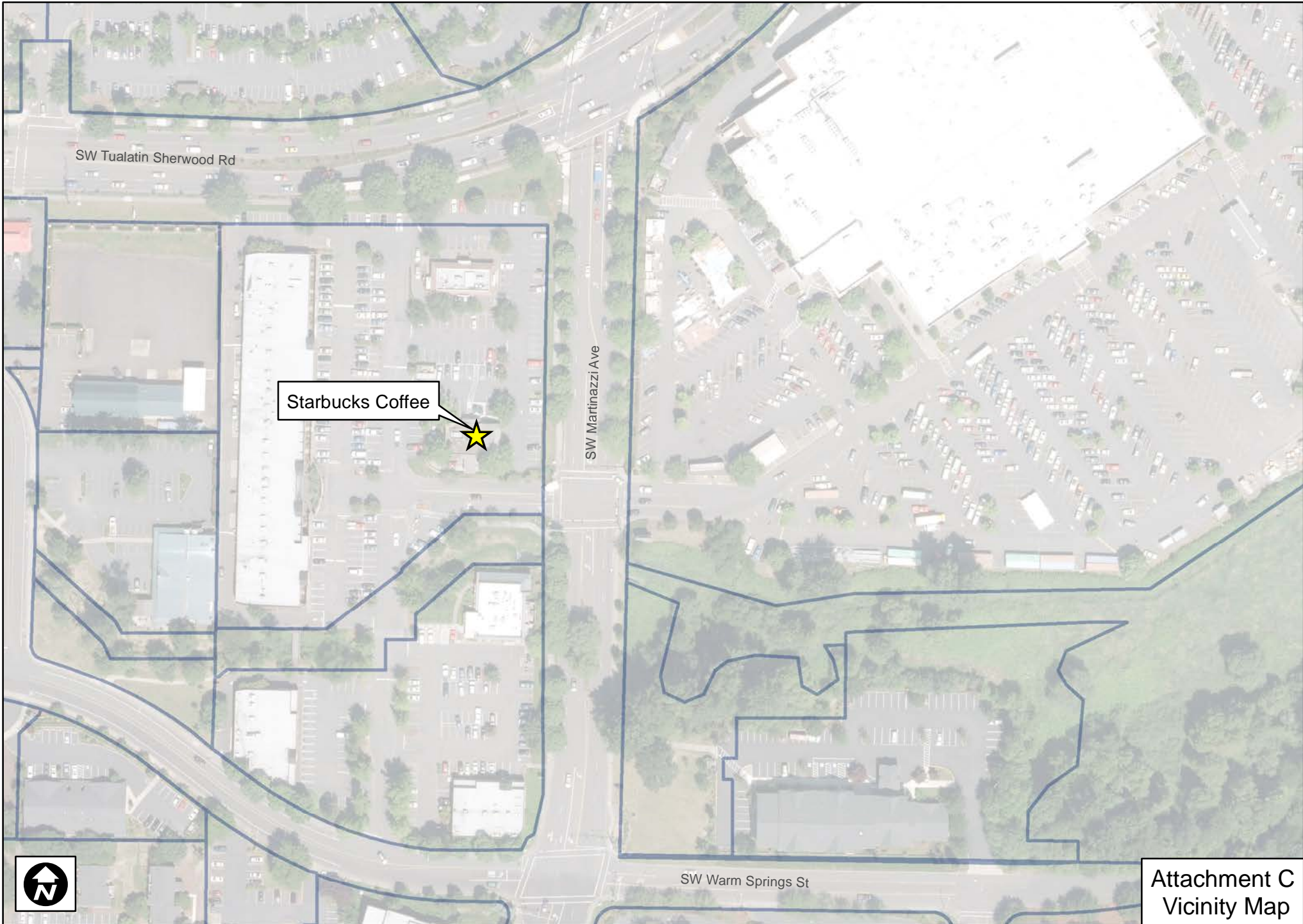
EXECUTIVE SUMMARY:

Starbucks Coffee #14371 has submitted a new liquor license application under the category of limited on-premises sales. This would permit them to sell factory-sealed containers of malt beverages, wine, and cider for on-site consumption. The business is located at 19321 Martinazzi Avenue. The application is in accordance with provisions of Ordinance No.680-85 which established a procedure for review of liquor licenses by the Council. 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 the new liquor license application and recommended approval. 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: [Attachment A - Vicinity Map](#)
[Attachment B- License Types](#)
[Attachment C- Application](#)



OREGON LIQUOR CONTROL COMMISSION

LICENSE TYPES

FULL ON-PREMISES SALES

- **Commercial Establishment**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location (*this is the license that most “full-service” restaurants obtain*). Sell malt beverages for off-site consumption in securely covered containers provided by the customer. Food service required. Must purchase distilled liquor **only** from an Oregon liquor store, or from another Full On- Premises Sales licensee who has purchased the distilled liquor from an Oregon liquor store.
- **Caterer**
Allows the sale of distilled spirits, malt beverages, wine, and cider by the drink to individuals at off-site catered events. Food service required.
- **Passenger Carrier**
An airline, railroad, or tour boat may sell and serve distilled spirits, malt beverages, wine, and cider for consumption on the licensed premises. Food service required.
- **Other Public Location**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, where the predominant activity is not eating or drinking (for example an auditorium; music, dance, or performing arts facility; banquet or special event facility; lodging fairground; sports stadium; art gallery; or a convention, exhibition, or community center). Food service required.
- **Private Club**
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, but only for members and guests. Food service required.

LIMITED ON-PREMISES SALES

Sell and serve malt beverages, wine, and cider for onsite consumption. Allows the sale of malt beverages in containers (kegs) for off-site consumption. Sell malt beverages for off-site consumption in securely covered containers provided by the customer.

OFF-PREMISES SALES

Sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises. Eligible to provide sample tastings of malt beverages, wine, and cider for consumption on the premises. Eligible to ship manufacturer-sealed containers of malt beverages, wine, or cider directly to an Oregon resident.

BREWERY PUBLIC HOUSE

Make and sell malt beverages. Import malt beverages into and export from Oregon. Distribute malt beverages directly to retail and wholesale licensees in Oregon. Sell malt beverages made at the business to individuals for consumption on or off-site.

WINERY

Must principally produce wine or cider in Oregon. Manufacture, store, and export wine and cider. Import wine or cider *If bottled, the brand of wine or cider must be owned by the licensee*. Sell wine and cider to wholesale and retail licensees in Oregon. Sell malt beverages, wine, and cider to individuals in Oregon for consumption on or off-site.



CITY OF TUALATIN

LIQUOR LICENSE APPLICATION

Date 10-15-2015

IMPORTANT: *This is a three-page form. You are required to complete all sections of the form.* If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.
Thank you for your assistance and cooperation.

SECTION 1: TYPE OF APPLICATION

- Original (New) Application - \$100.00 Application Fee.
- Change in Previous Application - \$75.00 Application Fee.
- Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License # _____
- Temporary License - \$35.00 Application Fee.

SECTION 2: DESCRIPTION OF BUSINESS

Name of business (dba): Starbucks Coffee #14371

Business address 19321 Martinazzi Avenue City Tualatin State OR Zip Code 97062

Attn: Mailstop S-TAX2 License Services, PO Box 34442
Mailing address _____ City Seattle State WA Zip Code 97062

Telephone # (503) 612-1614 Fax # _____

Name(s) of business manager(s) First Marie Middle Martini Last Schroeder

Date of birth _____ Social Security # _____ ODL# _____ M _____ F _____ X _____

Home address _____ City _____ State OR Zip Code _____
(attach additional pages if necessary)

Type of business Restaurant selling coffee, other non-alcoholic beverages, food, beer and wine.

Type of food served Wide range of breakfast, lunch and dinner options, including the new Evenings menu.
Menu attached.

Type of entertainment (dancing, live music, exotic dancers, etc.) Recorded music

Days and hours of operation Monday-Sunday 5:00am to 9:00pm

Food service hours: Breakfast All Lunch All Dinner All

Restaurant seating capacity 36 Outside or patio seating capacity 9

How late will you have outside seating? 9pm How late will you sell alcohol? 9pm

How many full-time employees do you have? 12 Part-time employees? 6

SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants Coffee House Holdings, Inc.

Type of liquor license (refer to OLCC form) Limited On-Premises

Form of entity holding license (check one and answer all related applicable questions):

INDIVIDUAL: If this box is checked, provide full name, date of birth, and residence address.
Full name _____ Date of birth _____
Residence address _____

PARTNERSHIP: If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.
Full name _____ Date of birth _____
Residence address _____
Full name _____ Date of birth _____
Residence address _____

CORPORATION: If this box is checked, complete (a) through (c).
(a) Name and business address of registered agent.
Full name Coffee House Holdings, Inc.
Business address 19321 Martinazzi Avenue, Tualatin, OR 97062

(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.
Full name Starbucks Coffee Date of birth N/A
Residence address Attn: Mailstop S-TAX2 License Services, PO Box 34442, Seattle, WA 97062

(c) Are there more than 35 shareholders of this corporation? Yes No If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.
Full name of president: Clarice Turner Date of birth: [REDACTED]
Residence address: [REDACTED]
Full name of treasurer: Andrew Wolff Date of birth: [REDACTED]
Residence address: [REDACTED]
Full name of secretary: Sophie Hager Hume Date of birth: [REDACTED]
Residence address: [REDACTED]

LIMITED LIABILITY COMPANY: If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.
Full name: _____ Date of birth: _____
Residence address: _____

Full name: _____ Date of birth: _____
Residence address: _____

OTHER: *If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.*

SECTION 4: APPLICANT SIGNATURE

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

Signature _____ Date 9/30/15

For City Use Only

Sources Checked:

- DMV by [Signature]
- LEDS by [Signature]
- TuPD Records by [Signature]
- Public Records by [Signature]

- Number of alcohol-related incidents during past year for location.
- Number of Tualatin arrest/suspect contacts for _____

It is recommended that this application be:

- Granted**
- Denied**

Cause of unfavorable recommendation: _____

Signature _____ Date 10/19/15

Kent W. Barker
Chief of Police
Tualatin Police Department



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kathy Kaatz, Program Coordinator
Jerald Postema

DATE: 11/09/2015

SUBJECT: Consideration of **Resolution No. 5259-15** Authorizing the City Manager to Enter into an Intergovernmental Agreement with the City of Hillsboro and the Tualatin Valley Water District for a Temporary Connection to the 124th Avenue Pipeline

ISSUE BEFORE THE COUNCIL:

Authorize the City Manager to enter into an Intergovernmental Agreement (IGA) between the City of Hillsboro, the Tualatin Valley Water District (TVWD) and the City of Tualatin for a temporary connection of the 124th Avenue pipeline for the purpose of filling and flushing of the transmission lines until the main line is flowing potable water to Hillsboro and Tualatin Valley Water District, which is scheduled for 2026.

RECOMMENDATION:

Adoption of the attached Resolution 5259-15 (Attachment B), authorizing the City Manager to enter into the IGA with City of Hillsboro, Tualatin Valley Water District and City of Tualatin for a temporary connection of the 124th pipeline for the purpose of filling and flushing of the transmission lines until the main is flowing potable water to Hillsboro and Tualatin Valley Water District, scheduled for 2026.

EXECUTIVE SUMMARY:

The 124th Avenue pipeline will be built as part of the Washington County SW 124th Avenue Extension Project for roadway and waterline improvements, which will commence at SW Tualatin-Sherwood Road and continue southerly and then easterly along SW Tonquin Road to its terminus on SW Grahams Ferry Road.

The 124th Avenue pipeline is a section of the Willamette Water Supply System (WWSS) transmission pipeline from Wilsonville to Hillsboro and Tualatin Valley Water District, which will be constructed, yet not placed in service until 2026 when construction of the remainder of the components are completed. This temporary connection will no longer be needed by TVWD and Hillsboro once construction of the WWSS is complete and the system begins water service to TVWD and Hillsboro.

This IGA will also provide an opportunity for the City of Tualatin to establish an emergency

connection in the future to the 124th Avenue pipeline similar to existing emergency connection facilities with the City of Wilsonville.

Attachments: B. Resolution 5259-15
 IGA - TVWD Hillsboro Temp Water Connection

RESOLUTION NO. 5259-15

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF HILLSBORO AND TUALATIN VALLEY WATER DISTRICT (TVWD) FOR TEMPORARY AND EMERGENCY WATER SUPPLY CONNECTIONS.

WHEREAS, ORS 190 authorizes units of local government to enter into intergovernmental agreements; and

WHEREAS, the City of Hillsboro and TVWD have agreed to construct the S.W. 124th Avenue Water Pipeline (124th Avenue Pipeline) which will be part of Washington County's S.W. 124th Avenue Extension Project for roadway and waterline improvements; and

WHEREAS, the 124th Avenue Pipeline will need a temporary potable water connection between the 124th Avenue Pipeline and the City of Tualatin's water system to provide potable water to TVWD and Hillsboro for the purposes of testing and maintaining the 124th Avenue Pipeline; and

WHEREAS, this IGA will also provide an opportunity for the City of Tualatin to establish an emergency connection in the future to the 124th Avenue Pipeline similar to Tualatin's existing emergency connection facilities with the City of Wilsonville;

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

Section 1. The City Manager is authorized to execute an IGA with the City of Hillsboro and TVWD for temporary and emergency water supply connections, in a form substantially similar to that set forth in Attachment A.

Section 2. The City Manager is authorized to make administrative modifications to the Intergovernmental Agreement to fully implement its intent.

Section 3. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 9th day of November, 2015.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM:

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

Attachment A

Resolution No. 5259-15

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF HILLSBORO, CITY OF TUALATIN AND TUALATIN VALLEY WATER DISTRICT FOR TEMPORARY AND EMERGENCY WATER SUPPLY

This Intergovernmental Agreement (Agreement) is entered into between the City of Hillsboro, an Oregon municipal corporation (Hillsboro), the City of Tualatin, an Oregon municipal corporation (Tualatin) and the Tualatin Valley Water District, a domestic water supply district organized under ORS Chapter 264 (TVWD), also referred to as Party or collectively as “Parties.”

RECITALS:

WHEREAS, ORS 190 authorizes units of local government to enter into intergovernmental agreements for the performance of any or all functions and activities that a Party to the Agreement has the authority to perform; and

WHEREAS, Hillsboro and TVWD have agreed to construct the S.W. 124th Avenue Water Pipeline (124th Avenue Pipeline) which will be part of the Willamette Water Supply System (WWSS) providing municipal drinking water from the Willamette River to their respective water systems.

WHEREAS, the 124th Avenue Pipeline will be built as part of Washington County’s S.W. 124th Avenue Extension Project for roadway and waterline improvements, which will commence at SW Tualatin-Sherwood Road and continue southerly and then easterly along SW Tonquin Road to its terminus on SW Grahams Ferry Road; and

WHEREAS, the 124th Avenue Pipeline is a section of the WWSS transmission pipeline from Wilsonville to Hillsboro and TVWD, which will be constructed, yet not placed into service until 2026, when construction of the remainder of the WWSS components are completed; and,

WHEREAS, the 124th Avenue Pipeline will need a temporary potable water connection between the 124th Avenue Pipeline and the City of Tualatin’s water system for the purposes of testing and maintaining the 124th Avenue Pipeline; and

WHEREAS, the Parties anticipate there will be additional sections of the WWSS that will be constructed where a temporary connection with the Tualatin system might be used for the purpose of testing and maintaining those sections until the WWSS is complete; and

WHEREAS, the temporary potable water connection will no longer be needed by TVWD and Hillsboro once construction of the WWSS is complete and the System begins water service to TVWD and Hillsboro; and,

WHEREAS, at that time, Tualatin may wish to construct improvements to make a permanent twelve inch (12”) emergency connection to the 124th Avenue Pipeline similar to Tualatin’s existing emergency connection facilities with the City of Wilsonville; and

WHEREAS, if Tualatin wishes to modify the connection for emergency water supply, the Parties will negotiate a separate emergency water use agreement at that time and Tualatin will

not use its connection to the WWSS for emergency purposes in the absence of an agreement for emergency use.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set further below, the Parties agree as follows:

- 1. Project Description:** The Parties agree that Hillsboro and TVWD may design and construct a temporary four inch (4") connection between the Tualatin water distribution system and the 124th Avenue Pipeline within the City of Tualatin at such location as the Parties mutually agree. The point of connection shall be in a public right of way so that Tualatin, Hillsboro and TVWD have full and complete access at all times. Hillsboro and TVWD will also cause the design to provide for a future permanent twelve inch (12") emergency connection so that Tualatin can obtain future emergency water supply for its water system from the 124th Avenue Pipeline.

Subject to the allocation of costs and Tualatin's election under Section 2e below, TVWD and Hillsboro will cause to be designed the following improvements as part of the 124th Avenue Pipeline Project:

- a. A twelve inch (12") emergency connection at the S.W. 124th Avenue Pipeline and at Tualatin's sixteen inch (16") transmission line at mutually agreed locations.
 - b. A temporary connection will be made between the pipelines using 4" piping, fittings, isolation valves, back flow device and flow meter.
 - c. If Tualatin elects not to proceed as provided in Section 2, then TVWD and Hillsboro shall make the Tualatin side connection between the S.W. 124th Avenue Pipeline and Tualatin's system in 4" sizing.
- 2. Cost:** The cost of this Project will be determined by a formula described in Exhibit A, attached hereto and incorporated by reference as though fully set forth. Generally, cost of this Project will be determined as follows:
 - a. TVWD and Hillsboro will be solely responsible for all costs to design, construct, operate, maintain, repair and replace a 4" temporary connection for testing and maintenance of the 124th Avenue Pipeline until such time as the entire WWSS is completed and water is produced and delivered from the WWSS.
 - b. Tualatin will be solely responsible for all costs to design and construct a 12" emergency connection, if it so elects, at the same location as the temporary 4" connection or such other location as the Parties mutually agree. If Tualatin elects not to construct the emergency connection as part of the Project, Tualatin will still be obligated to reimburse TVWD and Hillsboro for the costs incurred by TVWD and Hillsboro, including but not limited to design costs incurred as a result of the design consultant.
 - c. The design of the 12" emergency connection shall be compatible with and provide for interoperability so that TVWD and Hillsboro may use the 4" temporary connection for their purposes. TVWD and Hillsboro will cause their design consultant to provide an engineer's estimate to construct the 4" temporary

connection to periodically draw testing and maintenance water from Tualatin for use in sections of the Willamette Water Supply System. This will be “Cost A”. TVWD and Hillsboro will cause their design consultant to provide an engineer’s estimate for the cost of constructing a 12” emergency connection based upon mutually agreed design standards for the work listed in Section 1. There will be no vault or other Tualatin permanent connection construction cost included in the estimate. This will be “Cost B”.

- d. The Parties will then calculate the proportion of Cost A to Cost B (i.e. Cost A divided by Cost B X 100 = Cost A percentage). The remaining portion will be the Cost B percentage.
- e. The 124th Avenue Pipeline Project will request a bid from the selected pipeline contractor for the work described in Section 1. Tualatin will have 5 days from receipt of bids to determine whether to have the work included in the construction contract and inform TVWD and Hillsboro of its election. If Tualatin elects to proceed, TVWD and Hillsboro will be responsible for the Cost A percentage of the actual construction cost incurred and Tualatin will be responsible for the Cost B portion of the actual construction cost incurred.
- f. Tualatin will be billed for their portion of connection (Cost B) as costs are billed by the designer and contractor to TVWD and Hillsboro. Payment will be due and payable to TVWD within 30 days of invoice.
- g. TVWD and Hillsboro will notify Tualatin of any potential construction contract change orders that may affect Tualatin’s cost at the earliest possible time after TVWD and Hillsboro receive notice from Washington County. TVWD and Hillsboro will endeavor to avoid or minimize change order requests from Washington County that affect Tualatin. If Tualatin does not approve the change order that increases Tualatin’s cost, the Parties recognize that Washington County, in its sole discretion or with approval by TVWD and Hillsboro, may still approve the change order and in such case TVWD and Hillsboro will be responsible to pay the change order amount; provided however that TVWD and Hillsboro may seek contribution from Tualatin for Tualatin’s proportional share and the Parties reserve all rights as to responsibility for payment and agree to resolve the matter through dispute resolution.

3. System Connections and Operation Protocols:

- a. Following construction, each Party shall appoint a representative to coordinate the use, operation, maintenance, repair and replacement of the connection and valves according to prudent utility practices.
- b. The TVWD/Hillsboro temporary connection installed as part of the SW 124th Pipeline construction will include two installed 4” isolation valves, meter and an approved backflow prevention device that will connect to the Tualatin system. Both isolation valves will remain closed to the Tualatin system except for those periods when water from Tualatin will be used to test and maintain the WWSS pipeline.
- c. The Parties will be responsible for, and maintain control of, separate valves including all costs associated therewith. The portion of the connection improvements from the valve closest to Tualatin’s system will be the responsibility of Tualatin. The portion from the valve closest to the 124th Avenue

Pipeline meter and mutually approved backflow prevention device will be the joint responsibility of TVWD and Hillsboro.

- d. All parties agree to maintain their portion of the connection in good working order so that they are available to be put in service when a water draw is needed.
 - e. The potential 12” emergency connection shall be the responsibility of Tualatin and part of the Future Tualatin Agreement referred to in Section 5.
4. **Term:** The term of this Agreement and use of water by TVWD and Hillsboro shall continue until construction of the Willamette Water Supply System is complete and begins potable water delivery service to TVWD and Hillsboro, anticipated to occur in 2026, at which time, this agreement will expire. Upon expiration, and if Tualatin does not wish to have the 12” emergency connection, then TVWD and Hillsboro will remove the temporary 4” connection at their cost and expense as provided in Section 6.
 5. **Future Tualatin Agreement:** This Agreement confers no rights or privileges upon Tualatin to the Willamette Water Supply System, to the 124th Avenue Pipeline segment or to receive any water through the WWSS. If Tualatin desires to provide for a permanent 12” emergency connection to the WWSS, then prior negotiation and adoption of a separate agreement regarding construction, connection, metering and use will be required. TVWD and Hillsboro will not provide WWSS water to Tualatin in the absence of such an agreement. Tualatin will be required to bear all costs of making the conversion to a permanent connection, including cross connection control devices and a meter to measure usage.
 6. **Removal of Temporary Connection:** If Tualatin does not participate in the future 12” emergency interconnection upon termination of this Agreement, Hillsboro and TVWD, at their sole cost, must obtain required permits, pay necessary fees, remove the 4” temporary pipe, meter, backflow device and all appurtenances associated with the temporary connection and restore all areas disturbed during removal of all temporary pipe and connections. Hillsboro and TVWD must remove and cap or plug the pipelines or connections in a manner approved by the Tualatin City Engineer.
 7. **Construction Coordination:** The design and construction of the items in this agreement will be conducted as part of the 124th Avenue Pipeline and the SW 124th Extension Project. The Parties will coordinate with each other during the design and construction to provide for minimal inconvenience to each other. The Parties will each conduct review and approval of plans at no charge to the other Parties. TVWD and Hillsboro will coordinate with the Tualatin on the inspection of the facilities associated with the connection.
 8. **Fiscal and Operational Impacts and Use of Water:** The Parties agree to work together to determine how best to provide the water to fulfill the need to test and maintain the sections of the Willamette Water Supply System. When temporary water is required (“water draw”), TVWD and Hillsboro will notify Tualatin to coordinate the timing, method and conditions for drawing water into the WWSS from Tualatin. The water will either be sold by Tualatin to TVWD and Hillsboro or TVWD water will be wheeled through the Tualatin System as set forth in Section 9. The method selected will avoid or minimize adverse operational effects on the Tualatin system (e.g. significant decrease in

pressure or water quality) or adverse fiscal effects on Tualatin's guaranteed minimum purchase or peaking factors under its existing Regional Water Sales Agreement with the City of Portland. The Parties agree that they will hold harmless and indemnify each other from adverse fiscal or operational impacts as a direct result of this agreement.

- 9. Cost of Water and Payment:** Following coordination and selection of either sale by Tualatin or wheeling TVWD water through Tualatin, then at the conclusion of a water draw under this agreement, Tualatin will read the meter and determine the quantity supplied.
- a. If the sale option is used, Tualatin will sell water to TVWD and Hillsboro during the months of October through May, but only the cost of the water shall be charged for the actual water used at a rate per hundred cubic feet (ccf) agreed upon by the parties that is at or below the approved residential customer class rate adopted by Tualatin. Recognizing the temporary and sporadic nature of the need, there will be no system delivery charge, system development charge, connection fee or other fixed charge associated with this use; or
 - b. If it is determined by all Parties that it is best to wheel TVWD water from the Washington County Supply Line through Tualatin's System, then Tualatin will agree to allow the wheeling of water at a rate agreed upon by the Parties, taking into consideration the Tualatin water system facilities used to deliver water to the 124th Avenue Pipeline connection point and cost of service principles.
 - c. The cost of water, as determined under Section 9a or 9b, will be billed by Tualatin to TVWD and payable within 30 days of invoice. TVWD and Hillsboro agree to pay Tualatin for the cost as determined above.
- 10. Indemnity.** This Agreement is for the benefit of the parties only. Each Party agrees to indemnify and hold harmless the other Party (ies), and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Notwithstanding the foregoing, each Party shall be solely responsible for any contract claims, delay damages, permit compliance or permit violations or similar items to the extent arising from or caused by the action or inaction of the Party under this Agreement.
- 11. General Provisions.**
- 11.1 Notices.** Any notices regarding operation, maintenance, repair, replacement, breach, termination, or other issues shall be deemed sufficient if deposited in the United States Mail, First Class, postage prepaid, addressed to the Parties as follows:

To Tualatin:

City of Tualatin
Attn: City Manager
18880 SW Martinazzi Ave.
Tualatin OR 97062

To Hillsboro:

City of Hillsboro
Attn: Water Director
150 East Main Street
Hillsboro OR 97123

To TVWD:

Tualatin Valley Water District
Attn: Chief Executive Officer
1850 SW 170th Avenue
Beaverton OR 97003

11.2 Dispute Resolution: The Parties hereby agree that resolution of any and all disputes arising out of the terms of this Agreement or interpretation thereof shall follow a prescribed process beginning with negotiation and subsequently moving to mediation, provided the dispute remains unresolved. If the interests of TVWD and Hillsboro are aligned on a dispute with Tualatin, TVWD and Hillsboro shall be deemed a single Party for purposes of dispute resolution. If a dispute arises between the Parties regarding this Agreement, the Parties shall follow the dispute resolution provisions below:

- a. Written Notice. A written notice regarding the dispute (Dispute Notice) shall be sent to the other Parties.
- b. Negotiations. Within thirty (30) days following receipt of the Dispute Notice, the Parties to the dispute ("Disputing Parties") shall each assign a representative to participate in good faith negotiations for a period not to exceed sixty (60) days after appointment of the representatives.
- c. Mediation. If after the sixty (60) day period of negotiation (or a period not to exceed ninety (90) days following the receipt date of the Dispute Notice), the dispute(s) cannot be resolved, the Disputing Parties agree to submit the matter to non-binding mediation. The Disputing Parties shall attempt to agree on a mediator in a period not to exceed one hundred twenty (120) days following the receipt date of the Dispute Notice and proceed accordingly.
- d. Litigation. If the Parties cannot agree on a mediator within the allocated time, or if the mediator cannot resolve the dispute(s) within one hundred eighty (180) days following the receipt date of the Dispute Notice, either of the Disputing Parties may avail itself of the remedies provided for herein. Moreover, each of the Disputing Parties shall bear its own legal and expert witness fees at all stages of the dispute resolution process, including at trial or on any appeals. In addition, nothing shall prevent the Disputing Parties from waiving any of the dispute resolution steps by mutual consent.

11.3 Default. The failure of a Party to perform any duty imposed upon it by this Agreement shall constitute a default.

- a. Notice of Default. The non-defaulting Party shall have the right to give the defaulting Party a written notice of default, which shall describe the default in reasonable detail and state the day by which the default must be

cured, which date shall be at least ten (10) days after receipt of the notice of default.

b. Rights Upon Default. Recognizing time is of the essence, a defaulting Party shall have ten (10) days to cure a default, following written notice thereof, unless cure within such (10) day period is not reasonably possible; in that case, the period to cure the default shall be extended to thirty (30) days, or such other time that the non-defaulting Party is willing to agree to, provided that the defaulting Party has diligently begun to work, in good faith, to cure the default within the original prescribed ten (10) day period. In addition, the non-defaulting Party may pursue any other remedy available at law or in equity against the defaulting Party, subject to the dispute resolution procedures set forth in Section 10.2.

11.4 Termination. Any Party may terminate this Agreement upon written notice to each of the other Parties, under any of the following conditions:

- a. For breach of a material term of this Agreement
- b. By mutual agreement to terminate for convenience.

11.5 Excused Performance. In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enacts of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

11.6 Effective Date. This Agreement is effective on the last date signed by the Parties below and remains in effect until terminated as provided herein.

11.7 Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the Parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

11.8 Assignment/Additional Parties. TVWD and Hillsboro may create further Intergovernmental Agreement(s) between them as well as with other municipal water suppliers that may own or use the 124th Avenue Pipeline and the WWSS. Tualatin agrees to assignment of the rights, obligations and covenants of this Agreement to include those municipal water suppliers individually along with TVWD and Hillsboro or to assign rights, obligations and covenants of this Agreement to a successor intergovernmental entity formed by TVWD and Hillsboro under ORS Chapter 190.

11.9 Adherence to Law. The Parties shall adhere to all applicable federal, state, and local. Any certificates, licenses, or permits are required by law to obtain or maintain in order to perform any work described in this Agreement shall be obtained and maintained throughout the term of this Agreement.

11.10 Governing Law. This Agreement is governed by the laws of the State of Oregon. Venue for any litigation shall be in Washington County, Oregon.

- 11.11 Nonwaiver.** Failure by any Party at any time to require performance by any other Party of any of the provisions of this Agreement shall in no way affect the Party's rights hereunder to enforce the same, nor shall any waiver by the Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.
- 11.12 Severability.** In case any one or more of the provisions contained in this Agreement shall be judicially deemed invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 11.13 Amendment.** The terms of this Agreement may be amended or supplemented by mutual agreement of the Parties. Any amendment or supplement shall be in writing, shall refer specifically to this Agreement, and shall be executed by the Parties.
- 11.14 Survival Terms and Conditions.** The provisions of this Agreement shall survive its termination to the full extent necessary for their enforcement and the protection of the Party in whose favor they run.
- 11.15 Time of the Essence.** Time is expressly made of the essence in the performance of this Agreement.
- 11.16 Number, Gender and Captions.** In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.
- 11.17 Good Faith and Cooperation.** The Parties agree and represent to each other good faith, cooperation, and due diligence in the performance of all obligations of the Parties pursuant to this Agreement.
- 11.18 Interpretation.** This Agreement shall be deemed and construed to have been prepared mutually by each Party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any Party.
- 11.19 Counterparts.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and, when taken together, shall constitute one and the same agreement.
- 11.20 Authority.** Each person signing on behalf of a Party hereby warrants actual authority to bind his/her respective Party.
- 11.21 Access to Books, Records, and Accounting.** TVWD and Hillsboro shall maintain books, records and reports regarding the connection to the 124th Avenue Pipeline showing all income, receipts, expenses and costs. These records shall be maintained for a period of 3 years following final completion. All such books, records, and reports may be examined and copies made by Tualatin staff at reasonable times upon reasonable notice.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below

<p>CITY OF TUALATIN</p> <p>By: _____</p> <p>Date: _____</p> <p>Approved as to Form</p> <p>_____</p> <p>City Attorney</p>	<p>CITY OF HILLSBORO</p> <p>By: _____</p> <p>Date: _____</p> <p>Approved as to Form</p> <p>_____</p> <p>City Attorney</p>
<p>TUALATIN VALLEY WATER DISTRICT</p> <p>By: _____</p> <p>Date: _____</p> <p>Approved as to Form</p> <p>_____</p> <p>District Counsel</p>	