



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

October 20, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement with the City of Lake Oswego
Regarding a Transfer of a Portion of Carman Drive**

Purpose/Outcomes	Jurisdictional transfer of a fragmented portion of Carman Drive
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and Maintenance monies used on an isolated County maintained portion of road located entirely within the City of Lake Oswego. Initial cost of transfer is \$19,000, which represents the cost of a 2" asphalt overlay of that portion being transferred.
Funding Source	Road Fund
Duration	Upon execution; permanent transfer.
Previous Board Action	None.
Strategic Plan Alignment	Build a strong infrastructure. Build public trust through good government.
Contact Person	Rick Maxwell- Engineering Tech – 503-742-4671
Contract No.	N/A

BACKGROUND:

There are certain County roads, such as Carman Drive in Lake Oswego, that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. With the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service, the attached IGA formalizes an agreement to provide funds to the City of Lake Oswego in the amount of \$19,000, which is equal to the cost of a 2" asphalt overlay, in the event the City is successful in assuming exclusive jurisdiction over a portion of Carman Drive containing approximately 76,000 square feet of Right-of-Way. Payment of these funds are contingent upon the City finalizing the jurisdictional transfer process. Once jurisdiction is transferred, the City becomes the "Road Authority" responsible for all maintenance, permitting and road standard activities.

On June 7, 2016, the City of Lake Oswego initiated the process to transfer jurisdiction of a portion of Carman Drive from the County to the City through adoption of Resolution 16-12.

The attached IGA was approved by the City of Lake Oswego City Council at their regular meeting on August 26, 2016.

RECOMMENDATION:

Staff respectfully requests that the Board approve the attached IGA between Clackamas County and the City of Lake Oswego related to the transfer of jurisdiction of a portion of Carman Drive and the payment to the City in an amount equivalent to a 2" asphalt overlay of that portion being transferred.

Respectfully submitted,

Mike Bezner
Deputy Director – Department of Transportation and Development

Attachments:

Intergovernmental Agreement
Map of proposed transfer area
June 7, 2016 Council Minutes
Resolution 16-12 (contains exhibit)

INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY AND THE CITY OF LAKE OSWEGO REGARDING A TRANSFER OF A PORTION OF CARMAN DRIVE

This agreement (the "Agreement") is made between Clackamas County, a political subdivision of the State of Oregon, (the "County"), and the City of Lake Oswego, a municipal corporation of the State of Oregon, (the "City"), pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the "Parties" and each a "Party."

RECITALS:

- A. ORS Chapter 190 authorizes any unit of government to enter into intergovernmental agreements with units of local government or state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
- B. There is an existing portion of Carman Drive between Meadows Road and the intersection of Bonita Road/Waluga Drive that is a County Road that is inside the City's corporate limits (the "Carman Drive Segment").
- C. ORS 373.270 provides a procedure whereby a county may transfer jurisdiction over County Roads within cities to the city.
- D. There are existing portions of Carman Drive that have previously been transferred from the County to the City.
- E. Fragmented jurisdiction, maintenance, permitting, and road standards over the various portions of Carman Drive results in inefficient administration and confusion on the part of the public as to road management responsibilities.
- F. On June 7, 2016, pursuant to ORS 373.270(60(a)), the City elected to initiate the process to transfer the Carman Drive Segment by requesting surrender through adoption of Resolution 16-12.

NOW, THEREFORE, the Parties agree as follows:

TERMS OF AGREEMENT:

1. County Responsibilities:

- 1.1. The County shall give notice and shall carry out those procedures set forth in ORS 373.270 to determine whether it is necessary, expedient or for the best interests of the County to surrender jurisdiction over the Carman Drive Segment.

- 1.2. In the event the governing body of the County determines that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over the Carman Drive Segment, the County shall provide to the City the sum of \$19,000, which is equivalent to the cost of a 2-inch asphalt overlay on the Carman Road Segment, payable within 30 days of the full and absolute jurisdiction over the Carman Drive Segment is surrendered to the City.

2. City Responsibilities:

- 2.1. The City shall not withdraw or otherwise modify the terms of Lake Oswego City Council Resolution 16-12 while the County is pursuing completion of its obligations under Section 1 of this Agreement. This restriction shall terminate in the event the County fails to complete its obligations under Section 1 within nine months from the effective date of this Agreement.
- 2.2. The City agrees to assume full and absolute jurisdiction over the Carman Drive Segment in the event the governing body of the County determines that it is necessary, expedient or for the best interests of the County to surrender jurisdiction to the City.

3. General Provisions:

3.1 INDEMNIFICATION

Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each Party agrees to hold harmless, defend, and indemnify each other, including its officers, Commissioners, Councilors, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) of any kind or nature for personal injury, death or damage to property arising out of this Agreement where the loss or claim is attributable to the negligent acts or omissions of the indemnitor or the indemnitor's officers, Commissioners, Councilors, employees, agents, subcontractors, or anyone over which the Party has a right to control. Each Party shall give the other immediate written notice of any action or suit filed or any claim made against that county that may result in litigation in any way related to this Agreement.

3.2 SEVERABILITY

If any provision of this Agreement is found to be unconstitutional, illegal or otherwise unenforceable by a Court or authority of competent jurisdiction, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the intentions of the parties to the maximum extent possible.

3.3 MODIFICATION OF AGREEMENT

Any waiver, consent, modification or change to the terms of this Agreement shall be binding only by mutual agreement of the Parties. Any amendment, including additional agreement providing descriptions of tasks, standards of performance or costs, shall be in writing and shall refer specifically to this Agreement and shall be valid only when executed by the governing bodies of the Parties, and attached hereto.

3.4 INTEGRATION

This Agreement contains the entire agreement between the Parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

3.4 EFFECTIVE DATE

This Agreement shall become effective immediately upon execution by the governing bodies of Clackamas County and the City of Lake Oswego.

CLACKAMAS COUNTY

CITY OF LAKE OSWEGO

Chair

Mayor

Recording Secretary

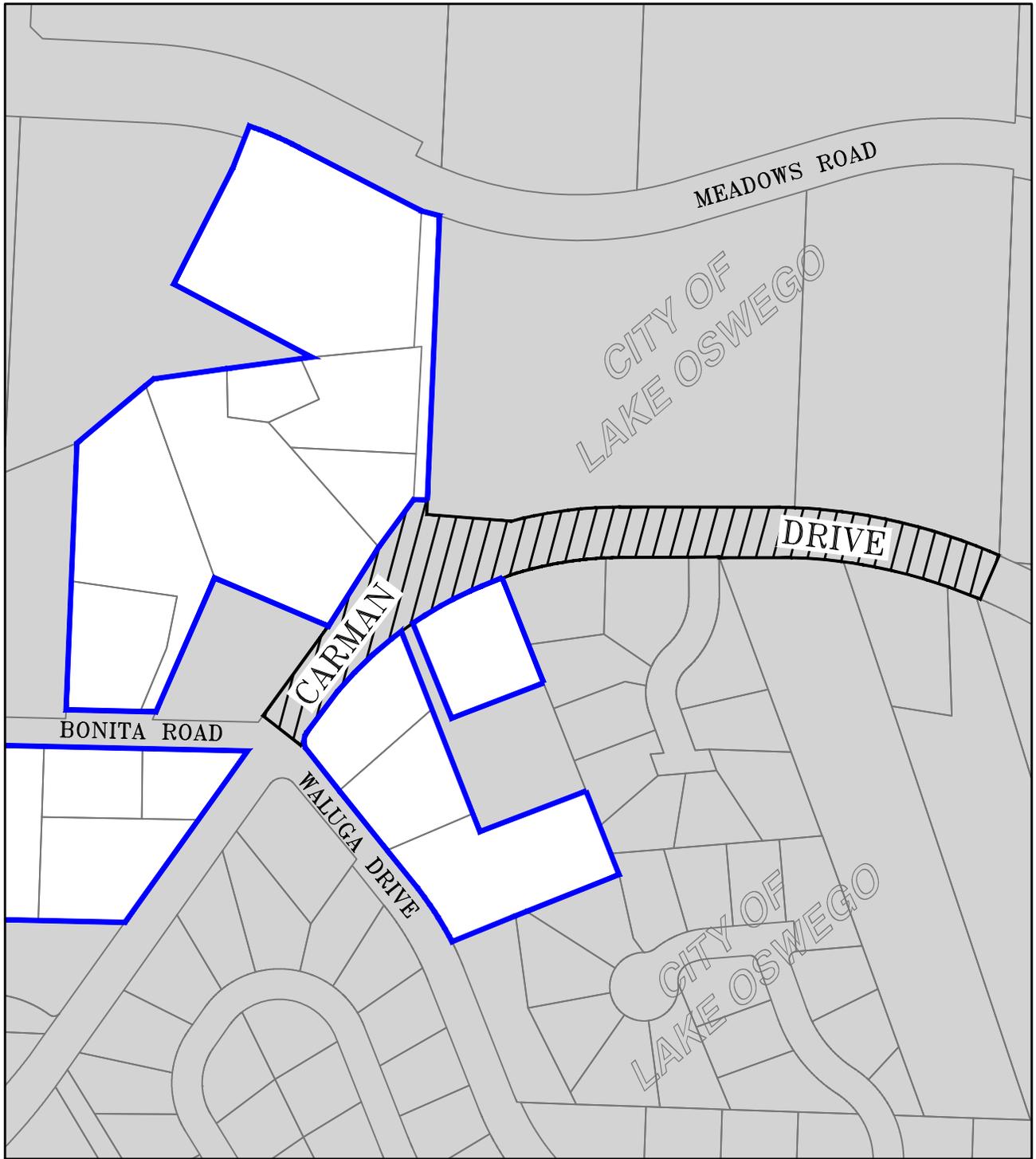
Recording Secretary

Approved as to Form:

Approved as to Form:

County Counsel

City Attorney



PLAN
1"=200'



CURRENT LAKE OSWEGO CITY LIMITS



AREA OF CARMAN DRIVE TO BE
TRANSFERRED FROM CLACKAMAS
COUNTY TO LAKE OSWEGO

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT 150 BEAVERCREEK ROAD OREGON CITY, OR 97045		09/29/16 SCALE: 1:200 JURISDICTIONAL TRANSFER OF A PORTION OF CARMAN DRIVE TO THE CITY OF LAKE OSWEGO	SHEET 1
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CITY COUNCIL REGULAR MEETING
MINUTES
June 7, 2016

1. CALL TO ORDER, CITY COUNCIL

On behalf of Mayor Kent Stuebaker, the regular City Council meeting was called to order at 6:31 p.m. on June 7, 2016, in the City Council Chambers, 380 A Avenue, by Amber Prasad, winner of the 2016 "If I Were Mayor" essay contest.

2. ROLL CALL

Present: Mayor Stuebaker and Councilors Manz, Buck, Gudman (arriving at 6:41 p.m.), Collins, O'Neill, and Gustafson

Staff Present: Scott Lazenby, City Manager; David Powell, City Attorney; Anne-Marie Simpson, City Recorder; Shawn Cross, Finance Director; Erica Rooney, City Engineer; Sarah Selden, Senior Planner; Jordan Wheeler, Deputy City Manager; Megan Phelan, Assistant City Manager; Larry Goff, Fire Chief; Bonnie Hirshberger, Citizen Information Specialist; Ivan Anderholm, Director of Parks and Recreation

Others Present: Karen Bowerman, Mike Holm, Scott Thompson, Lake Oswego Veterans Memorial

3. PLEDGE OF ALLEGIANCE

Lauren Monkewicz, winner of the 2016 "If I Were Mayor" digital media presentation contest, led the Council in the Pledge of Allegiance.

4. PRESENTATIONS

4.1 "If I Were Mayor" Contest Winners

Mayor Stuebaker introduced Amber Prasad and Lauren Monkewicz, winners of the "If I Were Mayor" contest in their categories. He commended their outstanding work and presented each with a check for \$100. Describing the students' presentations, he noted that their efforts had qualified them for the state "If I Were Mayor" contest.

4.2 Lake Oswego Meals on Wheels Annual Donation to the City

Report

Frank Bridwell asked fellow members in attendance from the advisory board for Lake Oswego's Meals on Wheels program to stand and be recognized. Following applause from Council and audience, he announced that the board was presenting a check for \$49,203 to the City, covering the full amount of the program deficit for 2015. He thanked Council for their sponsorship.

4.3 Emergency Declaration and Exercise Update

Report and Attachments

Ms. Phelan introduced Mr. Goff and Ms. Hirshberger, her colleagues on the Emergency Management Team. With accompanying PowerPoint slides, she presented background and objectives of the 2016 Cascadia Rising Catastrophic Earthquake and Tsunami Functional Exercise. As a participant in the exercise, the City of Lake Oswego requests that Council declare a "practice" state of emergency, ratifying the City Manager's declaration of a state of emergency, as described in the Staff report (Council Report and Attachments). She highlighted the hierarchy of declarations that are required for access to county, state, and federal funds in the event of an actual emergency. Council's role after an emergency declaration, she noted, was to provide policy direction and support and to serve as a link to various city constituents.

Councilor Gustafson asked about the process in the event a quorum of Council could not be convened to vote on ratification of an emergency declaration. **Mr. Powell** described provisions of City Code that would allow for a modified process by less than a full quorum if required by the emergency circumstances. A brief discussion about alternatives for Council action followed. **Mr. Powell** indicated that adherence to the ratification process was the important issue.

5. CONSENT AGENDA

5.1 Approval of Meeting Minutes

5.1.1 April 19, 2016, Regular Meeting

5.1.2 May 3, 2016, Regular Meeting

Motion: Move to approve minutes as written.

Report and Attachments

5.2 Resolution 16-26, A Resolution of the City Council of the City of Lake Oswego Authorizing the Mayor to Sign an Intergovernmental Agreement with the City of West Linn for Public Safety Communications Services Provided by the Lake Oswego Communications Center.

Motion: Move to adopt Resolution 16-26.

Report and Attachment

- 5.3 Resolution 16-27, A Resolution of the City Council of the City of Lake Oswego Authorizing the Mayor to Sign an Intergovernmental Agreement with the City of Milwaukie for Public Safety Communications Services Provided by the Lake Oswego Communications Center.**

Motion: Move to adopt Resolution 16-27.

Report and Attachment

- 5.4 Resolution 16-12, A Resolution of the Lake Oswego City Council of the City of Lake Oswego Requesting that Clackamas County Transfer Jurisdiction of a Portion of Carman Drive Inside the City Limits.**

Motion: Move to adopt Resolution 16-12.

Report and Attachment

- 5.5 Contract Approval with Ricoh for Production Copier**

Motion: Move to authorize the City Manager to sign a five-year contract with Ricoh in the amount of \$172,825.

Report and Attachments

- 5.6 First Amendment to the ODOT Local Agency Agreement for Boones Ferry Road Project Federal Grant**

Motion: Move to authorize the Mayor to sign Amendment Number 1 to the ODOT Local Agency Agreement for the Multimodal Transportation Enhance Program grant for Boones Ferry Road Improvements – Phase 1.

Report and Attachment

END CONSENT AGENDA

Councilor Gudman moved the adoption of the Consent Agenda. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

6. ITEMS REMOVED FROM CONSENT AGENDA

No items were removed from the Consent Agenda.

7. CONSENT AGENDA – COUNCIL APPROVAL

7.1 Resolution 16-16, A Resolution of the City Councilors of the City of Lake Oswego Approving an Appointment to the Sustainability Advisory Board

Motion: Move to adopt Resolution 16-16.

Report and Attachment

Councilor Buck moved the adoption of Resolution 16-16. Councilor Collins seconded the motion.

A voice vote was held, and the motion passed, with Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (6-0)

7.2 Resolution 16-21, A Resolution of the City Councilors of the City of Lake Oswego Approving Appointments to the Planning Commission

Motion: Move to adopt Resolution 16-21.

Report and Attachment

Councilor Collins moved to adopt Resolution 16-21. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed, with Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (6-0)

8. CITIZEN COMMENT

- **Patricia Billings, 4077 Sunset Drive, Apt. 109**

Ms. Billings described her concerns about challenges for motorists at the Sunset Drive-Reese Road intersection. Obstructed vision because of vegetation needs to be addressed, as she had requested in several letters over the past 12 years, she indicated. Other intersections with visual obstructions were described as dangerous, including Bryant Road at Sunset Drive and Boones Ferry Road at Douglas Way.

- **Allen Terry, 4077 Sunset Drive**

Mr. Terry expressed concerns about visibility as both a pedestrian and a motorist because of the amount of vegetation at the Sunset Drive-Reese Road intersection. He indicated that, along with others in his apartment building, he is disabled and faces additional safety challenges. He requested that the City address this by cutting back the vegetation to clear visual obstacles. Both Reese Road and Sunset Drive need posting of speed limits, he stated. More lighting and traffic regulation were also requested.

In subsequent discussion, **Mayor Studebaker** advised that Council and City Staff would follow up within a short period of time on the concerns expressed by Ms. Billings and Mr. Terry.

- **Joseph Corvelli, 328 Kenwood Road**

Mr. Corvelli requested that Council consider revising City code with regard to the special exclusion allowing recreational vehicles to remain parked for up to ten days. The requested revision would allow the same exclusion to apply to a boat or boat trailer.

In response to Mayor Studebaker's suggestion, **Mr. Powell** indicated that he could check with the Traffic Division and the City Engineer and address this request at an upcoming Council meeting.

- **Charles (Skip) Ormsby, 179 Birdshill Road, Portland 97219**

Mr. Ormsby drew Council's attention to road and other projects affecting the Birdshill CPO/NA. The Terwilliger Boulevard sewer project is presenting challenges for the neighborhood, particularly in regard to their neighborhood plan process, he reported; this plan and related code changes need to be done before the sewer project becomes operational. Additional neighborhood concerns include safety of the railroad lines and bridge in the area.

Note: Mr. Ormsby's comments followed Agenda item 10.1 as he was not present at the time designated for Citizen Comment.

8.1 Prior Public Comment Follow-Up

No follow-up on prior Public Comment was heard.

9. PUBLIC HEARINGS

9.1 Resolution 16-15, A Resolution of the City Council of the City of Lake Oswego Certifying that the City of Lake Oswego is Eligible in the Fiscal Year 2016-17 for State-shared Revenues (Cigarettes, Liquor and Highway Taxes) Because it Provides Four or More Municipal Services.

Resolution 16-20, A Resolution of the City of Lake Oswego Declaring the City of Lake Oswego's Election to Receive State Revenues in Fiscal Year 2016-17.

Resolution 16-19, A Resolution of the City Council of the City of Lake Oswego Adopting the Addendum to the City of Lake Oswego Capital Improvement Plan FY 2016/17 - 2020/21

Resolution 16-14, A Resolution of the City Council of the City of Lake Oswego Adopting the City of Lake Oswego Budget for the Fiscal Year Commencing July 1, 2016, Making Appropriations, Levying Ad Valorem Taxes, and Classifying the Levy Pursuant to Section 11b, Article XI of the Oregon Constitution.

Report and Attachments

Review of Hearing Procedure

Mr. Powell explained that the purpose of the hearing was budget consideration, with a consolidated format comprising Resolutions 16-15, 16-20, 16-19, and 16-14. He reviewed the four Resolution titles and then outlined the time limits for testimony as shown in the agenda.

Staff Report

Mr. Cross outlined highlights of the Fiscal Year 2016-17 budget: (1) There is a complete funding plan of \$13.6 million for the Operations Center. (2) A reserve has been established for further repairs to City Hall. (3) Funding for streets has been increased.

He next outlined some of the changes made to the City Manager's proposed budget, as reflected in the budget approved by the Budget Committee and now submitted for Council consideration. As noted in the Staff report (Council Report, p 1), this included the allocation of \$250,000 from the General Fund that had been set aside for City Hall repairs and was now directed to Parks and Recreation for light pole replacements.

Testimony

Mayor Studebaker asked if anyone wished to present testimony regarding any of the Resolutions. Hearing no requests, he closed the public hearing.

Questions of Staff

Mr. Cross added that he wished to point out one difference between the published notice and the proposal now before Council: Staff had accidentally shown a contingency category for the Capital Reserve Fund, but as there are no expenditures, had removed the contingency line.

Councilor Buck asked about the accuracy of the unfunded pavement preservation amount shown in the Capital Improvement Plan (CIP). **Ms. Rooney** indicated that this is a high-level planning number; the information before Council is based on data from 2013, with slight modification for age and time. It should be regarded as a reasonable snapshot, subject to change once Staff has obtained new Pavement Condition Index (PCI) and other data in the coming year. It was important for Council to understand, she indicated, that achievement of a desirable PCI was not based on a linear equation in terms of funding. Instead, a very large infusion of funds in the early years was critical to reversing streets deterioration and reaching the PCI goal.

In continuing discussion, **Councilor Gudman** asked about effects of the additional funds that had been spent on road maintenance in recent years. **Ms. Rooney** acknowledged that this has helped to slow down the degradation and that the PCI would otherwise have been worse. She reiterated the significance of large infusions of funding in the early years. Another important consideration for Council to understand was the number of variables that influence PCI; in Lake Oswego, such factors include annexation of road segments with a lower PCI and the lack of new road construction that would raise the city's overall PCI.

Councilor Buck noted that the Parks Board had communicated concerns about funding for their projects, and that Mr. Cross had subsequently determined that the Parks budget would have more surplus funds than originally anticipated. **Mr. Cross** confirmed that the carryover was greater

than the amount expected in January when the budgets were planned and was sufficient to pay the \$250,000 for the lights. **Councilor Buck** expressed concerns about the use of the \$250,000 allocation and the missed opportunity to save the carryover to use for future large Parks projects. **Councilor Buck moved that Council reconsider their decision and amend the proposed budget under consideration by Council, so as to allocate the \$250,000 that had been allocated to streets back to the Parks Department. Councilor Gustafson seconded the motion.**

Councilor Gustafson expressed concerns about the many Parks maintenance projects that have not been addressed. While acknowledging that Council had identified pavement preservation as the top priority, he questioned the actual effect if the \$250,000 was not directed to the street fund, i.e., would there be pavement preservation projects that would not be done without the \$250,000?

A short discussion followed, with **Ms. Rooney** indicating that \$250,000 worth of pavement projects would have to be deferred to a later time, with resulting delay in solving the problem. She responded to Councilor Gustafson's additional concerns, including carryover in the street fund when the \$250,000 might instead be used to address Parks safety problems.

A roll call vote was held, and the motion failed, with Councilors Buck and Gustafson voting 'aye'. Mayor Studebaker and Councilors Manz, Gudman, Collins, and O'Neill voted 'no'. (2-5)

Councilor Gudman moved to adopt Resolution 16-15. Councilor Collins seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

Councilor Gudman moved to adopt Resolution 16-20. Mayor Studebaker seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

Councilor Gudman moved to adopt Resolution 16-19. Councilor Collins seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

Councilor Gudman moved to adopt Resolution 16-14. Councilor O'Neill seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

9.2 Approval of Special Procurement of Contract for Administration of City Public Arts Programs

Councilor Gustafson moved to continue the hearing to July 5, 2016. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

10. ORDINANCES

10.1 Ordinance 2706, An Ordinance of the City of Lake Oswego Adopting the SW Employment Area Plan as a Special District Plan of the Comprehensive Plan and Amending the Community Development Code to Add a Southwest Overlay District and to Make Related Code Streamlining Amendments.

Report and Attachments

Mr. Powell read the Ordinance title and provided background on the process leading to Council's tentative approval of the Ordinance on May 3, as noted in the Staff report (Council Report and Attachments). He highlighted the one modification to the Planning Commission's recommendation, which was to amend the Prohibited Exterior Finish Materials section to allow the use of concrete block and plywood as exterior finish materials, limited to 40% of the façade. He noted Ms. Selden's subsequent memorandum to Council, which included Staff's recommendation to defer adopting the amendments to the site-specific design and use standards at Boones Ferry Road and Jean Way (Council Report, Attachment 1). The recommendation of Staff is to enact Ordinance 2706, he reported.

Councilor Manz moved to adopt Ordinance 2706. **Councilor Buck** seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

10.2 Ordinance 2715, An Ordinance of the Lake Oswego City Council Amending Article 12.51 of the Lake Oswego Code to Establish a Tourism Advisory Committee

Report and Attachments

Mr. Wheeler presented background on the Ordinance, which would enact a key recommendation of the tourism task force convened by Councilors Manz and Buck over the past winter: establishment of a Tourism Advisory Committee, as outlined in the Staff report (Council Report and Attachments).

Mayor Studebaker asked about the nature of the Committee's work. **Mr. Wheeler** explained how the Committee would work with stakeholder groups in order to advise the Council and Budget Committee on effective use of the City's hotel/motel tax funds. The tourism task force had already

developed a very good action plan (Council Report, Attachment 1), he advised. **Councilor Manz** noted that the Committee would meet twice a year, based on the City's budget cycle.

Councilor Gustafson thanked Councilors Manz and Buck for following this project through. **He moved to enact Ordinance 2715. Councilor O'Neill seconded the motion.**

Councilor Collins indicated that he had been approached by a community group interested in receiving tourism funds; he asked how soon the City might be funding projects. **Mr. Wheeler** suggested, that upon approval of the Ordinance, one of the Committee's first tasks would be to review the action plan and to consider whether or not such initiatives as a grant program should be included in their work program. **Mr. Lazenby** emphasized that the Committee's role would be advisory with regard to expenditures, and Council would have final say on major appropriations. In additional discussion, he indicated that the Committee could likely get up and running fairly quickly; he recommended having them involved in reviewing such items.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

11. RESOLUTIONS

11.1 **Resolution 15-20, A Resolution of the City Council of the City of Lake Oswego Granting Recognition as a Neighborhood Association to the Mountain Park Neighborhood and Amending the Boundary Between the Oak Creek and Mountain Park Neighborhoods**

Report and Attachments

Ms. Selden presented the Mt. Park neighborhood's request to be recognized as a City neighborhood association. She described the significant size of the area in terms of geography and population, noting that it was the largest in the city not to be part of a City-recognized neighborhood association. In reviewing background of the neighborhood's effort to gain this recognition, she clarified that the Mountain Park Neighborhood Association has elected a board to serve this completely separate entity, apart from the Mountain Park Home Owners Association; the Neighborhood Association is open to anyone who resides or owns property in the neighborhood. She recognized the Neighborhood Association's elected chair, Matt Palmer, in the audience and reported that they have adopted bylaws and come into compliance with all City requirements for recognition as a City neighborhood association. Council's adoption of Resolution 15-20 would also implement neighborhood boundaries for the Mountain Park Neighborhood Association, including an amendment to the adjacent Oak Creek Neighborhood Association boundaries, as detailed in the Staff report (Council Report, Attachment 1, Exhibit C). The Commission for Citizen Involvement had reviewed this request, she reported, and had recommended that Council recognize Mountain Park as the City's 24th neighborhood association.

Councilor Gustafson requested information about the difference between the number of mailed notices of the initial membership meeting and the number of households in Mountain Park. **Ms. Selden** described the noticing requirements of the Citizen Involvement Guidelines and the City's efforts to notify all residents, both for this meeting and in the future. In ensuing discussion

Councilors Gustafson and Manz raised questions about reaching non-property owners in the neighborhood. **Mayor Studebaker** asked about the benefits to residents of a recognized neighborhood association in comparison to a homeowners' association. **Ms. Selden** indicated that the neighborhood association afforded a more formal voice, with the City's system for sending notices and asking for citizens' participation in land use meetings, among other benefits.

Councilor Manz moved to adopt Resolution 15-20, Mountain Park Neighborhood recognition. Councilor O'Neill seconded the motion.

Councilor Gustafson expressed concerns about apparent past reluctance of the Home Owners Association to involve renters in the organization. There also was nothing in the bylaws that would prevent the Neighborhood Association from morphing into the Home Owners Association board, and the City should regard all citizens as equal, whether they are owners or renters. He stated that he would support the Resolution, but hoped that board members of both the Neighborhood Association and the Home Owners Association would recognize the value and input of renters, so that they do not become disenfranchised in terms of public participation.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

11.2 Resolution 16-22, A Resolution of the City Council of the City of Lake Oswego Adjusting the Compensation for Management and Confidential Positions Not Represented by a Bargaining Unit

Report and Attachment

Mr. Lazenby noted that most City employees are represented by unions, and the issue now before Council is the cost-of-living increase for employees not represented by a union, as discussed in the Staff report (Council Report and Attachment). Contracts previously approved by Council had provided for a 2% cost-of-living increase effective July 1 for represented employees, he explained, while the Consumer Price Index (CPI) had been 1.2% for the past year. Staff had intentionally suggested a range of 1.2% to 2% for Council consideration, and his recommendation was for an adjustment within this range.

Mayor Studebaker recommended a 1.5% increase. **Councilor Gustafson** asked about past years' cost-of-living increases for the City's non-represented employees, i.e., whether they had been in line with the CPI or with the increases for union-represented employees. **Mr. Lazenby** stated that over the past 10 years the increases for non-represented employees generally had been somewhat smaller than those for represented employees.

Councilor Buck initiated brief discussion about the purpose of the increase, with **Mr. Lazenby** confirming that it is only for cost of living.

Councilor Gustafson inquired about the basis for Mayor Studebaker's recommendation for 1.5%. He discussed the merits of striving for equity between represented and non-represented employees by treating them the same. Alternatively, if the City intended to base the adjustment

on the CPI every year, there would be budget challenges to consider. **Mayor Studebaker** indicated that budget was a factor in his recommendation of 1.5%.

Mayor Studebaker moved to approve a 1.5% cost-of-living increase for management and confidential employees and the adoption of Resolution 16-22. Councilor Buck seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

11.3 Resolution 16-35, A Resolution of the Lake Oswego City Council Authorizing the City Manager to Sign an Agreement to Accept Donations and to Install a Veterans Memorial in Foothills Park

Report and Attachments

Mr. Anderholm was joined by Ms. Bowerman and her colleagues from the board of directors of the Lake Oswego Veterans Memorial, Mike Holm and Scott Thompson. **Mr. Anderholm** outlined the background of the group, which is a 501(c)(3) organization, and its efforts to raise funds in support of a veterans and first responders memorial in Lake Oswego, as discussed in the Staff report (Council Report and Attachments). Subsequent involvement of Staff had led to recommendation of a site at Foothills Park that would afford appropriate aesthetics and amenities. Council is now asked to consider entering an agreement with Lake Oswego Veterans Memorial (Council Report, Exhibit 1 – Resolution 16-35). Essentially, this would enable the nonprofit group to move forward with concept for the design and fund raising, he explained. The agreement calls for a timeline for the group to devise a master plan for the memorial. The master plan would then be considered by the Parks and Recreation Department, the Parks, Recreation, and Natural Resources Advisory Board, and eventually by Council. He noted that the City is only obligated to move forward with construction of the memorial, and that is subject to the group providing full funding for implementation. In response to a question from Mayor Studebaker, he clarified that the project would be a public improvement; as such, it would entail the typical design, engineering, and construction process.

Ms. Bowerman described the significance of the memorial and the commitment of the nonprofit board members. She recognized the efforts of Mr. Powell in development of the agreement and Mr. Anderholm in numerous logistical matters. After reviewing key accomplishments of the nonprofit group, she reported that they are now positioned to raise funds, since being recognized as a charitable organization by the Oregon Department of Justice.

Councilor Buck commended the board members' work and expressed appreciation. He requested clarification about the design process in terms of City involvement prior to accomplishment of fund raising. **Ms. Bowerman** indicated that the City would complete the design, and Council would approve the master plan associated with that. **Mr. Anderholm** noted that Staff was participating throughout the design, engineering, and construction of the actual memorial; however, the nonprofit is responsible for all associated costs as shown in the agreement. Additional discussion of costs followed, with **Mayor Studebaker** noting that the City would proceed only when the master plan has been presented and then approved by Council.

Mr. Anderholm clarified that the City would incur no cost in development of the master plan, other than time involved in Staff's participation in the meetings.

Ms. Bowerman displayed slides showing the recommended location for the memorial at Foothills Park and an initial design concept. She described features that would support the group's desire for an artistic design. **Mr. Holm** elaborated on the design and options for achieving a memorial that the City, as well as veterans and first responders, would be proud of.

Councilor Gudman moved to adopt Resolution 16-35. **Councilor O'Neill** seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

Note: This item was addressed immediately following Agenda Item 11.1, rather than according to the agenda order.

11.4 Resolution 16-32, A Resolution of the City Council of the City of Lake Oswego Amending Lake Oswego Council Administrative Procedures

Report and Attachment

Indicating that it was common practice for the Council Rules of Procedure to be reviewed from time to time, **Ms. Simpson** presented an overview of revisions proposed to three Procedures (Council Report and Attachment). The Procedures are available for public reference on the City website. With regard to Procedure 5, she highlighted the alternative options for submission of comments by citizens, which would include electronic presentations such as photos or video. The change to Procedure 6 entails removing the prescribed schedule for Council's meetings with City boards and commissions. While still adhering to the Code requirement to meet annually with all boards and commissions, the amended Procedure 6 would afford flexibility for Council to schedule meetings in a way that works for them. Proposed changes to Procedure 7 would provide continuity and improve efficiency in Staff's preparation of Council reports, while reflecting current practices.

Following a brief exchange of questions and answers, **Councilor Gustafson** asked about the consequences of adopting the changes but perhaps not following the adopted procedures. **Ms. Simpson** provided brief background on the recommendation, indicating that the impetus was Staff's recognition that certain practices did not seem to be following the adopted procedures.

Mr. Powell expanded on this point and explained how a Council member could address a concern about following procedures. He indicated that in a long list of procedures, one might become outdated over time, with no intent by Council to ignore it. He concurred that if a procedure was established, Council should follow it and Staff should support the effort. This was the reason for bringing forward the proposed changes, he indicated.

Discussion followed about conditions under which Council might be able to deviate from the written procedures. **Councilor Gustafson** expressed concern about the proposed change to

Procedure 6, which might have the effect of reduced opportunity for communication with boards and commissions. He indicated that inclusion of an agenda item for reports from boards and commissions was advisable, but had not been Council's regular practice. **Mr. Lazenby** described the current practice for developing Council meeting agendas. He noted that the proposed amendments refer to agenda elements, as opposed to agenda items; this was an effort to streamline the process.

Further discussion between Council and Staff culminated in general agreement that it could be appropriate to restore the agenda element "Reports from Boards and Commissions" as an option.

Councilor Gustafson moved to adopt Resolution 16-32 except for the deletion of Rules of Procedure, 4.d.ix relating to Reports of City Commissions or Committees. Councilor Buck seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

12. REVIEW PROPOSED BALLOT MEASURES

Mr. Powell provided an overview of the timelines and other requirements for referring the three measures to voters on the November 8 ballot. He discussed specifications of the two components of each ballot measure: the Ballot Title, consisting of the Caption, Question, and Summary; and the Explanatory Statement (Council Report and Attachment for Agenda Items 12.1, 12.2, 12.3). Council was advised that both components could be adopted at this time; alternatively, Explanatory Statements for the measures could be adopted as late as September 6.

12.1 Resolution 16-34, A Resolution of the Lake Oswego City Council Referring to the Electors of the City, at the November 8, 2016 General Election, a Measure Amending Section 24 of the Lake Oswego Charter Relating to Notice of City Elections

Report and Attachment

Mr. Powell described background of the proposed ballot measure, which would modify the City Charter to update requirements regarding notice of elections, as outlined in the Staff report. He drew Council's attention to proposed text for the Summary (Council Report, Attachment 1, p 2 of 3). In order to ensure that the Summary does not exceed the maximum word count, he suggested that the first line be revised to (1) replace the words "Lake Oswego" with "City", and (2) delete the word "currently"; the revised text in the first line would read: Section 24 of the City Charter requires....

Councilor Gudman commented on the background of this ballot measure, which was intended to resolve one of several quirks in the Charter that had been identified. He indicated that one or more additional quirks would be addressed in 2018. With regard to this measure, he offered to write an endorsement for the voters' pamphlet on behalf of all City Council members, subject to their approval.

Mayor Studebaker moved to adopt Resolution 16-34 with the changes to the Summary suggested by Mr. Powell in order to reduce the word count to meet the requirements. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Gudman, Collins, O'Neill, and Gustafson voting 'aye'. (7-0)

12.2 Resolution 16-33, A Resolution of the Lake Oswego City Council Referring to the Electors of the City, at the November 8, 2016 General Election, a Ban on Medical Marijuana Processing Sites, Medical Marijuana Dispensaries, Recreational Marijuana Producers, Recreational Marijuana Processors, Recreational Marijuana Wholesalers, and Recreational Marijuana Retailers, within the City

Report and Attachment

Mr. Powell provided background on this proposed ballot measure, including the requirement under state law that the City refer its current ban on marijuana facilities to voters in order for it to remain in effect. He highlighted key points of the Ballot Title and the Explanatory Statement, clarifying what would and would not be accomplished by passage of the measure, as distinguished from other considerations that have been discussed by Council.

He suggested that Council keep in mind earlier discussions about taxes that might be collected by the City in the event the ban is not upheld, including conflicting views about the local taxes approved by the City Council in 2014. Also, if Lake Oswego voters do not approve the ban, Council should consider whether or not to impose the additional local 3% tax on marijuana sales; he explained options for referring that to voters, as would be required if Council chose to impose that tax. He also reminded Council that the City has a business license ordinance that calls for revocation if a licensed business violates any applicable law. As federal law still prohibits these types of operations, Staff has continued to respond to inquiries by stating that they would not be granted a business license. He discussed potential considerations for Council in the event the ban is not approved, both in terms of the license ordinance and the Explanatory Statement.

Mayor Studebaker moved to adopt Resolution 16-33. Councilor Manz seconded the motion.

Councilor Gustafson expressed concerns about use of both the words "prohibit" and "ban" in the Ballot Title language. To make it more straightforward, he proposed that the motion be amended to replace the words "prohibit" and "prohibition" with "ban" in Section 2 of the Ballot Title. Discussion ensued about this and other possible simplifications of the language. **Mr. Powell** indicated that he would be receptive to changes, based on Council's judgment, so long as the language provided an accurate and impartial description of the measure. **Councilor Gustafson** subsequently declined to pursue amendment of the motion.

Councilor O'Neill observed that the Summary portion of the Ballot Title seemed to convey that there was a potential tax windfall involved, which he did not believe to be the case. In brief discussion, **Mayor Studebaker** suggested that this be addressed with a statement in the voters' pamphlet. **Mr. Powell** stated that he felt it was important to mention the tax disability, however,

because that is an effect of the measure. Related discussion continued about clarity of the tax reference and other text.

Councilor Buck asked about timing of a referral to voters for the 3% tax in the event the measure is not approved on November 8. **Mayor Studebaker** replied that if the City wanted to impose the tax, it would have to be placed on the ballot in the 2018 general election. **Councilor Buck** discussed the potentially significant tax revenue that could be lost in the meantime and the opportunity to address this through a ballot measure in November 2016. The consensus, after further discussion, indicated that this might create confusion for voters.

Councilor Gudman noted that, after consideration of both sides of the issue, he would not be supporting referral of the measure to the voters. The reason was the substantial vote of Lake Oswego residents in favor of the earlier marijuana initiative. It is a mistake to refer the proposed ballot measure to the voters, he stated.

Mayor Studebaker confirmed that his motion was intended to include approval of the Explanatory Statement.

A roll call vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Collins, and O'Neill voting 'aye'. Councilors Gudman and Gustafson voted 'no'. (5-2)

12.3 Resolution 16-36, A Resolution of the Lake Oswego City Council Referring to the Electors of the City, at the November 8, 2016 General Election, an Advisory Measure as to Whether the City Should Provide a High Speed Fiber Optic Broadband Network

Report and Attachment

Mayor Studebaker called **David Beckett, 17738 Kelok Road**, forward to present comments. **Mr. Beckett** indicated that he favored the proposal for an advisory vote. However, he suggested a change to the Explanatory Statement in order to make the vote effective, the addition of one sentence following the reference to a 79% "yes" response from residents in the sixth paragraph (Council Report, Attachment/Exhibit 1 to Resolution 16-36): "Based on its extensive experience, the survey firm discounted (the 79%) to a likely subscription take rate of 34.5%, which is less than the number of subscribers that the City defined as financially acceptable." This minimum rate, he noted, had been defined by the City as 35%, so the additional sentence would emphasize the risk.

Mr. Lazenby noted that the word-count limitations for the Ballot Title also applied to this measure. He and Mr. Powell had tried to be impartial in developing language for the ballot, he reported, as well as on the Explanatory Statement, which is an official statement of the City. They had avoided including specifics involving an unknown future contract. He differentiated the survey percentage cited by Mr. Beckett from responses to separate questions that were aimed at obtaining conservative usage estimates for business planning. An option for Council would be to delete mention of the survey, he indicated. The timeline would allow Council to make changes.

Mayor Studebaker initiated discussion on possibilities for a solution to balance Mr. Beckett's concern with Staff's considerations about the wording. **Mr. Lazenby** suggested deletion of the entire sixth paragraph and Councilors offered various suggestions. **Councilor Gustafson** indicated that he regarded the level of interest reflected in the survey as a key reason for pursuing the advisory vote.

Councilor Gudman compared the discussion to Council experiences regarding the West End Building. He noted his concern that if Council moves forward with the proposal now being considered, it would constitute a very substantial policy change for the City. He requested that, subject to agreement of a majority of the Council, Staff be directed to return with revised language that noted the significance of this policy change. He also asked that the revision include identification of the financial risk involved.

In continuing discussion about the need for changes to the language, **Councilor Gudman** stated that he would be voting against adoption of the Resolution; however, he felt it was important to improve the proposal to provide clearer information for citizens. **Councilors Collins** and **Manz** expressed willingness to seek improvements to the language. **Councilor Buck** indicated that adding data would create confusion; the current proposal for the Explanatory Statement does a good job of outlining the issue before voters, and he anticipated that numerous statements in the voters' pamphlet would delve deeply into related concerns.

Councilor Gustafson moved to adopt Resolution 16-36. **Councilor Buck** seconded the motion.

Councilor Gudman reiterated his concern about significant policy issues for which he believes Council has the responsibility for decision making. Regardless of the result of the vote, he indicated that presenting the ballot measure will lead to any number of interpretations and resulting confusion, rather than clarity. In brief additional discussion, **Mayor Studebaker** stated that he disagreed, and that he would prefer hearing from citizens before proceeding as a Council.

A roll call vote was held, and the motion passed, with Mayor Studebaker and Councilors Manz, Buck, Collins, O'Neill, and Gustafson voting 'aye'. Councilor Gudman voted 'no'. (6-1)

Mayor Studebaker requested that Council members submit any suggestions on the Explanatory Statement or Summary to Mr. Lazenby.

13. INFORMATION FROM COUNCIL

Councilor Gudman commended and thanked Public Works personnel for responding in a timely manner to an issue related to recent work at his home.

Councilor Manz reported on her attendance at a recent Water Consortium meeting, along with Water Treatment Plant director Kari Duncan. Lead was the topic of conversation, and she noted that the City of Lake Oswego and Portland public websites were among the many resources available for information on water testing. She invited input for the Transportation Advisory Board

quarterly meeting to be held on June 8 and announced a Lake Oswego amateur ham radio operators' event on June 25-26.

Councilor Gustafson inquired about any testing for lead done by the City on public drinking fountains in parks or elsewhere.

Mr. Lazenby responded that he was not aware of any testing, but that Staff could check on it. He noted that the City had worked closely with the Lake Oswego School District to assist with their testing process after the reports from Portland Public Schools were issued. He had no results from the School District to report at this time.

14. REPORTS OF OFFICERS

No reports were made.

15. ADJOURNMENT

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

Respectfully submitted,

Anne-Marie Simpson
Anne-Marie Simpson, City Recorder

APPROVED BY THE CITY COUNCIL:
ON July 19, 2016
Kent Studebaker
Kent Studebaker, Mayor



TO: Kent Studebaker, Mayor
Members of the City Council

FROM: Erica Rooney, P.E., City Engineer
Engineering Department

SUBJECT: Resolution 16-12, Requesting Clackamas County Transfer Roadway Jurisdiction of Carman Road Inside the City Limits

DATE: June 7, 2016

ACTION

Adopt Resolution 16-12 requesting Clackamas County transfer roadway jurisdiction of Carman Drive inside the city limits.

SUGGESTED MOTION

Adopt Resolution 16-12.

INTRODUCTION

Pursuant to the Urban Services Agreement – Roads entered into by the City of Lake Oswego and Clackamas County, July 15, 2003, “the City shall, within 60 days of the effective date of the annexation, initiate proceedings for the transfer of jurisdiction to the City of all County roads within the annexed areas.”

Over a number of years the majority of Carman Drive has been added into the City through annexations into the Lake Oswego city limits. The last roadway annexation occurred as a result of Annexation 14-0008, which included Carman Drive from approximately 4800 Carman westward to the intersection with Bonita Road and Waluga Dr.

Therefore, to complete the jurisdictional responsibilities, and pursuant to the 2003 Urban Services Agreement – Roads, City and County staff are recommending to their respective governing bodies to complete the transfer of Carman Drive. Resolution 16-12 transfers jurisdiction of the balance of the previously un-transferred portion of Carman Drive from the County to the City.

DISCUSSION

The resolution requests Clackamas County transfer jurisdiction of Carman Drive from approximately 4800 Carman Drive westerly to the intersection of Bonita Road and Waluga Drive to the City.

The attached Exhibit A within Resolution 16-12 shows the segment to be transferred. At the end of this process the City of Lake Oswego will be responsible for all aspects of managing the roadway on Carman Drive from Meadows Road to Bonita/Waluga, and also to the easterly edge of 5710 Carman Drive (previously transferred in 2005).

Transfer of jurisdiction of the remaining un-transferred portions of Carman Drive will eliminate jurisdictional confusion regarding maintenance and design standards.

Not approving this transfer would be inconsistent with the 2003 Urban Services Agreement – Roads, would continue the dual-authority confusion that currently occurs regarding road jurisdictional responsibilities, may delay any new development projects, and will delay development of any annexed lot abutting an un-transferred portion of Carman Drive.

FISCAL IMPACT

Clackamas County has indicated that one-time funds will be available for this transfer, and the City will receive approximately \$19,000 as compensation for taking on this new asset and for the depreciated value from when it was last paved in 2008. A specific dollar value or staffing impact to this increased responsibility is not easily quantifiable; however, over time the addition of each new roadway segment does add to the overall asset inventory and maintenance responsibilities for the City of Lake Oswego.

RECOMMENDATION

It is recommended that City Council approve Resolution 16-12 requesting Clackamas County transfer roadway jurisdiction of Carman Drive inside the City limits.

ATTACHMENTS

1. Resolution 16-22, with Exhibit A

RESOLUTION 16-12

A RESOLUTION OF THE LAKE OSWEGO CITY COUNCIL OF THE CITY OF LAKE OSWEGO REQUESTING THAT CLACKAMAS COUNTY TRANSFER JURISDICTION OF A PORTION OF CARMAN DRIVE INSIDE THE CITY LIMITS.

WHEREAS, ORS 373.270 authorizes the City to request that Clackamas County transfer jurisdiction of a County road such as Carman Drive that is within the City limits, and provides that upon the County Board of Commissioners' adoption of an order meeting the City's resolution, the jurisdiction of Clackamas County over the portion of Carman Drive that is inside the City limits between approximately 4800 Carman Drive westerly to the intersection of Bonita Road/Waluga Drive shall cease, and the full and absolute jurisdiction over this portion of Carman Drive shall for all purposes of repair, construction, improvement and the levying and collection of assessments including maintenance and permitting authority therefore shall vest in the City, except for any transfer reservations stated in the resolution; and

WHEREAS, there are existing portions of Carman Drive between Meadows Road and the intersection of Bonita Road/Waluga Drive that have been previously transferred to the City, but there remains one portion of annexed Carman Drive that has not been transferred to the City and the City does not act as the road authority for that portion; and

WHEREAS, fragmented jurisdiction, maintenance, permitting, and road standards over the various portions of Carman Drive results in inefficient administration and confusion on the part of the public as to road management responsibilities;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Oswego that:

Section 1. The City of Lake Oswego requests that Clackamas County transfer all jurisdiction over the following roadway portion, all of which is within the City limits, pursuant to ORS 373.270:

- a. Carman Drive Clackamas County Road Number 21329 from mile post 0.13 to 0.31 (commonly identified as from 4800 Carman Drive to the intersection of Bonita Rd/Waluga Drive), as shown in attached Exhibit A.

Section 2. Effective Date. This Resolution shall take effect upon adoption.

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Considered and enacted at the regular meeting of the City Council of the City of Lake Oswego on the 7th day of June, 2016.

AYES:

NOES:

EXCUSED:

ABSTAIN:

Kent Studebaker, Mayor

ATTEST:

Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:

David D. Powell, City Attorney

