



City of Tigard
Tigard Business Meeting - Minutes

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| Agenda Item No. <u>3A.2</u> |
| Meeting of <u>10.26.2010</u> |

**TIGARD CITY COUNCIL
 LOCAL CONTRACT REVIEW BOARD (LCRB)**

MEETING DATE/TIME: July 27, 2010 – 6:30 p.m. Study Session; 7:30 p.m. Business Meeting
MEETING LOCATION: City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

STUDY SESSION

Mayor Dirksen called the meeting to order at 6:30 p.m.

| <u>Name</u> | <u>Present</u> | <u>Absent</u> |
|----------------------------|----------------|---------------|
| Mayor Dirksen | ✓ | |
| Councilor President Wilson | ✓ | |
| Councilor Buehner | ✓ | |
| Councilor Henderson | ✓ | |
| Councilor Webb | | ✓ |

Staff Present: City Manager Prosser, Assistant City Manager Newton, Community Development Director Bunch, Assistant Community Development Director Harnett, Public Works Director Koellermeier, Associate Planner Caines, City Attorney Hall, City Recorder Wheatley

1. DISCUSS PARK BOND RESOLUTION

Jason Rogers of the Park and Recreation Advisory Board (PRAB) was present.

Public Works Director Koellermeier facilitated the discussion on this agenda item. He reviewed the process including the fact that City Council members have had an opportunity to review and submit suggestions for the resolution and bond measure wording. Adjustments suggested by the City Attorney’s office have been incorporated into the proposed resolution.

Council President Wilson said he had no additional comments other than his previously expressed concern about the amount of the bond measure. He indicated that he would not oppose the proposed resolution at the time of City Council consideration.

Trust for Public Lands (TPL) has also reviewed the language and their comments were incorporated. TPL’s comments were because of their polling information.

Public Works Director Koellermeier advised that the proposed resolution is set up for a public hearing and consideration by the City Council during tonight’s business meeting.

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Mayor Dirksen asked PRAB Member Rogers if there would be an opportunity in the near future to provide specificity about property purchases. Mr. Rogers advised that at the September and October PRAB meetings, the Board would begin to identify specific pieces of property in the City including some of the ideas suggested by TPL.

2. ADMINISTRATIVE ITEMS

- COUNCIL CALENDAR:
 - August 10, 2010 - Business Meeting; 6:30 Study Session; 7:30 Business Meeting
 - August 17, 2010 - Workshop Meeting; 6:30 p.m.
 - August 24, 2010 - Meeting Cancelled
- Assistant City Manager Newton advised that National Night Out is July 20, 2010. She distributed information regarding the activities planned by neighborhoods.

City Manager Prosser reviewed the citation for calling an Executive Session.

EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:37 p.m. for consultation with legal counsel concerning current and pending litigation under ORS 192.660(2)(h).

Executive Session concluded at 7:16 p.m.

3. BUSINESS MEETING

3.1 Mayor Dirksen called the meeting to order at 7:32 p.m.

3.2 Roll Call

| <u>Name</u> | <u>Present</u> | <u>Absent</u> |
|----------------------------|----------------|---------------|
| Mayor Dirksen | ✓ | |
| Councilor President Wilson | ✓ | |
| Councilor Buehner | ✓ | |
| Councilor Henderson | ✓ | |
| Councilor Webb | | ✓ |

3.3 Pledge of Allegiance

3.4 Council Communications & Liaison Reports None

3.5 Call to Council and Staff for Non-Agenda Items None

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4. CITIZEN COMMUNICATION

4.1 Follow-up to Previous Citizen Communication

7:34:19 PM

City Manager Prosser advised that at the last business meeting a person raised a question about the rental of City meeting rooms, which the City is no longer doing because of budget cutbacks. Staff has contacted Mr. Blodgett and he is now aware of rooms available through TVF&R and the Tigard Chamber of Commerce. Staff will continue to talk to Mr. Blodgett about the City's room rental policy; we do not have a solution yet.

4.2 Tigard Area Chamber of Commerce, Executive Director Debi Mollahan presented a report about current Chamber activities. A copy of a summary of her report is on file with the Council meeting packet materials.

4.3 Citizen Communication – Sign Up Sheet

John Frewing, 7110 SW Lola Lane, Tigard, Oregon advised of his concern regarding the publicity for an upcoming Planning Commission hearing. On August 16, the Planning Commission will hear a proposal to amend the Comprehensive Plan to eliminate Goal 5 protection for the corridor around Fanno Creek near Wall Street. It is expected that at a later date there will be an application for Wall Street to cross Fanno Creek. This has been discussed and turned down for many years. The current draft of the TSP does not show Wall Street going over Fanno Creek, which he said he thinks is great. He is concerned that the public does not know that on Monday, August 16, 7 p.m., there will be a hearing on this matter.

7:36:42 PM

Mayor Dirksen reviewed the following Consent Agenda:

5. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board.

5.1 Approve City Council Meeting Minutes for:

- a. April 13, 2010 (Councilor Henderson to abstain from voting on the April 13, 2010 Council minutes)
- b. April 20, 2010
- c. April 27, 2010
- d. May 11, 2010

5.2 Local Contract Review Board:

- a. Award Contract for Pavement Management Program Slurry Seal to Asphalt Maintenance Associates, Inc.

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5.3 Amend the 2010-11 Master Fee Schedule to Create a Special Rate for Temporary Uses in the MU-CBD Zone and Tiers for Development Code Provision Review Fee - Resolution No. 10-38

- RESOLUTION NO. 10-38 - A RESOLUTION TO AMEND THE MASTER FEES AND CHARGES SCHEDULE AS ADOPTED BY RESOLUTION 10-30 TO INSTITUTE A REVISED FEE FOR TEMPORARY USE PERMIT FEES IN THE MU-CBD ZONE AND TO CREATE TIERS FOR THE DEVELOPMENT CODE PROVISION REVIEW FEE APPLIED TO TENANT IMPROVEMENT PROJECTS IN COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL DEVELOPMENT

5.5 Approve Amendment to the Intergovernmental Agreement with Washington County and the Oregon Department of Transportation to Record Revised Funding of the Pacific Hwy/Hall Blvd Project

5.6 Authorize the City Manager to Sign the Dedication and Easement Documents Needed for the Burnham Street Reconstruction Project

5.7 Appoint and Set Terms for Transportation Advisory Committee Members - Resolution No. 10-39

- A RESOLUTION APPOINTING STEVEN W BASS II, DON FOX, MAUREEN JEFVERT WOLF, AND MIKE STEVENSON AS VOTING MEMBERS OF THE TRANSPORTATION ADVISORY COMMITTEE; APPOINTING KAREN HUGHART AS AN ALTERNATE AND ESTABLISHING TERM EXPIRATIONS FOR ALL TRANSPORTATION ADVISORY COMMITTEE MEMBERS

➤ Item 5.4 was removed from the Consent Agenda for separate discussion.

Motion by Councilor Buehner, seconded by Councilor President Wilson, to approve the Consent Agenda with Item 5.4 removed for separate discussion.

Councilor Henderson advised he would be abstaining from casting a vote on Consent Agenda Item No. 5.1 a; he was not present at the April 13, 2010, City Council meeting.

The motion was approved by a unanimous vote of City Council present:

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|--------------------------|---|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes (Except abstained from voting on Item No. 5.1a) |
| Councilor Webb | Absent |

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[7:39:34 PM](#)

Council discussed Consent Agenda No. 5.4:

5.4 Approve Intergovernmental Agreement with the Oregon Department of Transportation for Study of Potential Improvements to the Pacific Hwy 99W / Gaarde St / McDonald St Intersection

Councilor President Wilson advised he asked for this item to be removed for separate discussion because it is a significant project and should have attention called to it. Councilor President Wilson said he also wanted to raise couple of minor concerns. Highway 99 is an Oregon Department of Transportation highway. Tigard has been working for years to get improvements to Highway 99. Hall Boulevard intersection improvements were funded primarily with MSTIP funds, which is Washington County money funded through property taxes. The Greenburg Road/Main Street intersection was funded through the City's recently adopted gas tax. This project (Pacific Hwy 99W / Gaarde St / McDonald St Intersection) is the first \$1 million towards improvement to this intersection and the first significant funding from the Oregon Department of Transportation for capacity improvements for possibly as long as 30 years. Councilor President Wilson said he hopes there is much more to follow from the Oregon Department of Transportation.

The concern Councilor President Wilson raised was that at this point there is \$1 million; however, the estimate is that this intersection will cost between \$5-6 million. The first \$150,000 is being spent to define the scope of the project. He said he would like more information as to where that \$150,000 figure came from when, after reading the work scope, it became apparent that the document was a "boiler plate scope" that is applied to all kinds of projects. [7:42:15 PM](#) While Councilor President Wilson said he did not want to hold up the approval of the agreement, he asked that the \$150,000 be monitored closely given that funds are so tight. After a brief discussion with Mayor Dirksen, Councilor President Wilson said at the very least staff should make inquiries to the Oregon Department of Transportation regarding what was to be paid for with the \$150,000 estimate and whether all of the requirements, including studying a no-build alternative (which is out of the question) are needed.

Councilor Buehner commented that in her experience, the preliminary planning costs amount to 10-15 percent of the engineering dollars for a project. Therefore, the \$150,000 appears to be "in the ballpark". Councilor President Wilson responded that his experience has led him to believe that funds can sometimes be better spent.

Motion by Councilor Henderson, seconded by Councilor President Wilson, to approve Consent Agenda Item 5.4.

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The motion was approved by a unanimous vote of City Council present:

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|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |

[7:45:32 PM](#)

6. PUBLIC HEARING -- CITY COUNCIL CONSIDERATION OF A BALLOT MEASURE REGARDING A PARK BOND MEASURE FOR THE NOVEMBER 2, 2010, GENERAL ELECTION

The purpose of the hearing is to consider a resolution to authorize an election on November 2, 2010, seeking City of Tigard voter approval to issue general obligation bonds up to the value of \$17 million to fund acquisition, development and preservation of land.

- Mayor Dirksen opened the Public Hearing [7:46:08 PM](#)
- Review Hearing Procedures: City Attorney Hall reviewed the hearing procedures
- Declarations or Challenges: Does any Council member wish to declare or discuss a conflict of interest or reason for abstention? No declarations or challenges were made.
- Staff Report

Public Works Director Koellermeier presented the staff summary of this item. A copy of the agenda item summary is filed with the Council meeting packet materials.

[7:50:37 PM](#)

- Public Testimony
 - Proponents: No one testified.
 - Opponents

Cleo McCleod, 11710 SW 134th Terrace, Tigard, Oregon 97223 testified that she is unhappy with the added taxpayer cost the City Council is contemplating for Tigard citizens and taxpayers and referred to the previous park bond levy issue. She said it seemed to her that this matter had already been decided by the voters and rejected. While the amount was reduced to \$17 million, combined with the costs of the “doubling of the water rates and the increased street maintenance fees, I feel you are going overboard.” She cited the increase to the street maintenance fee accompanied by shifting a greater share of the burden to residential customers. The timing for asking for a park bond is wrong and unreasonable given the national and local

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economic situation. She said that the Mayor frequently acknowledges the City and County are experiencing tough times; however, she said she does not believe “your actions speak to that.” She asked that the City Council set aside the \$17 million park bond issue for another day.

John Frewing, 7110 SW Lola Lane, Tigard, Oregon [7:53:59 PM](#) said he opposed the bond measure a year ago, as he was concerned about the specificity regarding how the money would be spent. Additional comments by Mr. Frewing included the following:

- The proposed resolution before the City Council this evening does not address specificity issues.
- The resolution mentions “preserving and protecting” open space but gives no indication how much funding will be dedicated for this purpose.

Mr. Frewing said he would like to support the bond measure if specificity can be added so we know whether we are going to spend the money on open space, clean water, trails, natural areas, or developed parks.

Alexander Craghead, 12205 SW Hall Boulevard, Tigard, Oregon advised he was before the City Council as the Chairman of the City Center Advisory Commission. He said the CCAC was in favor the parks bond proposal under consideration by the City Council. Comments by Mr. Craghead included the following:

- Discussions have been held regarding increasing the density in the downtown area, making it a residential center. Additional parkland is needed to make this a success for those living in apartments and condominiums.
- CCAC has been following the activities of the Park and Recreation Advisory Board (PRAB) as they developed the proposal for the bond measure. Within the current proposal, 10 percent of the bond proceeds would be used for purchases of park/open space in the downtown. While the CCAC would like more money, they were in support and would like to see the measure pass. CCAC members understand that the money from the bond for downtown would be used to purchase open space. CCAC acknowledges that there are many needs for park and open space land acquisitions throughout the entire city.
- On June 9, 2010, the CCAC voted (7-2) to endorse the plan as PRAB has put it forward to the City Council with a 10 percent cap for downtown.

[8:00:48 PM](#)

Jason Rogers, 11035 SW Summerlake Drive, Tigard, OR 97223 and **Holly Polivka**, 14435 SW Beef Bend Road, Tigard, OR 97224 testified as members of the City of Tigard Parks and Recreation Advisory Board. The proposed bond measure

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resolution before the City Council came from numerous hours of hard work and many meetings. Mr. Rogers's comments included the following:

- PRAB members were sensitive to the desire for specificity identifying the purpose of the bond measure. Some identifying language was removed from the ballot measure proposals in recognition of a more balanced approach. Land prices are low now. The preservation of land within the City is very important. PRAB's thought was to keep the bond measure language flexible and open to allow the opportunity to seek out and buy land as it became available.
- He urged the City Council to support the proposed bond measure.

Ms. Polivka referred to the concerns about proposing another bond measure after the failure of the parks bond measure last year. She said they would like to present the proposal to the voters one more time in a reduced amount to determine if the voters are willing.

8:03:05 PM

- Staff Recommendation: Public Works Director Koellermeier advised that staff recommends that the City Council consider the resolution.
- Council Discussion:
 - Councilor Buehner noted that about 80 percent of the bond proceeds would be dedicated to buying land. Mr. Koellermeier confirmed the split would be:
 - 80% for acquisition
 - A maximum of 20% for development
 - A subset of the 20% would be dedicated to the downtown area

Mr. Koellermeier referred to the specificity issue on Exhibit A and reminded the City Council that we are severely limited on the amount of words on ballot titles and captions. Discussion followed on changing the Summary to add more specific language, identifying the percentages as presented above.

City Manager Prosser suggested an alternative to including additional language into the summary would be to add the specificity to the resolution. Mayor Dirksen agreed this could be considered; however, his preference would be to include the language in the measure.

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Mayor Dirksen suggested the following changes to the bond measure:

1. In the first sentence in the summary, change the order of land acquisition and restoration and capital construction and improvement. He clarified he wanted land acquisition and restoration listed first.
2. After the first sentence, he said he would like wording to indicate that 80% of the money would be reserved for acquiring and preserving open space, etc. – protect creeks and streams and then state that 20% would be to create and improve community parks, recreate....

Council President Wilson reiterated said he feels \$17 million is a little high. He referred to Mrs. McCleod's testimony. The voters have said "no" once and the City does not have the luxury of countering with reduced increments several times. Since this is our final offer to the City, if we do not come down a significant amount, he fears the public might tell us "no" again. Council President Wilson said he thinks the Council has interpreted the 53-47% split of yes/no votes on the last bond measure was reflective of a low voter turn-out. He said he respects the voters. We are a democracy and we are run by those who participate. He said he would be more comfortable with \$15 million being the amount of the bond measure and we "could even do a lot with \$10 million." He said his goal all along has been to acquire at least two significant park sites. Along with Cook Park, if Tigard had three regional parks, this would be a legacy that "would be with us forever and we are in danger of losing this if we push too hard."

Councilor Henderson said this is not just raising taxes; this is giving the public an opportunity to take another look at it. The City has a big challenge explaining to the voters what this funding would be used for and then carrying it out. This would plug a large hole and he would like the public to vote on this. He said the close vote previously was "our fault for not being able to explain more clearly what this was going to be used for and I hope we can do a better job this time."

Mayor Dirksen addressed some of the comments made during public testimony:

- He understands Mrs. McCleod's feelings and it is a difficult decision for the Council to ask voters at this time. There's never a really good time. One of the things about a down economy, is it is difficult for everyone, but it also opens opportunities. Essentially all of the land is "on sale." It will be considerably more expensive if we wait until the economy has improved.
- He said he is concerned that if we wait until the economy improves significantly, it will also improve for the housing market and for the development community. A lot of the property that we would hope to preserve as open space in the public sector would be in danger of development before we could "get our hands on it."

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- Tigard citizens are now under-served by parks. We only have a little over eight acres per thousand population when it should be eleven to twelve acres by the national standard.
- We should not be satisfied with the park system we have. We need to have a park system for now and for the future. The proposed bond measure would let us take advantage of the opportunities in spite of the difficulties. Now makes more sense than waiting and risking what the future might bring.
- Council President Wilson’s concerns about the amount of the bond measure are compelling and the Mayor said he has mixed feelings about the amount of the bond measure. He said \$17 million is not adequate for our needs; however, we cannot afford more. Everyone on Council has felt the effects of the recession but are still compelled to move forward now and “make our best case to the people and let the people decide.”

After discussion, several members of staff and the City Attorney left the meeting to revise language of the bond title to add specificity. The City Council considered Agenda Item No. 7 and delayed consideration of the resolution until later in the meeting.

9:27:19 PM

Public Works Director Koellermeier called the City Council’s attention to the proposed Summary of the Bond Measure Resolution. Changes to language were limited to wording in the exhibit to the resolution. There was discussion on the proposed resolution.

Mr. Frewing referred to the first bullet in the Summary of Exhibit A and suggested it read as follows:

- 80% or more to acquire *land to* preserve open space, parklands...

Motion by Councilor Buehner, seconded by Council President Wilson, to replace Exhibit A originally presented with the proposed resolution with the revised Exhibit A distributed by staff, with one change in the first bullet point under the Summary by adding the words *land to* after the word *acquire* and delete the word *and*.

The motion was approved by a unanimous vote of City Council present:

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|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |

9:35:40 PM

Motion by Councilor Buehner, seconded by Councilor Henderson, to approve Resolution No. 10-40.

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RESOLUTION NO. 10-40 – A RESOLUTION OF THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON CALLING A MEASURE ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF CONTRACTING GENERAL OBLIGATION BONDED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17 MILLION TO ACQUIRE OPEN SPACES, PROTECT CLEAN WATER AND IMPROVE PARKLAND; DECLARING INTENT TO REIMBURSE EXPENDITURES; AND RELATED MATTERS.

The motion was approved by a unanimous vote of City Council present.

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|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |

[9:37:03 PM](#) Mayor Dirksen directed the City Council to Agenda Item No. 10 at this time.

[8:16:51 PM](#)

7. CITY COUNCIL CONSIDERATION OF AN ORDINANCE UPDATING TIGARD MUNICIPAL CODE 9.04 - PARK FACILITY RESERVATIONS, GENERAL PROVISIONS

- Staff Report: Parks Manager Martin presented the staff report. This section of the TMC was last updated in 2003 and an update is needed to reflect current practices; this ordinance was characterized as a “housekeeping” action.
- ORDINANCE NO. 10-09 -- AN ORDINANCE UPDATING TIGARD MUNICIPAL CODE CHAPTER 9.04 PARKS, GENERAL PROVISIONS

Motion by Councilor Buehner, seconded by Councilor President Wilson, to adopt Ordinance No. 10-09.

The motion was approved by a unanimous vote of City Council present:

| | |
|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |

[8:19:45 PM](#)

8. QUASI-JUDICIAL PUBLIC HEARING - JAPANESE INTERNATIONAL BAPTIST CHURCH ANNEXATION (ZCA2010-00001)

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REQUEST: A request to annex approximately .44 acres of property, plus right-of-way on SW Spruce Street (approximately .34-acres) to the City of Tigard.

LOCATION: 8512 SW Spruce Street, east of SW Hall Boulevard; Washington County Tax Assessor's Map 1S135AD, Tax Lot 02700, plus Adjoining Right-of-Way.

COUNTY ZONE: R15: Residential, 12 units/acre minimum density, 15 units/acre maximum density. The intent and purpose of the R15 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than fifteen (15) units per acre and no less than twelve (12) units per acre, except as otherwise specified by Section 3002 or Section 3005 of the Washington County Community Development Code.

EQUIVALENT CITY ZONE: R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multifamily housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

APPLICABLE REVIEW CRITERIA: The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1.1, Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 14; ORS Chapter 222; Metro Code Chapter 3.09; and Statewide Planning Goals 1, 2, 11 and 14.

- Mayor Dirksen opened the public hearing.
- City Manager Prosser reviewed the hearing procedures.
- Declarations or Challenges
 - Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits? No
 - Have all members familiarized themselves with the application? Yes
 - Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council? None
- Staff Report:

Associate Planner Caines reviewed the staff report, which is on file in the Council meeting packet materials.
- Public Testimony [8:34:01 PM](#) None
- Staff Recommendation: Associate Planner Caines advised that staff recommends approval of the annexation as presented in the proposed ordinance.
- Mayor Dirksen closed the public hearing. [8:34:37 PM](#)

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- Council discussion:

[8:34:45 PM](#)

Councilor Buehner noted that part of the right of way in front of the neighboring house is already annexed to the City. With this annexation, there would only be a small piece of property left outside the City. Mayor Dirksen noted the purpose of bringing in the right of way is so the City could provide services and he said it would make sense to have the right of way annexed up to the major intersection with Hall Boulevard.

Councilor President Wilson said he was comfortable with staff's recommendation for annexing the street and was uncomfortable with the R-25 designation given that this is so much higher than the surrounding property. He said he would prefer that this property be designated as R-12.

Associate Planner Caines said this issue was addressed with the applicant. Staff also reviewed the Urban Planning Area Agreement with Washington County. The applicant was not opposed to the designation of R-12 but this represented a timing issue because either a Comprehensive Plan amendment or a zone change would be required. The Agreement the City has with Washington County states that annexed land would be brought in with the designation that is the closest to the County's and it would remain that designation for at least a year. This is something that could be considered in the future.

Discussion followed on the zoning designation and the City Council consensus was not to address this issue and hold up this annexation request. This matter of incompatible zoning to adjacent properties is to be reviewed for this property at a later date. Mayor Dirksen said he would like to "push a little bit harder than waiting for a whole year" and that the City initiate a discussion with the County to get approval to allow a zone change to R-12. He referred to a zoning chart, which seems to be inflexible and he suggested that staff review and propose a change that when there is a transfer from the County to the City that the City be able to choose between either the zoning immediately above or below, assuming there isn't a zoning that matches "straight across." Mayor Dirksen spoke of possible criteria; i.e., neighborhood compatibility and consideration of future plans. [8:44:26 PM](#) Councilor President Wilson said the downside to the Mayor's suggestion is that it removes the certainty that developers like; however, he agreed the City Council should discuss this matter.

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- Council Discussion and Consideration: Ordinance No. 10-10

ORDINANCE NO. 10-10 -- AN ORDINANCE ANNEXING .78 ACRES OF LAND, INCLUDING ONE (1) PARCEL AND RIGHT OF WAY, APPROVING THE JAPANESE INTERNATIONAL BAPTIST CHURCH ANNEXATION (ZCA2010-00001) AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT

Motion by Councilor President Wilson, seconded by Councilor Buehner, to adopt Ordinance No. 10-10.

The motion was approved by a unanimous vote of City Council present:

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|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |

[8:45:56 PM](#)

9. REVISIONS TO THE CODE COMPLIANCE PROGRAM UPDATE AND DISCUSSION

Assistant Community Development Director Hartnett presented the staff report. Information included:

- A review of changes within the Community Development Department as a result of recent budget cuts.
- Additional changes being made for improvements in Code Compliance services.
- Introduced Tim Lehrbach, Temporary Planning Assistant Intern, who demonstrated the new online services for the City Council.
- The Code Enforcement Officer position was eliminated for cost savings. The program was evaluated as a whole to determine if the right kinds of services were being provided in the right way in a cost-effective manner.
- Reviewed the changes to in-take of requests for code compliance actions. These actions related to the Building Code, Housing Code, Nuisance Code and the Development Code.
- Historically requests were received in a variety of ways and were not well managed or organized.
- Cases are entered into the Accela Permit Tracking System, which provide the opportunity to link the public directly to the Accela System to input information about code compliance cases.

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- In response to a question from Councilor Buehner, Assistant Community Development Director Hartnett reviewed the security of the system. The Accela System is hosted by the company that sells the software. The interface between the *Accela Citizen Access* and the public is through Accela's servers. This interface is used by many cities and the State of Oregon will be using it for their system.
- Assistant Community Development Director Hartnett demonstrated the computerized process to submit action requests for code compliance services along with the procedure that follows once a case has been submitted.
- Anything submitted through the system becomes public record.
- In response to a question from Councilor Buehner about whether someone could bring in photographs should they not know how to download them to the computer, Assistant Community Development Director Hartnett said staff could add to the instructions that photos can be mailed or delivered to the Community Development Department.
- For signs that should not be in the right of way, Assistant Community Development Director Hartnett described the proposal for abatement as a solution for many of the nuisance violations the Community Development Department deals with.
- For signs on private property, Assistant Community Development Director Hartnett said at this point, this is a Development Code violation (not a Nuisance Code violation). This violation would be addressed by a Planning staff member. She advised one City Planner responsible for in-taking the Development Code cases and several Planners are assigned new cases as they come in for follow up. Councilor Buehner said there are a number of signs on publicly owned property (near a water reservoir). Assistant Community Development Director Hartnett said property owners have the right to remove signs if they did not agree to have those signs there.
- Lengthy discussion occurred on process.
- [9:06:15 PM](#) Councilor President Wilson said the ordinance should be easily accessible so citizens can determine whether something is in violation. Assistant Community Development Director Hartnett explained that issues are still being worked through as this new process is implemented.
- In response to a comment by Councilor President Wilson, Assistant Community Development Director Hartnett said wording could be added at the beginning of the online procedures instructions that there are five steps that must be completed to submit a compliance action request.

Abatement was reviewed by Assistant Community Development Director Hartnett: [9:08:29 PM](#)

- The Code Compliance system has been designed to let people know quickly that there is a problem and give them an opportunity(ies) to respond and correct.
- If compliance is not obtained after several notices of violation, the person is cited into the Municipal Court. The Judge has the ability to levy fines and order that the property be brought into compliance. There are circumstances where compliance is achieved even after the Judge has issued orders.

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- There are a number of cities in Oregon that use an abatement approach. After the property owner is given a notice and a certain amount of time to respond to take care of the violation, the City's contractor or staff address the situation. Some jurisdictions use abatement for nuisance and others use abatement for housing violations also. The property owner is charged for the work and an administrative fee might be added. Some jurisdictions charge a fee for being out of compliance for a certain amount of time or for repeat violations.
- In response to a question from Councilor Buehner, Assistant Community Development Director Hartnett advises the City's Code currently allows for a collection agency to collect the fee or a lien can be placed on the property. She described approaches that could be implemented. Councilor Buehner noted concerns about the value of the approach when dealing with a small amount of money. Assistant Community Development Director Hartnett advised that in presenting a full set of options, we would be talking about either some thresholds or some means by which someone could request having those fees rescinded.
- Assistant Community Development Director Hartnett said she was looking for feedback from the City Council whether staff is moving in the right direction by trying to shift away from the citation into court, court order, and abate to fix the problem. After direction is given, there are a number of areas that need work and direction. There is money in this year's budget and staff plans to use part of these funds to further the investigation to prepare a set of Code amendments to allow the City to move forward to a more efficient abatement approach. Councilor Buehner suggested for some instances, it might be good to use the Small Claims Court process.

Council comments regarding the proposed approach described by Assistant Community Development Director Hartnett:

- Councilor Buehner said she would talk to Assistant Community Development Director Hartnett "offline" about some ideas she has.
- Council President Wilson said he likes the efficiency aspect of the proposal. He said he has mixed feelings about the approach because we tend to deal more with people who have circumstances they are dealing with; i.e., health problems, elderly, or simple neighborhood issues (small scale). He said he would want to proceed in a way that allows us to have patience with people and if this is possible, he would support that approach.
- Mayor Dirksen said he likes the online approach for the compliance matters. He has been concerned about how we were going to deal with the loss of the Code Compliance Officer. Code Compliance is an important aspect of keeping a city looking nice. He said this appears to be a good approach. The goal is not to get people in trouble and involved in the judicial system. The goal is to resolve the issue by taking care of it and then sort out how it is paid for after the fact. He agreed with Council President Wilson's observations about the need for sensitivity for people's circumstances.
- Councilor Henderson expressed concerns for people who are unable to work on a computer. If the plan is to have someone talk to a staff person, would they need to

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come down to City Hall? Assistant Community Development Director Hartnett said staff is working on a hard copy input form, which has been mailed out to a few people already. These forms are being updated and improved. For people who do not have computer access, they can use a computer in City Hall, the Library, or use the hard copy form. Staff will enter the information from the hard copy into the Accela System. Councilor Henderson said he would like to have the system in place for a short while and then review it.

- Assistant Community Development Director Hartnett explained if the consensus of the City Council is to move forward with an abatement approach, they will return to the City Council with additional detail before finalizing Code language and fully implement. Because of the number of houses in foreclosure or where people have abandoned their houses, there might be a period of time before we can do very much other than acknowledge people's frustrations and keep them informed about the progress of the system being developed and put into place.
- Assistant Community Development Director Hartnett said a number of jurisdictions address special hardship circumstances by attempting to connect people to the correct social service agencies to assist. She said she would like to see the City of Tigard do more of this.
- Assistant Community Development Director Hartnett asked City Council members if they were interested in staff pursuing the idea of imposing fees for people who are not in compliance for too long or have multiple violations. City Council agreed to have staff prepare a proposal for fees.

[9:27:15 PM](#) (City Council returned to Agenda Item 6 to consider a proposed resolution for a Bond Measure.)

[9:37:04 PM](#)

10. SECOND QUARTER COUNCIL GOAL UPDATE

Assistant City Manager Newton summarized the progress on goals as summarized in the Council packet materials.

11. COUNCIL LIAISON REPORTS

12. NON AGENDA ITEMS

[9:40:08 PM](#)

The Executive Session discussion was set over to the August 10, 2010, City Council meeting:

13. EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to review and evaluate the City Manager under ORS 192.660(2) (i). Not held.

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9:42:35 PM

14. ADJOURNMENT

Motion by Councilor President Wilson, seconded by Mayor Dirksen, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present:

| | |
|--------------------------|--------|
| Mayor Dirksen | Yes |
| Council President Wilson | Yes |
| Councilor Buehner | Yes |
| Councilor Henderson | Yes |
| Councilor Webb | Absent |


Catherine Wheatley, City Recorder

Attest:



Mayor, City of Tigard

Date: October 26, 2010

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