

CITY OF BEAVERTON



COUNCIL AGENDA

FINAL AGENDA

FORREST C. SOTH CITY COUNCIL CHAMBER
4755 SW GRIFFITH DRIVE
BEAVERTON, OR 97005

REGULAR MEETING
APRIL 17, 2006
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

WORK SESSION:

06063 Regulation of Payday Loan Businesses

PROCLAMATIONS:

Arbor Week: April 17 – 23, 2006

Community Development Week: April 17 - 23, 2006

Days of Remembrance: April 23 - 30, 2006

National Bike Month: May 2006

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of the Regular City Council Meeting of April 10, 2006

06064 Social Service Funding Committee Recommendations

Contract Review Board:

06065 Consultant Contract Award - Engineering Services for Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Area Waterways

ORDINANCES:

Second Reading:

- 06058 An Ordinance Amending Ordinance 4187, The Comprehensive Plan, to Clarify that the Tualatin Hills Park and Recreation District (THPRD) is the Primary Parks and Recreation Provider for the Citizens of the City of Beaverton, CPA 2005-0008 (Ordinance No. 4387)
- 06059 An Ordinance Amending Ordinance 2050, The Development Code, to Require Properties Applying for Certain Land Use Approvals to Annex to Tualatin Hills Park and Recreation District (THPRD) and Providing a Waiver Provision, TA 2005-0009 (Ordinance No. 4388)
- 06060 TA 2006-0001 Scoreboard Sign (Ordinance No. 4389)
- 06061 An Ordinance Supplementing Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and Authorizing the Issuance, Sale, Execution and Delivery of Water Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$15,000,000; Related Matters; and Declaring an Emergency (Ordinance No. 4390)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

AGENDA BILL

Beaverton City Council Beaverton, Oregon

SUBJECT: Regulation of Payday Loan Businesses

FOR AGENDA OF: 4/17/06 **BILL NO:** 06063

Mayor's Approval:

Bob Drake

DEPARTMENT OF ORIGIN: City Attorney

APR

DATE SUBMITTED: 03-31-06

CLEARANCES: Finance

Holler

PROCEEDING: Work session

EXHIBITS: City of Gresham and City of
Portland Ordinances

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

HISTORICAL PERSPECTIVE:

The City of Beaverton currently has six payday loan businesses. Citizens have raised concerns that the operation of these businesses are detrimental to the financial security of individuals and families living in the City. Payday loan businesses can have an adverse impact on the most vulnerable members of our society such as the elderly, the poor, and recent immigrants.

INFORMATION FOR CONSIDERATION:

Payday loans are short term loans, typically for an initial term of 14 days or less, depending on the date of the borrower's next paycheck. Borrowers are charged a flat fee to obtain a payday loan and these fees amount to annual interest rates which exceed 500%. Usually, borrowers are required to repay the full loan in a single payment at the end of the 14 day term. When borrowers are unable to repay the full loan in a single payment, borrowers can either renew or default on the loan. To renew a loan, borrowers incur another fee, which again may exceed five hundred percent interest per annum. By the end of the state's statutory limit on the number of loan renewals, currently limited to three renewals, borrowers will pay fees that nearly equal the original amount borrowed and may not be able to repay the principal originally borrowed. Both the City of Portland and City of Gresham have adopted ordinances that add to state regulations by allowing borrowers to:

- *rescind their loans within a 24-hour period
- *repay at least 25% of their loans before rolling them over or renewing them and
- *repay their loan via installment plans if they roll over their loan more than two times

Several of the payday loan businesses have filed a lawsuit in Multnomah County Circuit Court seeking declaratory judgment that state law preempts cities from adopting such regulations. The complaint alleges that the Oregon Consumer Protection Act, ORS Chapter 725 comprehensively regulates payday loans and that the ordinances conflict with the act. This will quickly be set for trial and we will likely have a circuit court opinion by May on this issue.

RECOMMENDED ACTION:

Work session

CB 10-06

ORDINANCE NO.

AN ORDINANCE AMENDING THE GRESHAM REVISED CODE, CHAPTER 9, BUSINESS,
ESTABLISHING REGULATIONS ON PAYDAY LENDING**The City of Gresham finds:**

A. Gresham Revised Code Chapter 9 provides for licensing and regulation of businesses operating in the City of Gresham. Payday lenders previously have not been subject to regulatory licensing by the City of Gresham.

B. These businesses should be regulated by the City because certain payday lending practices have proven detrimental to the financial security of individuals and families residing in the City. Payday lending practices often have an unreasonably adverse effect upon the elderly, the economically disadvantaged and other residents of the City. Frequently, taking a payday loan puts borrowers in much worse financial shape than before they took the loan.

C. Payday loans are short-term loans, typically for an initial term of 14 days or less, coinciding with the borrower's next paycheck. Borrowers are charged a flat fee to obtain a payday loan. These fees amount to annual interest rates which exceed five hundred percent. Usually, borrowers are required to repay the full loan in a single payment at the end of the 14-day term. When borrowers are unable to repay the full loan in a single payment, borrowers can either renew or default on the loan. To renew a loan, borrowers incur another fee, which again may exceed five hundred percent interest per annum. By the end of the state's statutory limit on the number of loan renewals, currently limited to three renewals, borrowers will pay fees which nearly equal the original amount borrowed and may not be able to repay the principal originally borrowed. In the absence of significant state regulation, it has fallen upon local governments to act to protect working families.

D. The purpose of this ordinance is to require licensing for the purpose of regulating certain payday lending practices to minimize the detrimental effects of such practices on the citizens of the City by regulating payday lending practices occurring in the City, consistent with the laws of the State of Oregon.

E. The need for local regulation is critical to protecting the short and long-term financial security of working citizens struggling to lift their families out of poverty. Unfortunately, Gresham is unable to enact interest rate caps due to the limitations of state law. If Council were able to enact interest rate caps on payday loans, Council would enact such regulation. Council, therefore, calls upon state regulators to enact such caps to further protect citizens.

F. The Council hereby declares that if any section, subsection, sentence, clause or phrase of this Ordinance, or the amendments to the Gresham Revised Code it adopts is for any reason held to be invalid or unconstitutional the validity of the remaining portions of the Gresham Revised Code, including but not limited to the City's Payday Lending regulations shall not be affected. Council declares that it would have adopted the City's Payday Lending regulations as provided in Section 1 of this Ordinance, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases of this Ordinance may be found to be preempted, invalid or unconstitutional.

THE CITY OF GRESHAM DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 9, Business, of the Gresham Revised Code is amended to establish regulations on Payday Lending as follows:

* * * * *

Article 9.90 REGULATION OF PAYDAY LENDING.

9.90.010 Purpose.

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

9.90.020 Definitions.

As used in this Article unless the context requires otherwise:

Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600.

Payday Loan. A payday loan as defined by state law.

Borrower. A natural person who receives a payday loan.

Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

Manager. The City Manager or designee.

9.90.030 Permits.

Within 60 days of the effective date of the ordinance enacting this Article, any Payday Lender operating in the City of Gresham shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Gresham and shall be renewed annually. The application shall be in a form to be determined by the Manager. The Manager shall require the Payday Lender to report its fee schedule in the Payday Lender's permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Gresham. The amount of the fee shall be set by council resolution.

9.90.040 Administrative Authority.

(1) The Manager is authorized and directed to enforce all provisions of this Article. The Manager shall have the power to investigate any and all complaints regarding alleged violations of this Article. The Manager may delegate any or all authority granted under this Section to a designee.

(2) The Manager is authorized to adopt and enforce administrative rules interpreting and applying this Article. The Manager or designee shall make written findings of fact and conclusions of law to support all decisions.

(3) Prior to adoption of a new administrative rule, the Manager shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

(a) At the public hearing, the Manager or designee shall hear oral and written testimony concerning the proposed rule. The Manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(b) The Manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

(c) Unless otherwise stated, all rules shall be effective upon adoption by the Manager. All rules adopted by the Manager shall be filed in the Office of Governance and Management of the City of Gresham. Copies of all current rules shall be available to the public upon request.

(d) Notwithstanding subsections 1 and 2 of this Section, the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

(4) Inspection of Records. The City of Gresham reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Manager or its designee.

9.90.050 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

9.90.060 Cancellation of Payday Loan.

(1) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

(a) Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and

(b) Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(2) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

9.90.070 Payment Plan for a Payday Loan.

(1) A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

(2) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(3) After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(4) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

(5) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the payment plan.

(6) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Article.

9.90.080 Remedies.

(1) Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Manager may impose a civil penalty of up to \$1,500.00 for a substantial violation of the Article or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

(2) Civil penalties shall be payable to the City of Gresham.

(3) Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

(4) No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

9.90.090 Appeals.

Any person upon whom a civil penalty has been imposed, or who has been directed by the Manager to resolve a complaint, may appeal by filing a notice of appeal with the Manager, and following all procedures for appeals provided in Chapter 1 of the Gresham Revised Code.

9.90.100 Complaints.

The Manager shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

(1) The Manager (or designee) may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Manager shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

(2) The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Manager by telephone or in writing within two (2) business days from initial contact by the Manager.

(3) If the proposed resolution is satisfactory to the Manager, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Manager.

(4) If the proposed resolution is not satisfactory to the Manager, the Manager shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided in GRC 9.90.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by GRC 9.90.090.

9.90.110 Severability.

If any provision of this Article, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Article and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Article shall be severed.

* * * * *

First reading: March 7, 2006

Second reading and passed: _____

Yes: _____

No: _____

Absent: _____

Abstain: _____

City Manager

Mayor

Approved as to Form:

Mike Ward
Senior Assistant City Attorney

Chapter 7.26 Regulation of Payday Lending

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-Note

(New Chapter added by Ordinance No. 179948, effective February 22, 2006.)

7.26.010 Purpose

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to cancel a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

7.26.020 Definitions

As used in this Chapter unless the context requires otherwise:

- A.** "Borrower" means a natural person who receives a payday loan.
- B.** "Cancel" means to annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the

payday lender to their financial condition prior to the origination date of the payday loan.

C. "Director" means the Director of the Revenue Bureau.

D. "Payday Lender" means a "lender" in the business of making payday loans as defined in ORS 725.600.

E. "Payday Loan" means a payday loan as defined by state law.

F. "Principal" means the original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

7.26.030 Permits

Within 60 days of the effective date of the ordinance enacting this Chapter, any Payday Lender operating in the City of Portland shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Portland and shall be renewed annually. The application shall be in a form to be determined by the Director. The Director shall require the Payday Lender to report its fee schedule in the Payday Lenders permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Portland. The annual cost for the permit shall be \$1,500.00, payable to the City of Portland; this permit is in addition to the City of Portland business license required by PCC 7.02.

7.26.040 Administrative Authority

A. The Director is authorized and directed to enforce all provisions of this Chapter. The Director shall have the power to investigate any and all complaints regarding alleged violations of this Chapter. The Director may delegate any or all authority granted under this Section to any Revenue Bureau officer, employee or agent.

B. The Director is authorized to adopt and enforce administrative rules interpreting and applying this Chapter. The Director or designee shall make written findings of fact and conclusions of law to support all decisions.

C. Prior to adoption of a new administrative rule, the Director shall give notice to all interested parties of the terms of the proposed rule,

and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

1. At the public hearing, the Director or designee shall hear oral and written testimony concerning the proposed rule. The Director shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

2. The Director shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

3. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Revenue Bureau and the Office of the City Auditor in compliance with PCC 1.07.030. Copies of all current rules shall be available to the public upon request.

4. Notwithstanding subsections 1 and 2 of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

D. Inspection of Records. The City of Portland reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Director or its designee.

7.26.050 Payment of Principal Prior to Payday Loan Renewal

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

7.26.060 Cancellation of Payday Loan

A. A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

1. Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and

2. Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

B. A Payday Lender shall disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

7.26.070 Payment Plan for a Payday Loan

A. A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

B. A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

C. After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

D. The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

E. The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for early payment on the payment plan.

F. A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Chapter. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Chapter.

7.26.080 Remedies

A. Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Director may impose a civil penalty of up to \$1,500.00 for a substantial violation of this Chapter or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

B. Civil penalties shall be payable to the City of Portland.

C. Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

D. No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

7.26.090 Appeals

Any person upon whom a civil penalty has been imposed, or who has been directed by the Director to resolve a complaint, may appeal to the Code Hearings Officer pursuant to the provisions of Chapter 22.10 of this Code.

7.26.100 Complaints

The Director shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

A. The Director may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Director shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

B. The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Director by telephone or in writing within two (2) business days from initial contact by the Director.

C. If the proposed resolution is satisfactory to the Director, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Director.

D. If the proposed resolution is not satisfactory to the Director, the Director shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided by PCC 7.26.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by PCC 7.26.090.

7.26.110 Severability

If any provision of this Chapter, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Chapter and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Chapter shall be severed.

PROCLAMATION

OFFICE OF THE MAYOR CITY OF BEAVERTON



WHEREAS, 60 million trees are planted each year in Oregon - over 50 for each Oregonian; and

WHEREAS, Oregon Arbor week was established by the Oregon State Legislature to encourage tree planting and tree care, as well as to gain an appreciation of the environment; and

WHEREAS, the City of Beaverton recognizes that trees and parks are important to enhance the beauty of the City, and actively encourages the planting and care of trees throughout the City; and

WHEREAS, the City of Beaverton has planted and maintains approximately 4,840 street trees and adds new street trees each year to enhance the quality of the neighborhood environment; and

WHEREAS, the City of Beaverton has been recognized for twelve years as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting ways; and

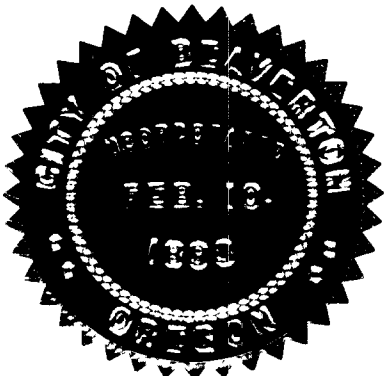
NOW, THEREFORE, I, ROB DRAKE, MAYOR, of the City of Beaverton do hereby proclaim the week of April 17th – 23rd, 2006 as:

ARBOR WEEK

In the City of Beaverton, and urge all citizens to support efforts to care for our trees and woodlands.

A handwritten signature in black ink, reading "Rob Drake". The signature is written in a cursive style and is positioned above a horizontal line.

Rob Drake
Mayor



PROCLAMATION

OFFICE OF THE MAYOR CITY OF BEAVERTON



WHEREAS,

the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program has operated since 1975 to provide local governments with the resources required to meet the needs of person of low- and moderate-income, and CDBG funds are used by thousands of neighborhood-based, non-profit organizations throughout the nation to address pressing neighborhood and human service needs; and

WHEREAS,

the Community Development Block Grant program has had a significant impact in assisting low- and moderate-income individuals and families with home repair, fire and life safety, public and community services, and public facilities construction; and

WHEREAS,

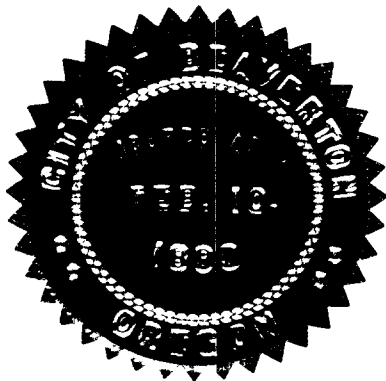
Beaverton, Oregon, and other local governments have clearly demonstrated the capacity to administer and customize the CDBG program to identify, prioritize and resolve pressing local problems; and

NOW, THEREFORE,

I, ROB DRAKE, MAYOR, City of Beaverton, Oregon, do hereby proclaim the week of **April 17 - 23, 2006**, as:

COMMUNITY DEVELOPMENT WEEK

in Beaverton, Oregon, and urge all citizens to join us in recognizing the Community Development Block Grant program and the important role it plays in our community.



A handwritten signature of Rob Drake in black ink, written over a horizontal line.

Rob Drake
Mayor

PROCLAMATION

OFFICE OF THE MAYOR
CITY OF BEAVERTON



WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims - six million were murdered; Gypsies, the handicapped, and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons. Millions more including homosexuals, Jehovah's Witnesses, Soviet prisoners of war and political dissidents, also suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, we the people of the City of Beaverton should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny; and

WHEREAS, the Days of Remembrance have been set aside for the people of the City of Beaverton to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and

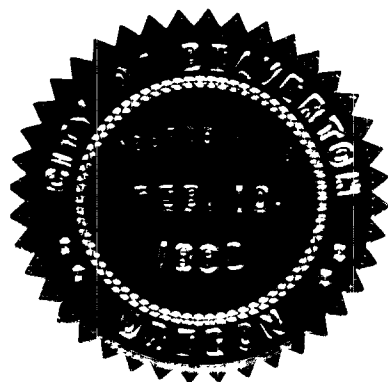
WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980) the United States Holocaust Memorial Council designates the Days of Remembrance of the Victims of the Holocaust to be Sunday, April 23 through Sunday April 30, 2006, including the international Day of Remembrance known as *Yom Hashoah*, April 25;

NOW, THEREFORE, I, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim the week of Sunday, April 23 through Sunday, April 30, 2006 as:

DAYS OF REMEMBRANCE

in the memory of the victims of the Holocaust, and in honor of the survivors, as well as the rescuers and liberators, and further proclaim that we, as citizens of the City of Beaverton, should strive to overcome intolerance and indifference through learning and remembrance.


Rob Drake
Mayor



PROCLAMATION

OFFICE OF THE MAYOR CITY OF BEAVERTON



WHEREAS, the bicycle is a viable and environmentally sound form of transportation and an excellent form of recreation; and

WHEREAS, bicycle commuting is an effective means to conserve energy; and

WHEREAS, bicycle commuting helps improve the livability of communities by reducing traffic noise and congestion; and

WHEREAS, 2006 marks the 50th year that the national non-profit bicycling safety and education association the League of American Bicyclists has declared the month of May to be National Bike Month; and

WHEREAS, bicycle clubs, schools, parks and recreation departments, police departments, hospitals, companies and civic groups throughout the state will be promoting bicycling as a wholesome leisurely activity as well as an environmentally-friendly alternative to the automobile during the month of May, 2006; and

NOW, THEREFORE, I, **ROB DRAKE, MAYOR, CITY OF BEAVERTON, OREGON,** do hereby proclaim the month of **MAY 2006** as:

NATIONAL BIKE MONTH

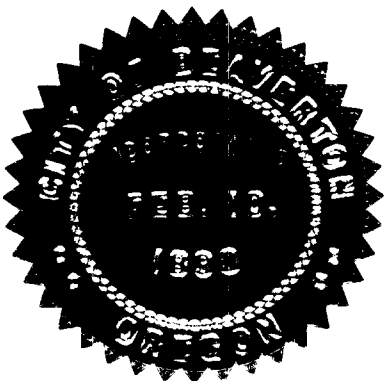
May 15 through May 19, 2006 as:

BIKE TO WORK WEEK

and Friday, **May 19, 2006** as:

BIKE TO WORK DAY

in the City of Beaverton and urge all citizens to support bicycle commuting by riding their bike to work at least one day during the month of May.




Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
APRIL 10, 2006

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, April 10, 2006 at 6:40 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce S. Dalrymple, Dennis Doyle and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop and City Recorder Sue Nelson.

PROCLAMATIONS:

Mayor Drake acknowledged that last week, April 2 - 8, 2006 was National Library Week.

Mayor Drake proclaimed April 2006 as Records and Information Management Month.

VISITOR COMMENT PERIOD:

Mayor Drake welcomed the Boy Scouts from Troop 124, and said they were working on various merit badges.

Henry Kane, Beaverton, said on February 1, 2006, he submitted a letter (The 2005 Legislature ended forced annexation of unincorporated territory and requires only voters in territory proposed for annexation to approve the proposed annexation); it included a copy of the 2005 Oregon Law that codified the existing law. He said the Oregon Constitution guaranteed the right to vote and several Oregon Supreme Court cases have declared statutes that take away the right to vote unconstitutional. He said Agenda Bills 06058 and 06059 on the agenda for this meeting will authorize the City to force annexation to the Tualatin Hills Park and Recreation District under certain circumstances. He said this could not be done. He said these agenda bills were cleared by the City Attorney and he suggested the Council ask the City Attorney if he was aware of the constitutional provisions and the 2005 statute he (Kane) cited. He said both agenda bills were unconstitutional.

City Attorney Alan Rappleyea said twice recently the Oregon Court of Appeals reiterated that there was no constitutional right to vote on annexation issues and that was reflected in the Oregon Supreme Court's opinions. He said staff was very confident there was no constitutional right to vote on annexations. He said this issue involved annexation to the Tualatin Hills Park and Recreation District (THPRD). He said when people develop their land, they have to demonstrate that they have park and recreation facilities. He said one option is to annex to the THPRD or they could demonstrate they have other park and recreation facilities of the quality provided by the District so there is no need to annex to the THPRD. He said this was not forced annexation and Washington County has the same provision. He said the 2005 legislation does not affect this statute.

COUNCIL ITEMS:

Coun. Doyle distributed copies of the Mayor's Youth Advisory Board's newsletter *The Whirlpool* to the Council.

Coun. Stanton referred to the proclamation for Records and Information Management Month. She said City Recorder Sue Nelson was recognized nationally as a records and information management expert. She said Nelson ensures that the City has all the records required by law without filling up countless numbers of boxes with paper that has to be stored, which is costly. She thanked Nelson and her staff for keeping track of the City's records and said she appreciated their work.

STAFF ITEMS:

There were none.

WORK SESSION:

06051 Washington County Cooperative Library Services Provision of Internet Filtering

Library Director Ed House said the proposed WILInet Intergovernmental Agreement (IGA) allows each library to decide what filtering it wants in the system and holds the County harmless for any decision a local library makes (companion Agenda Bill 06056). He said the Library Advisory Board discussed this issue and the filtering package at length. He said the Library Advisory Board's role is to advise the City on library policies. He said in 2001, the Council asked that the children's computers be filtered to protect them from any harmful material that might unexpectedly appear on the Internet computers. He said the company that the City contracted with to provide this service went out of business. He said in the meantime the filtering service has been provided to all the libraries by Washington County Cooperative Library Services (WCCLS) through another company that currently provides other software services to the libraries.

House said the City would continue to filter the children's and youth homework center areas. He said one change being proposed would allow young adult users to choose the level of filter, from child filtered or adult filtered levels. He said this would be done through a drop-down menu where the user could select the filtering level. He said the general public area (adult) would have a third option of unfiltered.

House said one purpose of the adult filter was to prevent unwanted sites from appearing on the screen. He said they wanted to be sure to offer the unfiltered package as this maintains the First Amendment right of free access to information.

Mayor Drake asked the City Attorney to speak about the most current court decisions and what base has been built to allow or disallow filtering for adults.

City Attorney Alan Rappleyea said the 2003 US Supreme Court case *American Federated Library Association vs. United States* arose from the restriction that federal grant monies would not be given to libraries that did not have filters to protect children from pornography. He said the Federated Library Association took this case to the Supreme Court saying this was an infringement on First Amendment rights. He said the US Supreme Court upheld the federal legislation and said it would support that restriction for there was a high level of interest in protecting children from pornography. He said this decision allows librarians to decide what will be included in the library's circulation materials. He said the decision was limited in that it stated adult patrons had the immediate right to remove all filters. He said the Court said this was not an infringement on First Amendment rights because adult patrons could remove the filters. He said the WCCLS policy was based on this decision.

Mayor Drake said this would allow the City to continue with its current policy of filtering the children's area; young adults and adults could choose whether or not to have the filters and anyone doing research could also choose whether or not to select a filter.

Coun. Bode asked if there was consent among the Library Advisory Board members concerning the filtering.

House said the Board did consent to the filtering. He said the Board's position was that the children's area would remain filtered as it currently is; the young adult would choose between children's filtered or adult filtered; and the adults would choose between children's, adult or unfiltered. He said the one change the Board wanted to see on Exhibit A of the IGA, was that the default for the adult area be unfiltered.

Coun. Stanton confirmed that the City's current policy was that pornography was not to be viewed on the Library's computers. She asked if that would change with the unfiltered selection.

House replied it would not; the City's policy would remain the same. He clarified that would be different from people doing research on that subject.

Coun. Stanton asked if it would be possible for the Council to decide that the adult filter would be the default on the Library computers.

House said that was possible but the Library Advisory Board's position was strong that the adult default should be unfiltered.

Coun. Stanton asked if children were allowed to use the adult computers.

House said children were allowed to use adult computers but it seldom has happened. He said it would be hoped parents will discuss the options with their children about using the computers in the adult section.

Coun. Doyle said he was glad they were strengthening the filtering levels in the youth sections. He said he thought the staff report said the Library would default to adult filtered.

House said the staff recommendation was that the adult default be filtered and the Library Advisory Board felt strongly the adult default should be unfiltered. He said the Council would need to make the decision.

Mayor Drake asked what other libraries were doing regarding the default setting.

House said two libraries do not have any filtering for children or adults, some default to adult filtered and others default to the unfiltered setting.

Mayor Drake said if the default was set at adult filter, before the cycle started a notice would appear on the screen stating that the cycle was set for adult filtering and would ask if the user wished to go to unfiltered.

House said that was correct; there would be a drop down menu that would allow the user to select the filter level.

Mayor Drake said though the Council respects the Library Advisory Board's opinion, the Council has expressed some concern and does have the option to select filtering as the default. He confirmed with House that if a user started with the filter turned on, they would need to log off and restart to select the unfiltered setting. He said it could be done easily and was not time consuming. He asked how long people could use the computers.

House said a person is allowed one hour per day to provide everyone the opportunity to use the computers. He said logging on only takes 15-20 seconds.

Coun. Stanton explained for the public what was filtered by the adult filter (in the record).

Coun. Doyle asked how the City enforced the pornography ban on the computers.

House said the staff monitored what patrons view on the computer stations.

Coun. Doyle asked why the Library Board felt strongly about the no-filter default.

Coun. Bode said she was at the Library Board meeting and the Board strongly supported people's rights. She said the Board felt the Internet system should open to full information and if the user wanted filtering they could make that selection. She said there was a long discussion regarding freedom of information. She asked House how many times in a month the staff had to enforce the no pornography issue.

House said it was a very rare occurrence now because staff actively monitors computer use.

Mayor Drake confirmed that Coun. Bode was the Council Liaison to the Library Advisory Board.

Coun. Doyle said considering there was rarely a problem why default to no filter; why not default to adult filter. He asked if users are asked to leave if they break the rule.

House said in the past offenders were asked to leave the Internet site and if it happened again, they were asked to leave the Library. He said in the past a couple of people were excluded from the Library for a period of time because of this problem. He said the Board felt it was more appropriate that people have full access to information and if they wished to limit their access, they could do so by choosing the adult filter.

Coun. Stanton said she had been volunteering at the Library for many years and a couple of times she had to alert staff to improper use of the computers. She said as a parent and a mother, she would prefer the adult filter.

House replied that was why there are two designated areas in the Library; one for children and one for young adults.

Coun. Dalrymple said if the default was set at adult filter, users were still able to make their own choice to go to unfiltered. He said people's rights were not being taken away, they were being given the choice. He said providing the choice for some level of restriction protects some users from getting to the unfiltered area. He said he did not see anything wrong with that process.

Coun. Bode asked if the software program requires a default.

House replied the software program does require a default and users would have to be trained on selecting the filter level.

Coun. Stanton confirmed with House that this was a drop down screen and not an automatic pop-up. She asked if the program had the capability to do a pop-up box.

House said he did not know if that was possible. He said he had not seen the software package in operation; he had only read the literature.

Coun. Arnold said she had not used the Internet at the Library. She asked if people had to sign-on to use the Internet.

House replied a user had to sign-on as a patron or in the case of a visitor they would be given a pass to use the computers.

Coun. Arnold said it did not sound as if the program recognized that a user was a child. She asked if a child could access an unfiltered station if they signed on in the adult section.

House said that was correct.

Coun. Arnold said pornography was now called the new addiction. She said she was uncomfortable with the idea that youths could go upstairs and access inappropriate information. She said for this reason she preferred having the filter in the young adult area. She said she was concerned youth could access this information in the adult section.

Coun. Doyle said he was comfortable with Exhibit A. He suggested asking the software vendor for a pop-up screen at the start of the cycle instead of the drop down menu.

Coun. Bode said when users start the computers, they need to know the filtering level on the computer. She asked the City Attorney if the Library was obligated to post a card on the computers stating the filter level.

Mayor Drake said in considering all of the Council's points, what he heard was that the Council wants to give people the option to choose the filter level, but when they first start using the computer it should not automatically cycle to the most accessible level.

Rappleyea said the law requires that users have easy access to all the sites. He said as long as there is information available so users can access any site relatively easily, that is sufficient. He said otherwise there might be problems of censorship. He stressed the Supreme Court said cities have the right to protect the children using the Internet.

Coun. Stanton said she supported the filtering and she thought the pop-up would be much easier than the pull down menu.

House said if the screen was not obvious then it would be his job to have proper signage available to show users how to access the desired level of information.

Coun. Bode asked House to clarify the discussion.

House summarized the Council's position was that the children's area would remain filtered at the children's filter level; the young adult area would have a choice between the children's filter and the adult filter; and the general public area would have a choice of either the children's or adult filter or no filter, and the default would be adult filter.

Mayor Drake said staff would explore if the software could provide a pop-up notice rather than a pull-down menu.

Coun. Arnold asked if they could have a trial period on this policy.

Mayor Drake said the Council could always modify the policy.

House said the ability to revise the policy was included in the IGA. He said he would follow-up with WCCLS and the vendor regarding the pop-up capability.

Mayor Drake confirmed there was Council consensus to proceed as discussed.

Mayor Drake thanked House for the information.

06052 Current Investment Practices and Proposal to Use Non-Discretionary Investment Advisory Services

Finance Director Patrick O'Claire and Assistant Finance Director Shirley Baron Kelly presented a PowerPoint presentation on the City's current investment practices and proposed investment advisory services (in the record). He said the companion Agenda Bill 06047, Contract Award - Non-Discretionary Investment Advisory Services, was on the agenda for this meeting. He said as of March 31, 2006, the City has an investment portfolio of \$53.2 million; \$26.1 million is invested in securities and 27.1 million is in the State's Local Government Investment Pool (LGIP). He reviewed how the City handles its investment portfolio (in the record).

O'Claire reviewed the benefits of using an investment advisor (in the record). The benefits included: 1) Access to capital markets and a large volume of trades from primary dealers; 2) Functions as an extension of staff with a large number of resources available to the City; 3) Availability of tools and models dedicated to assessing the value of fixed-income securities; 4) Performs an extensive credit review process of all investment issuers; and 5) Provides comprehensive reporting in compliance with the City's Investment Policy, the Oregon Revised Statutes and the Government & Accounting Standards Board.

Mayor Drake referred to Orange County, California that went bankrupt several years ago because it invested in high-yield junk bonds. He said the City of Beaverton has always invested conservatively. He said in using an investment advisor, investments would still be conservative and the investment pool would be broader.

O'Claire said that was correct. He said Orange County lost its principal in its investment. He said one of the principles of the City's investment portfolio was that the City would never lose principal. He said it is the City's standard that investments are held to maturity.

O'Claire explained the difference between an investment advisor and a broker acting as an investment advisor (in the record). He said using an investment advisor would give the City access to a larger trading operation to obtain the best prices on all trades. He said an investment advisor accesses top market resources such as Bloomberg, Telerate and TradeWeb and the City would be able to monitor these resources daily on the Web. He reviewed the models an advisor would use to guide the City's investments. He reviewed the services an advisor would provide that would add value to the City's investment program. He reviewed the process for making investment decisions and the investment strategies for liquid and short-term funds.

Coun. Stanton confirmed with O'Claire that the short-term funds were 18-months and shorter periods. She asked if this recommendation was approved, at a later date would Council get a proposal to change the investment policy to go beyond 18 months.

O'Claire said that was correct. He reviewed a chart that compared the One-Year Federal Agency vs. Oregon LGIP, from July 2000 to February 2006 (in the record). He

said in a declining interest environment the LGPI was the better investment, because the duration of the LGPI was five months. He said in an increasing interest environment, the Federal Agency does better than the LGPI. He said an investment advisor would point this out to the City. He reviewed various Benchmarks the City could use and the returns the City would receive on each (in the record).

Coun. Doyle asked what the dollar value difference was between the bidders for the investment advisor services.

O'Claire said a sample of the annual costs was on Exhibit 2 of Agenda Bill 06047, at the bottom of the page.

Coun. Doyle asked about the rationale for scoring the written proposals and the oral presentations.

O'Claire said the staff asked that the top three bidders present their proposal as if the City had never seen the technical proposal, to demonstrate the services they would bring to the City and the depth of their organization. He said based on the criteria, PFM was the best prepared of the three; they did research on the City's budget, they knew the issues with the Library operations, they knew the number of funds the City had and the annual appropriations. He said PFM did its homework on the City of Beaverton. He said their presentation made City staff feel very comfortable with PFM's skills and staff. He said PFM provided the best support for the City in establishing a custodial service agreement account; MBIA staff said they could do this if the City wanted. He said PFM offered to come up several times during the first year to help in establishing this service; MBIA offered to come up twice if needed. He said PFM's presentation was superior to MBIA.

Coun. Bode asked if he was confident they had sufficiently detailed the services in the contract.

O'Claire said as part of the work they would develop the contract and the specifics that were discussed in the presentation would be incorporated into the contract, including the number of site visits for the first year. He said as the City matures in this relationship, the need for on-site visits would decrease to twice per year.

Coun. Stanton asked O'Claire if he contacted PFM and MBIA clients for references.

O'Claire replied he contacted City County Insurance Services (CCIS), a new client with PFM. He said CCIS gave PFM discretionary analysis to conduct trades on behalf of CCIS, not approved-by which is what the City would do. He said CCIS had high compliments for PFM.

Coun. Stanton asked if CCIS experienced if growth in their investments under PFM.

O'Claire said he could ask CCIS's Finance Director that question. He said he was certain the director would say CCIS saw value for the services PFM provided.

Coun. Stanton said she wanted to see enough growth in secure markets to cover the cost for the service.

Coun. Arnold said Coun. Dalrymple had requested financial analysis information for review prior to the meeting. She noted O'Claire had provided a spreadsheet that compared the earnings rate from PFM based on a similar client to the City of Beaverton. The earnings rate over a 15-month period was .43%. With the City's investment portfolio of \$26 million, that produced \$111,800 in interest. She said PFM's annual charge was around \$27,000, which meant the City would have earned over \$83,000. She said she thought \$27,000 was a small fee for all the work involved. She asked if there would be any extra charges for the setup.

O'Claire explained PFM manages public sector only and has \$15 billion in public funds and \$9 billion in bond proceeds under its management. He said PFM has 156 public sector clients and a staff of 145 members. He said PFM was well structured and well funded. He said all charges would be covered in the contract.

Coun. Dalrymple said when he first looked at the staff report he needed financial analysis information. He said the information O'Claire provided was very helpful in coming to a clear understanding on this issue. He said in going to PFM, he felt the risk still remained low because the City was still following its guidelines. He said he thought it would be well managed from the City's side also. He said the performance information was beneficial.

Coun. Bode said the initial term of service was one year with a renewal for four years, with an option. She said there were sufficient checkpoints and the only way the City would know if this works was to proceed. She thanked O'Claire for the information and graphs.

O'Claire said there were termination clauses in all City contracts.

Mayor Drake thanked O'Claire for the information.

RECESS:

Mayor Drake called for a brief recess at 8:25 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 8:40 p.m.

CONSENT AGENDA:

Coun. Stanton MOVED, SECONDED by Coun. Bode, that the Consent Agenda be approved as follows:

Minutes of the Regular Meeting of March 20, 2006

- 06053 Liquor Licenses: New Outlet - El Ranchito Alegre III; Sushitime.
Change of Ownership - El Perilo Y Taqueria. Additional Privilege - Mingo. Change of
Ownership & Greater Privilege: Hakatamon Japanese Restaurant; Yuzu Japanese
Restaurant
- 06054 Boards and Commissions Appointment - Carmen Gobel to Citizens with Disabilities
Advisory Committee
- 06055 Boards and Commissions Appointment - Ruben Medina, Jr., to Human Rights Advisory
Commission
- 06056 Authorize Intergovernmental Agreement with Washington County Cooperative Library
Services to Provide Internet Filtering
- 06057 Classification Changes
- 06062 Approval of City Assistance for the Merlo Station Affordable Housing Project -
(Pulled for separate consideration)

Contract Review Board:

- 06047 Contract Award - Non-Discretionary Investment Advisory Services (Rescheduled from
March 20, 2006 Meeting)

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton
voting AYE, the MOTION CARRIED unanimously. (5:0)

Coun. Stanton referred to the minutes of March 20, 2006, and said page three, second
paragraph, should read Rebecca Lane not Rebecca Street. She thanked staff for
answering her questions.

- 06062 Approval of City Assistance for the Merlo Station Affordable Housing Project

Community Development Director Joe Grillo said in Agenda Bill 06062, staff noted an
error on Exhibit A; in the System Development Charge (SDC) Subsidy table, under
Storm, the Revised Project Cost was not carried over to the Proposed Expenditure
column. He said the Proposed Expenditure under Storm should be \$1,905. He said that
was consistent with the staff recommendation that the City pay a ratio of the SDC cost
proportionate to the number of units to residents earning below 30% median family
income. He said that changes the staff recommendation from \$18,492 to \$20,397, for
the SDC Subsidy; and changes the total on the Proposed Waived Fees and
Expenditures from \$195,046 to \$196,951. He said the additional \$1,905 would come
from the State Revenue Sharing funds proposed for the 2006-07 Budget.

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that Council approve Agenda Bill
06062, Approval of City Assistance for the Merlo Station Affordable Housing Project.

Coun. Stanton said she asked that this be pulled for discussion because she wanted the
citizens to understand why the City was waiving these fees. She said in the past the

City approved a similar waiver with The Bridge Project. She explained when anyone builds on their property, the City collects a variety of fees to cover City costs for services, such as plan reviews and inspections. She said this fee waiver represents \$196,951 that the City will not receive. She said the City was doing this because this was a very worthwhile project. She said developers do not build affordable housing because it is not profitable. She said when these opportunities arise, the City agrees to waive the fees so that affordable housing can be built, and that is good for the community.

Coun. Dalrymple noted the agreement with Tualatin Valley Housing Partners (TVHP) was for 30 years. He asked what would happen after the 30 years.

Grillo said the project could revert to market rate though he doubted that was the intent of TVHP as a non-profit agency. He said it could be refinanced after 30 years.

Coun. Dalrymple confirmed with Grillo that the City would only be involved for thirty years.

Coun. Stanton said because the City was able to do this, the market price for these homes would be lower than the regular market rate. She said that was a great use of the City's Revenue Sharing funds.

Mayor Drake said he served as the City's representative on the original founding Board of the TVHP twelve years ago. He said the intent of TVHP when it was founded was to have a permanent long-term history in this area; the goal was to focus on providing housing for those who were at 30% of the median family income, which often means the elderly, disabled and destitute. He said it is extremely difficult to find anyone interested in investing in long-term housing for the neediest in our society. He said this was housing for the working poor, disabled or destitute. He said the City provides office space for the TVHP and he has not seen anything other than sheer dedication to the original mission of the TVHP from its director. He said subsidies were needed to build affordable housing.

Coun. Bode said TVHP's most recent housing project was The Bridge at Allen Boulevard and 141st Avenue. She said this housing was for the developmentally disabled, and it was well maintained, safe and an improvement to the neighborhood. She said based on the quality of The Bridge, she was able to support this TVHP project and hoped more projects would be developed in the future.

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ORDINANCES:

Coun. Stanton said she had a question on Agenda Bill 06060, TA 2006-0001 Scoreboard Sign (first reading ordinance). She said she did not have a copy of the amended Code language from the Planning Commission hearing that was referred to in the Final Order. She said she would like to get a copy of the amended language before the second reading of this ordinance. She said Exhibit A of the ordinance does not address logos and she wanted to know why that was not included.

Grillo said staff could go back to the Planning Commission materials. He said he was not at the Commission meeting, but upon advice from the Assistant City Attorney, the Planning Commission recommended that the verbiage logo be changed to something more simplistic and neutral. He said that was what was reflected in the ordinance. He said a logo had a different implication than a sign. He said the city attorney advised that the verbiage be content neutral within the sign. He said this ordinance allows a public agency to have a sign on a scoreboard and establishes the parameters for that sign. He said they may have a logo but they may also have their name.

Coun. Stanton said she would still like to see the language.

Rappleyea said that was the difficult standard of content neutrality that the Oregon Supreme Court established for the First Amendment and that was why the Assistant City Attorney raised the issue.

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the rules be suspended, and that the ordinances embodied in Agenda Bills 06058, 06059, 06060 and 06061, be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

Rappleyea read the following ordinances for the first time by title only:

- 06058 An Ordinance Amending Ordinance 4187, The Comprehensive Plan, to Clarify that the Tualatin Hills Park and Recreation District (THPRD) is the Primary Parks and Recreation Provider for the Citizens of the City of Beaverton, CPA 2005-0008 (Ordinance No. 4387)
- 06059 An Ordinance Amending Ordinance 2050, The Development Code, to Require Properties Applying for Certain Land Use Approvals to Annex to Tualatin Hills Park and Recreation District (THPRD) and Providing a Waiver Provision, TA 2005-0009 (Ordinance No. 4388)
- 06060 TA 2006-0001 Scoreboard Sign (Ordinance No. 4389)
- 06061 An Ordinance Supplementing Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and Authorizing the Issuance, Sale, Execution and Delivery of Water Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$15,000,000; Related Matters; and Declaring an Emergency (Ordinance No. 4390)

Second Reading:

Rappleyea read the following ordinance for the second time by title only:

- 06050 An Ordinance Amending Chapter 5.05 of the Beaverton Code Regarding Vacant Buildings (Ordinance No. 4386)

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that the ordinance embodied in Agenda Bill 06050 now pass. Roll call vote. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:55 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2006.

Rob Drake, Mayor

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Social Service Funding Committee
Recommendations

FOR AGENDA OF: 04-17-06 **BILL NO:** 06064

Mayor's Approval:



DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 04-03-06

CLEARANCES: None

PROCEEDING: **CONSENT AGENDA**

EXHIBITS: #1 Recommendations
#2 Program Descriptions

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$247,741*	BUDGETED \$247,741*	REQUIRED \$

*From 2006-07 Budget. Funding will come from two sources: \$156,325 State Revenue Sharing, \$91,416 Community Development Block Grant (CDBG) funds. Agencies receiving CDBG funds will enter into a HUD contract administered by the City of Beaverton. Agencies will need to comply with CDBG requirements. City funds are contingent on the adoption of the City of Beaverton 2006-2007 budget.

HISTORICAL PERSPECTIVE:

The Social Services Funding Program was established to assist social service providers in meeting needs of Beaverton residents. Non-profit organizations desiring funds submit an application to the City for consideration. A committee is formed each year that consists of one Council member to serve as the Chair, appointed by consensus of the Council, and five citizen members, appointed individually by the Mayor and each of the City Councilors. This year's committee was chaired by City Councilor Betty Bode. This committee is responsible for reviewing applications, conducting interviews, and submitting their recommendations to City Council for approval.

INFORMATION FOR CONSIDERATION:

See Exhibit #1.

RECOMMENDED ACTION:

Approve the Social Services Funding Committee recommendations.

04-17-2006
AGENDA BILL
EXHIBIT #1

2006-2007 GRANT REQUEST	AGENCY/PROGRAM NAME	2006-2007 SSFC GRANT PROPOSAL
31,250	Asian Health and Service Center	0
7,000	Beaverton Literacy Council	4,000
20,793	Beaverton Loaves and Fishes	9,000 *
5,000	Beaverton Rotary Foundation	5,000
16,965	Beaverton Together	12,000
20,000	Care to Share	11,000
15,000	Community Action Organization-Child Care Resource & Referral	5,000
10,000	Community Action Organization-Opening Doors	0
15,000	Community Action Organization-Transitional Housing	10,000
6,500	Community Alliance of Tenants	5,000
40,000	Court Appointed Special Advocate (CASA)	19,000 *
20,000	Domestic Violence Resource Center	19,000 *
5,000	Ecumenical Ministries of Oregon	0
15,173	Fair Housing Council of Oregon	0
15,000	Good Neighbor Center	15,000 *
27,500	Immigrant and Refugee Community Organization (IRCO)	0
25,000	LifeWorks NW-New Parent Network	17,741 *
8,000	Open Door Counseling	8,000
5,000	Oregon Korean Community Center	0
25,000	Oreogn Somali Family Education Center	18,000 **
6,000	Rebuilding Together	6,000
10,000	St. Andrew Legal Clinic	7,000
9,000	Sexual Assault Resource Center	7,000
4,750	Store to Door	4,000
15,000	Sunshine Pantry	10,000
6,150	Tualatin Hills Park Foundation	5,000
4,800	Tualatin Valley Housing Partners	2,000
12,237	Tualatin Valley Housing Partners/Families for Independent Living	3,000
18,000	Westside Service Center	18,000
31,000	Youth Contact	28,000
		247,741

*Agencies receiving CDBG funds.

** Agency receiving split CDBG (\$11,675) and Revenue-sharing (\$6,325) funding

**04-17-2006
Agenda Bill
Exhibit #2**

Program Description of Grant Recipients

Beaverton Literacy Council: Volunteer tutors teach English as a second language and citizenship classes.

Beaverton Loaves and Fishes/Minority Community Initiative: Provides nutritious meals to growing number of low-income Asian and Hispanic seniors living in Beaverton.

Beaverton Rotary Foundation/Dental Check-Dental Aid: Dental screening to children at one elementary school in Beaverton. Qualified children from that school will receive dental treatment at OHSU Dental School or at a local volunteer dentist office.

Beaverton Together/After-School Youth Enhancement Program at Five Oaks Middle School: A safe structured after-school program that provides academic support and recreation support for middle school students and additional resources for parent training and/or support.

Care to Share: Provides emergency food, rent and utility assistance to Beaverton residents.

Community Action Organization/Child Care Resource and Referral (CCR&R): Part of a state-wide network that works to ensure that access to child care does not become a barrier to employment. CCR&R provides support for child care centers, family child care providers and prospective child care providers.

Community Action Organization/Transitional Housing: Provides assistance for people at-risk of becoming homeless. Services include case management, tenant educations, landlord outreach and rental assistance.

Community Alliance of Tenants/Renter Stability Education Program: Works to increase the housing stability of low-income renters through education services, community workshops and informational brochures.

Court Appointed Special Advocates (CASA) for Children: Recruits, trains, and supervises community volunteers to advocate for kids who have found their way into the juvenile court system through no fault of their own. Most cases are children who have been neglected, abused and removed from their homes.

Domestic Violence Resource Center/Monika's House: Provides a safe, confidential shelter and 24-hour crisis information line to victims of domestic violence. This is the only domestic violence for women in Washington County.

Good Neighbor Center/Homeless Shelter: The only homeless shelter in East Washington County. The shelter operates 24 hours a day, 365 days a year and provides housing, meals, clothing (donated), and case management. They work with residents on a self-sufficiency program to help them overcome the causes of homelessness.

LifeWorks Northwest/New Parent Network: Provides support services for at-risk first time parents, preventing possible child abuse and neglect and increasing the child's readiness to enter school.

Open Door Counseling/Comprehensive Housing Counseling Program: Provides counseling, homeless services, home buying classes and foreclosure prevention for families and individuals who are at-risk for becoming homeless.

Oregon Somali Family Education Center: The program supports young Somali school-aged children and their families in areas of tutoring, parent education and support, sports and recreation, ESL classes embedded with skill building and health education.

Rebuilding Together Washington County: Provides home repair and rehabilitation to low-income homeowners in Washington County; particularly the disabled and elderly.

St. Andrew Legal Clinic of Washington County: Provides legal services to low-income people with family law needs.

Sexual Assault Resource Center: Provides free and confidential services to survivors of sexual assault which include support, counseling, and advocacy to inform them of their rights and guide them through the criminal justice system.

Store to Door: Volunteer-based agency that provides shopping and delivery of groceries to seniors and people with disabilities.

Sunshine Pantry: Provides food, clothing, sundries and house wares to persons in need.

Tualatin Hills Park Foundation/Family Assistance Program: Provides fee waivers for low-moderate income residents of the City of both the City of Beaverton and Tualatin Hills Park and Recreation District for recreation and athletic programs.

Tualatin Valley Housing Partners – Resident Services: Provides services to low-income residents of Spencer House and Fircrest Manor Apartment complexes.

Tualatin Valley Housing Partners – Families for Independent Living: Assisting development disabled citizens to find housing, but mainly focusing on socialization, developing computer skills, solve interpersonal problems and develop independence.

Westside Service Center: Provides a clean, safe and sober environment where individuals struggling to free themselves from the addiction of drugs and alcohol can find support in their efforts. Westside Service Center provides support of the 12-step recovery program.

Youth Contact: Provides alcohol and drug treatment, mental health treatment, juvenile delinquency intervention and divorce transition services to Beaverton youth.

AGENDA BILL

Beaverton City Council Beaverton, Oregon

SUBJECT: Consultant Contract Award –Engineering
Services for Hydraulic Modeling and
Floodplain Mapping for Additional
unmapped Beaverton Area Waterways



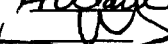
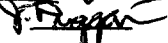
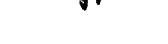
FOR AGENDA OF: 04-17-06 **BILL NO:** 06065

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Engineering 

DATE SUBMITTED: 04-04-06

CLEARANCES:

Water Div. 
Purchasing 
Finance 
City Attorney 
Comm. Dev. 

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS: 1. Location Map
2. Consultant Scope of Work No. 1
3. Consultant Scope of Work No. 2

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$249,775	BUDGETED \$300,000	REQUIRED \$-0-

* Account Numbers 502-75-3909-683 (\$249,775) Storm Drainage Mapping-Floodplain Study/Mapping

HISTORICAL PERSPECTIVE:

In 1997, by way of Agenda Bill 97251, Council authorized an Intergovernmental Agreement with Clean Water Services (formerly Unified Sewerage Agency), City of Tigard and Washington County – Fanno Creek Flood Study Update and Transfer Resolution. The City's interest in this work was primarily focused on the Fanno Creek and Summer Creek floodplains in the City of Beaverton area. This work was accepted by the Federal Emergency Management Agency and made fully effective on February 18, 2005. The floodplain and floodway information developed as a part of this work is used for development review and as well as for setting flood insurance rates.

In 2001, by way of Agenda Bill 01310, Council authorized Hydraulic Modeling in East Washington County to support Healthy Streams Plan Intergovernmental Agreement between Clean Water Services and the City of Beaverton, and by way of Agenda Bill 01313, Council authorized an Engineering Consultant Contract Award to Prepare a Hydraulic Model and Report for Identified and Unidentified Floodplain Areas of Beaverton Creek Tributary Drainage Upstream of its Confluence with Erickson Creek as well as for Erickson Creek. The City's interest in this work was primarily focused on the Beaverton Creek Floodplain in the City of Beaverton area. This work is now nearly complete and has been submitted for the Federal Emergency Management Agency and the local cities and Washington County (for unincorporated areas) for final review and comment. The floodplain and floodway information developed as part of this work is currently considered to be the "best available information" and is used for development review, but is not yet used for establishment of flood insurance rates.

Exhibit 1 shows the location of the currently mapped floodplain in the City of Beaverton Area.

Agenda Bill No: 06065

INFORMATION FOR CONSIDERATION:

The primary proposed work is for Hydraulic Modeling and Floodplain Mapping for Additional Beaverton Area Waterways that were not mapped in the previous floodplain mapping efforts. City staff, working with local professionals, has determined that these additional areas are the last remaining areas that should be designated with floodplains and floodways in proximity to Beaverton. These additional areas are indicated in Exhibit 1. The scope of work is shown in Exhibit 2. Of note is that there are two optional reaches that warrant floodplain mapping, but since these reaches are located in adjacent jurisdictions and Beaverton's work can be accomplished without modeling these reaches, they are not part of the scope of work at this time. The adjacent jurisdictions (Tigard for Hiteon Creek and Washington County for Upper South Johnson Creek) will be contacted to gauge their interest in joining Beaverton to do this work.

In addition to the primary proposed work described above, there is a scope of work for Flood Reduction through the Redevelopment of the Former Greenwood Inn Site. As part of the floodplain study work completed to date, it was determined that under certain flooding conditions such as the November 18, 1996 storm, floodwater from Fanno Creek drainage moves into the Beaverton Creek drainage. One of the primary locations where floodwater leaves the Fanno Creek drainage and enters the Beaverton Creek drainage is at Allen Boulevard, just to the north of the former Greenwood Inn. Via the proposed consultant, Pacific Water Resources, discussions with the property owner, Park Plaza Offices, LLC of Milwaukie, Oregon, were initiated on a way to minimize the potential of flood flow transfer as a part of the redevelopment of the Greenwood Inn site. Of note is that the property owner has generously offered to pay for this portion of the work. The engineering details are discussed in the consultant's scope of work shown in Exhibit 3.

Staff selected Pacific Water Resources from the Approved Professional Services Retainer List and received a fee proposal based on the negotiated scope of services not to exceed \$169,986 for 1) Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Areas Waterways, and 2) not to exceed \$79,789 for Flood Reduction through the Redevelopment of the Former Greenwood Inn Site, for a grand total of \$249,775. Pacific Water Resources was selected because of their familiarity with Washington County's floodplains and floodways and their ability to effectively address this project. Staff has reviewed the proposal and finds the hours and rates for the consultant's work to be consistent with similar tasks in existing contracts.

RECOMMENDED ACTION:

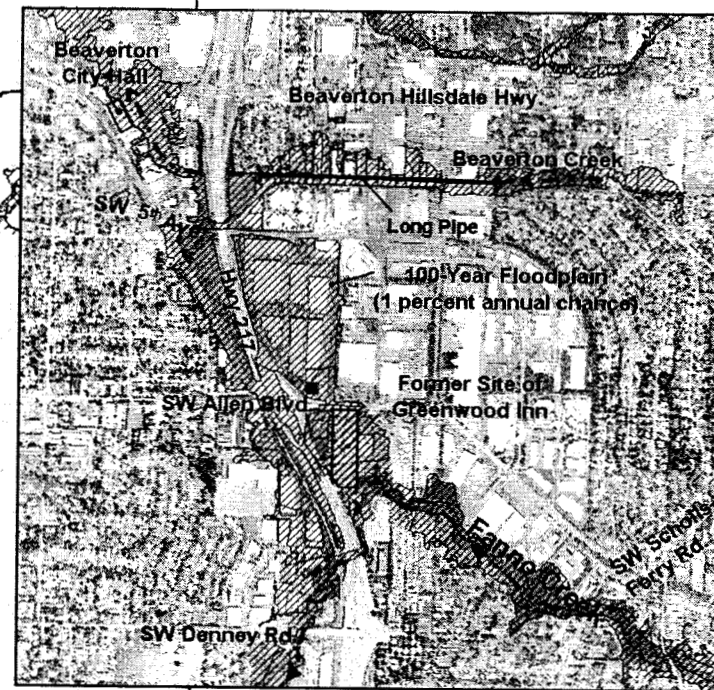
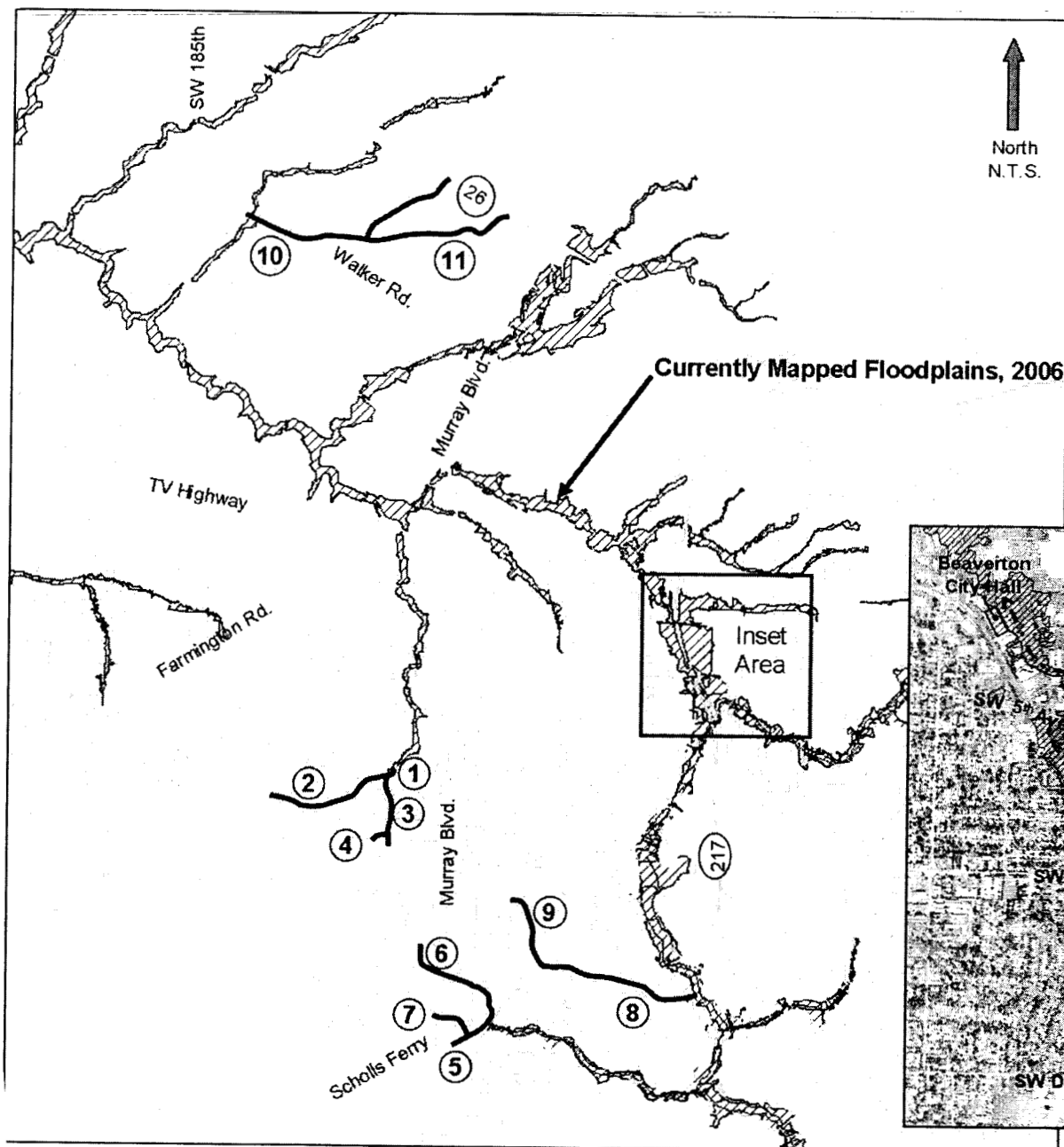
Council, acting as the City's Contract Review Board, award an engineering consultant contract to Pacific Water Resources, Incorporated of Beaverton Oregon in the Amount of \$249,775 for 1) Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Areas Waterways: \$169,986; and 2) for Flood Reduction through the Redevelopment of the Former Greenwood Inn Site: \$79,789. The notice for the consultant to proceed on the later scope of work (#2) is subject to the City receiving funds from the subject property owner. Expenditures for scope item #2 will be tracked separately and any unspent funds will be reimbursed to the property owner.

EXHIBIT 1

Currently Mapped Floodplain and Proposed Study Areas

Proposed Study Areas

- ① South Johnson
- ② South Johnson (optional)
- ③ South Johnson – Gleneden Trib.
- ④ South Johnson – 155th Trib.
- ⑤ Summer
- ⑥ Summer – Davies Trib.
- ⑦ Upper Summer – Teal Trib.
- ⑧ Hiteon (optional)
- ⑨ Hiteon
- ⑩ South Fork Willow
- ⑪ South Fork Willow – Pioneer Trib.



Detail of Former Site of Greenwood Inn



Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Area Waterways

SCOPE OF WORK

Project Purpose

The purpose of the project is to provide hydraulic modeling and floodplain mapping services for 8.16 miles of waterways primarily located in the City of Beaverton (COB). Table 1 presents the eleven study reaches along with their characteristics. The anticipated end point of this project is the creation of Digital Flood Insurance Rate Map (DFIRM) data for inclusion to an eventual Flood Insurance Study (FIS) update process. The work includes the creation of FIS data using the current Federal Emergency Management Agency (FEMA) Guidelines and Specifications for Flood Hazard Mapping Partners.

Please note that approximately 1.0 miles of these waterways (i.e. two separate reaches of 0.5 miles each) are located outside of the City's current corporate boundaries. These are the uppermost portion of South Johnson Creek, located in unincorporated Washington County, and the lowermost portion of Hiteon Creek, located in the City of Tigard. Table 1 documents the jurisdictional responsibility of each of the waterway reaches. Funding to prepare hydraulic models for these two reaches is currently shown and an optional service and is not reflected in the estimate's Grand Total.

Table 1 – Additional Beaverton Area Waterways for Hydraulic Modeling and Floodplain Mapping

Reach No.	Waterway	Reach Location	Approx. Reach Miles	Number of Structures	Structures per Mile	Jurisdiction
1	South Johnson	SW Hart Rd. to ~1700' upstream of SW 155th Ave.	0.49	3	6	Beaverton
2 Optional	South Johnson	~1700' upstream of SW 155th Ave. to SW 170th Ave.	0.56	6	11	Wash. Co.
3	South Johnson - Gleneden Trib.	Mouth to SW Turquoise Loop	0.57	5	9	Beaverton
4	South Johnson - 155th Trib.	Mouth to SW 155th Ave & SW Satterberg Rd.	0.12	2	16	Beaverton
5	Summer	SW Burrows Rd. to just upstream of SW 147 th Terrace	0.32	3	9	Beaverton
6	Summer - Davies Trib.	Mouth to SW Weir Rd.	0.96	9	9	Beaverton
7	Upper Summer - Teal Trib.	Mouth to SW Murray Blvd.	0.29	6	21	Beaverton
8 Optional	Hiteon	Mouth to SW Scholls Ferry Rd.	0.53	6	11	Tigard
9	Hiteon	SW Scholls Ferry Rd. to SW 135th Ave.	1.23	10	8	Beaverton
10	South Fork Willow	Mouth to HWY 26	1.76	13	7	Beaverton
11	South Fork Willow - Pioneer Trib.	Mouth to NW Science Park Dr.	1.33	15	11	Beaverton
Without two optional reaches -- Totals			7.07	66	10	
With two optional reaches -- Totals			8.16	78	10	

It is unclear what process the City is planning to use for obtaining ultimate FEMA approval and acceptance. The logical choices are (1) Letter of Map Revision (LOMR), (2) Physical Map Revision (PMR), or (3) Flood Insurance Study (FIS) through the Cooperating Technical Partners (CTP) program. Each process is somewhat different and would require either single or multiple submittals, the completion of just a few to several standard forms, and either no FEMA submittal fees to submittal fees up to \$6,000.

PWR would be willing to assist the City in determining what FEMA mechanism will best fit its needs. However, PWR has assumed that any work associated with completing forms or creating specific submittals to FEMA is outside of this scope of work. However, the scope does outline several City submittals which can form the basis of eventual FEMA submittals made either by the City or by PWR under separate contract. And as stated previously, PWR will prepare the flood data under the current guidelines and specifications. Thus, we believe the City will be able to obtain FEMA approval regardless of the selected process.

Work Plan

Task 1 – Field Surveys and Reconnaissance

Objective:

To obtain the field data needed to develop the hydraulic models of the eleven waterway reaches included in the study area.

Activities:

1. *Obtain Record Information.* Working with the COB designated project manager, PWR will obtain and review all available information on the physical characteristics of the eleven study reaches. Of special interest is the long run of closed pipe along a portion of the South Fork of Willow Creek mainstem. The COB designated project manager has requested record information on this pipe system from Clean Water Services of Washington County and will provide to PWR the information obtained from this request. Any record information on observed flood high water will also be obtained from the COB.
2. *Conduct Field Reconnaissance.* PWR will conduct a field reconnaissance of the eleven study reaches. PWR will work closely with the party chief from Caswell/Hertel Surveyors, Inc. to identify: (1) the exact location and extent of stream, structure and roadway profile cross-sections and (2) the manholes where rim elevations will be shot and the COB operations staff will later access. PWR will work closely with COB staff regarding data collection needs for the South Willow Creek closed pipe system. PWR will also obtain: (1) photographs of the stream reaches, culverts, pipe inlet and pipe outlets, (2) waterway area opening and blockage measurements, and (3) bridge and culvert sketches. PWR's standard hydraulic inventory forms will be used to gather information on the waterway crossings.
3. *Obtain Field Survey Data.* Caswell/Hertel Surveyors, Inc. will obtain field survey data on 78 structures and 35 intermediate cross-sections located throughout the eleven waterway reaches. Surveyed elevations will be based on the NVGD1929 Datum. COB Operations staff will provide conduit dimensions and invert measure downs for accessible manholes for the closed system located on the South Fork Willow waterway.
4. *Obtain Base Map Information.* PWR has assumed that the City's existing two foot contour topographic mapping will be used in the development of the hydraulic models. PWR will obtain from

COB the electronic files of the map information that is needed. In addition, COB will provide PWR with a triangular irregular network (TIN) for ten of the eleven waterway reaches presented previously in Table 1 (Reach No. 8 is excluded). The TIN will be used to develop digital flood insurance rate maps (DFIRMs) once the floodplain water surface elevations are established by the hydraulic modeling. PWR believes that a TIN for Tigard's portion of Hiteon Creek (i.e. Reach No. 8) is already available as part of the floodplain mapping work completed in 1997.

Deliverables:

- Field reconnaissance photographs (digital files) and completed hydraulic inventory forms (digitally scanned)
- Data on the physical characteristics of the South Willow Creek closed pipe system (from COB)
- Field survey data and certifications from Caswell/Hertel Surveyors, Inc.

Task 2 – Obtain Peak Flow Data

Objective:

To obtain from existing hydrologic models the peak flow data needed for the hydraulic modeling.

Activities:

1. *Extract Peak Flow Data.* Working with the FEMA approved and/or available HEC-HMS models and/or the GIS database of HEC-HMS model outputs, PWR will extract the peak flow data for the 10-, 50-, 100-, and 500-year return interval (i.e. 10-, 2-, 1-, and 0.2-percent annual chance) storm events under existing conditions (i.e. conditions that existed when the models were created around 2000) along the waterway reaches presented in Table 1. It is assumed that no modifications to the HEC-HMS models will be made.
2. *Tabulate the Peak Flow Data.* The peak flow data extracted from the models in Activity 1 will be tabulated by waterway and waterway reach. The flow tabulation will begin at the starting point for each waterway reach and move upstream. It will include a description of the approximate location of the discharge, the approximate distance along the centerline of the waterway from the starting point upstream to where the discharge is assumed to first occur (discharge is then held constant at that rate until it is changed further upstream), the contributing drainage area (if available), the reference HEC-RAS node from where the flow was obtained, and any other notes regarding how the tabulated flow may have been modified or averaged from actual flows in the HEC-HMS output. These tabulated flows will be submitted to the COB designated project manager for review.

Deliverables:

- Tabulated list of the 10-, 2-, 1-, and 0.2-percent annual chance peak flows that will be used in the hydraulic modeling.

Task 3 – Hydraulic Analysis

Objective:

To establish the 10-, 2-, 1-, and 0.2-percent annual chance water surface elevations and 1 percent annual chance floodway characteristics along the eleven waterway reaches presented in Table 1.

Activities:

1. *Build the Hydraulic Models.* Working with the field survey data, the City of Beaverton's topographic mapping data, and the data obtained by the City of Beaverton's operations staff on closed pipe

systems, HEC-RAS will be used to model the eleven waterway reaches. The peak flows tabulated in Task 2 will be used to develop the model's flow inputs at the appropriate cross-sections for the four different water surface profile runs. Manning's roughness coefficients (i.e. "n" values) will be assigned based on photographs and notes obtained during the field reconnaissance. Extreme care will be taken on modeling both the long runs of closed pipe and the much shorter culverts. PWR will use the WSPG closed pipe hydraulic model or an alternative model like PCSWMM, if appropriate, to evaluate the hydraulic capacity of the South Willow Creek closed pipe system. Once the closed pipe hydraulic results are available, the HEC-RAS model can be adjusted using one of several techniques to reflect the correct hydraulic response of the actual closed pipe system. The HY-8 program will also be used to double check HEC-RAS' accuracy in simulating the correct hydraulic response of the culverts in the system. If necessary, adjustments will be made in the culvert coding to ensure a correct hydraulic response. If flooding information is available, the HEC-RAS models will be "calibrated" to best represent the available information on observed flooding.

2. *Check the Models Using CHECK-RAS.* PWR shall use the FEMA CHECK-RAS program to check the reasonableness of the hydraulic analyses. To facilitate the eventual independent QA/QC review that FEMA or its designated reviewer will provide, PWR shall provide explanations for unresolved messages from the CHECK-RAS program, as appropriate. The model debugging process using CHECK-RAS is iterative and highly interactive. Once the multiple profile runs are debugged, the 100-year floodways will be created (see next activity). The CHECK-RAS process will then be repeated to ensure that all hydraulic modeling problems have been adequately resolved and other problems do not present themselves.
3. *Model FIS Floodway.* PWR will model the 100-year existing floodway following FEMA Guidelines for a standard 1-foot-rise floodway. This involves narrowing the effective flow width at each section using equal conveyance reduction from each side of the overbanks until no further narrowing is possible without exceeding the allowable rise at that section or, more often, at another section further upstream.
4. *Create Flood Profiles.* Once the floodways have been successfully developed, PWR will rerun the HEC-RAS multiple flood profile simulations (i.e. 10-, 2-, 1- and 0.2-percent annual chance) and use the final checked model output to create the flood profiles. The FEMA RASPLOT program will be used and will include downstream backwater effects for tributary waterways.
5. *Create Floodway Data Tables.* Once the hydraulic models are final, the floodways will be rerun and a Floodway Data Table will be created.
6. *Prepare Hydraulic Submittal.* PWR will prepare a hydraulic submittal for the eleven waterway reaches included in the study area. Items to be prepared in addition to those described in Activities 2-4 include (1) draft text for inclusion in the FIS report, (2) range of Manning's "n" value table, and (3) all backup data used in the analyses.

Deliverables:

In accordance with the TSDN format described in Appendix M of *Guidelines and Specifications for Flood Hazard Mapping Partners*, PWR shall submit the following products to COB:

- Digital profiles of the 10-, 2-, 1-, and 0.2-percent annual chance water surface elevations
- Digital version of the Floodway Data Table for each waterway reach that is compatible with the DFIRM database
- Digital version of all hydraulic modeling (input and output) files
- Digital version of the range of Manning's "n" values table

- Digital version of explanations for unresolved messages from the CHECK-RAS program
- Digital version of all backup data used in the analyses
- Digital version of draft text for inclusion in the FIS report
- Digital and hardcopy version of FIS certification for hydraulic modeling

Task 4 – Floodplain and Floodway Mapping

Objective:

To create digital flood insurance rate maps (DFIRMs) for the eleven waterway reaches presented in Table 1.

Activities:

1. *Map Cross Sections.* PWR will map the cross section locations as a GIS line map layer and attribute with appropriate data such as flow and profile elevation.
2. *Map Floodplain Boundaries.* PWR will map the 100-year and the 500-year floodplain boundaries using automated mapping tools and will develop GIS polygon map layers of for each. Floodplain widths shall be consistent with modeled widths at each RAS cross section, as required by FEMA. Boundaries will be polygons and will be appropriately attributed for use within the City and for use in developing work maps and floodways.
3. *Map Floodway Boundaries.* PWR will map the floodway boundaries using the GIS map layers of the cross sections, stream centerlines and floodplain boundaries such that the floodway widths are consistent with the model cross section inputs and the Floodway Data Table. As with the floodway modeling, PWR makes use of special innovative routines to greatly expedite the mapping of the floodway boundaries and ensure that they are consistent with the floodplain boundaries, the data table, and with the model input.
4. *Create FIS Work Maps for QA/QC Review.* PWR will use work map templates in DWG format that were successfully submitted to FEMA for previous FIS studies as the basis for completing work maps for the final QA/QC review. PWR will incorporate information from GIS mapping of floodplain and floodway boundaries, cross sections, and stream centerlines, together with the base map information, to complete work maps that meet FEMA Guidelines and Specifications and are consistent with FIS report tables and profiles and with the model labeling and results.
5. *Check Internal Consistency.* PWR will review hydraulic models, floodplain and floodway boundary mapping, floodway data tables, flood profile plots, and work maps to ensure that all data is internally consistent regarding section widths and distances, section labeling, flood elevations at sections, and floodplain and floodway widths at sections.
6. *Create GIS Digital Flood Map Layers.* PWR will consolidate the GIS map layers developed in this task to produce the GIS map layers required for DFIRM submissions (e.g. political boundaries, hydrography, and flood hazard areas) that incorporate the FIS and DFIRM results as specified in the Guidelines and the DFIRM Specifications. These requirements are lengthy, involved, complex, and exacting, but PWR has the advantage of using previously accepted map layers as templates to complete the GIS products for this submittal in an extremely cost-effective manner.
7. *Prepare TSDN.* The information from this project will be incorporated into a Technical Support Data Notebook (TSDN) for inclusion in COB's eventual submittal to FEMA. This TSDN will include all

previous project deliverables (e.g. Tasks 1, 2, and 3) plus the additional TSDN information required by the guidelines.

8. *Prepare DFIRM Submittal.* PWR will prepare a digital mapping submittal for the eleven waterway reaches included in the study area. Items to be included in the submittal are listed below as deliverables.

Deliverables:

In accordance with the TSDN format described in Appendix M of *Guidelines and Specifications for Flood Hazard Mapping Partners*, PWR shall submit the following products to COB:

- Digital work maps showing the 1- and 0.2-percent annual chance floodplain boundary delineations, regulatory floodway boundary delineations, cross-sections, BFEs, flood insurance risk zone labels, and all applicable base map features
- DFIRM mapping files, prepared in accordance with the requirements in *Guidelines and Specifications for Flood Hazard Mapping Partners*
- Digital version of the key to cross-section labeling
- Digital version of the Technical Support Data Notebook (TSDN)

Fee Estimate for: Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Area Waterways



We Think the World of Water

PACIFIC
WATER RESOURCES, INC.

4905 SW Griffith Drive, Suite 200, Beaverton, Oregon 97005

503 671 9709
fax 503 671 0711
info@pacificwr.com
www.pacificwr.com

Project Budget for 7.2 Miles of Stream Course

TASK 1 - Field Surveys and Reconnaissance	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 3/6/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 355	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Obtain Record Information	2		2			4	\$552
2 Conduct Field Reconnaissance			96	80		176	\$19,440
3 Obtain Field Survey Data	2		4		2	8	\$918
4 Obtain Base Map Information			4			4	\$480
LABOR SUBTOTAL	4	0	106	80	2	192	\$21,390
EXPENSES							\$500
Survey Subconsultant Fee							\$32,600
TOTAL FOR TASK 1 - Field Surveys and Reconnaissance							\$54,490

TASK 2 - Obtain Peak Flow Data	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 3/6/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 355	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Extract Peak Flow Data			40			40	\$4,800
2 Tabulate the Peak Flow Data			12		2	14	\$1,566
LABOR SUBTOTAL	0	0	52	0	2	54	\$6,366
EXPENSES							
TOTAL FOR TASK 2 - Obtain Peak Flow Data							\$6,366

TASK 3 - Hydraulic Analysis	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 3/6/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 355	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Build the Hydraulic Models			144	144		288	\$31,536
2 Check the Models Using CHECK-RAS		80	12	12		104	\$13,908
3 Model FIS Floodway		24	40	40		104	\$12,144
4 Create Flood Profiles			16	16		32	\$3,504
5 Create Floodway Data Tables			8			8	\$960
6 Prepare Hydraulic Submittal	8	8	16	16	24	72	\$7,392
LABOR SUBTOTAL	8	112	236	228	24	608	\$69,444
EXPENSES							\$300
TOTAL FOR TASK 3 - Hydraulic Analysis							\$69,744

Fee Estimate for: Hydraulic Modeling and Floodplain Mapping for Additional Unmapped Beaverton Area Waterways

TASK 4 - Floodplain and Floodway Mapping	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 3/6/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 355	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Map Cross Sections		16	16			32	\$4,176
2 Map Floodplain Boundaries		4	18	18		40	\$4,506
3 Map Floodway Boundaries		4	18	20		42	\$4,704
4 Create FIS Work Maps for QA/QC Review			24	24		48	\$5,256
5 Check Internal Consistency	4	32				36	\$5,136
6 Create GIS Digital Flood Map Layers			16	16		32	\$3,504
7 Prepare TSDN	4	4	16	16	24	64	\$6,204
8 Prepare DFIRM Submittal	4	4	16	16	16	56	\$5,700
LABOR SUBTOTAL	12	64	124	110	40	350	\$39,186
EXPENSES							\$200
TOTAL FOR TASK 4 - Floodplain and Floodway Mapping							\$39,386

SUMMARY	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/7/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 355	\$156	\$141	\$120	\$99	\$63	HRS	COST
Project Summary							
TASK 1 - Field Surveys and Reconnaissance	4	0	106	80	2	192	\$21,390
TASK 2 - Obtain Peak Flow Data	0	0	52	0	2	54	\$6,366
TASK 3 - Hydraulic Analysis	8	112	236	228	24	608	\$69,444
TASK 4 - Floodplain and Floodway Mapping	12	64	124	110	40	350	\$39,186
LABOR SUBTOTAL	24	176	518	418	68	1204	\$136,386
EXPENSES							\$1,000
SUBCONSULTANT							\$32,600
GRAND TOTAL							\$169,986

Flood Reduction Through the Redevelopment of the Former Greenwood Inn Site

SCOPE OF WORK

INTRODUCTION

On November 18, 1996, following a freak overnight snowstorm that provided a small accumulation throughout Beaverton, temperatures warmed quickly and it began to rain around 9 A.M. It rained steadily all that day and around 6 P.M. it began to rain hard. By noon the next day, Fanno Creek had reached its flood stage. By late afternoon, Highway 217 at SW Allen Blvd. was closed to both north and south bound traffic (see photos). And floodwaters from the creek had overtopped Allen (which was also closed) just east of Highway 217 at the site of the former Greenwood Inn. These floodwaters moved slowly to the north surrounding several large warehouses. In addition, a dozen or so homes were flooded on the creek's southern overbank a short distance upstream of the Greenwood in a neighborhood known as Rollingwood. And finally, several storage rental facilities and other commercial and industrial properties were flooded to the north and west of the creek after it crossed under Highway 217.



Looking north at Hwy 217 closures (11/19/1996)



Looking northwest at Hwy 217 (11/19/1996)

Rainfall data observed at Portland International Airport showed that almost 4.0 inches of rainfall had fallen within the 24-hour period ending at noon on the 19th. Local less reliable data suggested the cumulative rainfall depths in downtown Beaverton were somewhat greater.

Although dozens of residential, commercial and industrial structures along Fanno Creek had been inundated during this event, (the greatest flood ever observed on the creek), most water resources engineers agree that the City was very fortunate that the flooding was not worse. Had this amount of rainfall occurred in January or February when the ground is usually at or near saturation, the flooding could have been much worse.

When estimating the risk of flooding, engineers use a concept called annual probability (or chance) of occurrence and its reciprocal called return interval period. The rainfall that occurred in mid November 1996 had an annual probability of occurrence of only 2%, which means that over a very long period of time, say a millennium, this 24-hour rainfall depth is expected to occur only once every 50-years on the

average. But most importantly, the fact that it occurred in 1996 doesn't mean it won't occur for another 50 years. This rainfall amount has a 2% chance of occurrence in any given year.

Stream flow data along with computer modeling of the flow from this event was used to estimate its annual chance of occurrence at somewhere between four and six percent, which translates to a return interval period of approximately 17 to 25 years. This means that based on the rainfall depth, the historic Fanno Creek flood flow observed on November 19, 1996 should have been much higher.

The Federal Emergency Management Agency (FEMA) works with communities throughout the country and helps them create the detailed floodplain maps they need to understand the risk of flooding and help protect properties against that risk. FEMA established in 1968 that the one percent annual chance event (i.e. 100-year return interval) is the level of flooding risk that communities should protect future development against. Figure 1 presents the 100-year floodplain (i.e. one percent annual chance) along both Beaverton and Fanno Creeks in the vicinity of the former Greenwood Inn site. This figure clearly shows that Highway 217 is inundated along with SW Allen Blvd. and many industrial buildings to the north. It also shows flooded homes on the south overbank upstream of the old Greenwood Inn site along with many flooded commercial and industrial buildings west of Highway 217 on the creek's northwest overbank.

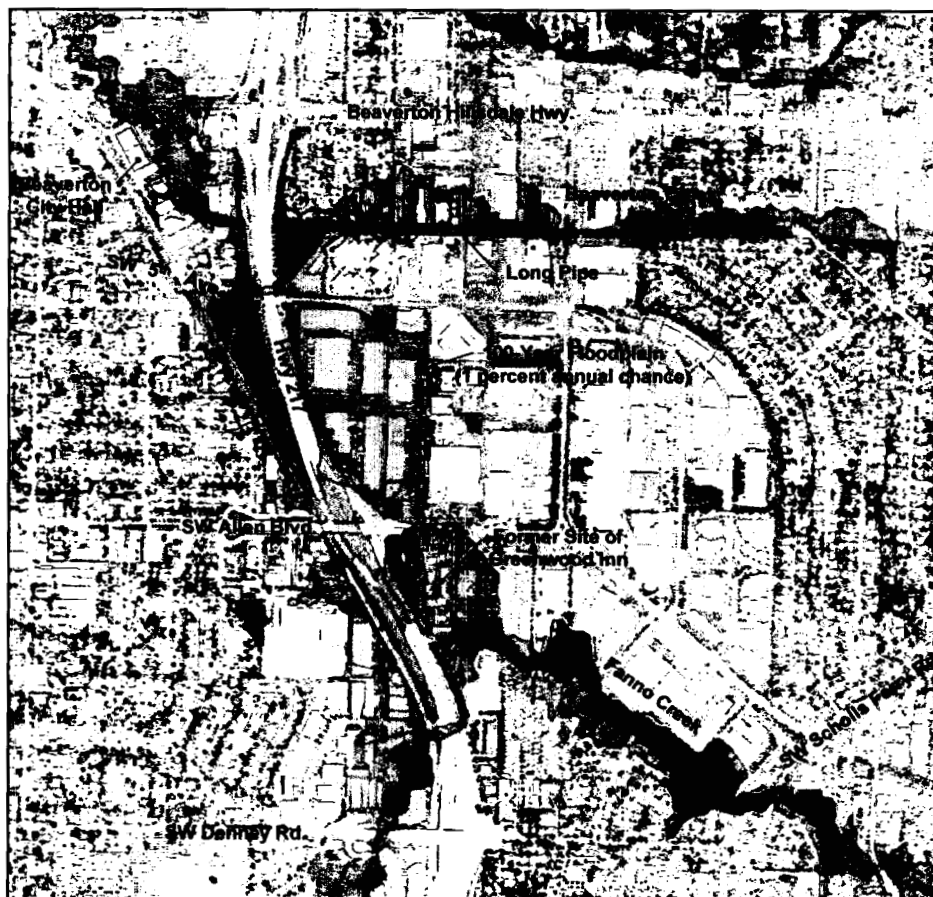


Figure 1 – Location of the 100-Year Floodplain in Beaverton near Highway 217

Much has changed since 1996. Population has increased along with demand for consumer products. As a result, commercial, industrial and residential property values have skyrocketed. The former Greenwood

Inn site has been sold and the building has been demolished and removed. The new owner wants to redevelop the site into a commercial retail use. The site's size and its immediate access to SW Allen Blvd. and Highway 217 make it a very desirable location. But the site's location right in the middle of the floodplain (see Figure 1) with flooding depths approaching six feet and the City's strict regulations mandating the preservation of on-site floodwater storage seem to render this site as undevelopable.

However, if the building were to be elevated above the 100-year flood along with underneath floodwater storage provided, SW Allen Blvd. raised and an elevated parking structure constructed, the site could satisfy the City's strict regulations and be redeveloped. In fact, the store could even remain open during the occurrence of the one percent annual chance event. The raising of SW Allen Blvd., which would be needed for site access during a flood would also result in a significant reduction in the flooding to the north (see Figure 1) and provide the City with a significant improvement in public safety. SW Allen Blvd. is a major arterial and having it closed to emergency vehicles and other traffic during a general condition of flooding, like what occurred on November 19, 1996, is a serious problem that the redevelopment of the former Greenwood Inn site would essentially solve.

The first question that comes to mind is:

- Will the redevelopment of the property in the manner proposed increase flooding upstream and/or downstream of the site?

The short answer is:

- We don't think it will. In fact, the activities that the developer should be required to complete (as a condition of the development) may actually result in a lowering of the 100-year floodplain both upstream and downstream of the site (the complicated basis for this statement will be discussed in the next section).

Beaverton participates in FEMA's National Flood Insurance Program (NFIP). As a requirement of that participation, it must implement the minimum policies dictated by that program. But the City of Beaverton, like many others in Oregon, goes beyond the minimum requirements. In fact, the City has implemented a no adverse impact (NAI) approach to floodplain management. That approach is grounded in the fact that the existing regulatory floodplain mapping provided by FEMA establishes the definition of the risk of flooding. The burden is usually placed on the developer to demonstrate that the actions and activities resulting from a proposed development will create no adverse impact to those established floodplains. This is the criterion that the City will apply when assessing the flooding impact of any proposed development including the redevelopment of the former Greenwood Inn site.

Background Information

In 1997, Pacific Water Resources, Inc. (PWR), under contract with Clean Water Services (CWS), led a team of consultants in the development of the Fanno Creek Watershed Management Plan. The project created a calibrated HEC-1 hydrologic model of the Fanno Creek watershed based on land use conditions that existed around 1995. As a result of both the February and November 1996 floods on Fanno Creek, it became clear that the Flood Insurance Study (FIS) maps developed in 1979 were not extremely accurate. These floodplain maps are called Flood Insurance Rate Maps (FIRMs) and their new digital versions are now called DFIRMs. The plan recommended a flood insurance restudy and remapping of these outdated Fanno Creek floodplains.

In 2000, PWR under a contract with CWS submitted a flood insurance restudy (FIR) of Fanno Creek and its two major tributaries, Ash Creek and Summer Creek to FEMA. The focus of this locally funded flood

restudy (whose DFIRMs have now been adopted and published) was to update and improve the hydraulic models, which established the flood water surface elevations that are mapped. As part of this flood restudy, a decision was made to use the peak flow estimates from the existing FIS developed by the U.S. Army Corp of Engineers (USCOE) in 1979.

A comparison of these 1979 FIS flows to those developed as part of the Fanno Creek Watershed Management Plan showed that the FIS flows were actually greater than the Year 2040 future flows, which provided protection against the expected peak flow increases due to urbanization, especially in the Summer Creek watershed. At the time, FEMA did not allow local jurisdictions the opportunity to map future flows (i.e. ultimate development conditions) as they now do. Because the flood restudy was funded at the local level with no financial assistance from FEMA, the local jurisdictions including CWS, City of Beaverton, City of Durham, City of Tigard, and Washington County did not have to update the hydrology or flows. So they chose not to. As a result, the existing DFIRMs for Fanno Creek may be overestimating the extent of flooding along the creek. But these maps are the current adopted regulatory instrument. They will not change unless a new restudy is undertaken that uses the stringent FEMA Guidelines and can provide the documentation that FEMA needs to demonstrate a significant change in the floodplain has actually occurred.

Another issue that affects the complex flooding along Fanno Creek is the flow from Fanno Creek that overtops Allen Blvd. This flow floods low lying industrial warehouses to the north and eventually ends up in Beaverton Creek. The original FIS did not discover this overflow so no flow was assumed to leave the creek. Since the flood insurance restudy used the original FIS flows (as discussed above), the problem was not discovered at that time either.

The existing FEMA published floodplain maps show a flooding area along both sides of Highway 217 north of SW Allen Blvd. and south of SW 5th Ave. mapped as Zone A, which means it is approximate. In 2001, the City of Beaverton (COB) was concerned whether this area had been mapped accurately since it appeared to their staff that this area was obviously influenced by flooding from both Fanno Creek to the south and may affect Beaverton Creek to the north. As part of a COB Hydraulic Modeling Contract, PWR conducted an analysis of the 100-year floodplain in this area and concluded that the existing floodplain mapping, although not exact, was fairly accurate. It was also concluded, as part of that contract, that the new floodplain mapping for this area should also be designated as Zone A.

PWR has just completed a massive flood insurance restudy of some 173 miles of waterways throughout Washington County called the Tualatin Floodplain Remapping Project. This floodplain north of SW Allen Blvd. was included in this effort. The hydraulic model built to map this flooding area is referred to as the Allen model.

The Allen model does not represent a traditional stream. Rather, it provides more detailed mapping of flood waters from SW Allen Blvd. and SW 5th Ave. along both sides of Highway 217. A floodway (i.e. no fill zone) was not computed for this overflow since the Fanno Creek flood restudy (and the original FIS itself as described previously) assumed for the purpose of floodway computation that all of the 100-year peak flood discharge remains in Fanno Creek. Also, under PWR's contract with the City of Beaverton (which created the Allen model), only the 100-year (i.e. one percent annual chance) flood elevations were developed and eventually mapped. And finally, Fanno Creek, which is the source of the Allen area flooding, was not part of the Tualatin Floodplain Remapping Project so another restudy of Fanno Creek once the overflow was discovered was not in PWR's contracted scope of services.

So the bottom line is simply this. The existing regulatory instrument for Fanno Creek assumes that the overflow to the north doesn't exist. Therefore, the overflow can be cut off without increasing the currently mapped downstream floodplain. The use of a calibrated and updated watershed based flow model and a hydrodynamic hydraulic model (that better describes the effect of floodwater storage on flow peak) will likely result in a lowering of the regulatory floodplain both upstream and downstream. The potential lowering of the floodplain can only be realized on the published DFIRMs if the financial

resources are provided to study the situation and fully document the results in the stringent manner specified by FEMA.

WORK PLAN

Task 1 – Hydrologic Analysis

Objective:

To develop an updated hydrologic model for the Fanno Creek watershed that: 1) reflects the changes in existing conditions land use that have occurred since the original HEC-1 hydrologic model was prepared in 1995 (as part of Fanno Creek Watershed Management Plan) and 2) converts the ultimate development conditions (i.e. Year 2040) HEC-1 model to HEC-HMS (i.e. the Year 2040 HEC-1 model was developed as part of the Fanno Creek Watershed Management Plan).

Activities:

- 1 *Current Land Use Data.* PWR shall obtain current land use maps, recent aerial photographs and zoned land use maps from the representative public agencies. The land use data, soils maps, and aerial photos will be used to update the precipitation losses to the soil within the Fanno Creek watershed for both existing and ultimate development conditions (i.e. Year 2040).
- 2 *Calculate the Updated Loss Values.* PWR shall compute updated loss rates for the Fanno Creek sub-sheds upstream of SW Scholls Ferry Road. The loss rates generated will be based upon the data acquired in Activity 1 above.
- 3 *Prepare the Hydrologic Model.* PWR shall use the existing HEC-HMS hydrologic model (i.e. converted from HEC-1 as part of CWS' Watersheds 2000 project) updating the losses based on the work Activity 2 above. Hydrographs will be generated for the 2-, 5-, 10-, 25-, 50-, 100-, and 500-year frequencies under both existing and ultimate development conditions (i.e. Year 2040).
- 4 *Peak Flow Evaluation.* PWR will prepare tabulated result of the results of the hydrologic analysis and compare the results to the current FIS values for the 10-, 50-, 100-, and 500-year frequencies. These FIS values were developed by the U.S. Army Corps of Engineers in 1979 as part of the original FIS. Tabulated results will be submitted to the City for review.

Task 2 – Develop the Unsteady Hydraulic Model

Objective:

To develop an unsteady model of Fanno Creek that can be used to evaluate various on-site and off-site improvements and their impacts on the floodplain. The unsteady (or hydrodynamic) model can evaluate flow along various paths including the dynamic effects of floodplain storage.

Activities:

- 1 *Prepare the Hydrographs.* The updated HEC-HMS hydrologic model of Fanno Creek is a steady state model. The hydrographs generated under Task 1 will be used as input for the unsteady model. The 2-, 5-, 10-, 25-, 50-, 100-, and the 500-year flood events will be evaluated.

2. **Create the Dynamic Hydraulic Model.** Channel cross sections will be taken from the existing steady state hydraulic models for the Allen area, Upper Beaverton Creek and Fanno Creek. PWR proposes to extract data on Fanno from its SW Scholls Ferry Road crossing adjacent to Tigard upstream to its SW Scholls Ferry Road crossing near Allen Blvd. Upper Beaverton Creek cross-sections will be taken from Griffith Park to Western. Cross sections from the Allen model recently developed as part of the Tualatin Floodplain Remapping project will also be used. Appropriate hydrographs (from Activity 1 above) and downstream boundary conditions (from the existing steady state hydraulic models) will be added. Finally, stage/storage relationships for the old Greenwood Inn site will be entered. Stage/storage for the old Greenwood Inn site will assume that any buildings do not exist (i.e. they are flooded) and reflect the berm in its current state. Topographic and aerial mapping for this study has already been provided by the City as a part of previous floodplain work. The owner of the old Greenwood Inn site will provide detailed topographic mapping.
3. **Develop the Flow Path Network.** From earlier studies using steady state models (work funded by the City of Beaverton) PWR analyzed the flow break out from Fanno Creek to Upper Beaverton Creek, which has been referred to as the Allen model. This experience provided a clear understanding of the important flow paths through this complicated overflow area. Based on this experience, PWR will now simplify the original flow path network into a system which can be solved by the unsteady HEC-RAS model.
4. **Calibrate the Hydraulic Model.** PWR will perform a calibration of the unsteady-state hydraulic model based on the November 1996 event. Hydrographs for this calibration event will be generated from the old (not updated) HEC-HMS model (previously created by PWR as part of the Watersheds 2000 Project), which was the starting point for Task 1. PWR will examine the available photographs and then interview City of Beaverton and ODOT maintenance and engineering staff to obtain data on the maximum extent and height of flooding that occurred over Highway 217 and Allen Boulevard during the historic November 1996 flood event. Calibrating the hydraulic model to best reproduce the peak flooding that occurred during the historic flood event of November 1996 will add confidence to the results projected for other flood events.
5. **Run the Model.** Once complete the model will be run for multiple storm events under both updated existing and ultimate development conditions and results will be tabulated. PWR will review the multiple run output for existing and ultimate development conditions and determine: 1) the frequency at which site inundation occurs, 2) the frequency at which the berm is over topped, and 3) the frequency at which Allen Boulevard is overtopped.
6. **Prepare an Existing Conditions Report** Once the modeling of the existing and ultimate development watershed conditions are complete, PWR shall prepare a brief report that documents that information and the creation of the dynamic hydraulic model and its calibration.

Task 3 – Evaluation of Site, Grading, and Drainage Schemes

Objective:

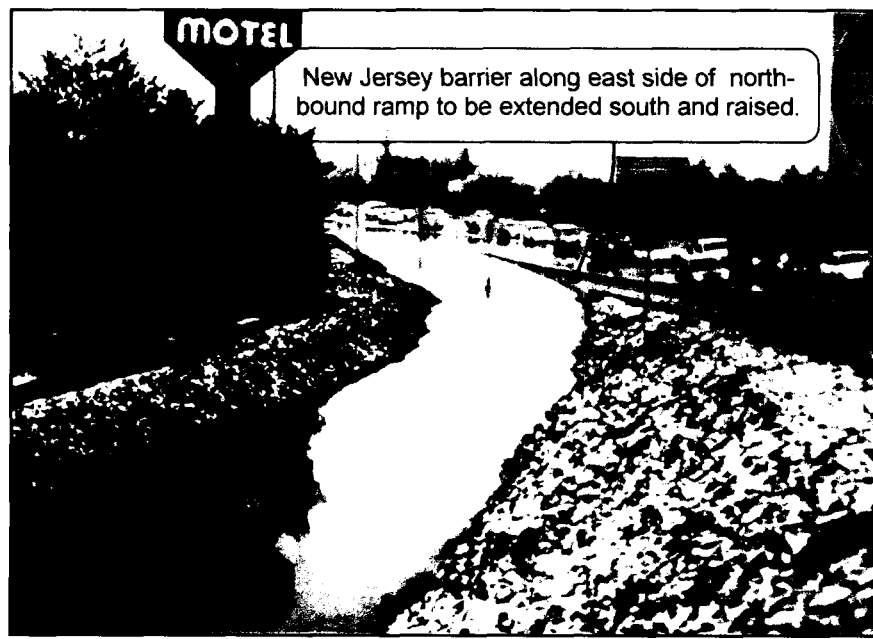
To evaluate the effects of the proposed on-site and off-site improvements on the existing regulatory floodplains and the flooding of upstream and downstream properties.

Activities:

1. **Data Collection.** PWR shall obtain the digital copies (AutoCAD 2004 or earlier) of the proposed Site, Grading, and Drainage Plans for the redevelopment of the former Greenwood Inn site from the future

property owner's perspective client's Civil Engineer (hereon after referred to as Site Civil Engineer). This information will be used to support the creation of the proposed conditions hydraulic model. The drawings must include sufficient data to define the proposed grading of the project site, major drainage structures, and storage areas located under proposed structures. In addition the proposed plans, PWR will require a digital copy of the existing project topography, also in AutoCAD format 2004 or earlier.

2. *Proposed Condition Analysis.* PWR shall prepare a proposed conditions dynamic hydraulic model (i.e. HEC-RAS) reflecting the Site, Grading, and Drainage Plans. The model will reflect the flood storage scheme developed by the future Site Civil Engineer including the major drainage structures. The proposed conditions model assumes that Allen Blvd. will be raised above the 100-year flood water surface and the New Jersey barrier along the east side of the northbound Allen exit ramp off of Highway 217 (see photo) is extended south or raised to prevent floodwaters from moving to the north.



Looking south at northbound Allen exit ramp from Hwy 217 (11/19/1996)

3. *Generate Proposed Flood Profiles on Fanno Creek.* Working with output from the proposed conditions dynamic hydraulic model from Activity 2, PWR will compare the maximum water surface elevations along the modeled Fanno Creek reach to the currently published FIS values. This comparison will determine whether the water surface elevations for the 10-, 50-, 100-, and 500-year FIS floods have changed anywhere throughout the entire study reach using both existing and ultimate watershed development conditions.
4. *Prepare a Proposed Conditions Report.* PWR shall prepare a brief report that includes: tabulated results, exhibits of the new floodplain boundaries and the flooding frequencies of upstream properties (inundation of structures), and the revised flood profiles. The Finish Floor Elevations (FFE) of the structures upstream were previously surveyed and in the possession of PWR. If the outcome of the analysis indicates that the no adverse impact (NAI) criterion, discussed previously, cannot be achieved under the proposed conditions PWR shall make recommendations for altering the design to improve the results.

Task 4 – Present Preliminary Results

Objective:

To evaluate and synthesize results for presentation to the City, Owner and Site Civil Engineer. A discussion of the issues observed from the modeling results may stimulate the need to evaluate another scenario.

Activities:

1. *Meet with City, Owner and Site Civil Engineer.* PWR shall meet with its Client (City of Beaverton), the Owner (Howard Dietrich) and the Site Civil Engineer to discuss the results of the analysis. PWR will present the results and, if needed, discuss measures that can improve the hydraulic conditions. The materials prepared under Tasks 2 and 3 will be utilized in the meeting to present the modeling results.

Deliverables:

- Tabulated profiles of existing and proposed conditions
- Exhibits of the proposed floodplain boundaries
- Exhibits of upstream structure inundation frequencies during proposed conditions

Task 5 – Design Modification

Objective:

To evaluate the hydraulic performance of additional changes to the proposed Site, Grading, and Drainage Plans, if needed.

Activities:

1. *Prepare an Iteration of the Hydraulic Model.* If needed, PWR will coordinate with the Client and the Site Civil Engineer to prepare one design iteration of the hydraulic model reflecting changes to either/or on-site and off-site plans based on the meeting. The budget for this task is an estimate of the required level of effort. The final authorization will be negotiated based on the complexity of the analysis to be performed. If the NAI criterion has not been achieved following Task 3 and no authorization is obtained for this activity, then it will not be completed and the proposed redevelopment project will end.

Deliverables:

- Revised tabulated profiles of existing and proposed conditions
- Revised exhibits of the proposed floodplain boundaries
- Revised exhibits of upstream structure inundation frequencies during proposed conditions

Task 6 – Final Report

Objective:

Prepare a final report that summarizes the analysis and results of the study.

Activities:

1. *Prepare the Final Report.* PWR shall prepare a report outlining the process, assumptions, methods, and results of the hydrologic and hydraulic analyses. The report will include supporting

documentation such as correspondence, maps, exhibits, plans, calculations, and modeling results. The report will be delivered in digital format on CD. Hardcopies can be delivered if required at cost.

Deliverables:

- Final report document
- HEC-RAS models

Task 7 – Prepare a FEMA Specified Submittal

Objective:

To update the existing Flood Insurance Study (FIS) and its associated floodplain maps or begin the process needed to eventually update this information. The submittal, to be specified by FEMA, will document the changes in the floodplain maps and associated supporting data that will occur when the proposed development project is constructed.

Activities:

1. *Contact FEMA to Determine the Preferred Mechanism Needed to Update the FIS.* The existing floodplain and floodway maps and their associated data for Fanno Creek were published on February 18, 2005. The revised floodplain mapping for areas north of SW Allen Blvd. including Beaverton Creek were just submitted to FEMA in January 2006. PWR will coordinate with COB and CWS and contact Mr. Joseph Weber of FEMA's Region 10 office to determine the preferred mechanism needed to update the FIS. The logical choices are (1) Conditional Letter of Map Revision (CLOMR), (2) Letter of Map Revision (LOMR), (3) Physical Map Revisions (PMR), or (4) Flood Insurance Restudy (FIR) through the Cooperating Technical Partners (CTP) program.
2. *Complete the Necessary Forms.* Depending on the mechanism that FEMA recommends, PWR will obtain and complete the appropriate forms. If the FIR option is pursued, the budget for this activity will be used to document changes to the FIS text as outlined in the current FEMA Guidelines and Specifications for Flood Hazard Mapping Partners.
3. *Create Revised Flood Profiles on Fanno Creek* Working with the final flood profiles from Task 3 or Task 5, PWR will ensure that the revised profiles will meet FEMA's standards.
4. *Develop Revised Flood Map.* Working with the final flood profiles from the previous activity and the existing COB base mapping, PWR will modify the DFIRMs to reflect the changes in the delineation of the floodplain boundaries and Base Flood Elevations (BFEs) that will result from the construction of the proposed development project.
5. *Prepare FEMA Submittal.* PWR will compile the information developed in Activities 1-4 and develop any remaining information needed to prepare a FEMA submittal needed to revise or conditionally revise the flood and floodplain related information along Fanno Creek and north of SW Allen Blvd. An electronic submittal is assumed with no hard copies included except the necessary transmittal and paperwork developed in Activity 2 above.

6. *Revise FEMA Submittal* PWR will, if needed, revise the submittal to address any review comments from FEMA that would require efforts from PWR.

Deliverables:

- Complete electronic FEMA submittal of revised floodplain information using the forms and/or formats specified by FEMA that includes:
 - Appropriate completed forms or written text
 - Flood profiles
 - DFIRMS
 - Hydrologic Models
 - Hydraulic Models
 - Technical Supporting Data Notebook (TSDN), if needed
 - Certifications for the technical work

Task 8 – Extra Work as Authorized

Objective:

To provide for any unforeseen but necessary work during the project. Funds will only be used upon written authorization from the City's Project Manager.

Activities:

None Specified at this point in time.

Deliverables:

None Specified at this point in time.

Task 9 (Optional) – Prepare Letter of Map Revision (LOMR)

Objective:

If FEMA chooses to use a Conditional Letter of Map Revision (CLOMR) as the process for updating the FIS information (see Task 7), PWR will prepare a Letter of Map Revision (LOMR) once the project is constructed. A CLOMR is based on the condition that the development will be constructed as proposed. The LOMR follows after the construction and includes an as-built survey, which must be obtained by others.

Activities:

1. *Obtain As-Built Survey From Others.* PWR will coordinate with the property owner and obtain an as-built survey of the project following construction. The cost of the as-built survey will be borne by the property owner once the construction is completed. PWR will either work with the property owner's designated surveyor or a surveyor of PWR's choosing and will specify the scope of services needed for the as-built survey.
2. *Modify the Hydraulic Models.* Based on the as-built survey information the hydraulic models submitted in Task 7 will be modified, if needed.

3. *Prepare the LOMR Submittal.* If modified in Activity No. 2, the models will be re-run and the associated flood data (i.e. flood profiles, DFIRMs, etc.) will be revised from its previous submittal in Task 7. The appropriate LOMR forms will be filled out and certified.

Deliverables:

- Certified LOMR Submittal that shows the changes in the floodplain maps and associated data due to the actual construction of the project.

Flood Reduction Through the Redevelopment
of the Greenwood Inn Site



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WATER RESOURCES, INC.

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Project Budget

Fee Estimate for: Hydraulic Study of Fanno Creek at the Greenwood Inn

TASK 1 - Hydrologic Analysis	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/3/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Acquire Land Use Data			2			2	\$240
2 Calculate Loss Values (GIS)	1		8	40		49	\$5,076
3 Hydrologic Model	1		8	24		33	\$3,492
4 Peak Flow Tabulation	1		1	4		6	\$672
LABOR SUBTOTAL	3	0	19	68	0	90	\$9,480
EXPENSES							\$50
TOTAL FOR TASK 1 - Develop Unsteady State Hydraulic Model							\$9,530

TASK 2 - Develop Unsteady State Hydraulic Model	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/3/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Prepare Hydrographs	1	2	4			7	\$918
2 Dynamic Model	1	2	40			43	\$5,238
3 Develop Flow Path Network	1	2	40			43	\$5,238
4 Calibrate Hydraulic Model	1	2	16			19	\$2,358
4 Run Model	1	2	24			27	\$3,318
5 Reporting	4	2	16		8	30	\$3,330
LABOR SUBTOTAL	9	12	140	0	8	169	\$20,400
EXPENSES							\$50
TOTAL FOR TASK 2 - Develop Unsteady State Hydraulic Model							\$20,450

TASK 3 - Evaluation of Site, Grading, and Drainage Scheme	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/3/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Data Collection	2		4			6	\$792
2 Proposed Condition Analysis	2	4	40	24		70	\$8,052
3 Reporting	4	4	24		12	44	\$4,824
LABOR SUBTOTAL	8	8	68	24	12	120	\$13,668
EXPENSES							\$50
TOTAL FOR TASK 3 - Evaluation of Site, Grading, and Drainage Scheme							\$13,718

TASK 4 - Present Preliminary Results	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/3/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Meeting with Client and Civil	4		8			12	\$1,584
LABOR SUBTOTAL	4	0	8	0	0	12	\$1,584
EXPENSES							\$100
TOTAL FOR TASK 4 - Present Preliminary Results							\$1,684

Flood Reduction Through the Redevelopment
of the Greenwood Inn Site

TASK 5 - Design Modification	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/3/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Hydraulic Model Design Iteration	8		32			40	\$5,088
LABOR SUBTOTAL	8	0	32	0	0	40	\$5,088
EXPENSES							\$0
TOTAL FOR TASK 5 - Design Modification							\$5,088

TASK 6 - Final Report	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/7/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Final Report	8		32		12	52	\$5,844
LABOR SUBTOTAL	8	0	32	0	12	52	\$5,844
EXPENSES							\$200
TOTAL FOR TASK 6 - Final Report							\$6,044

TASK 7 - Prepare a FEMA Specified Submittal	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/7/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No. 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
ACTIVITIES							
1 Contact FEMA to Determind Preferred Mechanism	2				2	4	\$438
2 Complete the Necessary Forms	12	2	6		4	24	\$3,126
3 Create Revised Flood Profiles on Fanno Creek		1	4	2	2	9	\$945
4 Develop Revised Flood Map		4	16	16	4	40	\$4,320
5 Prepare FEMA Submittal	8	4	24	16	12	64	\$7,032
6 Revise FEMA Submittal	2		4	4	2	12	\$1,314
LABOR SUBTOTAL	24	11	54	38	26	153	\$17,175
EXPENSES							\$100
TOTAL FOR TASK 7 - Prepare a FEMA Specified Submittal							\$17,275

TASK 8 - Extra Work as Authorized	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/7/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No - 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
LABOR SUBTOTAL							\$6,000
EXPENSES							\$0
TOTAL FOR TASK 8 - Extra Work as Authorized							\$6,000

SUMMARY	PROJ	QA/QC	PROJ	PROJ	TECH/		
DATE 2/7/06	MGR	ENG	ENG	MDLR	ADMIN	TOTAL	PROJECT
JOB No 316	\$156	\$141	\$120	\$99	\$63	HRS	COST
Project Summary							
TASK 1 - Hydrologic Analysis	3	0	19	68	0	90	\$9,480
TASK 2 - Develop Unsteady State Hydraulic Model	9	12	140	0	8	169	\$20,400
TASK 3 - Evaluation of Site, Grading, and Drainage Scheme	8	8	68	24	12	120	\$13,668
TASK 4 - Present Preliminary Results	4	0	8	0	0	12	\$1,584
TASK 5 - Design Modification	8	0	32	0	0	40	\$5,088
TASK 6 - Final Report	8	0	32	0	12	52	\$5,844
TASK 7 - Prepare a FEMA Specified Submittal	24	11	54	38	26	153	\$17,175
TASK 8 - Extra Work as Authorized							\$6,000
LABOR SUBTOTAL	64	31	353	130	58	636	\$79,239
EXPENSES							\$550
GRAND TOTAL							\$79,789

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

4/17/06

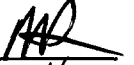

SUBJECT: An Ordinance Amending Ordinance 4187, The Comprehensive Plan, to Clarify that the Tualatin Hills Park and Recreation District (THPRD) is the Primary Parks and Recreation Provider for the Citizens of the City of Beaverton, CPA 2005-0008

FOR AGENDA OF: ~~4/10/06~~ **BILL NO:** 06058

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 3/15/06

CLEARANCES: City Attorney 
Planning Services 

PROCEEDING: ~~First Reading~~
Second Reading and Passage

- EXHIBITS:**
1. Ordinance
 2. Planning Commission Order 1842
 3. Planning Commission Minutes
 4. Staff Report Dated 12/23/05
 5. Memorandum Dated 2/14/06

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Tualatin Hills Park and Recreation District (THPRD) was established in 1955 and its boundaries now include most of the City of Beaverton and its assumed Urban Services Area. Over the years THPRD has expanded and improved its facilities and services to a level which contributes significantly to the quality of life in the community. Lack of availability of such facilities and services to occupants of new development would detract from their quality of life.

INFORMATION FOR CONSIDERATION:

The attached Ordinance would amend "Section 5.8 Parks and Recreation" of the Comprehensive Plan to clarify that THPRD is the primary parks and recreation provider to the citizens of Beaverton. The proposed amendment includes the addition of an action statement directing amendment of the Development Code to require owners of properties outside of THPRD proposed for development to annex to the district. This is being proposed to support amendments to the Development Code that would require any property in the City that is the subject of a Conditional Use, Design Review and/or Land Division to annex to THPRD unless they qualify for a waiver.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

EXHIBIT 1

ORDINANCE NO. 4387

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 4187, AS AMENDED, TO CLARIFY THAT THE TUALATIN HILLS PARK AND RECREATION DISTRICT IS THE PRIMARY PARKS AND RECREATION PROVIDER FOR THE CITY OF BEAVERTON; CPA 2005-0008

- WHEREAS,** the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the citizens of the City of Beaverton and the City wishes to clarify this in its Comprehensive Plan in part to comply with Statewide Planning Goal 11; and
- WHEREAS,** pursuant to Section 1.3.5 of the Comprehensive Plan, the Beaverton Planning Services Division on December 23, 2005, published a written staff report and recommendation a minimum of thirty (30) calendar days in advance of the scheduled public hearing before the Planning Commission on January 25, 2006; and
- WHEREAS,** on January 25, 2006 and February 22, 2006, the Planning Commission conducted a public hearing for CPA 2005-0008; and
- WHEREAS,** at the conclusion of the February 22, 2006 hearing, the Planning Commission voted to recommend to the Beaverton City Council adoption of the proposed amendment to the Comprehensive Plan as summarized in Planning Commission Order No. 1842; and
- WHEREAS,** no written appeal pursuant to Section 1.3.6.4 was filed by persons of record for CPA 2005-0008 following the issuance of Planning Commission Order No. 1790; and
- WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1842 dated March 13, 2005 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- S cti n 1.** Ordinance No. 4187, the Comprehensive Plan, as amended, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.
- S ction 2.** All Comprehensive Plan provisions adopted prior to this Ordinance, which are not expressly amended or replaced herein, shall remain in full force and effect.
- S cti n 3.** Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or part thereof shall not impair or otherwise affect in

any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole in so far as reasonably possible under all of the relevant circumstances and facts.

First reading this 10th day of April, 2006.
Passed by the Council this _____ day of _____, 2006.
Approved by the Mayor this _____ day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

Proposed additions are shown in ***bold and italicized type*** and deletions are ~~struck through~~.

5.8 PARKS AND RECREATION

Parks and recreation facilities are basic and essential for the health and welfare of the community. The City coordinates the land use aspects of locating these facilities but does not predetermine sites. Location and improvement decisions for these types of facilities are the responsibility of the Tualatin Hills Park and Recreation District (THPRD), ***which is the parks and recreation provider for the City of Beaverton.***

As Beaverton and the Metro area become more densely developed, the number, location, size and quality of parks and recreation facilities have become increasingly more important. The demand for these facilities has been brought about in part by a higher standard of living; more leisure time resulting from such things as shorter work weeks, earlier retirement, and increasing life span; higher densities of development and a continuing emphasis on health and exercise. The by-products of urbanization in terms of congestion, air pollution and noise have also created a greater awareness of the need for open space in the urban environment. An adequate park and recreation system contributes to the physical and mental health of the community and can be a source of community pride.

As features in the urban landscape, parks improve the character of neighborhoods and tend to stabilize ***and improve*** property values. Also, many businesses and industries seek locations with a high level of environmental quality as a means of increasing their ability to attract and retain a stable and productive work force. ***THPRD facilities are available to residents of the district, to employees who work in the district and to others by paying an out of district fee.*** With improved transportation systems giving greater flexibility for business and industrial site selection, a well-developed park and recreation system can be an important factor in attracting such developments to the community.

THPRD is ***a special service district*** ~~independent from the City~~ with its own elected five-member Board of Directors and taxing authority. THPRD was established in 1955. THPRD's boundary includes ***almost all of the land currently within Beaverton's City limits and*** most of Beaverton's ~~assumed~~ Urban Services Area. THPRD, ~~for the most part,~~ has developed ~~its own~~ ***an*** acquisition and development plan pursuant to the adopted Tualatin Hills Park & Recreation District 20-Year Comprehensive and Trails Master Plans, which are adopted here by reference. In addition to donations and outright purchases, the THPRD works with the City and Washington County through the land development process to obtain sites by dedication.

The THPRD's plan recognizes different types of park and recreation facilities including regional, neighborhood, community and specialty parks, school parks, recreational/aquatic center, multi-use trail system plan, off-street trail corridors and natural areas along streams. These descriptive park designations relate to the function or

character of the parks shown on THPRD's 20-Year Comprehensive Park & Recreation and Trails Master Plans. As the area grows, opportunities will occur in addition to those shown on the plan. Each should be evaluated in terms of conformance with this plan's goals and policies and those of the THPRD 20-Year Comprehensive Park & Recreation and Trails Master Plans.

The City has declared that THPRD is the park and recreation provider for the City. Almost all of the City's current land area is in the district. Statewide Planning Goal 11: Public Facilities and Services requires cities and counties: "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This requirement for urban areas includes recreation facilities and services. Beaverton has complied with this requirement by cooperating and coordinating with THPRD and by adopting their Plans into this Comprehensive Plan by reference. The City does provide some park and recreation facilities but it has no intention of being the primary provider of these facilities or services. Most of Beaverton's unincorporated Urban Service Area is in THPRD. Some of Beaverton's Urban Services Area is not in THPRD and since the City does not intend to be the primary parks and recreation provider to those areas they need to annex to the THPRD, if they develop in the City. To comply with Goal 11 the City will require the owners of property that is proposed for development or redevelopment but not in THPRD, to annex to the District and pay THPRD System Development Charges unless it can be demonstrated the development will provide park land, recreation facilities and services at a level that is similar to that provided by THPRD.

The Portland General Electric (PGE)/Bonneville Power Administration (BPA) transmission lines provide opportunities for open space and trail corridors in the community. These rights-of-way will not be converted to intensive urban land uses in the foreseeable future.

5.8.1 Goal: Cooperate with THPRD in implementation of its 20-Year Comprehensive Master Plan and Trails Master Plan in order to ensure adequate parks and recreation facilities and programs for current and future City residents.

POLICIES:

- a) The City shall support and encourage THPRD efforts to provide parks and recreation facilities that will accommodate growth while recognizing the limited supply of buildable land in the city for such facilities.
- b) The City shall encourage THPRD to provide parks and recreation facilities throughout the City in locations that are easily accessible to those they are intended to serve.

- c) The City shall support and encourage acquisition of park and recreation sites in advance of need so that the most appropriate sites are available for these vital public facilities.

***Action 1:** The City shall work with THPRD to further explore opportunities for mixing public park and recreation activities with revenue-generating public/private partnerships such as restaurants, recreation and aquatic centers, sports complexes, or other concession activities, in order to help finance recreation programming, park acquisition, and maintenance.*

- d) The City shall notify THPRD of development proposals that may potentially impact a present or future park site to allow the district the opportunity to comment, purchase or request dedications.
- e) A number of financial incentives exist to encourage private property owners to donate, dedicate, or provide easements for resource preservation, park, trail or open space use. The City shall work cooperatively with property owners and THPRD to maximize the use of these tools for the benefit of the community.
- f) To offset increased densities and to meet the needs of the population, the City and THPRD should work together to provide urban scale public spaces in regional centers, town centers, station communities and main street areas within the city.
- g) The planning, acquisition and development of multi-use paths should be consistent with this Plan's Transportation Element and THPRD's Trail Master Plan.
- h) The City shall encourage park acquisition and appropriate development in areas designated as Significant Natural Resources, as defined by Volume III of this Comprehensive Plan.
- i) ***THPRD is the park and recreation provider for the City of Beaverton and the City desires that all property within its boundaries be within THPRD's boundaries.***

***Action 1:** Amend the Development Code to require owners of properties applying for a conditional use, design review or land division to annex to THPRD and to pay THPRD's System Development Charges.*

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

4/17/06



SUBJECT: An Ordinance Amending Ordinance 2050, The Development Code, to Require Properties Applying for Certain Land Use Approvals To Annex to Tualatin Hills Park and Recreation District (THPRD) and Providing a Waiver Provision, TA 2005-0009

FOR AGENDA OF: ~~4/10/06~~ **BILL NO:** 06059

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 3/15/06

CLEARANCES: City Attorney 
Planning Services 

PROCEEDING: ~~First Reading~~
Second Reading and Passage

EXHIBITS: 1. Ordinance
2. Planning Commission Order 1843
3. Planning Commission Minutes
4. Staff Report Dated 1/10/06
5. Memorandum Dated 2/14/06

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Tualatin Hills Park and Recreation District (THPRD) was established in 1955 and its boundaries now include most of the City of Beaverton and its assumed Urban Services Area. Over the years THPRD has expanded and improved its facilities and services to a level which contributes significantly to the quality of life in the community. Lack of availability of such facilities and services to occupants of new development would detract from their quality of life.

INFORMATION FOR CONSIDERATION:

The attached Ordinance would amend Development Code Section 50.90 and add Sections 40.93 and 60.33. Section 60.33 would require any property in the City (that is not already in THPRD) that is the subject of a Conditional Use, Design Review and/or Land Division to annex to THPRD unless they qualify for a waiver. Section 40.93 establishes the requirements for a waiver of the annexation requirement and sets forth the procedures to be followed to obtain a waiver. The amendment to Section 50.90 merely adds the waiver approval to a list that provides a two-year expiration date of the approval.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

Agenda Bill No: 06059

ORDINANCE NO. 4388

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE, TO ADD SECTIONS 40.93 AND 60.33 AND AMEND SECTION 50.90 TO REQUIRE ANNEXATION TO THE TUALATIN PARK AND RECREATION DISTRICT FOR PROPERTIES APPLYING FOR CERTAIN PERMITS AND INCLUDING A WAIVER PROVISION; TA 2005-0009

WHEREAS, the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the citizens of the City of Beaverton and the City chooses to require properties that apply for a Conditional Use, Design Review, and/or Land Division to annex to THPRD in order to insure that the residents of the City have adequate park and recreation services and to comply with Statewide Planning goal 11; and

WHEREAS, pursuant to Section 50.50.1 of the Development Code, the Beaverton Planning Services Division on January 10, 2006, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on January 10, 2006; and

WHEREAS, on January 25, 2006 and February 22, 2006, the Planning Commission conducted a public hearing for TA 2005-0009; and

WHEREAS, at the conclusion of the February 22, 2006 hearing, the Planning Commission voted to recommend to the Beaverton City Council adoption of the proposed amendment to the Development Code as summarized in Planning Commission Order No. 1843; and

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2005-0009 following the issuance of Planning Commission Order No. 1843; and

WHEREAS, the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1843 dated March 14, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, the Development Code, as amended, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this 10th day of April, 2006.
Passed by the Council this _____ day of _____, 2006.
Approved by the Mayor this _____ day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

EXHIBIT A

ORDINANCE NO. 4388

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT ANNEXATION WAIVER

40.93.05. Purpose.

The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.

40.93.10. Applicability

A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.

40.93.15. Application.

There is a single THPRD annexation waiver application which is subject to the following requirements.

1. THPRD Annexation Waiver.

A. Threshold. An application for a THPRD annexation waiver shall be required when the following threshold applies:

- 1. *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.***

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.

C. **Approval Criteria.** *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*

1. *The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*
3. *Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
4. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

- D. Submission Requirements. *An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.*
- E. Conditions of Approval. *The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.*
- F. Appeal of a Decision. *Refer to Section 50.70.*
- G. Expiration of a Decision. *Refer to Section 50.90.*

Additions are ***bolded and italicized*** and there are no deletions

50.90. Expiration of a Decision

1. Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.

- A. Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.

- B. Two (2) years from the effective date of decision:

Accessory Dwelling Unit (40.05.15.1)
Administrative Conditional Use (40.15.15.3)
Alteration of a Landmark (40.35.15.1)
Conditional Use (40.15.15.4)
Demolition of a Landmark (40.35.15.3)
Design Review Two (40.20.15.2)
Design Review Three (40.20.15.3)
Emergency Demolition of a Landmark (40.35.15.2)
Expedited Land Division (40.45.15.7)
Final Land Division (40.45.15.6)
Final Planned Unit Development (40.15.15.6) when there
is no phasing to the development
Flexible Setback for Individual Lot With Endorsement
(40.30.15.1)
Flexible Setback for Individual Lot Without Endorsement
(40.30.15.2)
Flexible Setback for a Proposed Residential Land Division
(40.30.15.3)
Flexible Setback for a Proposed Annexation (40.30.15.4)
Lot Line Adjustment (40.45.15.1)
Major Adjustment (40.10.15.3)
Major Adjustment - All Regional Center zones and South
Tektronix Station Community Major Pedestrian
Routes (40.10.15.4)
Major Modification of a Conditional Use (40.15.15.2)
Minor Adjustment (40.10.15.1)

Minor Adjustment - All Regional Center zones and South
Tektronix Station Community Major Pedestrian
Routes (40.10.15.2)

Minor Modification of a Conditional Use (40.15.15.1)

New Construction in a Historic District (40.35.15.4)

Preliminary Fee Ownership Partition (40.45.15.4)

Preliminary Fee Ownership Subdivision (40.45.15.5)

Preliminary Partition (40.45.15.2)

Preliminary Planned Unit Development (40.15.15.5)

Preliminary Subdivision (40.45.15.3)

Public Transportation Facility (40.57.15.1)

Tree Plan One (40.90.15.1)

Tree Plan Two (40.90.15.2)

Tree Plan Three (40.90.15.3)

THPRD Annexation Waiver (40.93.15)

Variance (40.95.15.1)

Wireless Facility One (40.96.15.1)

Wireless Facility Two (40.96.15.2)

Wireless Facility Three (40.96.15.3)

Zero Side or Zero Rear Yard Setback for a Proposed
Residential Land Division (40.30.15.5)

Zero Side Yard Setback for a Proposed Non-Residential
Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

Design Review Compliance Letter (40.20.15.1)

Home Occupation One (Section 40.40.15.1)

Home Occupation Two (Section 40.40.15.2)

Loading Determination (Section 40.50.15.1)

Parking Requirement Determination (Section 40.55.15.1)

Shared Parking (Section 40.55.15.2)

Signs (Section 40.60.15.1)

Solar Access (Section 40.65.15.1)

Use of Excess Parking (Section 40.55.15.3)

D. No expiration date:

Director's Interpretation (40.25.15.1)

Discretionary Annexation Related Zoning Map
Amendment (40.97.15.4).

Legislative Zoning Map Amendment (40.97.15.2)

Non-Discretionary Annexation Related Zoning Map
Amendment (40.97.15.3)

Quasi-Judicial Zoning Map Amendment (40.97.15.1)

Street Vacation (40.75.15.1)
Text Amendment (40.85.15.1)
Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
 - A. An application for an extension is filed pursuant to Section 50.93; or
 - B. The development authorized by the decision has commenced as defined herein.
 1. The use of the subject property has changed as allowed by the approval;
 2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
 3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
 4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

This Section is entirely new and is shown ***bolded and italicized***.

60.33. *PARK AND RECREATION FACILITIES AND SERVICES PROVISION*

60.33.05. *Purpose. The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:*

- 1. Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and***
- 2. Require all new development to pay its fair share for the park and recreational system that serves Beaverton.***

60.33.10. *Annexation to THPRD.*

Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.

60.33.15. *Waiver of Requirement.*

Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: TA 2006-0001 Scoreboard Sign


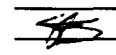
4/17/06

FOR AGENDA OF: ~~04-10-06~~ **BILL NO:** 06060

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 3-28-06

CLEARANCES: City Attorney 
Dev. Serv. 

PROCEEDING: ~~First Reading~~
Second Reading and Passage

EXHIBITS: 1. Ordinance
2. Land Use Order No. 1854
3. Draft PC Minutes 03-08-06
4. Staff Report dated 03-01-06

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

HISTORICAL PERSPECTIVE:

On March 8, 2006, the Planning Commission held a public hearing to consider TA 2006-0001 Scoreboard Sign that proposes to amend selected sections of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005) to allow signs located on scoreboards associated with public and private schools and public park athletic fields that are visible from the public right-of-way. Affected chapters of the Development Code include Chapter 60 (Special Regulations) and Chapter 90 (Definitions). Following the close of the public hearing on March 8, 2006, the Planning Commission voted 6-1 (Maks abstained) to recommend approval of the proposed Scoreboard Sign Text Amendment, as memorialized in Land Use Order No. 1854.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1854, the draft Planning Commission meeting minutes, and staff report.

RECOMMENDED ACTION:

Staff recommends the City Council approve the recommendation of the Planning Commission for TA 2006-0001 Scoreboard Sign as set forth in Land Use Order No. 1854. Staff further recommends the Council conduct a ~~First Reading~~ of the attached ordinance.

Second Reading and Passage

Agenda Bill No: 06060

ORDINANCE NO. 4389

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE,
CHAPTERS 60 and 90;
TA 2006-0001 Scoreboard Sign

WHEREAS, the purpose of the Scoreboard Sign Text Amendment is to amend selected sections of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005) to allow for the insertion of signs on Scoreboards that are visible from the public right-of-way. Affected chapters of the Development Code include Chapter 60 (Special Regulations) and Chapter 90 (Definitions); and

WHEREAS, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on March 1, 2006, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on March 8, 2006; and,

WHEREAS, the Planning Commission held a public hearing on March 8, 2006 and approved the proposed Scoreboard Sign Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated May 19, 2003, and as amended at the hearing; and

WHEREAS, on March 8, 2006 the Planning Commission conducted a public hearing for TA 2006-0001 Scoreboard Sign at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1854; and,

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2006-0001 Scoreboard Sign following the issuance of the Planning Commission Land Use Order No. 1854; and,

WHEREAS, the City Council adopts as to criteria, facts, and findings described in Land Use Order No. 1854 dated March 23, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4365, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this ^{10th} ___ day of April, 2006.

Passed by the Council this ___ day of _____, 2006.

Approved by the Mayor this ___ day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 60 – Special Regulations, Section 60.40, Signs, specifically Section 60.40.15.3., will be amended to read as follows:

60.40.20. Signs Subject to Ordinance Regulation - Permit Required. The following signs are subject to all ordinance regulations and permits are required prior to on-site construction, installation or placement.

Scoreboard Sign – Public and private school and public park facility athletic scoreboards visible from a public right-of-way may include one scoreboard sign that comprises no more than 25 percent of the scoreboard and is no larger than 85 square feet in size, and no portion of the sign shall be located higher than 15 feet above grade on which the sign is located.

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:


Scoreboard Sign – A sign located on a scoreboard that is accessory to an athletic field used to record or tally scores at athletic or sporting events.

AGENDA BILL

Beaverton City Council Beaverton, Oregon

SUBJECT: An Ordinance Supplementing Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and Authorizing the Issuance, Sale, Execution and Delivery of Water Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$15,000,000; Related Matters; and Declaring an Emergency.

4/17/06
FOR AGENDA OF: ~~04/10/06~~ **BILL NO:** 06061

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Finance 

DATE SUBMITTED: 03/20/06

CLEARANCES: City Attorney 

PROCEEDING: ~~First Reading of Ordinance~~
Second Reading and Passage

EXHIBITS: Ordinance
Agenda Bill 05158

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$-0-	BUDGETED \$-0-	REQUIRED \$-0-

HISTORICAL PERSPECTIVE:

On September 12, 2005, the Council adopted Resolution 3829 authorizing the issuance of up to \$15,000,000 in water revenue bonds to finance improvements to the City's water system (copy of Agenda Bill 05158 is attached). In order to proceed with the bond sale, the Council must adopt an ordinance to authorize the sale, execution, and delivery of Water Revenue Bonds, Series 2006.

The Amended and Restated Master Water Bond Ordinance (Ordinance 4270) was last supplemented by Ordinance Number 4322 on September 20, 2004, which authorized the issuance of Water Revenue and Refunding Bonds, Series 2004B to refund the following:

1. All the outstanding 1994 Water Revenue Bonds totaling \$3,650,000 with original interest rates ranging from 5.80% to 6.125%
2. The callable portion of the 1997 Water Revenue Bonds totaling \$6,185,000 with original interest rates ranging from 5.00% to 5.25%.

The Series 2004B bonds were issued in the amount of \$10,280,000 and the new bonds were sold with interest rates ranging from 2.50% to 4.00% resulting in interest savings of \$564,792 (in present value dollars).

INFORMATION FOR CONSIDERATION:

The City's Bond Counsel, Mr. Douglas Goe of the firm Orrick, Herrington & Sutcliffe, LLP, has prepared the attached Ordinance which supplements Ordinance 4270 (Amended and Restated Master Water Revenue Bond Ordinance) and authorizes the issuance of new Water Revenue Bonds, in one or more series, in an amount not to exceed \$15,000,000 to;

- Finance the costs of additions, replacements, expansions and/or improvements to the City's water system, which may include but is not limited to:

- Constructing and equipping Aquifer Storage and Recovery Well Number 4;
- Purchasing the Dernbach Reservoir site;
- Constructing and equipping Extra Capacity Improvement Projects; and
- Finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to:
 - Constructing and equipping the Second Fernhill Water Reservoir and pipeline;
 - Constructing improvements to the Water Treatment Plant (the Near Term Improvements);
 - Constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line;
 - Constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant;
 - Constructing and equipping the Scoggins Dam Raise
 - Constructing and equipping the Water Treatment Plant's 10 million gallon Clearwell; and
- Finance other projects that the City or the Joint Water Commission may find necessary.

The Water Revenue Bonds are currently scheduled for a bond sale date of May 23, 2006, with a proposed closing date of June 6, 2006.

RECOMMENDED ACTION:

~~First reading of Ordinance~~

Second Reading and Passage

ORDINANCE NO. 4390

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 4270 (AMENDED AND RESTATED MASTER WATER REVENUE BOND ORDINANCE) AND AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF WATER REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000; RELATED MATTERS; AND DECLARING AN EMERGENCY.

WHEREAS, the Council enacted Ordinance No. 3977 on April 14, 1997 authorizing the issuance of Water Revenue Bonds, Series 1997 (the “1997 Bonds”); and

WHEREAS, the Council enacted Ordinance No. 4270 (Amended and Restated Master Water Revenue Bond Ordinance) on October 13, 2003 authorizing the issuance of Water Revenue and Refunding Bonds, Series 2004 (the “2004 Bonds”), payable on a parity with the 1997 Bonds and from the net revenues of the City’s water system (the “Master Ordinance”); and

WHEREAS, the Council enacted Ordinance No. 4322 on September 20, 2004 amending Ordinance No. 4270 and authorizing the issuance of Water Revenue and Refunding Bonds, Series 2004B (the “2004B Bonds” and together with the 1997 Bonds and the 2004 Bonds, the “Outstanding Bonds”), payable on a parity with the 1997 Bonds and the 2004 Bonds and from the net revenues of the City’s water system; and

WHEREAS, Section 10 of the Master Ordinance provides for the issuance of Additional Bonds on a parity with the Outstanding Bonds secured by an equal charge and lien on the Net Revenues of the City’s water system; and

WHEREAS, on September 12, 2005, the City adopted Resolution No. 3829 (the “60-Day Resolution”) authorizing the issuance of water revenue bonds in an amount not exceeding \$15,000,000; and

WHEREAS, on September 22, 2005, the City published a Notice of Water Revenue Bond Authorization (the “Notice”) in *The Oregonian*, a newspaper of general circulation within the City. Subject to the provisions of Oregon Revised Statutes (“ORS”) Section 288.815 (3), the City may not sell water revenue bonds authorized under ORS 288.805 to 288.945 (the “Uniform Revenue Bond Act”), until at least sixty (60) days following publication of the Notice; and

WHEREAS, more than sixty (60) days have elapsed since the publication of the Notice and the City has determined that no petitions have been received by electors of the City; and

WHEREAS, the City finds and determines that it is in the best interest of the City and Bondowners to approve this Ordinance as authorized by the Master Ordinance, without the consent of any Bondowners, to authorize the Bonds of any Series to be issued under the Master Ordinance and, in connection therewith, specify and determine the matters and things relative to the issuance of such Bonds; and

WHEREAS, the City determines that it is financially feasible for the City and in the City’s best interest to provide funds to:

(A) finance the costs of additions, replacements, expansions and/or improvements to the City's water system, and the acquisition of all real and personal property necessary, useful or convenient thereto;

(B) finance the City's share of Joint Water Commission capital expansion projects, including, but not limited to:

- (i) constructing and equipping the Second Fernhill Water Reservoir and pipeline;
- (ii) improvements to the Near Term Water Treatment Plant;
- (iii) constructing and equipping the Northside Transmission Line Phase III which connects the new reservoir and water treatment plant improvements to the existing Northside Transmission Line;
- (iv) constructing and equipping the Raw Water Pipeline from Scoggins Reservoir to the Water Treatment Plant; and

(C) finance other projects that the City or the Joint Water Commission may find necessary; and

The above projects, together with the funding of a debt service reserve account and paying related bond issuance costs are collectively referred to herein as the "Project" and shall be financed with not more than \$15,000,000 of the proceeds of the proposed revenue bonds.

Now, Therefore,

THE CITY COUNCIL OF THE CITY OF BEAVERTON, OREGON ORDAINS as follows:

SECTION A. BONDS AUTHORIZED

The City hereby authorizes the issuance, sale, execution and delivery of Water Revenue Bonds (the "Bonds"), in one or more series, in an aggregate principal amount not exceeding \$15,000,000 and in an amount sufficient to finance the Project and the costs incident to the authorization, sale, issuance and delivery of the Bonds, including without limitation the cost of any bond ratings, municipal bond insurance or Reserve Credit Facility. The Bonds will qualify as Additional Bonds (the "Additional Bonds") under Section 10 of the Master Ordinance and shall be issued upon such financial terms and covenants as may be approved by the Director or his designee (the "Authorized Representative") as provided in Section M hereof.

Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Master Ordinance.

SECTION B. SECURITY

The Bonds are not general obligations of the City and are not payable from any taxes levied by the City. In accordance with Section 2 E of the Master Ordinance, the City pledges to the payment of the Bonds on an equal and ratable basis with the Outstanding Bonds and any Additional Bonds all of the City's right, title and interest in the following:

- (1) the Net Revenues;
- (2) the moneys and investments (including investment earnings thereon) on deposit in the Debt Service Fund and the Reserve Account, including without limitation the City's right, title and interest in any Reserve Credit Facility (and any moneys drawn or paid thereunder) given with respect to meeting the Reserve Requirement on a particular Series of Bonds;
- (3) any Credit Facility other than a Reserve Credit Facility given as security for the payment of any amounts owing on any Bonds (and any moneys drawn or paid thereunder); provided that such Credit Facility secures only those Bonds for which it was given; and
- (4) such other properties and assets as may be hereafter pledged to the payment of Bonds pursuant to any Supplemental Ordinance or which may be delivered, pledged, mortgaged or assigned by any person as security for Bonds.

The Bonds issued in accordance with Section 10 of the Master Ordinance shall have a lien on the Security that is equal to the lien of the Bonds issued in accordance with the Master Ordinance or any Supplemental Ordinance.

SECTION C. FINDINGS OF FACTS AND LAW

ORS 288.815(7) requires that a notice describing the purposes for which the bonds described in the 60-Day Resolution are sold shall be published by the City in at least one newspaper of general circulation within the City and in the same manner as are other public notices of the City. Section 2. of the 60-Day Resolution adopted by the City entitled, "Notice; Procedure" also required the publication of the Notice in both the *Valley Times* and *The Oregonian*, newspapers of general circulation within the City. The City has determined that the Notice was published in *The Oregonian*, but the Notice inadvertently was not published by the *Valley Times*.

The City has reviewed the estimated circulation statistics of both newspapers. As of September 2005, *The Oregonian* was circulated to a daily average of 78,506 households in Washington County, and *The Valley Times* was circulated to a daily average of 8,778 households. The City has a population of approximately 83,079. Distribution of *The Oregonian* reaches a substantial portion of the City's residents, and the City has determined that the intent of the direction in the 60-Day Resolution to reach a broad readership by publishing in two newspapers was substantially complied with and meets the requirements of state law. Based on the broader circulation of *The Oregonian* and based on the fact that ORS Section 288.815(7) requires only one publication, the City has concluded that the publication of the Notice in *The Oregonian* complies with the requirement of the Uniform Revenue Bond Act.

Therefore, the City hereby revokes only the portion of Section 2. of the 60-Day Resolution that required the Notice to be published by the *Valley Times* and hereby concludes that the publication in *The Oregonian* is sufficient to satisfy the requirements of ORS 288.815(7). The remaining provisions of the 60-Day Resolution shall remain in full force and effect.

SECTION D. ADDITIONAL BONDS

As set forth in Section 10 of the Master Ordinance, the conditions for issuing Additional Bonds will be met prior to the issuance of the Bonds.

SECTION E. RATE COVENANT

The City covenants and agrees that it shall impose and collect such System fees, rates and charges to meet the covenants as set forth more fully in Section 9 of the Master Ordinance, including without limitation, any amounts owed to any Credit Provider in connection with the Bonds.

SECTION F. DEPOSITS TO THE RESERVE ACCOUNT

The City shall make deposits from Net Revenues or proceeds of the Bonds or purchase a Reserve Credit Facility for the Reserve Account in the amount required as provided in Section 10 A (3) of the Master Ordinance. The deposit to the Reserve Account made at closing of the Bonds shall be sufficient to bring the balance in the Reserve Account equal to the Reserve Requirement for all Outstanding Bonds, including the Bonds.

SECTION G. FORM AND EXECUTION OF BONDS

The Bonds shall be substantially in the form as approved by the City and Bond Counsel. The Bonds may be printed or typewritten and may be issued as one or more temporary Bonds, which shall be exchangeable for definitive Bonds when definitive Bonds are available.

The Bonds shall be executed by the manual or facsimile signature of the Mayor and attested to by the manual or facsimile signature of the City Recorder of the City. Additionally, the Registrar shall authenticate all Bonds to be delivered at closing.

SECTION H. BOOK-ENTRY SYSTEM

The Bonds shall be initially issued as a book-entry only security issue pursuant to Section 3 of the Master Ordinance.

SECTION I. AUTHENTICATION, REGISTRATION, EXCHANGE AND TRANSFER

The provisions of Section 5 of the Master Ordinance shall apply to the Bonds.

SECTION J. NOTICE OF REDEMPTION

The provisions of Section 4 of the Master Ordinance shall apply to the Bonds.

SECTION K. DEPOSIT OF FUNDS

The provisions of Section 6 of the Master Ordinance shall apply to the Bonds and as may be directed by the Authorized Representative pursuant to Section N hereof.

SECTION L. TAX-EXEMPT STATUS

The City covenants to use the proceeds of the Bonds, and the facilities financed with the Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), so that the interest on the Bonds will not be includable in gross income of the Owners for federal income tax purposes. The City specifically covenants:

1. to comply with the "arbitrage" provisions of Section 148 of the Code, and to pay any rebates to the United States on the gross proceeds of the Bonds;

2. to yield restrict and pay any rebates due to the United States on any unexpended proceeds of the Bonds;
3. to operate the facilities financed with the proceeds of the Bonds so that the Bonds are not “private activity bonds” under Section 141 of the Code; and
4. to comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Bonds.

SECTION M. ESTABLISHMENT OF RESPONSIBILITIES AND TERMS OF BONDS

The Authorized Representative is hereby authorized, on behalf of the City and without further action of the City Council, subject to the limits of the Master Ordinance, to:

1. establish the dated date, the aggregate principal amount, principal maturities, interest rates, payment dates, redemption terms, and other terms for the Bonds;
2. establish the date for a public competitive sale of the Bonds and approve the final form of and cause an Official Notice of Bond Sale (the “Notice of Bond Sale”), substantially in the form as approved by the Authorized Representative, or a summary thereof, to be published electronically, award the successful bid or reject the bids for the Bonds as required pursuant to ORS 287.022 and 288.805 to 288.945, and as directed in Section N hereof, or if the Authorized Representative determines to sell the Bonds pursuant to a negotiated sale, to make arrangements for a negotiated sale of the Bonds and approve, execute and deliver a bond purchase agreement in connection therewith;
3. appoint a registrar and paying agent for the Bonds;
4. take such actions as are necessary to qualify the Bonds for the book-entry only system of The Depository Trust Company;
5. approve, execute and deliver a Continuing Disclosure Certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, § 240.15c2-12);
6. approve of and authorize the distribution of preliminary and final official statements for the Bonds and the execution of the final official statement;
7. obtain ratings on the Bonds if necessary;
8. determine the need for municipal bond insurance or a Reserve Credit Facility for the Bonds, and if purchased, direct expenditure of Bond proceeds to pay any bond insurance or Reserve Credit Facility premium and execute and deliver any insurance agreements, certificates, or related documents or agreements that are reasonably required by the Bond Insurer;
9. approve, execute and deliver the Bond closing documents and certificates;
10. enter into covenants regarding the use of the proceeds of the Bonds and the projects financed or refinanced with the proceeds of the Bonds, to maintain the tax-exempt status of the Bonds;

11. under Section 265(b) of the Code, designate all or any portion of the Bonds as “qualified tax-exempt obligations” under Section 265(b) of the Code, if determined by the Authorized Representative to be in the best interest of the City and to the extent permitted under the Code; and

12. execute and deliver a certificate specifying the action taken by the Authorized Representative pursuant to this Section M and to execute and deliver any other certificates, documents or agreements that are reasonably required to issue, sell and deliver the Bonds in accordance with this Ordinance.

SECTION N. PROCEDURES FOR SALE OF THE BONDS

If the Authorized Representative determines that the sale of the Bonds shall be a competitive sale, the Authorized Representative shall cause the Notice of Bond Sale, or a summary thereof, to be published electronically on the Internet prior to the sale date stated in the Notice of Bond Sale, as provided by ORS 288.885(2)(d). For a competitive sale, bids to purchase the Bonds will be received and reviewed on the date specified by the Authorized Representative in the Notice of Bond Sale or upon such later date determined by the Authorized Representative if the sale is postponed based on market or other conditions. The Authorized Representative is authorized, on behalf of the City, to accept or reject the bids for the Bonds as required pursuant to ORS 288.915. The Authorized Representative may postpone the sale of the Bonds to a later date, cancel the sale based upon market conditions or enter into a negotiated sale of the Bonds, and if it is determined by the Authorized Representative to sell the Bonds pursuant to a negotiated sale, the Authorized Representative is authorized to approve, execute and deliver a bond purchase agreement in connection therewith.

SECTION O. CONTINUING DISCLOSURE.

The City shall undertake in a Continuing Disclosure Certificate for the benefit of registered Bondowners to provide to each Nationally Recognized Municipal Securities Information Repository (“NRMSIRs”), and if and when one is established, the State Information Depository (“SID”), on an annual basis on or before 270 days after the end of each fiscal year, commencing with the fiscal year ending June 30, 2006, the information required pursuant to paragraph (b)(5)(i)(A),(B) and (D) of the Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12) (the “Rule”). In addition, the City will undertake for the benefit of the registered Bondowners to provide in a timely manner to the NRMSIRs or to the Municipal Securities Rulemaking Board (“MSRB”) notices of certain material events required to be delivered pursuant to paragraph (b)(5)(i)(C) of the Rule.

SECTION P. DEFEASANCE

The City may defease the Bonds in accordance with Section 17 of the Master Ordinance.

SECTION Q. PROVISIONS RELATING TO BOND INSURANCE

“Bond Insurer” means the provider of a Bond Insurance Policy. “Bond Insurance Policy” means a municipal bond insurance policy insuring the payment of principal of and interest on all or a portion of the Bonds. The provisions of this Section Q shall apply to the Bond Insurer in the event and to the extent provided in an Authorized Representative’s closing certificate with respect to the Bonds insured by such Bond Insurer, so long as (i) its Bond Insurance Policy is in effect, (ii) the Bond Insurer has not asserted that its Bond Insurance Policy is not in effect, (iii) the Bond Insurer is not in default thereunder, (iv) the Bond Insurer is not insolvent, and (v) the Bond Insurer has not waived any

such rights; provided, that, notwithstanding the foregoing, such rights shall continue with respect to amounts previously paid and due and owing the Bond Insurer.

1. Any amendment to the Master Ordinance requiring the consent of Owners of the Bonds or the portion thereof secured by a Bond Insurance Policy (the “Insured Bonds”) shall also require the prior written consent of the Bond Insurer with respect to such Insured Bonds.

2. Any amendment not requiring the consent of Owners of the Insured Bonds shall require the prior written consent of the Bond Insurer with respect to such Insured Bonds if its rights shall be materially and adversely affected by such amendment.

3. The prior written consent of the Bond Insurer with respect to the Insured Bonds shall be a condition precedent to the deposit by the City of any Reserve Credit Facility in lieu of a cash deposit into the Reserve Account relating to such Insured Bonds, which consent shall not be unreasonably withheld unless the Bond Insurer is providing a Reserve Credit Facility in connection with the Bonds.

4. For purposes of Section 14 of the Master Ordinance (regarding defaults and remedies), if an Event of Default shall have occurred and be continuing, the Bond Insurer with respect to the Insured Bonds shall be deemed to be the Owner of such Insured Bonds in connection with any consent or direction, appointment, request or waiver to be provided thereunder.

5. The Bond Insurer with respect to the Insured Bonds shall have the right to institute any suit, action or proceeding at law or in equity under the same terms as an Owner of such Insured Bonds in accordance with the Master Ordinance.

6. The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Bonds it insures, become subrogated to the rights of the recipients of such payments in accordance with the terms of its Bond Insurance Policy.

7. Principal and/or interest paid by a Bond Insurer under its Bond Insurance Policy shall not be deemed paid for purposes of the Master Ordinance, and the Insured Bonds with respect to which such payments were made shall remain Outstanding and continue to be due and owing until paid by the City in accordance with the Master Ordinance.

8. In the event of any defeasance of the Insured Bonds, the City shall provide the applicable Bond Insurer with copies of all documents as required to be delivered to the Registrar under the Master Ordinance and any Supplemental Ordinances thereto.

9. The City shall not discharge the Master Ordinance unless all amounts due or to become due to the Bond Insurer have been paid in full or duly provided for.

SECTION R. NOTICES TO THE BOND INSURER; PAYMENT PROCEDURES

1. The City shall send or cause to be sent to the Bond Insurer copies of notices required to be sent to Bondowners or others in connection with the Bonds pursuant to the Master Ordinance.

2. The City shall observe and perform any payment procedures under the Bond Insurance Policy required by the Bond Insurer as a condition to the issuance and delivery of such Bond Insurer’s Bond Insurance Policy.

SECTION S. DESIGNATIONS

Orrick, Herrington & Sutcliffe LLP, is designated as bond counsel to the City for the issuance of the Bonds; Regional Financial Advisors, Inc. is designated as Financial Advisor for the Bonds; and The Bank of New York, N.A. is designated as Paying Agent and Registrar for the Bonds.

SECTION T. ORDINANCE TO CONSTITUTE CONTRACT

In consideration of the purchase and acceptance of any or all of the Bonds by those who shall own the Bonds from time to time (the "Owners"), the provisions of this Ordinance shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Ordinance or in the closing documents executed in connection with the Bonds, including without limitation the City's covenants and pledges contained in Section B and E hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Bonds over any other thereof, except as expressly provided in or pursuant to this Ordinance.

SECTION U. EMERGENCY

The Council finds that the City must proceed immediately with the authorization of the Bonds to obtain favorable interest rates on the Bonds. The Council declares an emergency affecting the public welfare, and this Ordinance shall take effect immediately upon enactment.

First reading this 10th day of April, 2006.

Second reading this 17th day of April, 2006.

Approved by the Mayor this ____ day of _____, 2006.

Attest:

Approved:

City Recorder

Mayor