



FINAL AGENDA

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

REGULAR MEETING
SEPTEMBER 17, 2007
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PROCLAMATIONS:

Family Day – A Day to Eat Dinner with Your Children: September 24, 2007

Race Equality Week: September 30 – October 6, 2007

PRESENTATIONS:

07190 Oregon Air National Guard 142nd Fighter Wing Presentation

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

07191 Liquor Licenses: Change of Ownership - Round Table Pizza

07192 Authorize Mayor to Sign a Letter Granting CWS Authority to Negotiate and Sign a Memorandum of Agreement with the U. S. Bureau of Reclamation on Behalf of the City

ORDINANCES:

Second Reading:

07184 An Ordinance Amending Chapter 2 of the Beaverton City Code to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet (Ordinance No. 4452)

07189 An Ordinance Amending Ord. 2050 Beaverton Development Code Chapter 60, Special Regulations, Section 60.05 Design Review, 60.05.55.1 Regional Center Major Pedestrian Route Map TA 2007-0001 (Ordinance No. 4453)

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.

PROCLAMATION

OFFICE OF THE MAYOR
CITY OF BEAVERTON



WHEREAS, the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

WHEREAS, 12 years of surveys conducted by The National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs; and

WHEREAS, teenagers who eat dinner with their families two times a week or less are twice as likely to drink alcohol and smoke cigarettes, compared to teens who have frequent family dinners; and

WHEREAS, teenagers who eat dinner with their families are half as likely to smoke cigarettes, smoke marijuana and drink alcohol; and

WHEREAS, the correlation between family dinners and reduced risk for teen substance abuse are well documented; and

WHEREAS, parental engagement is known to be one of the most crucial factors in determining the likelihood of substance abuse by teenagers; and

WHEREAS, family dinners have long constituted a substantial pillar of family life in America; and

NOW, THEREFORE, I, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim Monday, September 24, 2007 as:

FAMILY DAY – A DAY TO EAT DINNER WITH YOUR CHILDREN

in the City of Beaverton and urge all citizens to recognize and participate in its observance.



Rob Drake
Mayor

PROCLAMATION
OFFICE OF THE MAYOR
CITY OF BEAVERTON



WHEREAS, the Mayor and City Council of Beaverton are strongly committed to promoting racial equality and justice as fundamental aspects of a healthy community; and

WHEREAS, the Mayor and City Council of Beaverton urge local officials across the country to join together in a national campaign with the National League of Cities to promote racial equality and justice; and

WHEREAS, the Mayor and City Council of Beaverton declare racism unjust and advocate equal rights for all; and

WHEREAS, by Act of Congress of the United States dated July 2, 1964, the Civil Rights Act was adopted banning discrimination because of an individual's color or race; and

WHEREAS, the Mayor and City Council of Beaverton reaffirm their commitment to ensuring racial equality and justice in our city and to working with the Beaverton Human Rights Advisory Commission to sustain this commitment during the coming year; and

NOW, THEREFORE, I, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim the week of September 30 – October 5, 2007 as:

RACE EQUALITY WEEK

in the City of Beaverton and urge all citizens of Beaverton to join together to support this effort.



Rob Drake
Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Oregon Air National Guard 142nd Fighter
Wing Presentation

FOR AGENDA OF: 09-17-2007 **BILL NO:** 07190

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's

DATE SUBMITTED: 08-13-2007

CLEARANCES: None

PROCEEDING: Presentation

EXHIBITS: None

BUDGET IMPACT

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

2007 marks the 60th anniversary of the United States Air Force (USAF) In recognition of this important milestone, the USAF recognized local communities through their community outreach program called Cities of Honor. The City of Beaverton was one of six cities recognized by the USAF. As part of this recognition, the USAF created unique artwork for each city that will be placed on F-15 fighter jets. The artwork is commonly called "nose art" in aviation circles.

As part of the Oregon Air National Guard's (ORANG) outreach program, ORANG is talking with local communities about ORANG's role in emergency management. The ORANG is reaching out and networking with community leaders to establish relationships before a crisis occurs.

INFORMATION FOR CONSIDERATION:

Colonel Steven D. Gregg, Commander of the Oregon Air National Guard 142nd Fighter Wing will make a presentation to the Beaverton City Council.

RECOMMENDED ACTION:

Listen to presentation.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: LIQUOR LICENSES

FOR AGENDA OF: 09/17/07 BILL NO: 07191

CHANGE OF OWNERSHIP

Round Table Pizza
14342 SW Allen Blvd.

MAYOR'S APPROVAL: 

DEPARTMENT OF ORIGIN: Police 

DATE SUBMITTED: 09/04/07

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

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

A background investigation has been completed and the Chief of Police finds that the applicant meets the standards and criteria as set forth in B.C. 5.02.240. The City has published in a newspaper of general circulation a notice specifying the liquor license request.

INFORMATION FOR CONSIDERATION:

Round Table Pizza, formerly licensed by the OLCC to Round Table Pizza Beaverton, Ltd., is undergoing a change of ownership. Round Table Development Company has made application for a Limited On-Premises Liquor License under the same trade name of Round Table Pizza. The establishment will serve pizza. Its hours of operation will be Sunday through Thursday from 11:00 a.m. to 10:00 p.m. and Friday and Saturday from 11:00 a.m. to 11:00 p.m. There will be no entertainment offered. A Limited On-Premises Sales License allows the sale of malt beverages, wine, and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

RECOMMENDED ACTION:

The Chief of Police for the City of Beaverton recommends City Council approval of the OLCC license.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**


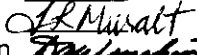
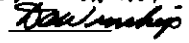
SUBJECT: Authorize Mayor to Sign a Letter Granting CWS Authority to Negotiate and Sign a Memorandum Of Agreement with the U.S. Bureau of Reclamation on behalf of the City

FOR AGENDA OF: 9-17-07 **BILL NO:** 07192

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Public Works 

DATE SUBMITTED: 9-11-07

CLEARANCES: City Attorney 
Finance 
Engr. Division 

PROCEEDING: CONSENT AGENDA

- EXHIBITS:**
1. Draft MOA with U.S. Bureau of Reclamation
 2. Memorandum from CWS

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

On April 23, 2007, Council considered Agenda Bill No. 07078 and approved a Resolution No. 3896 authorizing the City's consent to investigate potential title transfer (assets, real property, and water rights) of the existing Tualatin Project from the U.S. Bureau of Reclamation to a local intergovernmental ownership group: the Tualatin Project Title Transfer Partners. The City is a member of the Tualatin Project Title Transfer Partners by virtue of two existing contracts the City signed (1973 and 1980) with the Bureau of Reclamation, entitling the City up to 7.5 percent of the storage capacity in the Tualatin Project (Scoggins Dam/Hagg Lake). The agencies that comprise the Tualatin Project Title Transfer Partners include the Tualatin Valley Irrigation District (TVID), Clean Water Services, the cities of Hillsboro, Beaverton, and Forest Grove, the Lake Oswego Corporation (pending), and Washington County (holds a lease with Reclamation). Other non-contract water supply partners including Tualatin Valley Water District and the City of Tigard will participate as well.

On May 14, 2007, the Council considered Agenda Bill No. 07101 and authorized the Mayor to execute the 2007 Third Amendment to Joint Funding Agreement for IWRM Water Supply Feasibility Study (aka Tualatin River Basin Water Supply Project). The 2007 Third Amendment modified the Joint Funding Agreement to continue funding in FY 07-08 for the Tualatin Basin Water Supply Project Draft Planning Report/Environmental Impact Statement, required for the Scoggins Dam expansion, and contained added tasks (including funding) associated with the Tualatin Project Title Transfer investigation.

INFORMATION FOR CONSIDERATION:

Beginning in June 2007, a Governance Task Group began meeting regularly to develop a governance agreement that will enable the "Partners" described above to assume ownership of Tualatin Project (Scoggins Dam/Hagg Lake and associated assets, real property, and water rights) from its owner, the Bureau of Reclamation. Assigned City staff represents Beaverton on the Governance Task Group. The eventual governance agreement that will be drafted will include provisions that cover both the Tualatin Project Title Transfer and the Tualatin Basin Water Supply Project. The latter is the proposed project to expand the existing Tualatin Project by raising Scoggins Dam and increasing the volume in Hagg Lake by as much as double to over 100,000 acre-feet. Beaverton has participated in the Tualatin Basin Water Supply Project feasibility work since signing the Joint Funding Agreement in 2001.

The next major step for Title Transfer is to negotiate and sign a Memorandum of Agreement (MOA) with the Bureau of Reclamation for the investigation of the Title Transfer and complete various tasks, such as a comprehensive facilities assessment and environmental review. The MOA (Exhibit 1) provides for specific roles and responsibilities for the Bureau of Reclamation and the Partners consistent with Resolution No. 3896 in Agenda Bill No. 07078. The main elements of the MOA are as follows:

- Contracting with consultants for completing Environmental Review work (NEPA) and other applicable local, state and federal processes.
- Pay reasonable costs for performing the obligations under the terms of the MOA.
- Obtain land surveys and title searches for facilities to be transferred.
- Define the governance structure for the entity formally designated to receive title.
- Develop agreements with other entities and/or individuals to define how the existing operations will remain unchanged.

As provided in the Tualatin Basin Water Supply Project - Joint Funding Agreement (JFA), Clean Water Services provides project management services to seek and retain contracted services to complete the various studies and tasks for the Water Supply Project. Due to the need to maintain title transfer schedule and improve efficiency for its completion, Clean Water Services has requested by memorandum (Exhibit 2) authorization to negotiate and to sign the MOA with the Bureau of Reclamation on behalf of the Water Supply Partners and other Tualatin Project entities (Tualatin Valley Irrigation District, Lake Oswego Corporation and Washington County). The signing of the MOA obligates the partners and entities to investigate Title Transfer, but does not bind them to complete the transfer. The decision to complete the transfer will be part of a future action. The funding of the title transfer investigation is in the existing approved JFA budget.

RECOMMENDED ACTION:

Authorize the Mayor to sign a letter granting CWS authority to negotiate and sign a Memorandum of Agreement with the U.S. Bureau of Reclamation on behalf of the Tualatin Project Title Transfer Partners (Partners), which includes the City, to take necessary steps (described in this agenda bill) leading to Title Transfer of the Tualatin Project to the Partners.

Reclamation Agreement No.: _____

MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION, LOWER COLUMBIA AREA OFFICE
AND
THE TUALATIN PROJECT TITLE TRANSFER PARTNERS

PRELIMINARY DRAFT – August 21, 2007

This Memorandum of Agreement (MOA) is made pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, acting through the Lower Columbia Area Office, Bureau of Reclamation, Department of the Interior, hereinafter referred to as Reclamation, and the TUALATIN PROJECT TITLE TRANSFER PARTNERS (PARTNERS), a group of entities involved in water supply/management issues in the Tualatin River basin and organized under the laws of the State of Oregon., hereinafter referred to as the Partners.

WHEREAS, the Partners as defined in this MOA include the following entities: Tualatin Valley Water District (TVWD) and the cities of Hillsboro, Beaverton, Forest Grove, and Tigard, who together make up the Joint Water Commission (JWC); Tualatin Valley Irrigation District (TVID); Clean Water Services (CWS); Lake Oswego Corporation; and Washington County; and

WHEREAS, the Partners intend to seek Congressional authorization to transfer all rights, title, and interest held or claimed by the United States in and to any portion of the dam, reservoir, pumping stations, distribution systems, recreational facilities and associated lands and rights-of-way and any other portion of the Tualatin Project, including water rights and mineral rights held by the United States for the benefit of TVID, the cities of Hillsboro, Beaverton and Forest Grove, CWS, Lake Oswego Corporation and Washington County; and

WHEREAS, the Partners include TVID, the cities of Hillsboro, Beaverton and Forest Grove, CWS, Washington County, and Lake Oswego Corporation, entities which have entered into repayment and other contracts with the United States and which are currently making or have made payments in accordance with such contracts for storage capacity and/or recreational facilities in the Tualatin Project reservoir, construction of pumping and distribution systems, conveyance of water, and/or operation of such facilities; and

WHEREAS, the Partners and Reclamation have been cooperating on studies to assess alternatives for meeting future water supply needs in the Tualatin River basin and are currently working on a Draft Planning Report/Environmental Impact Statement (PR/EIS) to evaluate alternatives involving a potential dam raise at Scoggins Dam, a feature of Reclamation's Tualatin Project; and

WHEREAS, the Partners have requested that Reclamation consider title transfer with or without a dam raise project, in order to gain greater local control and autonomy with a goal of localizing Project decisions.

WHEREAS, Reclamation intends to request the public's assistance in identifying issues and concerns associated with the proposed action of title transfer as required by the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321, et. seq. (hereinafter referred to as NEPA), through a scoping letter and will receive comments from interested parties to the proposed transfer; and

WHEREAS, Reclamation and the Partners intend to prepare environmental reports and other documents to support Reclamation's completion of NEPA analysis, documentation, and compliance for the proposed transfer; and

WHEREAS, Reclamation has the ultimate responsibility to conduct the environmental analyses associated with NEPA compliance and has adopted guidelines for such analyses; and

WHEREAS, Reclamation represents to the Partners that, at this time, Reclamation has no specific authorization or funds appropriated for paying costs associated with this proposed title transfer; and

WHEREAS, the Partners intend to seek Congressional authorization and appropriation of funds necessary to accomplish the proposed title transfer; and

WHEREAS, the Partners and Reclamation agree to proceed with the proposed title transfer process in accordance with Reclamation's August 1995 Framework for the Transfer of Title.

NOW THEREFORE, the parties agree as follows:

I. Implementing Actions

1. The Partners, subject to Reclamation's review as appropriate, will:

- a. As necessary, contract with a consultant, to be reviewed with Reclamation, to conduct appropriate activities to prepare environmental reports for Reclamation's use in completing NEPA analysis and preparing NEPA documentation on the proposed title transfer, and comply with ESA, NHPA, and other applicable State and Federal laws as required.
- b. Pay for Reclamation's reasonable costs in performing its obligations under this MOA, or performing any other activities as mutually agreed to by the parties in the manner hereinafter provided, with the exception of costs specifically defined as to be paid by Reclamation in Sections III.a and III.b of this MOA.
- c. Obtain the necessary surveys and title searches for the facilities and rights-of-way to be transferred.
- d. Define the governance structure for the entity formally designated to receive title, including: delineations of roles and responsibilities of Partner members within such entity; and designate specific Partners which may receive title to specific facilities, properties, rights, and/or interests, if any. The Partners will also establish and formalize a governance structure that is approved by the Secretary and the State of Oregon, and provide Reclamation with a copy of the documentation that evidences the related agreement among the Partners.
- e. As necessary and appropriate, develop agreements with other entities and/or individuals to define how operations will remain unchanged, or the degree to which they will change, as projected for the period after the proposed transfer, including but not limited to: Project operations and maintenance; recreational facilities and operations; flood control operations;

mitigation responsibilities; cultural resource protections; dam safety procedures; interactions with private landowners; and other issues that may be mutually identified by the parties during the title transfer process.

f. Provide, for Reclamation's review and consideration, an initial definition of specific water rights and mineral rights which the Partners intend for inclusion in the proposed title transfer.

2. Reclamation, in cooperation with the Partners, will:

a. Plan and complete all measures necessary for compliance with NEPA, including NEPA analysis, preparing NEPA documentation, and any and all other necessary compliance activities relative to the proposed transfer. Reclamation and the Partners agree that the development of an environmental assessment (EA) that will adequately fulfill Reclamation's NEPA obligations for the title transfer. Reclamation will make the final determination for meeting its NEPA obligations. The EA will provide for a review of the processes and programs for the Draft PR/EIS to evaluate alternatives involving a potential dam raise at Scoggins Dam, a feature of Reclamation's Tualatin Project. The review will address the effects of a dam raise under local ownership versus federal ownership. Reclamation recognizes that the Partners have an interest in maintaining a timely schedule for the title transfer.

b. Monitor the work of the Partners and/or any consultants engaged by the Partners to ensure compliance with procedural requirements of NEPA, ESA, NHPA, and other State and Federal laws applicable to the proposed transfer.

c. Review environmental report documentation prepared by the Partners/consultants to determine the sufficiency of the information for Reclamation to conduct the appropriate level of NEPA compliance, analysis, and documentation for the proposed transfer. As lead agency for NEPA compliance, final NEPA documentation will be the responsibility of Reclamation.

d. Communicate with the U.S. Fish and Wildlife Service and the NOAA Fisheries Service as appropriate and necessary to comply with Section 7 of the Endangered Species Act, request and pursue consultation.

e. Identify and/or inventory and consult with Tribes on Indian Trust resources and Traditional Cultural Properties impacted by the proposed transfer. In accordance with Section 106 of the NHPA, NAGPRA, and other applicable historic properties and cultural resources law or regulation, Reclamation will ensure the completion of any additional cultural resources investigations necessary to identify significant cultural resources on the subject lands, and prior to transfer will ensure that any adverse effects of transfer of Federal lands or easements to a non-Federal entity are appropriately addressed.

f. With the exception of those records that may be withheld pursuant to the exemptions under the Freedom of Information Act or pursuant to Reclamation security restrictions, make available to the Partners all records pertinent to: the design, construction, and operations and maintenance for Tualatin Project facilities; associated rights-of-way, easements, and real property; and third-party agreements to be included in the proposed transfer.

g. Perform other technical or administrative tasks associated with the proposed transfer as mutually agreed to in advance in writing by both parties.

- h. Seek prior approval from the Partners, to contract with another person or entity for any of Reclamation's obligations herein, and such costs, including Reclamation's actual costs for administering the contracts, except as excluded below, shall be paid by the Partners.
- i. Ensure that all contracts or obligations entered into by Reclamation relating to this MOA contain provisions for cancellation, wherein the contracts or obligations may be terminated at any time upon the written request of the Partners, and the Partners will only be responsible for costs and expenditures incurred up to the date of termination.
- j. Provide copies, if requested, to the Partners of all contracts, documents, invoices, and other writings which evidence obligations pursuant to this MOA.
- k. Ensure that the costs billed to the Partners by Reclamation and any other person or entity Reclamation contracts with to perform any of the obligations pursuant to this MOA, including Reclamation's actual costs of administering the contracts, shall be actual and reasonably necessary costs incurred to complete the proposed transfer activities.
- l. Provide the Partners cost billings quarterly, or more frequently if requested by the Partners, until the proposed title transfer investigation is complete. With each cost billing, Reclamation will itemize costs for all work performed and materials used in performing obligations under this MOA.
- m. Within, 30 days of the signing of the MOA, Reclamation will provide an overall work plan including a scope of work and project schedule for the title transfer investigation process. No less than seven (7) days prior to the first of each quarter, Reclamation will, upon request, provide the Partners with an itemized cost list of Reclamation's estimated actions and expenses for the upcoming quarter, including a list of all activities to be performed, all Reclamation or contract personnel to perform such activities together with their hourly rates, beginning and ending dates and total time to perform each activity, and all materials and materials costs. If acceptable to the Partners, the Partners shall promptly provide Reclamation with written notification of approval together with a remittance of sufficient funds to pay the approved costs. If not acceptable to the Partners, the Partners and Reclamation shall consult prior to the first of the quarter to resolve issues pertaining to the cost list.
- n. Conduct a final asset valuation to finalize the June 16, 2006 preliminary valuation and to determine the value of the project features proposed for transfer and any revenue streams thereof, and negotiate with the Partners regarding adjustments to the value if appropriate.
- o. Provide for, if required, an independent financial review of any adjustment to the asset value.
- p. Complete an environmental site assessment (hazardous materials survey) of facilities and associated real property and rights-of-way proposed for transfer.
- q. Prepare a complete list of all Tualatin Project features that will be transferred should the Partners agree to pursue title transfer subject to IIB.

II. Areas of Mutual Responsibility

- a. The Partners and Reclamation will appoint principal contacts (*See* section VII of this MOA) to coordinate activities necessary to complete the proposed transfer. All requests relating to the proposed transfer described under this MOA will go through the principal contacts.

b. The Partners and Reclamation will ensure completion of all activities required to comply with NEPA, ESA, NHPA, and other State and Federal laws applicable to the proposed transfer, including development of an inventory of facilities, lands, rights-of-way, easements, and other elements proposed for transfer to serve as a basis for the proposed action to be analyzed during NEPA compliance.

c. The Partners and Reclamation will provide for public notice as deemed necessary and appropriate by both parties to comply with NEPA.

d. The Partners and Reclamation will cooperate to evaluate how aid to irrigation (ability to pay) and preference rates for pumping power would be affected by title transfer, including communications with Bonneville Power Authority. Reclamation will determine the legal and policy controls that will ultimately govern viable approaches for addressing these issues.

e. To the degree that funding is available, Reclamation will cooperate with the Partners on investigations and/or other assessments of existing facilities that may be relevant to potential negotiations regarding future costs for facility upgrades that may be anticipated with or without a title transfer.

f. The Partners and Reclamation will cooperate to identify and evaluate specific liability issues relevant to the proposed title transfer, and to work toward reaching an agreement as to how such liability issues will be addressed.

g. The Partners and Reclamation will cooperate to identify and evaluate specific water rights issues relevant to the proposed title transfer, and to work toward reaching an agreement as to how such water rights issues will be addressed.

h. The Partners and Reclamation will cooperate to develop and agree to an inventory list of facilities to be transferred and an understanding of operations and maintenance tasks and costs as experienced for recent Project operations.

i. The Partners and Reclamation will cooperate to develop and agree on an approach for implementing appropriate cultural resource and historic property surveys and consultations.

j. The Partners and Reclamation will cooperate to conduct the proposed transfer investigation process in a manner that ensures appropriate public and landowner participation, as deemed necessary and appropriate under NEPA requirements.

k. Should the activities described in this MOA lead to a mutual intent for the Partners and Reclamation to implement a title transfer if so directed by Congress, the parties will work to develop a Transfer Agreement that defines the terms and conditions of the transfer and which can serve as a reference for related transfer legislation.

l. In the event that Congress directs Reclamation to transfer title as contemplated in this MOA and a future Transfer Agreement, Reclamation will prepare a quitclaim deed to transfer title to the relevant facilities, real property, and rights-of-way from the United States to the Partners. If the Partners or Reclamation become aware of additional facilities, real property, and/or rights-of-way at a later date that both parties agree are within the original intent of the title transfer, such facilities, real property, and/or rights-of-way will be transferred accordingly.

m. The Partners and Reclamation agree that any of the responsibilities of either party under this MOA may become the responsibility of the other party if agreed to by both parties in writing, unless prohibited by law or regulation.

n. The Partners and Reclamation agree that payment in advance for Reclamation costs or completion of any or all aspects of this MOA does not guarantee that title will be transferred for any or all of the relevant facilities, real property, and rights-of-way named in this MOA or that transfer of title will be approved by Reclamation and/or the Congress of the United States.

o. Within the first 10 days of each ensuing month, the Partners will provide Reclamation's principal contact listed in Section VII, Principal Contacts, with an itemized list of costs incurred the month prior on the proposed transfer of title investigation. This itemized list shall be sent each month until the proposed title transfer investigation is complete, and must itemize costs incurred by the Partners by category, expenditures for the month, and total costs to date. Once received, Reclamation will compare the Partners' itemized list of costs to costs incurred by Reclamation to ensure the Parties are meeting the intent established under Section III, Areas of Mutual Agreement. At the end of each quarter, Reclamation will determine if additional funds are needed to cover Reclamation's estimated expenses for the upcoming quarter, and if so, a Bill for Collection will be sent to the Partners, as outlined in provision IV.c, Budget and Payment, Advance Payment.

III. Areas of Mutual Agreement

a. All necessary and reasonable costs of complying with NEPA incurred as a direct result of pursuing title transfer investigation shall be paid in equal shares by Reclamation and the Partners.

b. All costs of performing environmental site assessments (hazardous material surveys) incurred as a direct result of pursuing title transfer investigation shall be paid by Reclamation.

c. All administrative costs not addressed in (a) and (b) above which have been mutually agreed to by the parties shall be paid by the Partners.

d. Reclamation agrees to allocate such funds as may be available for the performance of tasks that are defined under this MOA as tasks for which costs are to be paid by Reclamation. If Reclamation does not have allocated funds for their share, the Partners may advance funds to Reclamation. Reclamation shall credit the Partners' for any funds the Partners advance and apply the credit toward the final title transfer payment in the title transfer agreement.

e. Reclamation agrees to take the necessary steps to minimize costs for activities associated with the proposed title transfer investigation.

IV. Budget and Payment:

a. Authority. Reclamation may provide the services outlined in this MOA pursuant to the Intergovernmental Cooperation Act, 31 U.S.C. § 6505, and OMB Circular A-97, as well as related laws, rules, regulations and orders. Reclamation may receive – and may expend funds received –for investigations and other work involving operations similar to those provided for by the Reclamation law pursuant to the Contributed Funds Act of 1921, 43 U.S.C. § 395.

b. Application of Contributed Funds. Funds contributed by the Partners will be used to pay for costs incurred by Reclamation associated with the implementing actions as described in this MOA.

c. Advance Payment. The Partners agree to provide payment in advance of Reclamation's performance of tasks outlined in this MOA. Funds contributed by the Partners will be used to pay for costs incurred by Reclamation associated with the proposed title transfer investigation as described herein. Bills, statements, and correspondence associated with this MOA shall be directed to:

(PARTNERS' contact to be determined)

d. Separate Account. Reclamation shall deposit funds contributed by the Partners under this MOA into a Reclamation reimbursable account for use on the "TUALATIN PROJECT Proposed Title Transfer" project. Reclamation shall at all times hold the Partners funds separate from all other funds and shall not commingle said funds with any other funds. The Partners shall submit an initial advance payment of \$5,000 for this account and shall deposit funds in this account by the end of each quarter in order to reestablish a positive balance of not less than \$1,000, and no more than the anticipated costs for the upcoming quarter.

e. Insufficient Payment. In the event that funds contributed by the Partners are not sufficient to cover all costs incurred by Reclamation, or if this MOA is terminated by either party, Reclamation will cease work to the extent possible and notify the PARTNERS of the deficiency. The Partners will be responsible for costs incurred by Reclamation for all activities that Reclamation is unable to cancel after reasonable diligence.

f. Address for Return of Funds to the Partners. Reclamation shall return unexpended funds after the termination or expiration of this MOA to the Partners to:

(Partners' contact to be determined)

g. Address to Send Payments to Reclamation. The Partners shall make all payments payable to Bureau of Reclamation. The Partners shall notify Reclamation of each deposit by sending notification via email to ___ (*Reclamation contact to be determined*). The Partners shall remit all payments to Reclamation's lockbox at:

Bureau of Reclamation
PN Region: Pacific Northwest
PO Box 894240
Los Angeles, CA 90189-4240

V. Modifications

Modifications to this MOA shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by the parties, prior to any changes being made. Proposed modifications that may affect pending legislation will be reviewed by Reclamation and the Partners to determine if it is appropriate to advise Congress before effecting such changes, at each party's discretion.

VI. Period of Performance

This MOA shall become effective on the date of last signature hereto and shall remain in effect until (date to be determined) or upon full execution of a title transfer agreement, whichever occurs earlier, unless renegotiated and/or renewed, in writing, by mutual consent of both parties. Either party may terminate its obligations and duties under this MOA at any time upon thirty (30) days written notice to the other party. All duties and obligations of both parties under this MOA will cease at that time except as the MOA provisions relate to outstanding accounting and reimbursement of the parties' expenses.

VII. Principal Contacts

The principal contacts for this MOA are:

Reclamation
(to be determined)

Partners
(to be determined)

VIII. General Provisions

a. Reclamation and the Partners pledge their individual good faith to seek prompt and fair agreement on all issues relating to the proposed transfer.

b. The Partners agree that the following language will be incorporated in any legislation language submitted to Congress and that inclusion of this language into law will be actively supported:

“Effective on the date of the conveyance of the facilities described in Section _____, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).”

c. The Partners agree that the following language be incorporated into any quitclaim deed:

(i) Grantee accepts these facilities, premises, and appurtenances “as is.”

(ii) CERCLA Environmental Covenants and Stipulations:

1. Grantee stipulates that it would be a potentially responsible party, should a release have occurred on relevant real property and rights-of-way during Grantee's operation of the facilities under contract with the Grantor.

2. To the extent the United States is determined responsible, and to the extent allowed, Grantor warrants that any response action or corrective action found to be necessary after the date of the transfer shall be conducted by the United States.

3. Grantee grants the United States access to relevant property in any case in which a response action or corrective action is found to be necessary by the United States after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

d. Nothing herein shall be construed to obligate Reclamation to expend or involve the United States in any contract or other obligation for the future repayment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

e. No Member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or be part of this MOA or receive any benefit that may arise out of it other than as a water user or landowner in the same manner as any other water user or landowner.

Signatures

IN WITNESS WHEREOF, the parties hereto have executed this MOA as of the last date written below.

UNITED STATES OF AMERICA

Ronald J. Eggers, Area Manager
Lower Columbia Area Office
Bureau of Reclamation

Date

Clean Water Services

Bill Gaffi, General Manager

Date

STATE OF IDAHO)

:ss

County of _____)

On this _____ day of _____, 2007, personally appeared before me _____, to me known to be the official of the **UNITED STATES OF AMERICA** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for the
State of Idaho
Residing at: _____
My commission expires: _____

STATE OF OREGON)
County of Washington)

On this _____ day of _____, 2007, personally appeared before me _____, to me known to be the official of the **PARTNERS** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said Partners, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(Seal)

Notary Public in and for the
State of Oregon
Residing at: _____
My commission expires: _____

MEMORANDUM

Date: September 5, 2007

To: Tualatin Project Title Transfer Partners

From: Tom VanderPlaat, Tualatin Basin Water Supply Project Manager

Subject: Request Authorization for Clean Water Services to sign the Title Transfer Investigation - Memorandum of Agreement (MOA) with Bureau of Reclamation on behalf of the Tualatin Project Title Transfer Partners.

The title transfer process began with a resolution to support consideration of Title Transfer from the governing bodies of the repayment contract holders for the existing facilities. These agencies include the Tualatin Valley Irrigation District (TVID), Clean Water Services, the cities of Hillsboro, Beaverton, and Forest Grove, the Lake Oswego Corporation (pending), and Washington County. Other water supply partners including Tualatin Valley Water District and the City of Tigard will participate as well.

The partners involved in the Tualatin Basin Water Supply Project have recently begun consideration of Bureau of Reclamation's Title Transfer Program. The United States Bureau of Reclamation maintains title of all existing facilities of the Tualatin Project (Scoggins Dam, Hagg Lake with adjoining lands, Tualatin Valley Irrigation District facilities, recreational facilities, etc.). The Title transfer program provides for reviewing the elements of transferring title from the US Bureau of Reclamation to local ownership. The potential benefits of Title Transfer include more flexibility and efficiency as a result of local control, and improved integration to meet water resource management challenges.

Reclamation has developed a framework for title transfers as a policy direction for more efficient and effective management of facilities through local ownership. Local water resource agencies involved in the Water Supply Project formed a study committee to determine the feasibility of title transfer and brought their findings to the Tualatin Basin Water Supply Project Policy Steering Committee (PSC) made up of elected and appointed officials from each of the partners in the project. The PSC unanimously recommended that the partners proceed with the investigation of Reclamation Title transfer program.

The next major step for Title Transfer is to negotiate and sign a MOA with Reclamation for the investigation of the Title Transfer and complete various tasks, such as a comprehensive facilities assessment and environmental review. The MOA provides for specific roles and responsibilities for Reclamation and the Partners. The main elements of the MOA are as follows:

1. Contracting with consultants for completing Environmental Review work (NEPA) and other applicable local, state and federal processes.

Tualatin Project Title Transfer Partnership

2. Pay reasonable costs for performing the obligations under the terms of the MOA.
3. Obtain surveys and title searches for facilities to be transferred
4. Define the governance structure for the entity formally designated to receive title.
5. Develop agreements with other entities and/or individuals to define how the existing operations will remain unchanged.

A copy of the draft MOA is attached for your information.

As provided in the Tualatin Basin Water Supply Project - Joint Funding Agreement (JFA), Clean Water Services provides project management (Section 3) services to seek and retain contracted services to complete the various studies and tasks for the Water Supply Project. Due to the need to maintain title transfer schedule and improve efficiency for its completion, it is suggested that Clean Water Services provide project management services for the Title Transfer and be authorized to sign the MOA with Reclamation on behalf of the Water Supply Partners and other Tualatin Project entities (Tualatin Valley Irrigation District, Lake Oswego Corporation and Washington County). The signing of the MOA obligates the partners and entities to investigate Title Transfer, but does not bind them to complete the transfer. The decision to complete the transfer will be part of a future action. The funding of the title transfer investigation is in the existing approved JFA budget.

Clean Water Services has provided the project management services on behalf of Tualatin Basin Water Supply Partners since 2001. These services included hiring contracted services to complete the studies and tasks for the Water Supply Feasibility Study and the Draft Planning Report/Environmental Impact statement (PR/EIS). A key element for both the Study and PR/EIS has been the coordination with Reclamation for a variety of project elements. The Partner's staff members will continue to assisting with selection and review of contracting services and other project processes.

The requested action is to authorize Clean Water Services to sign the MOA on behalf of the Tualatin Project Partners with Reclamation for the investigation of Title Transfer.

AGENDA BILL
Beaverton City Council
Beaverton, Oregon

9/17/07

~~9/10/07*~~

SUBJECT: An Ordinance Amending Chapter 2 of the Beaverton City Code to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet.

FOR AGENDA OF: ~~8-20-07~~ **BILL NO:** 07184

Mayor's Approval: 

DEPARTMENT OF ORIGIN: City Attorney 

DATE SUBMITTED: 8-07-07

CLEARANCES:

PROCEEDING: ~~First Reading~~

Second Reading and Passage

EXHIBITS: Ordinance
Minutes dated 4/16/2007 and
Minutes dated 7/23/07

BUDGET IMPACT

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

The City Charter, Chapter VI, Section 30, provides that "if there is a material misstatement of fact published in the city voter's pamphlet which was submitted by or in behalf of a person nominated or elected to the council, the nominations or election of that person is nullified." During the last election, questions arose on how to interpret this section and what procedures would the City use to review a claim. The Council directed the City Attorney to draft an ordinance for its review. The Council held work sessions on April 16 and July 23, 2007. The minutes from those work sessions are attached. Councilor Doyle asked about why this provision was added to the Charter. City Recorder and Attorney reviewed the 1986 Charter Review Committee's discussion of this section. The Charter Review Committee was presented with a series of questions. One of which was "should Charter provide for penalty in case of candidates' inadvertent or deliberate misstatements in voter's pamphlet regardless of source?" They answered negatively and proposed the existing language. There was little discussion about this section and no discussion about why this section was added. Former Councilor Forrest Soth stated that the Council needed to "police itself." There was a brief discussion about changing the wording from "significant" to "material" misstatement of fact and the authority of the Council to nullify elections.

INFORMATION FOR CONSIDERATION:

At the work sessions, the Council discussed two different versions of the ordinance. Both versions required signed statements as to the truthfulness of the materials and both authorize the City to obtain information from third parties. In both versions, the City can make the final decision as to whether the election or nomination was nullified. The first version provided that the City Council made the determination as to whether there was a "material misstatement of fact." The second version had the circuit court make that factual determination. The circuit court process is the same process that is described in state law and used across the state. Although there were differences of opinion, the majority favored the second version (attached) wherein the circuit court makes the determination as to whether there was a material misstatement of fact. The City will still conduct its own research and citizens can still ask that this be done. It is likely that if the City adopted the first version wherein the Council made the decision, any decision made under this ordinance would be appealed to circuit court. The circuit court could then overturn the City's decision. It is the intent that the attached version should speed up the process and limit the amount of time that an election is in doubt.

RECOMMENDED ACTION:

~~First Reading~~

Second Reading and Passage.

*First reading reconducted 9/10/07 to correct procedural error during reading on 8/20/07.

Agenda Bill No: 07184

ORDINANCE NO. 4452

AN ORDINANCE AMENDING CHAPTER 2 OF THE BEAVERTON CITY CODE
TO ADOPT PROCEDURES FOR
REVIEWING CANDIDATE STATEMENTS IN
CITY VOTER'S PAMPHLET.

WHEREAS, a candidate for public office in Oregon may discuss his or her qualifications and background in a public circular known commonly as the voter's pamphlet; and

WHEREAS, the Charter of the City of Beaverton provides that the City shall publish a voter's pamphlet for any primary, general, or special election; and

WHEREAS, Chapter VI, Section 30.B of the Charter also authorizes the Council to verify a claim that a candidate or official stood for election upon a material misstatement in the voter's pamphlet, and further provides that Council shall remove a person from office upon so finding; and

WHEREAS, a voter's pamphlet misstatement submitted by a candidate or on behalf of a candidate being a matter of citywide importance, it is appropriate to create a public process for the consideration of such a misstatement; now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON:

Section 1. The Beaverton Code is amended in Chapter 2 by adding the following sections.

2.06.487 Voter's pamphlet submission requirements. To accept a statement for publication in the voter's pamphlet, whether submitted by the candidate or on behalf of a candidate:

1. The candidate shall sign an affidavit that attests to the truthfulness of the voter's pamphlet submission statement.
2. The signed statement in subsection (1) shall also contain a provision that the candidate agrees to provide supporting information if requested by the City, and shall release and authorize third parties to participate in an investigation under this ordinance.

2.06.488 A candidate who makes a material misstatement of fact in a City voter's pamphlet is subject to civil and criminal causes of action as found in ORS 260.532 and ORS 260.715.

2.06.489 If the circuit court enters a judgment finding that a candidate has made a material misstatement of fact published in the City's voter's pamphlet, the City Council may nullify the election or nomination of that person.

Section 2. This ordinance is not intended to displace any other civil or criminal remedy allowed under law.

Section 3. Severability. If any part of this ordinance should be determined by any tribunal of competent jurisdiction to be unconstitutional, the remaining parts of the ordinance shall remain in full force and effect.

First reading this 10th day of September, 2007.

Passed by the Council this _____ day of _____, 2007.

Approved by the Mayor this _____ day of _____, 2007.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Ord. 2050
Beaverton Development Code Chapter 60,
Special Regulations, Section 60.05 Design
Review, 60.05.55.1 Regional Center Major
Pedestrian Route Map TA2007-0001

09/17/07
FOR AGENDA OF: ~~09/10/07~~ **BILL NO:** 07189

Mayor's Approval: *Bob Drake*

DEPARTMENT OF ORIGIN: CDD *CS*

DATE SUBMITTED: 08/28/07

CLEARANCES: City Attorney *HR*
Planning Services *HTB*

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

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Staff Report
Exhibit C - Planning Commission Order
Exhibit D - Draft PC Minutes 08/08/07

BUDGET IMPACT

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

The Planning Commission held a hearing on August 8, 2007 to consider TA 2007-0001 that proposes to amend Section 60.05.55, Design Review, 60.05.55.1 Regional Center Major Pedestrian Route Map. The purpose of the amendment is to apply the Class 2 Major Pedestrian Route design standards and guidelines to property fronting existing and proposed collector streets in the Downtown Beaverton Regional Center and two trails along the LRT tracks.

Following the close of the public hearing on August 8, 2007, the Planning Commission voted 6-0 to recommend approval of the proposed text amendment as memorialized in Planning Commission Order No. 1997. No appeals have been filed.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed Major Pedestrian Route Map, the staff report, Planning Commission Order No. 1997, and draft Planning Commission meeting minutes.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage.

ORDINANCE NO. 4453

AN ORDINANCE AMENDING ORD. 2050 BEAVERTON
DEVELOPMENT CODE CHAPTER 60, SPECIAL
REGULATIONS, SECTION 60.05 DESIGN REVIEW,
60.05.55.1 REGIONAL CENTER MAJOR PEDESTRIAN
ROUTE MAP TA2007-0001

- WHEREAS,** the purpose of TA2007-0001 is to amend Chapter 60, Special Regulations, Section 60.05 Design Review, 60.05.55.1 Regional Center Major Pedestrian Route Map; and
- WHEREAS,** pursuant to Ordinance 2050 Section 50.50, written notice was mailed to the property owners subject to the amendment and the Neighborhood Association Chair, and was published in the Beaverton Valley Times; and
- WHEREAS,** pursuant to Ordinance 2050 Section 50.50.5, the Beaverton Planning Services Division, on August 1, 2007 published a written staff report and recommendation a minimum seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on August 8, 2007; and
- WHEREAS,** the Planning Commission conducted a public hearing on August 8, 2007, and considered testimony and exhibits on the subject proposal, and at the conclusion of the hearing, the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code based on the criteria, facts and findings set forth in the Community Development Department staff report by Senior Planner Barbara Fryer dated August 1, 2007, and attached hereto as Exhibit "B"; and Planning Commission Order No. 1997 attached hereto as Exhibit "C"; and
- WHEREAS,** no written appeal pursuant to Ordinance 2050 Section 50.75 was filed by persons of record for TA2007-0001, following the issuance of the Planning Commission Order No. 1997; and
- WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1997 dated August 15, 2007 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute adequate factual basis for this ordinance; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** Ordinance No. 2050, 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 September, 2007.

Passed by the Council this _____ day of _____, 2007.

Approved by the Mayor this _____ day of _____, 2007.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor