

INFORMATIONAL MEMORANDUM

Tukwila Metropolitan Park District

TO: Tukwila Pool MPD Board President

FROM: Rick Still, Parks and Recreation Director 

DATE: November 14, 2012

SUBJECT: Staff Report

ISSUE

Staff update on pool issues.

FINANCIAL IMPACT

No Financial Impact

BACKGROUND

This Informational Memorandum is to update the Board on the Capital Improvement Projects, operational issues and future MPD agendas.

DISCUSSION

Capital Improvement Project Update

The ADA Access Project will improve the Tukwila Pool parking lot and access to the pool and should be completed prior to the re-grand opening in February. The Roof Project will be completed before May 15, 2013. Bids were received for both of these projects utilizing the City of Tukwila's Small Works Roster process. The combined savings from these projects will be applied to other projects on the approved Capital Improvement list.

It should be noted that the City, not the Energy Saving Contractor (McKinstry), is managing these projects per the Energy Services Proposal Addendum #1. The City process will be followed to perform the scope of work: Small Works process, Contract approval to obtain the Mayor's signature and the project close-out will be processed through Community Affairs and Parks and the Regular City Council Consent Agenda.

For more detailed information regarding the current project please refer to Capital Project Update Memo, item 5B.

The Tukwila Pool Advisory Committee will be hosting a 'Painting Party' at the pool in late November or early December. Staff is coordinating the effort with TPAC members.

Marketing

The first monthly newsletter was emailed to approximately 980 pool patrons on Friday, November 2, 2012. The pool's website has been updated with a project update page where progress and photos are being posted. Staff launched a Facebook page to highlight construction happenings to keep users informed. Staff has started accepting pre-registrations for February swim lessons. Patrons may register now and receive \$6 off of registration for 2013.

Operations

During the closure the Tukwila Community Center is opening at 5:30 AM as an early morning workout option for pool users who traditionally use the pool at that time of day. Throughout the

closure staff will be re-writing procedure manuals, training part-time staff, implementing marketing initiatives, and planning for the re-opening in February.

Tukwila Pool Advisory Committee

The Tukwila Pool Advisory Committee (TPAC) questioned staff regarding holding an executive session. There was confusion and frustration that ensued regarding the requirement for TPAC to comply with the Open Public Meetings Act (OPMA). The primary question TPAC is seeking an answer to is: Does the MPD Board desire that TPAC comply with the OPMA? At a future MPD meeting, TPAC will be providing what they foresee as their intent and potential constraints regarding their meetings and outside activities. Please see Attachments B & C for staff's and the MPD's responses to their questions.

Future MPD Agendas

December 17

- Construction Project Update
- Authorize Board President to sign professional services contract with Lisa M. Marshall for the provision of legal counsel services for the Tukwila Metropolitan park District through December 31, 2013
- Discussion: Independent Review of Support Services contract
- Governance change sometime in the future, Yes or No?
- Discussion: MPD Board Long-term Agenda
- Election of 2013 MPD Board Officers

ATTACHMENT

- A. Stakeholders Meeting Agenda
- B. Staff memo to TPAC regarding OPMA
- C. MPD Attorney memo to TPAC

Tukwila MPD Pool

Stakeholders Meeting Agenda

11-1-12 @ 7:00am

- Project Overview and Status Update (~~Robert~~ Rick)
- Meet the Team (McKinstry and City Staff) (~~Robert~~ Rick, Dave R.)
- Sub-contractors that will be used (Dave R.)
- General Project Timeline (Andy)
- Paint Party (Steph)
- Construction Tour on December 15th (~~Robert~~ Rick, Dave R.)
- Q&A (~~Robert~~ Rick, Dave R.)
- Final Pre-Construction Tour (~~Robert~~ Rick)

INFORMATIONAL MEMORANDUM Tukwila Metropolitan Park District

TO: Tukwila Pool Advisory Committee

FROM: Rick Still, Parks and Recreation Director 

CC: Tukwila Pool Metropolitan Park District President

DATE: November 5, 2012

SUBJECT: Open Public Meeting Acting, RCW 42.30

ISSUE

Open Public Meeting Act (OPMA) and the Revised Code of Washington (RCW) 42.30

FINANCIAL IMPACT

No Financial Impact

BACKGROUND

This Informational Memorandum is intended as a follow up to the email chain that occurred from October 24th through October 29th 2012.

DISCUSSION

Lisa Marshall, the MPD's attorney, completed research regarding meeting requirements that must be followed by the by all Boards, Committees etc. of the MPD when holding a meeting. I understand that there is some frustration around this issue however it is my hope that awareness of these rules will protect TPAC from violation(s). I highly recommend that each of you review chapter 42.30 of the RCW, copies are attached for your reference. Additionally, it may be worthwhile to review MPD Resolution 8. As volunteers for this committee this RCW Chapter 42.30 and Resolutions 8 through 11 applies to TPAC members and as such the following applies:

- The TPAC is an officially appointed 'public body' and is obligated to fulfill the requirements of the Open Public Meeting Act (OPMA) and RCW 42.30.
- TPAC does not have the right - no authority over issues to necessitate or that qualify, to hold an executive session (ES).
- TPAC is not allowed to have a quorum meet to discuss TPAC issues without following the OPMA. I would caution you in making efforts to conduct business outside of a noticed meeting. Note: Emails that reach consensus between three or more TPAC members regarding TPAC/MPD issues can be construed as an OPMA violation.
- TPAC meetings are to be noticed and public allowed to listen and observe.
- Staff has been requested to be at all TPAC meetings by the MPD Board President, under her authority, as stated in the MPD establishing resolution #8.
- TPAC minutes are not required by OPMA; but minutes are required by the MPD establishing resolution #8.

ATTACHMENT

RCW CHAPTER 42.30
RESOLUTIONS 8, 10 & 11

INFORMATIONAL MEMORANDUM

Tukwila Pool Metropolitan Park District

TO: **Rick Still, Director of Parks and Recreation, City of Tukwila**
 And to: **Tukwila Pool Advisory Committee (TPAC)**

FROM: **Lisa Marshall, Tukwila Pool Metropolitan Park District Attorney**

DATE: **November 7, 2012**

SUBJECT: **Open Public Meetings Act (OPMA)**

Rick:

Following are the recent questions posed by TPAC concerning the OPMA, and my corresponding answers.

- 1) Are Open Public Meetings limited on where they are held? No. When a meeting is noticed under the OPMA, it must be held in the location stated in the notice, however, there are no requirements concerning where meetings must be held. Meetings do not need to be held in the city limits or district limits.
- 2) Can you outline the steps needed to fulfill RCW 42.30.080, specifically for TPAC. As long as a majority of TPAC members are gathered together to discuss TPAC business, the gathering must comply with the OPMA. Less than a majority can meet anywhere at any time to discuss TPAC business and the gathering does not need to comply with the OPMA. Meetings held under the OPMA must be held at the time and place designated by the governing body. In the case of a Council or Commission, the meeting schedule is set forth by resolution or ordinance. In the case of an advisory board like TPAC, the meeting schedule will not be set forth by ordinance or resolution, but by motion. Contrary to what most people believe, agendas do not legally need to be published, and minutes do not need to be taken.
- 3) Which circulations have on file a written request to be noticed for TPAC meetings? (RCW 42.30.080 (2)(a)) None of which I am aware, but this question should be directed to the City Clerk.
- 4) Keeping in mind TPAC's mission, "To advise, guide and assist the Tukwila MPD on matters relating to the Tukwila Pool", would RCW 42.30.110 (1) g "or to review the performance of a public employee." allow TPAC to enter into executive session? No. This provision of the OPMA was enacted to allow councils to review the performance of a public employee, such as a city manager for example, when that employee is a direct report of the council or board. A board, commission or committee that has no authority to discipline, supervise, control or direct the day to day activities of an employee accordingly has no authority to enter into executive sessions to discuss the same.
- 5) What, if anything, can be discussed through an email chain that includes all TPAC members? Can meeting dates be discussed/ organized that way? Importantly, anything can be discussed in an email chain, but keep in mind that emails among TPAC members constitute public records and are disclosable to the public. Additionally, should a majority of TPAC members engage in back-and-forth email exchanges and conversations concerning TPAC business, OPMA violations may occur.
- 6) Can TPAC members be part of other informal or formal groups that may or may not discuss the pool? As stated above, if a majority of TPAC members are gathered together to discuss TPAC business – even if as part of another group's meeting – a meeting is taking place and must comply

with the OPMA. If a majority of TPAC members attend another meeting but do not discuss TPAC business, no meeting is likely taking place. If a majority of TPAC members meet for social reasons or travel together and do not discuss TPAC business, no OPMA violation is likely taking place.

- 7) Can TPAC members attend events at the pool, for example April Pool's Day, Pooch Plunge, etc? As stated above, less than a majority of TPAC members can attend any meeting or gathering whether TPAC business is discussed or not and the OPMA does not apply. If a majority of TPAC members attend a meeting or social event and do not discuss TPAC business, the OPMA does not apply. If a majority of TPAC members attend any meeting or social event and discuss TPAC business, the OPMA applies.
- 8) If there is a move toward change of Governance, can TPAC members run for an elected Commissioner position? Yes.
- 9) Does the RCW law differentiate between elected commissioners and an appointed citizen committee? No. However, articles and summaries of the OPMA have suggested that advisory committees do not need to comply with the OPMA. The weight of authority, however, holds that advisory groups must comply with the OPMA. Among the governing bodies that comply with the OPMA, there is no distinction between advisory boards and other citizen committees.