



City of Tualatin

TUALATIN CITY COUNCIL

Monday, November 24, 2014

JUANITA POHL CENTER

8513 SW Tualatin Road

Tualatin, OR 97062

WORK SESSION begins at 5:30 p.m.

BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Monique Beikman

Councilor Wade Brooksby

Councilor Frank Bubenik

Councilor Joelle Davis

Councilor Nancy Grimes

Councilor Ed Truax

Welcome! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at www.tualatinoregon.gov/meetings, the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

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

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

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

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

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

TIME LIMITS FOR PUBLIC HEARINGS

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

EXECUTIVE SESSION INFORMATION

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

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



A. CALL TO ORDER
Pledge of Allegiance

B. ANNOUNCEMENTS

1. Starry Nights and Holiday Lights 2014 Announcement

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA

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

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of November 10, 2014
2. Consideration of Recommendations from the Council Committee on Advisory Appointments
3. Consideration of **Resolution No. 5219-14** Extending the Term of the Cable Television Services Agreement with Comcast of Oregon II, Inc.

E. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Consideration of **Ordinance No. 1377-14** Amending Ordinance No. 1371-14 to Correct a Scrivener's Error in the Text of the Legal Description (ANN-14-02)
2. Consideration of **Resolution No. 5218-14** Awarding the Bid for the Construction of a new Steel Water Reservoir located at 24300 SW 82nd Avenue.

F. ITEMS REMOVED FROM CONSENT AGENDA

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

G. COMMUNICATIONS FROM COUNCILORS

H. ADJOURNMENT

City Council Meeting

Meeting Date: 11/24/2014

ANNOUNCEMENTS: Starry Nights and Holiday Lights 2014 Announcement

ANNOUNCEMENTS

Starry Nights and Holiday Lights 2014 Announcement

A. Starry Nights and Holiday Lights

★ ★ ★ *The City of Tualatin's* ★ ★ ★
Starry Nights & Holiday Lights

★ *Friday, December 5, 2014 5:30-8:30 pm* ★



★ *Join us at The Lake at Tualatin Commons for:* ★

- *The lighting of Tualatin's floating holiday tree.*
- *Children's choirs from Tualatin schools.*
- *Refreshments and a visit from Santa!*



*The Tualatin Commons is located at 8325 SE Nyberg Street, Tualatin, OR 97062
For more information call 503-691-3061 or go to www.tualatinoregon.gov*



City of Tualatin



Performances by:

- Tualatin High School Brass Ensemble**
- Tualatin High School Crimsonnaires**
- Magic Years Preschool Choir**
- Bridgeport Elementary Holiday Choir**
- Tualatin Elementary Choir**
- Byrom Elementary Choir**
- Twality Middle School Treble Choir**
- Hazelbrook Middle School Choir**



Count down to tree lighting at 6:00pm



★ ★ ★ *The City of Tualatin's* ★ ★ ★
Starry Nights & Holiday Lights

★ *Friday, December 5, 2014 5:30-8:30 pm* ★



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City of Tualatin



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Nicole Morris, Deputy City Recorder

DATE: 11/24/2014

SUBJECT: Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of November 10, 2014

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Work Session and Regular Meeting of November 10, 2014.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session of November 10, 2014](#)
[City Council Meeting of November 10, 2014](#)



OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR NOVEMBER 10, 2014

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

Absent: Councilor Wade Brooksby; Councilor Joelle Davis

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Deputy City Recorder

Present: Nicole Morris; Information Services Manager Lance Harris; Assistant City Manager Alice Cannon; Management Analyst II Zoe Monahan

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:36 p.m.

1. Metro Update with Councilor Craig Dirksen.

Metro Councilor Craig Dirksen presented an update on Metro projects. He briefed the Council on the Climate Smart Communities Scenarios project. This project is a response to a state mandate to reduce greenhouse gas emissions by 2035. Metro believes they can reach the state's goal of 20% by 2035 if capital investments are made to existing plans. Metro will consider adoption of the preferred approach for this plan in December.

Mayor Ogden asked if all projects in the fiscally constrained Regional Transportation Plan (RTP) would have to be completed to meet this goal. Mr. Dirksen responded all of the projects would need to be completed. He added projects in the RTP all have known funding sources.

Mayor Ogden asked about further funding options. Mr. Dirksen explained the Gas Tax increase process. He referenced the Smart Communities Scenario brochure he distributed for further funding breakdowns.

Mr. Dirksen distributed the preliminary results for the Residential Preference Study for the Portland Region. Mayor Ogden asked about vertical multi-housing options to accommodate growth. Mr. Dirksen explained the survey takes multiple items into account, the major consideration being where people will live during different points in their life.

Mr. Dirksen briefed the Council on the status of the SW Corridor project. He noted the project is coming out of the technical planning phase and will have results for the steering committee in December.

Mr. Dirksen stated Metro is looking at the region's long-term solid waste system. More information on this plan will be available in the near future.

2. Southwest Corridor Update.

Assistant City Manager Alice Cannon and Management Analyst Zoe Monahan presented an update on the SW Corridor Project. Manager Cannon explained the scope of the project is to study high capacity alignment options between Portland and Tualatin. The steering committee in June gave direction to staff to have additional alignment options and multi modal projects studied. Since the June meeting, stakeholder interviews have been conducted to gauge understanding and support of the project. A report on these activities will be brought to the steering committee on December 8.

Mayor Ogden, as a member of the steering committee, explained the federal funding component of the project in relation to how the alignments are being studied. He noted that this group has decided to conduct an informal process of study to narrow down options from a political and cost feasibility stand point. Mayor Ogden stated he feels it is difficult to conclude whether Tualatin citizens would like to participate in the study or not without a clear vision of what the downtown area should look like. He suggested that the Council discuss a downtown vision plan at their upcoming retreat.

Councilor Truax disagreed with Mayor Ogden's assessment of Tualatin's need to conduct a downtown vision plan. He does not want to see Tualatin slow down this assessment.

Council President Beikman agreed with Councilor Truax that a downtown vision plan does not need to be completed. She recommended that the Council look to the Tualatin Tomorrow Vision Plan and the Linking Tualatin Plan for the answers they are looking for. She would like Tualatin to continue to be a partner in the SW Corridor Vision planning process.

Councilor Bubenik does not want to see light rail come to downtown Tualatin as he feels the area is too constrained. He agrees that a downtown plan does not need to be conducted as there is no urban renewal dollars left to offer land owners an incentive to develop.

3. *Council Meeting Agenda Review, Communications & Roundtable.*

None.

ADJOURNMENT

The work session adjourned at 6:47 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 10, 2014

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

Absent: Councilor Wade Brooksby; Councilor Joelle Davis

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Assistant City Manager Alice Cannon; Management Analyst II Zoe Monahan; Human Resources Manager Janet Newport; Public Works Director Jerry Postema

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:00 p.m.

B. ANNOUNCEMENTS

1. YAC update for November, 2014

Members of the Tualatin Youth Advisory Committee (YAC) presented a PowerPoint on their latest activities and upcoming events. YAC welcomed seven new members to the committee. YAC sold concessions at the West Coast Giant Pumpkin Regatta to raise funds to send members to the National League of Cities (NLC) conference. The 2014 YAC Haunted House was held and over 200 participants attended. Members will be attending the NLC conference next week in Austin, Texas.

2. Eagle Scout Recognition- Samuel Ericksen

Human Resources Manager Janet Newport introduced Samuel Ericksen. Samuel was awarded the honor of eagle scout for completing a project at Tualatin Commons Park. Samuel's project was to rebuild and restore benches, remove invasive plants, pressure wash concrete, and pressure wash and repaint the Tualatin Commons sign.

Mayor Ogden congratulated Samuel on receiving the honor of eagle scout and presented him with a plaque.

3. New Employee Introduction- Luis Milera, Utility Technician I

Public Works Director Jerry Postema introduced Water Utility Technician I Luis Milera. The Council welcomed him.

4. New Employee Introduction- Crystal Spenner, Court Clerk

Finance Director Don Hudson introduced Court Clerk Crystal Spenner. The Council welcomed her.

C. CITIZEN COMMENTS

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

Susan Novak, Meals on Wheels, thanked everyone who participated in the Jersey Mike's fundraiser. Jersey Mike's was able to raise \$2,100 to donate to Meals on Wheels.

Members from the Stafford Hamlet Urban Reserve area updated the Council on a recent advisory vote on the designation of the area. A majority of voters favored remaining a undesignated area. The Stafford Hamlet board will be back in the future to keep the Council apprised of any updates.

Sherri Ralston introduced herself to the Council and expressed interest in opening a medical marijuana dispensary.

D. CONSENT AGENDA

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MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to approve the consent agenda.

Vote: 5 - 0 MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of October 27, 2014
2. Consideration of Approval of a New Liquor License for BR&SM Inc, dba Tualatin Gas and Food

E. ITEMS REMOVED FROM CONSENT AGENDA

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

F. COMMUNICATIONS FROM COUNCILORS

Councilor Bubenik reminded citizens about Veteran's Day. He encouraged everyone to thank a veteran.

G. ADJOURNMENT

Mayor Ogden adjourned the meeting at 7:24 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Nicole Morris, Deputy City Recorder

DATE: 11/24/2014

SUBJECT: Consideration of Recommendations from the Council Committee on Advisory Appointments

ISSUE BEFORE THE COUNCIL:

Consideration of new appointments to the Core Area Parking District Board.

RECOMMENDATION:

Staff recommends the City Council approve the recommendations from the Council Committee on Advisory Appointments (CCAA) and appoint the below listed individuals.

EXECUTIVE SUMMARY:

The Council Committee on Advisory Appointments met and interviewed citizens interested in participating on City advisory committees and boards. The Committee recommends appointing the following individuals:

<i>Individuals</i>	<i>Board</i>	<i>Term</i>
Gary Habermann	Core Area Parking District Board	Appointment Partial-Term Expiring 12/31/16
Aaron Welk	Core Area Parking District Board	Appointment Term Expiring 12/31/17

Attachments:

City Council Meeting

Meeting Date: 11/24/2014

CONSENT Metropolitan Area Communications Commission (MACC) Comcast Cable

AGENDA: Franchise Term Extension

CONSENT AGENDA

Consideration of **Resolution No. 5219-14** Extending the Term of the Cable Television Services Agreement with Comcast of Oregon II, Inc.

SUMMARY

On October 9, 2014, the Metropolitan Area Communications Commission (MACC) Board of Commissioners unanimously passed a resolution recommending its fifteen member jurisdictions extend the current Comcast Franchise term from December 31, 2014 to June 30, 2015, in order to provide time to complete the ongoing process to renew the Comcast Franchise. A complete staff report from MACC staff is attached for Council review.

Resolution 5219-14 has been prepared for Council consideration to extend the term of the cable television services agreement with Comcast of Oregon, Inc. to enable the MACC to complete the formal renewal process.

[MACC Staff Report](#)

[Tualatin Franchise Extension Agreement](#)

[Resolution No. 5219-14](#)

[Frequently Asked Questions for 2015 Extension](#)

**REPORT TO MACC MEMBER JURISDICTIONS
RECOMMENDATION
COMCAST CABLE FRANCHISE TERM EXTENSION
OCTOBER 2014
(Prepared by MACC Staff)**

Your jurisdiction is a member of the Metropolitan Area Communications Commission (MACC), the intergovernmental agency that administers and regulates cable television franchises for fourteen cities and Washington County. MACC currently administers Comcast's multiple cable television franchises (Comcast Franchise) on behalf of its members, as well as a Frontier Cable Franchise for eleven jurisdictions where that service is offered. MACC staff, its legal counsel and advisors, negotiate directly on your behalf. Each MACC jurisdiction has its own representative, a MACC Commissioner.

MACC Recommendation – On October 9, 2014, the MACC Board of Commissioners (MACC Commission) unanimously passed a resolution (copy attached as Exhibit A) recommending its fifteen member jurisdictions extend the current Comcast Franchise term from December 31, 2014 to June 30, 2015, in order to provide time to complete the ongoing process to renew the Comcast Franchise.

Background

Comcast was granted a 15 year renewal of its cable television franchise in 1999 (then held by TCI Cable). That Franchise was to expire on January 31, 2014.

As we reported to you last winter, informal negotiations with Comcast began in February 2013 and continued over eight months until it became clear to MACC that continued informal negotiations with Comcast would not result in an acceptable franchise agreement before the franchise expired. Therefore, the Commission voted on December 11, 2013, to move negotiations into the Federal Formal Renewal Process (Formal Process) and requested that the member jurisdictions agree to extend the term of the Comcast Franchise from January 31, 2014 to December 31, 2014 in order to provide time to complete that Formal Process. That extension was unanimously approved by the Member Jurisdictions.

MACC Formal Process and Need for a Second Extension

The move to a Formal Renewal Process placed the renewal into a structure similar to a "request for proposal," where the cable operator must provide a response that meets the "cable related needs and interests of the MACC communities." It also requires MACC to carefully review the operator's response before making a recommendation to either grant or deny a new franchise agreement. Typically, the Formal Process provides an additional incentive and structure for the parties to agree on a new franchise agreement. That has been the MACC/Comcast experience as well.

On April 8, 2014, the Commission took the next step in the Formal Process and approved the MACC Request for Formal Renewal Proposal (RFRP). The RFRP, among other things, set forth the results of MACC's Needs Assessment and provided Comcast with a model franchise agreement. Comcast provided its response to MACC's RFRP on August 6, 2014. Under the Formal Process, MACC has four months from this date in which to either renew the franchise or issue a preliminary assessment that the franchise should not be renewed and commence an administrative proceeding to consider the matter.

However, between April and September, MACC and Comcast agreed to continue informal negotiations. These talks have resulted in significant progress on a number of major franchise issues. At the end of September, MACC and Comcast agreed to "toll" or delay the Formal timeline to allow time for the informal negotiations to continue and conclude prior to a decision on the RFRP.

As part of the agreement to toll the Formal timeline, both parties also agreed to ask for an extension of the Comcast Franchise term until June 30, 2015. This action ensures both parties' rights are reserved, including the requirement on Comcast to provide service under the existing franchise agreement, and pay the member jurisdictions franchise fees.

At the MACC Commission's October 9th meeting, the Board unanimously agreed to recommend that the MACC member jurisdictions extend the term of the Comcast Franchise Agreement to June 30, 2015.

Action Requested

Today, MACC asks you to extend the term of the Comcast Cable Franchise Agreement until the end of June 2015 in order to accommodate the time needed to complete the current informal negotiations. If negotiations are not successful (which we do not expect), the Formal process and its deadlines will still be there to conclude the process in that timeframe.

We have worked with your staff and legal counsel to prepare a resolution to effect this change in your jurisdiction.

In addition to this report and a copy of MACC's recommending resolution, we have also enclosed a "Question & Answer" memorandum that addresses expected questions about this action. Your MACC Commissioner is a good resource to contact regarding this requested action.

MACC staff would be happy to answer any questions you have about this recommended action.

Enclosures:

- MACC Resolution 2014-03
- MACC "Questions & Answers"

FRANCHISE EXTENSION AGREEMENT

WHEREAS, Comcast of Oregon II, Inc. (“Comcast Oregon”) currently holds, through its subsidiary, Comcast of Tualatin Valley, Inc. (“Comcast Tualatin”), formerly TCI Cablevision of the Tualatin Valley, Inc., a cable franchise with the City of Tualatin (“City”), with an effective date of February 1, 1999, which was to expire on January 31, 2014 (“Franchise”); and

WHEREAS, the City entered into an Intergovernmental Agreement, in accordance with ORS Chapter 190, with the Metropolitan Area Communications Commission (“MACC”) for transfer of administration responsibilities associated with the Franchise, including renewal negotiations; and

WHEREAS, the City and Comcast Oregon subsequently agreed, pursuant to a franchise extension agreement dated April 7, 2014, to extend the term of the Franchise to December 31, 2014; and

WHEREAS, MACC, on behalf of the City, has been working to process Comcast’s response to MACC’s request for a formal renewal proposal for renewal of the Franchise in accordance with 47 U.S.C. 546 (“Proposal”); and

WHEREAS, the City and Comcast Oregon wish to extend the Franchise to allow for additional negotiations toward agreement on a renewed franchise agreement, as well as to provide time for MACC to process Comcast’s Proposal under the formal renewal process, prior to expiration of the Franchise.

NOW, THEREFORE, the City and Comcast Oregon agree as follows:

1. The Franchise shall be extended to expire on June 30, 2015, unless a renewed franchise agreement takes effect prior to that date, in which case the Franchise shall expire on the effective date of the renewed franchise.

2. All provisions of the Franchise, other than the duration of the Franchise as set forth in Section 1, shall remain in full force and effect through the expiration date set forth herein.

3. The parties do not waive any rights which they enjoy under law as a result of agreeing to this Franchise Extension Agreement.

ACCEPTED this ____ day of _____, 2014.

City of Tualatin, Oregon

By: _____

Print Name: _____

Title: _____

ACCEPTED this ____ day of _____, 2014.

Comcast of Oregon II, Inc.

By: _____

Print Name: _____

Title: _____

RESOLUTION NO. 5219-14

A RESOLUTION EXTENDING THE TERM OF THE CABLE TELEVISION SERVICES AGREEMENT WITH COMCAST OF OREGON II, INC. TO ENABLE THE METROPOLITAN AREA COMMUNICATIONS COMMISSION TO COMPLETE THE FORMAL RENEWAL PROCESS

WHEREAS, the Metropolitan Area Communications Commission, hereinafter "MACC," is an intergovernmental cooperation commission formed by Intergovernmental Agreement ("IGA") under ORS Chapter 190, with Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard, Tualatin and West Linn as members ("Member Jurisdictions"); and

WHEREAS, the IGA contemplates that MACC and its Member Jurisdictions may grant one or more nonexclusive cable franchise agreements to construct, operate, and maintain a cable service system within the combined boundaries of the Member Jurisdictions; and

WHEREAS, on February 1, 1999, MACC and its Member Jurisdictions at that time, granted nonexclusive cable franchise agreements ("Comcast Franchises") which are now held by Comcast of Oregon II, Inc. ("Comcast"); and

WHEREAS, on March 9, 2011, Comcast requested that the Comcast Franchises be renewed; and

WHEREAS, the IGA authorizes MACC to process Comcast's renewal request on behalf of the Member Jurisdictions, including informal negotiations as set forth in 47 U.S.C. 546 (h) and the formal renewal process set forth in 47 U.S.C. 546 (a)-(g); and

WHEREAS, in its letter of April 5, 2011, MACC properly responded to Comcast's request for renewal of the Comcast Franchises and thereafter commenced the franchise renewal process set forth in federal law at 47 U.S.C. 546; and

WHEREAS, on January 24, 2013, MACC directed staff to begin informal franchise renewal negotiations with Comcast, as set forth in 47 U.S.C. 546 (h), which informal negotiations began in February 2013; and

WHEREAS, on November 22, 2013, the MACC Executive Committee directed MACC staff to begin the formal renewal process set forth in 47 U.S.C. 546 (a-g), which direction the MACC Board of Commissioners ratified by Resolution 2013-08 on December 11, 2013; and

WHEREAS, the Member Jurisdictions previously agreed to extend the term of Comcast Franchises to December 31, 2014, to provide time for MACC to process

Comcast's franchise proposal under the formal process rules prior to expiration of the Comcast Franchises; and

WHEREAS, on October 9, 2014, the MACC Commission adopted Resolution 2014-03, recommending that Member Jurisdictions extend the Comcast Franchises to June 30, 2015, to allow MACC and Comcast additional time to complete the formal renewal process; and

WHEREAS, Comcast has agreed to execute extension agreements with each Member Jurisdiction; and

WHEREAS, the City of Tualatin finds that it is in the best interest of the City and its residents to extend the term of the Comcast Franchise to allow MACC to complete the formal renewal process.

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

Section 1. The Mayor is hereby authorized to execute the extension agreement with Comcast substantially in the form attached hereto as Exhibit A to allow MACC to complete the formal renewal process set forth in 47 U.S.C. 546 (a)-(g).

Section 2. This resolution shall be effective from and after its adoption.

Adopted by the City Council this 24th Day of November, 2014.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

QUESTIONS & ANSWERS
ABOUT THE PROPOSED EXTENSION OF
COMCAST'S FRANCHISE TERM

The following Questions & Answers were prepared by MACC Staff to provide you answers to expected questions regarding the proposed action:

Q1: Why are MACC and Comcast seeking a second extension?

A: Significant progress in informal negotiations was made toward a new agreement this Summer. Rather than interrupt the momentum of negotiations with a forced decision on the merits of Comcast's RFRP response, both parties believe a quicker resolution can be accomplished through a few more months of informal negotiations.

Q2: What progress was made in negotiations that give the parties this confidence?

A: MACC and Comcast have agreed in principle on many of the issues where we were far apart earlier in the year (although nothing is final until the all topics are resolved), including:

- Jurisdictions' control of their individual Right of Way
- Franchise Fee Definition
- Customer Service Standards
- Comcast's contribution toward Public and Government Access TV services
- An agreement on the upgrade of local Access channels to HD quality

Q3: Was a longer extension considered?

A: We feel deadlines are helpful to keep both MACC and Comcast on track. Certainly we could come back for another extension, especially if we were extremely close to an agreement on a complete franchise. For now, we feel the time proposed is adequate to get the job done if both parties continue to work together to make it happen.

Q4: Has this renewal Process been costly to the MACC member jurisdictions?

A: No, not at all. Long before the renewal discussions began, MACC budgeted appropriately for the costs of the community needs assessment, and expected renewal costs – both Informal and Formal. Funds were budgeted in this year's MACC budget for the Formal Process costs. MACC is within its budget.

However, if MACC had accepted Comcast's positions when talks broke off in 2013, the resulting franchise would have been very costly to the jurisdictions in lost franchise fee revenues and reduced public benefits.

Q5: Is use of the Formal Process common and are other jurisdictions moving to this process in their negotiations with Comcast?

Although it has been uncommon in the past, recently it has been used more frequently in Comcast systems. Besides MACC, Oregon City is currently in the Formal Process, and at least one other jurisdiction in the Comcast West region has moved to the Formal Process. We hear others are considering it.

Q6: Has Google's interest in providing service to four of MACC's jurisdictions raised any issues?

A: Google's potential entry appears to have increased Comcast's concerns with the section of the franchise related to competitive equity.

Q7: What happens if Comcast is denied a renewal of its franchise agreement?

A: In the unlikely event the MACC jurisdictions under the Formal Process eventually decide to deny Comcast a cable franchise renewal, Comcast would lose its right to use the ROW and may need to respond to a new MACC RFP, this time with competition from other providers.

Q9: Are the subscriber rates for cable services negotiated during a renewal?

No, most subscriber rate regulation at the local level ended in 1998. We cannot regulate cable rates or dictate the actual programming offered by a cable operator in a cable franchise.

Q10: Why can't MACC just force Comcast to accept the terms of a new cable franchise?

A: Federal Law dictates the process used for renewing a franchise based on a community's needs. MACC has to follow Federal Law and does not have the ability to force a franchise on a provider.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Colin Cortes, Assistant Planner
Aquilla Hurd-Ravich, Planning Manager

DATE: 11/24/2014

SUBJECT: Consideration of **Ordinance No. 1377-14** Amending Ordinance No. 1371-14 to Correct a Scrivener's Error in the Text of the Legal Description (ANN-14-02)

ISSUE BEFORE THE COUNCIL:

Council will consider Ordinance 1377-14 amending Ordinance No. 1371-14 to correct a scrivener's error in the text of the legal description for Tax Lot 4801 on Washington County Assessor's Map 2S1 14CC located at 17645 SW Jurgens Avenue, formerly known as the Rayborn Property and now known as the Rayborn Estates Subdivision.

RECOMMENDATION:

Staff recommends that the City Council consider Ordinance No. 1377-14 amending a scrivener's error contained in Ordinance No. 1371-14 (ANN-14-02).

EXECUTIVE SUMMARY:

The City Council held a public hearing on annexation of the Rayborn Property (ANN-14-02) on [May 12, 2014](#) and on May 27, 2014 adopted [Ordinance No. 1371-14](#) that approved ANN-14-02.

Metro Code Section 3.09.036 outlines how local governments provide notice of boundary changes to the Oregon Department of Revenue (DOR) and then Metro. Staff provided notice of the ordinance to DOR. Because of scrivener's errors, DOR rejected the legal description and survey that are ordinance Exhibits A and B. The applicant created these exhibits, had Washington County Assessment & Taxation Cartography certify them February 6, 2014 as directed by the annexation application packet, and submitted them as part of the ANN-14-02 application materials.

DOR rejected the exhibits because:

1. The legal description mistakenly referred to "SE" instead of "SW" Jurgens Avenue;
2. The legal description referred to 'Jeffwood Estates' Subdivision though the survey labeled the "Jeffwood Estates No. 4" Subdivision adjacent to the Rayborn Estates Subdivision; and
3. The print quality of the survey was not sharp enough.

The applicant revised the exhibits accordingly, the County re-certified them October 10, 2014, and DOR then approved them on that date. To maintain consistency between City records and the updated documents, staff is proposing to amend Ordinance No. 1371-14.

OUTCOMES OF DECISION:

Granting the amendment of Ordinance No. 1371-14 will result in the following:

- The revised ordinance contains the same content as Ordinance No. 1371-14 except that the two Exhibits A and B are replaced with Exhibit A-1 and Exhibit B-1, which contain the versions that the applicant updated following County direction, Washington County Assessment & Taxation Cartography re-certified October 10, 2014, and that DOR approved that same date.

Denial of the amendment of Ordinance No. 1371-14 would result in the following:

- Ordinance No. 1371-14 remains as is with Exhibits A and B that Washington County Assessment & Taxation Cartography certified February 6, 2014 and that DOR disapproved.

ALTERNATIVES TO RECOMMENDATION:

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

1. Deny the amendment; or
2. Continue the discussion of the amendment of Ordinance No. 1371-14 and return to the matter at a later date.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

Attachments: Ordinance 1377-14
 Exhibit A-1
 Exhibit B-1

ORDINANCE NO. 1377-14

AN ORDINANCE AMENDING ORDINANCE NO. 1371-14 TO CORRECT A SCRIVENER'S ERROR IN THE LEGAL DESCRIPTION (ANN-14-02)

WHEREAS, on May 27, 2014, the Council adopted Ordinance No. 1371-14, which became effective on June 26, 2014; and

WHEREAS, Ordinance 1371-14 annexed property comprising of approximately 2.54 acres of land located at 17645 SW Jurgens Avenue (Tax Map 2S1 14CC, Tax Lot 4804) and withdrew this parcel from certain service districts; and

WHEREAS, an incorrect legal description and map were used in the adopted annexation ordinance;

WHEREAS, the Council wishes to correct the error in the legal description and map.

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. The legal description in Ordinance No. 1371-14 for the property at 17645 SW Jurgens Avenue (Tax Map 2S1 14CC, Tax Lot 4804) set forth in Exhibit A is deleted and replaced with the legal description set forth in Exhibit A-1, which is incorporated by reference.

Section 2. The map in Ordinance No. 1371-14 depicting the property at 17645 SW Jurgens Avenue (Tax Map 2S1 14CC, Tax Lot 4804) set forth in Exhibit B is deleted and replaced with the map set forth in Exhibit B-1, which is incorporated by reference.

Section 3. Except to the extent amended by this Ordinance, Ordinance No. 1371-14 remains in full force and effect.

Adopted by the City Council this ____ Day of _____, 2014.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

ANNEXATION CERTIFIED

BY VF

OCT 10 2014

**WASHINGTON COUNTY A & T
CARTOGRAPHY**

Property Description for Annexation into the
City of Tualatin, Washington County, Oregon
Portion of Tax Lot 4801, 2S114CC
October 10, 2014
Project No. 2312-010

EXHIBIT "A"

A tract of land, located in the southwest one-quarter of Section 14, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon, being a portion of that tract of land conveyed to Howard L. Rayborn and Kathy L. Rayborn by Deed recorded in Book 1021, Page 56 and corrected in Book 1022, Page 373, recorded May 8, 1975, Washington County Deed Records, and being more particularly described as follows:

Commencing at the southwest corner of Lot 3, "Hazelbrook Farm", said point being on the centerline of an unnamed vacated road and also being South 0°09'27" East, 51.06 feet from the Initial Point of "Jeffwood Estates No. 2";

Thence along the south line of said Lot 3, North 89°34'12" East, 30.00 feet to the east line of said vacated road;

Thence along the east line of said vacated road North 0°09'27" West, 362.70 feet to the Point of Beginning, being the southwest corner of said Rayborn tract and being a point on the north line of Lot 91 of "Jeffwood Estates No. 4";

Thence continuing along said east line of vacated road North 0°09'27" West, 223.46 feet to the northwest corner of said Rayborn Tract being on the south line of Lot 1 of "Linden Terrace";

Thence along the north line of said Rayborn Tract being common with the south line of said "Linden Terrace" North 89°17'18" East, 348.56 feet to the northwest corner of that parcel of land described in City of Tualatin Ordinance No. 1204-06:

Thence South 0°25'21" East along the west line of said Ordinance No. 1204-06 parcel a distance of 176.71 feet;

Thence North 89°32'39" East along the south line of said Ordinance No. 1204-06 parcel a distance of 201.89 feet to the westerly right of way line of SW Jurgens Road (being 20 feet from the centerline thereof, when measured at right angles);

Thence South 3°50'28" East along said right of way a distance of 51.46 feet to the easterly extension of the north line of "Jeffwood Estates No. 4";

Thence South 89°51'41" West, along said easterly extension and said north line a distance of 554.55 feet to the Point of Beginning.

Containing 2.04 Acres, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael D. Spelts

OREGON
NOVEMBER 12, 2013
MICHAEL D. SPELTS
87475PLS

RENEWS: 06-30-2016



0 50' 100'
SCALE: 1"=100'

ANNEXATION CERTIFIED

BY VF

OCT 10 2014

WASHINGTON COUNTY A & T
CARTOGRAPHY

JEFFWOOD ESTATES NO. 2

TL 8400 (VACATED ROAD)
N00°09'27"W 223.46'

TL 4801
RAYBORN
BOOK 1022, PAGE 373

TL 4800
DOC. NO. 2011-020968

ORDINANCE NO.
1204-06

POINT OF BEGINNING

JEFFWOOD ESTATES NO. 4

LOT
HAZELBROOK
FARM

POINT OF COMMENCEMENT

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Spelts

OREGON
NOVEMBER 12, 2013
MICHAEL D. SPELTS
87475PLS

RENEWAL: 6-30-2016

EXHIBIT B

LOCATED IN THE SW 1/4 OF SECTION 14
TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M.
CITY OF TUALATIN, WASHINGTON COUNTY, OREGON

DATE	2-6-2014
DRAWN BY	MDS
CHECKED BY	TGB
REVISION	0
JOB NO.	2312-010

WESTLAKE
CONSULTANTS inc.

ENGINEERING ♦ SURVEYING ♦ PLANNING

PACIFIC CORPORATE CENTER
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652
TIGARD, OREGON 97224 FAX (503) 624-0167

Drawing Name: J:\2312-010\13\Survey\CAD\DWG\2312-010Exn2.dwg Oct 10, 2014 - 4:20pm - mds



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Kaaren Hofmann, Engineering Manager
Alice Cannon, Assistant City Manager

DATE: 11/24/2014

SUBJECT: Consideration of **Resolution No. 5218-14** Awarding the Bid for the Construction of a new Steel Water Reservoir located at 24300 SW 82nd Avenue.

ISSUE BEFORE THE COUNCIL:

Council consideration of awarding a construction contract for a new steel water reservoir and the repainting of an existing reservoir.

RECOMMENDATION:

Consideration of a resolution awarding the construction contract to Clackamas Construction, Inc.

EXECUTIVE SUMMARY:

The City's Water Master Plan noted that Service Area C has an existing storage volume deficit. Several years ago, the existing reservoir site was determined to be the best location for the new 1.0 million gallon reservoir. Design was started in 2009, but was not completed until 2014 due to funding constraints. The City is now able to move forward on the construction of the steel water reservoir (C2) for Service Area C.

This project includes the construction of a new one million gallon steel reservoir and the repainting of the existing reservoir on the same site. The repainting of the existing reservoir will occur after the new tank is operational. The additional reservoir allows for growth in the southern portion of the City while meeting all fire flow requirements. The C2 reservoir also allows for routine maintenance of the existing C1 reservoir.

The bids for this project were opened on November 4, 2014 at 2:30 p.m. The following firms submitted bids:

Clackamas Construction	\$1,735,955
T. Bailey	\$1,775,471
Paso Robles	\$1,890,490

Clackamas Construction submitted the lowest bid of \$1,735,955.00. This award will be made in accordance with the public contracting rules.

OUTCOMES OF DECISION:

Awarding of the contract will result in the proposed project being constructed. Not awarding the contract means the project will not move forward until a contractor is selected.

FINANCIAL IMPLICATIONS:

Sufficient funds for this project were budgeted in the Water Operating and Water Development Funds for fiscal years 2013/14, 2014/15, and 2015/16.

Attachments: A. Resolution No. 5218-14
 B. Powerpoint

RESOLUTION NO. 5218-14

RESOLUTION AWARDING THE BID FOR THE CONSTRUCTION
OF A NEW STEEL WATER RESERVOIR LOCATED AT 24300
SW 82ND AVENUE

WHEREAS, the Notice of Construction of a One (1) MG Steel Water (C2) Reservoir Project was published in the *Daily Journal of Commerce* on October 6 and 15, 2014; and

WHEREAS, three (3) proposals were received and publically opened and read on November 4, 2014; and

WHEREAS, the procurement complies with the City's public contracting requirements; and

WHEREAS, funds are available for this project in the Water Development Fund and Water Operating Fund; and

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

Section 1. Clackamas Construction, Inc. was the successful responsible low bidder and is hereby awarded a contract to construct a one (1) mg steel water reservoir.

Section 2. The City Manager is authorized to execute a contract with Clackamas Construction, Inc. in the amount of \$1,735,955.00.

Section 3. The City Manager or designee is authorized to execute Change Orders totaling up to ten percent (10%) of the original contract price.

Section 4. This resolution is effective upon adoption. INTRODUCED AND

ADOPTED this 24th day of November, 2014.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

C2 Water Reservoir: New Construction

and

C1 Water Reservoir: Repainting

November 24, 2014





Background

- ❖ The City has four Service Levels for the water system.
 - ❖ Service Level C is the second smallest pressure level.
 - ❖ The City's Water Master Plan noted that Service Level C has an existing storage deficiency, requiring a new reservoir
 - ❖ The existing Service Level C reservoir is located in unincorporated Washington County off of Frobase Road.



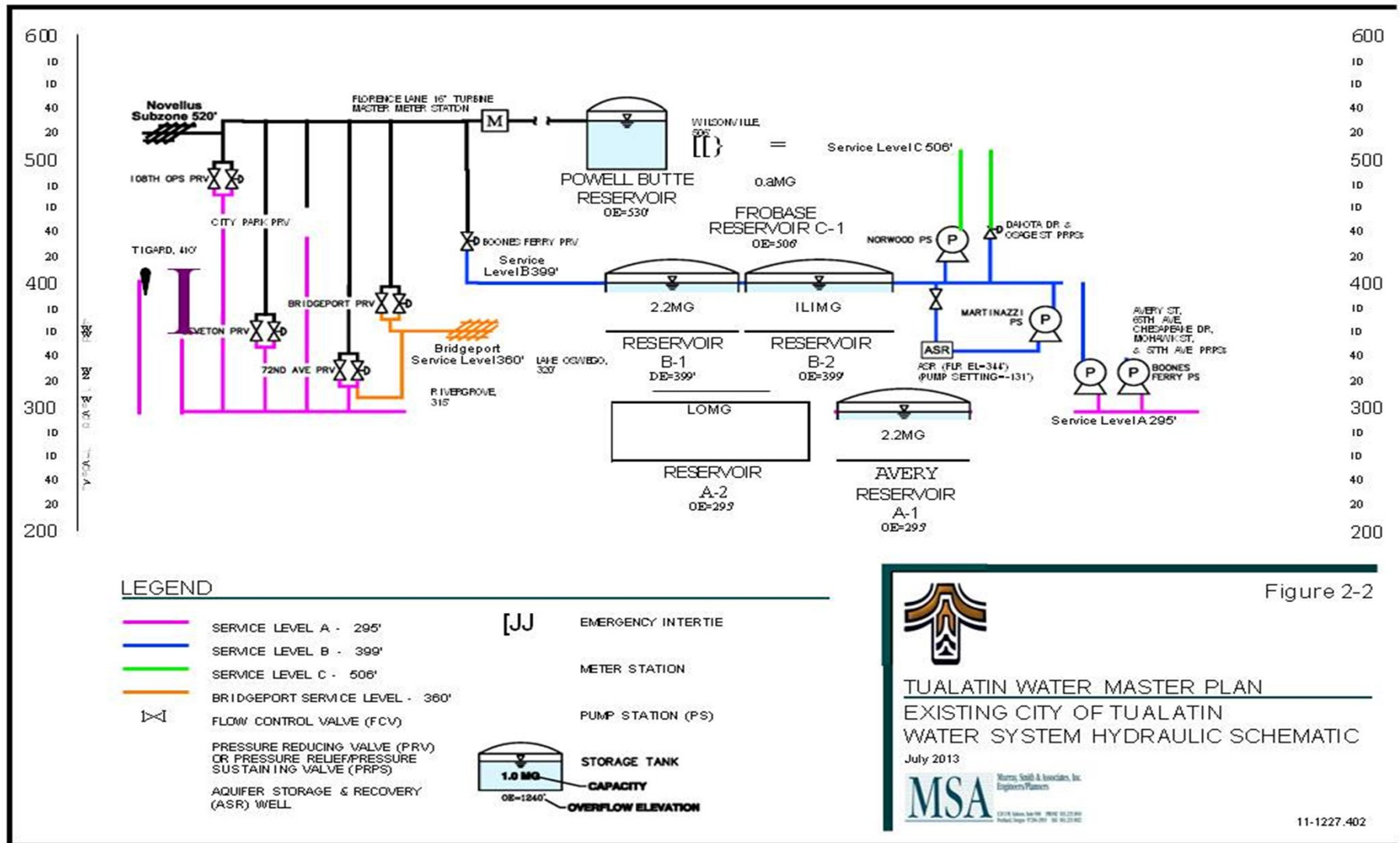




Figure 2-2



TUALATIN WATER MASTER PLAN
 EXISTING CITY OF TUALATIN
 WATER SYSTEM HYDRAULIC SCHEMATIC
 July 2013

 MSA
Morris, Smith & Associates, Inc.
 Engineers/Planners
 1218 West 14th St., P.O. Box 10200
 Portland, Oregon 97216-0200

11-1227.402

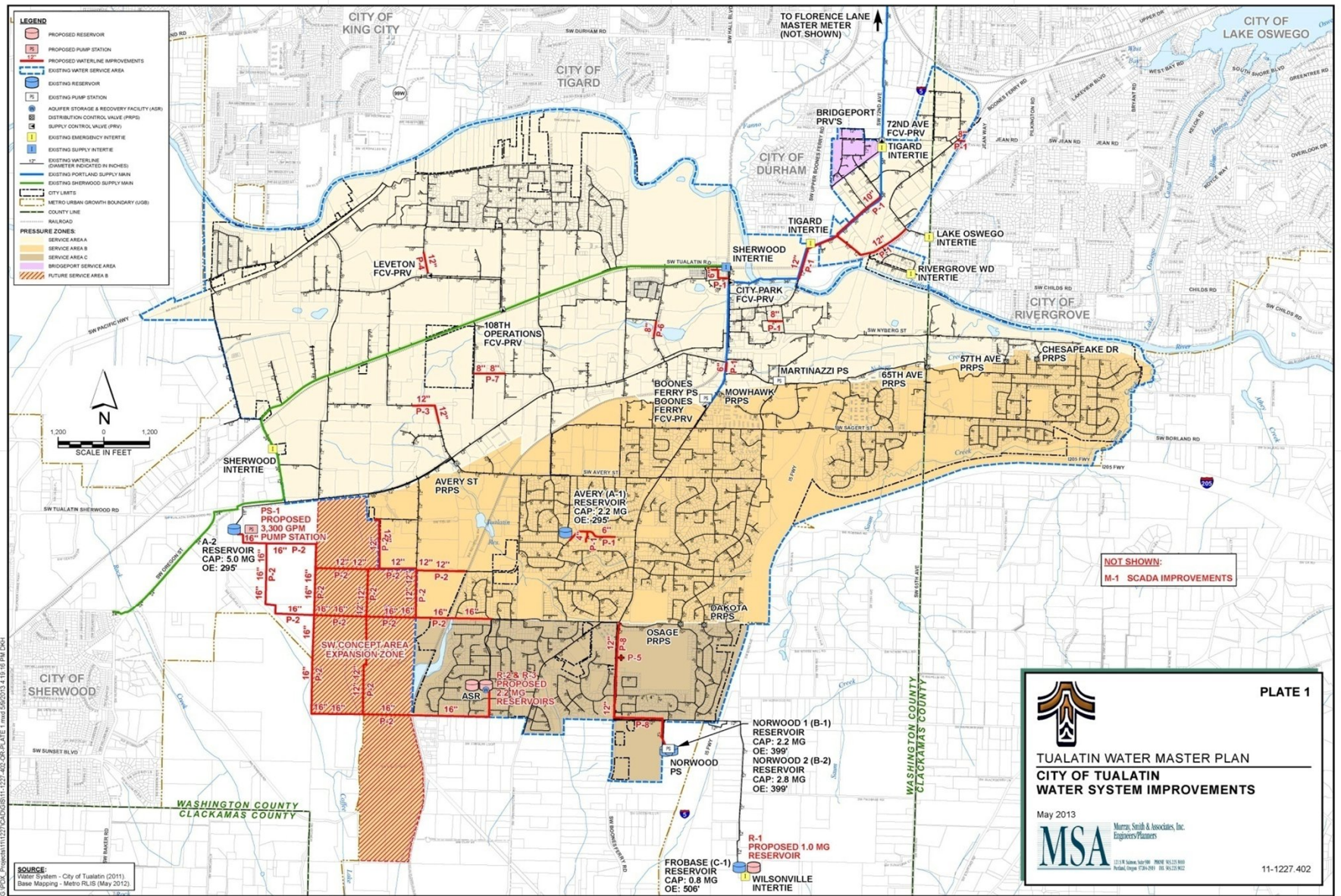


2013 Water Master Plan

Table 5-4 | Storage Volume Recommendation Summary

<i>Existing (2011) Development Conditions Storage (mg)</i>						
Service Area	Equalization	Emergency	Fire Flow	Total	Available Storage	Deficit
A	1.30	4.80	0.63	6.70	7.2	
B	0.80	2.90	0.63	4.30	5.0	
C	0.30	0.90	0.18	1.40	0.8	
Total	2.40	8.60	1.44	12.40	13.0	
<i>20-year (2031) Development Conditions Storage (mg)</i>						
Service Area	Equalization	Emergency	Fire Flow	Total	Available Storage	Deficit
A	1.60	6.10	0.63	8.30	7.2	1.1
B	1.50	5.90	0.63	8.00	5.0	3.0
C	0.30	1.40	0.18	1.90	0.8	1.1
Total	3.40	13.40	1.44	18.20	13.0	5.2
<i>Build-out Development Conditions Storage (mg)</i>						
Service Area	Equalization	Emergency	Fire Flow	Total	Available Storage	Deficit
A	1.70	6.10	0.63	8.40	7.2	1.2
B	1.60	5.90	0.63	8.10	5.0	3.1
C	0.30	1.00	0.18	1.40	0.8	0.7
Total	3.60	13.00	1.44	18.00	13.0	5.0







Background

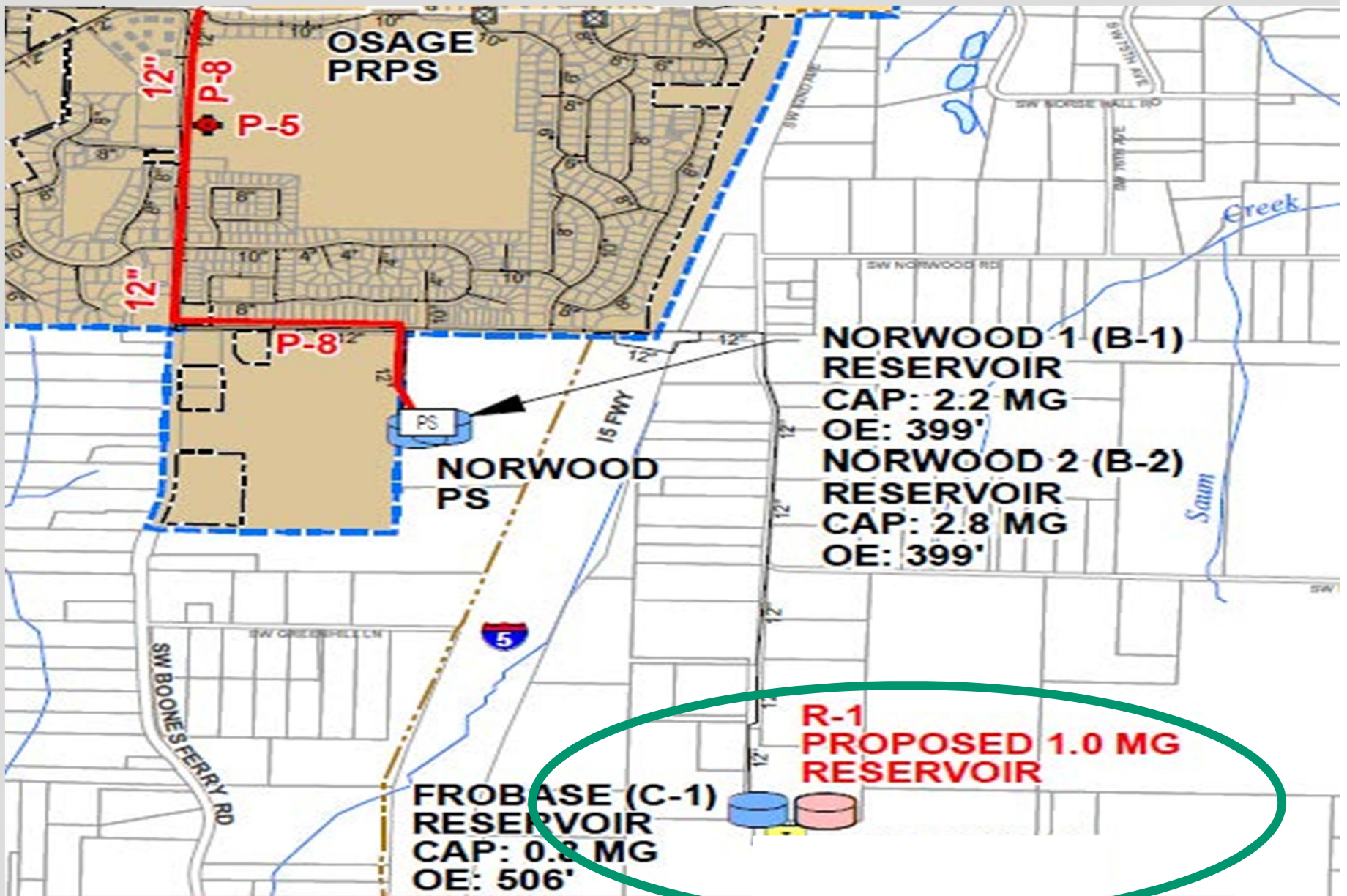
- ❖ Design for the new tank was started in 2009 but not completed until 2014, due to a slowdown in the economy and lack of SDC funds.



Project

- ❖ The Frobase Reservoir site has adequate existing space to accommodate a second small reservoir.
- ❖ This second reservoir, with a volume of 1 million gallons, will be constructed as an at-grade welded steel reservoir consistent with the City's other reservoirs.
- ❖ The project also includes repainting the existing reservoir on the same site.







Where we are now...

- ❖ The project is in the City's Capital Improvement Plan and the Adopted Budget.
- ❖ Three bids were received and opened on November 4, 2014.
- ❖ Clackamas Construction submitted the low bid of \$1,735,955.





Next Steps

November 24, 2014: Council consideration of resolution awarding contract

December 2014: Execute contract

January – September 2015: Construction

