



City of Tigard
Tigard Business Meeting - Minutes

Agenda Item No. 5.1.c.
 Meeting of July 27, 2010

**TIGARD CITY COUNCIL
 LOCAL CONTRACT REVIEW BOARD (LCRB)
 CITY CENTER DEVELOPMENT AGENCY (CCDA)**

MEETING DATE/TIME: April 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

6:30 PM

- **STUDY SESSION**
 - Discuss Upcoming Urban Growth Boundary Expansion Methodology and Local Government Input
 - Community Development Department
 - Administrative Items
 - Review procedures for legislative public hearing continued from April 13, 2010: Agenda Item No. 7 – Consider a Code Amendment to Extend Land Use Approvals (DCA2010-00001)
- **EXECUTIVE SESSION:** The Tigard City Council will go into Executive Session to discuss potential litigation ORS 192.660(2)(h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

1. **BUSINESS MEETING**

- 1.1 Mayor Dirksen called the meeting to order at 7:37:45 PM
- 1.2 Roll Call

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

- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports

Mayor Dirksen and Councilor Buehner advised they would give reports at the end of this business meeting.

1.5 Call to Council and Staff for Non-Agenda Items

Mayor Dirksen advised there would be one item for City Council review during the Non Agenda segment of this meeting (Item No. 9)

7:39:07 PM

2. PROCLAMATIONS – Mayor Dirksen, with consent of the City Council, issued the following proclamations:

1.1 Stand Against Racism Day – April 30, 2010

1.2 Be Kind to Animals Week – May 2-8, 2010

3. CITIZEN COMMUNICATION

• Citizen Communications Sign Up Sheet

- Ernie Platt signed in for Agenda Item No. 7.
- Christina Cabrera, 11229 SW Cottonwood Lane, Tigard, OR turned in a petition and asked for people in the audience who came to support her to stand. She said the petition opposes the Oxford House at SW Cottonwood Lane in the Englewood neighborhood. Her points were as follows:
 - o As a real estate professional, she noted she wanted to protect the investment of her home that would be adversely affected by the Oxford House.
 - o While she supports the type of assistance a facility like the Oxford has to offer, she has concerns for the safety of her daughter. She said she does not think there are criminal background checks on the residents Oxford House residents. She said they would never know who these neighbors are because they rotate out of the home regularly.
 - o She said there needs to be laws or zoning to protect the neighborhood and for areas where these types of facilities are cited so they could be near needed services, i.e., medical, bus lines.
- Jim Crook, 11345 SW Cottonwood Lane, Tigard, OR, testified in opposition to the Oxford House. He noted his concerns for safety for himself as well as the children in the neighborhood. In addition he was concerned about security in the park. He said was afraid of people who have not invested in the people who will be living here.
- Scott Kopacek, 11355 SW Cottonwood Lane, Tigard, OR listed among his concerns:
 - o There was no public disclosure about siting this facility in the neighborhood. He said this was not a good way to start a good relationship.
 - o He said he has a first-grader who catches the bus at the corner.
 - o This is a neighborhood in transition and he was afraid this type of use would destroy it.
 - o He said he would like to have another meeting to involve more people and to let them know about the Oxford House.
- Phil Yount, 11222 SW Cottonwood Lane, Tigard, OR. He has lived at this location for 18 years and has never had a situation such as this before. He said he suspects that the City Council cannot do anything about this. He said he was concerned about the safety of the neighborhood children and safety in the park. He said if there was something the City Council can do to prevent the Oxford House or better explain it to those who are concerned, he would be greatly appreciative.
- Chris David, 11175 SW Boxwood Court, Tigard, OR. He said the Oxford House is an example of poor judgment on the part of one individual who is going to profit at the expense of the neighbors. He said he also has a rental in another location, but he would not do something like this. He said there are children living close to the property. The park gets dark and it is heavily treed and is a good place to hide. He said he does not feel comfortable with the Oxford House being located next to the park. He said he

understands there will be rules at this house, but those rules do not govern visitors. Increased traffic will adversely change the neighborhood.

- David Skidmore, 11335 SW Cottonwood Lane, Tigard, OR said his home is about two homes away from the Oxford House. He said he also did not find about this until he got a notice in his mailbox today. The Oxford House is located three-quarters of a mile from a transit line and is centered in a neighborhood built in the 1970's and 1980's. The homes lived in by families and retirees are moving out with younger families moving in. This is a neighborhood in transition. While a project such as the Oxford House is needed, it is not suited for this type of neighborhood. This type of facility needs to be on a main street and on bus lines. There are certain requirements that any city should have for this type of development. The residents are unsupervised. The City needs to have regulations for this kind of development. He said this is a business opportunity for which someone has taken advantage. The neighbors watch out for each other and he said he wished the City would do the same and not let this type of development come into the neighborhood.
- Evelyn King, 11165 SW Boxwood Court, Tigard, OR. She noted she is the sole owner of the home and supports it and her children on a single income. The home is a critical piece of her retirement plan and is the primary home for her children. The motive and decision by the homeowner to establish an Oxford House at SW Cottonwood Lane appears to be financial gain. In the recession, they have all lost money and she understands how the homeowner might feel.

The impact on this change to their small neighborhood deserves as much consideration as do the people who live in the Oxford House. Most of the people in the area are working class people without the financial footing or legal backing that the Oxford organization can and will provide Mr. Zwingli. Placing a halfway group home in the neighborhood raises concerns. "Any self-respecting person would be cautious of people who have not made wise choices in the past. Auto insurance and money loaning institutions base many of their choices on past behaviors. Even potential employers look at our past before hiring. This is not an unexpected reaction for people to take. They do deserve a break, absolutely, But, I also deserve due consideration to how having six to ten adults living in a house in a neighborhood designed for single family homes will impact me." She gave examples: current vehicle and foot traffic to access the park, the cul de sac is used as a turnaround and this means more traffic also. If six to eight adults are allowed to live in an area designed for family activities, it will dramatically increase the traffic and number of vehicles to this otherwise quiet neighborhood. The cul de sac will be used as a turnaround to park in front the house. The hairpin turn just prior to the house will present an even more challenging turn if this area becomes lined with cars. Traffic from visitors will also be an issue.

A home like the Oxford House clearly reduces the value of their homes and will make selling them a huge challenge. It is an unfortunate reality that former drug addicts make people nervous and buyers will walk away. She said she has not had enough time to consider all of the impacts that having that many adults in one single-family residence might create. Ms. King said he has little faith that Mr. Zwingli will protect her rights for a clean, safe neighborhood. She said Mr. Zwingli has two additional buildings on the property that violate building codes. One was built on a property line without neighborly consideration or a permit. The building blocks access around the house, making it a fire hazard and it was also built without a permit. This clearly demonstrates his lack of respect for rules established to protect everyone including the safety of his neighbors. He started work on the Oxford House without permits or due consideration to his neighbors. Had another neighbor not told her of Mr. Zwingli's plans, she would not have any knowledge of it. She understands that such a change not only requires the City's approval, but the area impacted should be given an opportunity to voice their concerns so that something so dramatic can be implemented peacefully. She said, "His blatant arrogance and disregard for common good and welfare of the neighborhood is clear. If allowed to move forward there is absolutely no confidence that he will partner in resolving any issues his tenants may contribute to."

She then talked about the potential tenants and their rights. She said if Mr. Zwingli had any concern for the neighbors, he would have brought them together to explain what he was doing and why, seeking out opinions and concerns so protocols could be established for the Oxford House residents and have a method for any existing neighbors to resolve potential issues. She said, "Instead, he attempted to slam this past the City, violated building codes, and created enormously adversarial conditions. This is the worst possible situation for his future tenants...they already have the stigma of being drug addicts...and now they walk into a neighborhood that is angry. His focus is not on the people of the neighborhood." She said she does not want this type of house in the neighborhood, but they are needed. There has not been any attempt to determine if this is a good location for all concerned. The motive is clearly money and the neighborhood does not feel they should sacrifice their retirement plans or other financial resources without due consideration to their needs and the impacts this situation will force upon them. Ms. King said, "Where is the impact study, where is the common courtesy and respect for the neighbors as well as future tenants?" She concluded saying that Mr. Zwingli should not be able to pursue any type of landlord business in any neighborhood.

- Jimmy Williams, a representative for Oxford House, 10620 NW 321st Avenue, North Plains, OR testified. He said the Oxford House is a place for people who want to be clean and sober. It is not a mandated home. Families will live in this home and children will visit. Sex offenders cannot reside in an Oxford House. There are house rules. He said he is the representative who will help oversee the house. He said he would leave his cards tonight and he would like to be part of the next community meeting and he would be happy to answer questions and respond to concerns.
- Mr. Zwingli, the property owner where the Oxford House is to be located, offered to meet with the neighbors now. Mayor Dirksen said this is not on the agenda this evening. He said the purpose of the Citizen Communication agenda item is to draw the Council's attention to an issue so arrangements can be made to review and discuss the issue further. Because there is no time to address this matter now and the City Council wants to make sure "we do it right," another meeting date and time might called.

Mr. Zwingli said he would like to have the opportunity for people to ask Mr. Williams questions. He said he has spoken with some of the neighbors who have valid concerns, which he is trying to address. He has also talked to many people who have made cruel comments that the motives are for business opportunity. He said he has had no problems renting this house. It is costing him a significant amount of money to convert this into an Oxford House. There is no financial gain over what he has been able to do previously. He disputed Ms. King's allegation that he erected a building on a property line. He said he would like Mr. Williams to respond to questions about a large number of vehicles and traffic because of the home. He understands there are usually only one or two vehicles parked at the home. Mayor Dirksen there will be a better opportunity for issues to be addressed later at a separate meeting.

- John Pierce, 11218 SW Cottonwood Lane, Tigard, OR extended an invitation to the City Council to actually look at the people attending the meeting tonight. These are people who live in a crime free neighborhood. Most are young couples hoping for good future and working hard. He is a retiree. All of those in the neighborhood have made positive contributions to this community and the communities they have lived in. No matter how laudable this project might be, why should those who have made a positive contribution all their lives be punished to help these people get a start. He said he believes that Mr. Zwingli has pursued this because he has let the property deteriorate to the point where he almost has no other recourse. This is a good way to get some money out of the property from someone who is willing to pay more than it is worth. He asked the City Council to look at the property and the surrounding properties. Would they want the surrounding properties to become just like Mr. Zwingli's property?

8:04:12 PM

Councilor Webb said she would like to make some comments. She said she would like to have another meeting with the neighborhood and the people from the Oxford House in another setting besides a City Council meeting. She spoke to those in the audience advising them that she runs a homeless shelter. She can run background checks for those who come into the shelter; however, she cannot discriminate. There are things the City Council can do, while there are others that the City Council members are not allowed to do. Some fears are well founded and others not. She said she would like to have a neighborhood meeting to find a good solution.

8:05:07 PM

Councilor Henderson thanked everyone for coming and said this can be more productively addressed in a different setting. He said he is a contractor and has built 30 group homes throughout the state. Most of what he has heard tonight is fairly common. Every area is different and communication, at this point, is most important. He concurred with Councilor Webb's suggestion of another meeting to work on solutions.

Mayor Dirksen said he knows this neighborhood and lived ten years in an adjacent area. He said the Englewood neighborhood is an example of what makes Tigard great. He said he appreciates the concerns expressed and is not surprised at those concerns because they are worrisome. He agreed that there is need for all to come together and talk about this in a less formal setting and involve everyone affected. A meeting will be set in the near future. Ms. Cabera agreed to be the contact for the neighborhood. Mayor Dirksen pointed out that what the City can do is limited with regard to placing restrictions on this type of a home; however, there are things that could be done to make this work better for the community and for the Oxford House.

Mr. Pierce asked for feedback on the permit process. Mayor Dirksen said a stop work order was issued and information regarding this could be part of the upcoming meeting. Staff will be present at the neighborhood meeting.

Mr. Zwingli offered to meet now with the neighbors so some of the issues could be addressed. Mayor Dirksen said the City Council could not be part of such a meeting and, also there is a need to include the City staff with technical expertise to comment on some of the issues. He suggested that the time to talk would be at the upcoming neighborhood meeting, which would be scheduled soon.

8:10:53 PM

In response to a question from Ms. King regarding stopping protesting/stopping this House temporarily, City Attorney Ramis advised he was not aware of a procedure to do this. Mayor Dirksen said there is a federal Fair Housing Act that defines the requirements and restrictions for these types of homes. This Act precludes states or cities to have other laws that would counteract. There are limited things the City can do; however, the Mayor said there are some things that can be done to make this work better.

8:12:18 PM

Mayor Dirksen announced the items to be considered on the Consent Agenda:

4. CONSENT AGENDA:

- 4.1 Approve Council Meeting Minutes
 - a. January 26, 2010
- 4.2 Receive and File:
 - a. Lake Oswego and Tigard City Councils Joint Meeting Minutes of January 11, 2010
- 4.3 Approve Application to the Department of Justice for a Strategic Enhancement Monitoring Program Grant

Motion by Councilor Buehner, seconded by Council President Wilson, to approve the Consent Agenda.

The motion was approved by a unanimous vote of Council Present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

8:13:26 PM

5. INFORMATIONAL PUBLIC HEARING – FINALIZATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 45 (SW HOODVIEW)

- a. Mayor Dirksen opened the public hearing. 8:13:29 PM
- b. Review Hearing Procedures – City Attorney advised this is not a land use matter.
- c. Staff Report: Community Development Department

8:13:55 PM City Engineer Kyle presented the staff report. The final costs came in at 25 percent lower than what was estimated. Even so, this was a fairly high-cost district because of the construction conditions. Some of the sewer connections were as deep as 22 feet. The end result was that 25 lots now have sewer service available. The final cost for the lots ranged from about \$18,000 to \$21,000 per lot. The reimbursement program allows a homeowner to connect and only pay \$6,000 of the cost at the time of connection. The next \$9,000 is paid by the City. The remaining costs can be deferred and become due and payable at the time the property is further developed. None of these properties can be partitioned because they are at the size the zoning code allows.

City Engineer Kyle said at the end of this process, everyone was sent a notice of this meeting and given information regarding what their lot's costs would be. Staff was able to make personal contact with about 17 of the 25 homeowners in this district.

City Engineer Kyle said no fee is due until the homeowner chooses to connect to the sewer. No one is required to connect unless their septic tank fails. If they do not connect within 15 years, then the reimbursement district sunsets and there would be no fee due. No liens are placed on property through this process.

Before City Council tonight is a resolution to close the district and set the final amounts into the record.

8:18:09 PM

Mayor Dirksen asked if all of these lots are of a size so that they cannot be further developed, then why is there a deferral offered? City Engineer Kyle responded that as he read the rules, the deferral is offered; however, he could not determine that whether it would be activated.

Mayor Dirksen said he thought the intent of the rule was to offer a deferral for properties that could be further developed. Councilor Buehner suggested it might be due when the property is sold. City Engineer Kyle said he reached his conclusion by reading the rule and he will need to review past history to determine how the rule has been administered. Mayor Dirksen said it was the intent to mitigate the cost on individuals who own large pieces of property, but they were not using the entire piece of property so it was not fair for them to have to pay the whole amount up front. But, if the property

cannot be divided and the single residence is using the entire property, then he does not know why the deferral would apply.

Councilor Webb recalled when the City Council considered past sewer reimbursement districts, there were some that had enough property to be divided so another home could be added later. She agreed that the deferral was to have the additional costs be payable if the property was divided.

Mayor Dirksen suggested the City Attorney review this wording to determine how the deferral should be applied.

8:22:05 PM

e. Public Testimony

Steve Chwirka, 10400 SW Hoodview Drive, Tigard, advised that the actual cost per owner is about \$20,000 for each of the homeowners. This is a huge burden. He explained the costs come from the \$6,000 that for the share if the construction costs and a City connection fee, which will be increasing on July 1. There is another \$10,000 of cost to establish the connection to the street. He noted the connection fee is increasing on July 1 from \$3,635 to \$4,135 and he said it was unfair to raise the connection fee just a few months after completion of this project.

Mr. Chwirka said the project did come in at 25 percent less; however, they are not seeing any of that benefit. The deferral fee is now questioned. At every meeting with the property owners and the City, it was their understanding that the deferral fee was not going to have to be paid.

Mr. Chwirka said that, during this bad economy, the need to come with this \$20,000 imposes a big burden on everyone. He reiterated his feeling that the connection fee increase on July 1 was unfair and said this should be “nulled out.”

Council President Wilson responded that raising the connection fee was not directed at this project, it is a timing issue. At the end of each fiscal year, all fees are reviewed and revised if needed.

Councilor Buehner pointed out the connection fee is a pass-through charge and the fee was raised by Clean Water Services. The City collects the fee for Clean Water Services.

8:27:02 PM

Ann McKee, 10195 SW Kable Street, Tigard, OR noted she agreed with Mr. Chwirka. There are many property owners that will have to pay more than \$20,000. She suggested that there could be some leniency regarding the connection fee increase since they have been told throughout what the connection fee would be. She said her concern now was with their extra lot. They were told what the costs would be and that the costs would be deferred until they decided to build or sell. Mayor Dirksen said that if her lot is dividable, then the deferral would be applied. Councilor Webb said she believes Ms. McKee was referring to a separate lot next to her current home's property.

City Attorney Ramis said the language of the resolution (regarding the deferral), appears to state that one can defer anything that exceeds \$15,000 and the deferred amount would be paid at the time the lot is partitioned or otherwise developed in accordance with a land use permit. City Attorney Ramis said he interprets that if the land is partitioned a property owner would be able to defer any amount over \$15,000 and the deferral amount would be paid when that property is developed. Discussion followed

on what type of construction (land use permit) activity would activate the requirement that the deferral be paid.

Further City Council discussion followed on the deferral. Councilor Buehner suggested staff review the Ann Street reimbursement district as she thought the deferral was needed. Staff will do additional research and the City Council agreed to set this matter over to May 11, 2010.

8:40:17 PM

Motion by Councilor Webb, seconded by Councilor Buehner, to continue the public hearing until May 11, 2010.

The motion was approved by a unanimous vote of Council Present:

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

6. INFORMATIONAL PUBLIC HEARING – FINALIZATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 46 (SW BAYLOR – 72ND)

- a. 8:40:59 PM Mayor Dirksen opened the public hearing.
- b. Review Hearing Procedures – City Attorney
- c. Declarations or Challenges -- None
- d. Staff Report: Community Development Department

City Engineer Kyle presented the staff report.

- e. Public Testimony

8:43:10 PM

Gene Jackson, 7045 SW Clinton, Tigard, Oregon said it is unfair to some areas getting sewers while he does not receive an incentive because the area he lives in is zoned MUE. There are renters and people who own property in the area who feel this will eventually be improved. He said they own the house and they should have the same incentive as those who live in residential areas. He said they have no plans to sell their house at this time.

Mr. Jackson said 72nd Avenue's street surface was "messed up" by those people who installed the sewer. According to Mr. Jackson's conversation with the inspector, restriping the street was not part of the contract. The street should be restriped.

Mayor Dirksen said he is sure there is a provision for the street to be restriped, but it just is not part of the contract with the contractor who installed the sewer. After a brief discussion with Mr. Jackson, Mayor Dirksen said the street will be restriped in the near future.

8:46:16 PM

Tim Roth, 22583 SW 104th Street, Tualatin, Oregon said he has property on Baylor Street. Mr. Roth said he is referencing a document that he received July 24, 2009 from the City of Tigard. The title of the document is "Proposed Sanitary Sewer Reimbursement District No. 46, SW Baylor Street, 72nd

Avenue.” He read: “The amount that the property owner will be required to pay will be limited to \$6,000 for the connection completed within three years of the City Council approval of the City Engineer and Report.” He added that the document also stated that: “Please note that this resolution also requires the owner to pay any fair share amounts that exceed \$15,000. Consequently, if the final fair share for the owner exceeds \$15,000, the owner would be required to pay \$6,000 plus the amount of the fair share exceeding \$15,000. He said this is different from what was just discussed, which was they would be required to pay their full share at the time of connection and improvement of the property.

Council discussed this briefly. City Recorder Wheatley said she recalled that at the time of the first public hearing, it was noted that the first document Mr. Roth was referring to was in error. Mr. Roth advised he does not recall receiving a correction to an error. Mayor Dirksen said staff would review and make sure this is clarified. In response to a question from Councilor Henderson, it was clarified that Mr. Roth’s property in the district is 7135 SW Baylor Street.

8:49:44 PM

Mayor Dirksen referred to testimony from Mr. Jackson. He said when the City created these districts and the reimbursement program was not offered in some areas, it was because the area was either commercial or would eventually become commercial. However, he does not know if this addresses the issue if there is a long-time resident who still lives in area and intends to remain for the near future. He said he wondered if there was the ability to make a special contract with a property owner where there is a special circumstance so the additional would not have to be paid until it is sold or there is a request for development. Mayor Dirksen asked if there is anything that would preclude the City from entering into a special contract with any individual in the District.

8:50:43 PM

City Attorney Ramis said he thought this could be done if the City Council passed a resolution supporting this action and indicating that this was an exception or an amendment to the basic resolution. When you set up a structure and then want to depart from it, you need to do something to amend the structure.

8:51:43 PM

Council President Wilson asked if this could be done retroactively and, if the City Council could do this, would it be a good idea? City Attorney Ramis said the question is for fairness.

Mayor Dirksen said he brings this issue up for consideration and discussion. Council President Wilson said the City has formed many of these districts. The program has been modified several times. He said the original intent was to extend sewers to every property in the City and to subsidize it. The City is constructing sewers in difficult to reach areas. Overall, the City ratepayers are subsidizing the process. People received different amounts of subsidy. Connection to the sewer is voluntary. An individual property owner can decide to take the risk and wait for 15 years. Council President Wilson said everyone has their individual circumstances and when the program was created, the City Council did the best it could and attempted to be fair. It is a good program and those same options are available.

- f. Staff Recommendation: City Engineer Kyle said that given the discussion, it would be up to the City Council as to whether it wanted to finalize the district this evening. He said the program has been amended retroactively in the past. So, if the City Council was to move forward and close this reimbursement district, it would not prevent the City Council from modifying the program at a later time. The staff recommends this district be brought to a close so people who want to connect to the sewer now can do so.

City Attorney Ramis said it would be useful to him and to the City staff if the City Council would take some time to describe those questions the Council members would like to have answered about these resolutions. If there are particular cases, concerns, or examples that the City Council members are concerned about, to give those examples so staff would have some structure to base the response.

Mayor Dirksen said the only outstanding issue in this case is the letter brought up by Mr. Roth and confirm whether there was a subsequent letter that corrected that issue. This could be done after this district is closed.

Councilor Buehner said there is some misinformation about the residential program. It does not come up often, because the vast majority of the fees have been under \$15,000. The issue of when the deferral is triggered needs to be resolved.

City Attorney Ramis said the resolution states that an agreement must be entered into that the obligation to, in the future, pay the deferred amount applies to the property owners or their successors. It implies that the obligation can continue. The contract is recorded and, apparently, runs with the land.

g. 8:57:07 PM Mayor Dirksen closed the public hearing.

h. City Council Consideration: Resolution No. 10-20

Motion by Council President Wilson, seconded by Councilor Webb, to adopt Resolution No. 10-20.

RESOLUTION NO. 10-20 – A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 46 (SW BAYLOR STREET AND 72ND AVENUE) AND AMENDING THE PRELIMINARY CITY ENGINEER’S REPORT CONTAINED IN RESOLUTION NO. 09-57

The motion was approved by a majority vote of Council Present:

Mayor Dirksen	Yes
Council President Wilson	Yes
*Councilor Buehner	Abstain
Councilor Henderson	Yes
Councilor Webb	Yes

*Councilor Buehner advised the Mayor she was abstaining because she could not vote effectively in the current situation.

8:58:22

7. LEGISLATIVE PUBLIC HEARING (CONTINUED FROM APRIL 13, 2010) – CONSIDER A CODE AMENDMENT TO EXTEND LAND USE APPROVALS (DCA2010-00001)

- a. Mayor Dirksen announced the continuation of the public hearing.
- b. City Attorney Ramis advised this is a continuation of the hearing; hearing procedures are those that were announced for this matter on April 13, 2010.
- c. Declarations or Challenges

- d. Staff Report: 8:58:58 PM Associate Planner Caines reviewed the staff report and recapped what has occurred to date. Staff has come to the City Council requesting extend land use approvals that were lapsing between July 1, 2008, and December 31, 2011 to December 31, 2012. The second component of the amendment is to create a new CDC chapter that lists all defined terms found in the Community Development Code.

Planning Commission held a public hearing on March 1, 2010 on this matter. There was no testimony supporting or opposing the proposed amendment. The Planning Commission voted unanimously (9-0) to recommend the amendment of the Code as proposed. Between the Planning Commission hearing and the first hearing scheduled for the City Council meeting of April 13, it became clear to staff that future code amendments could have a significant impact on development and how development looks in the future. Staff came to City Council during a study session meeting with an update Council to let them know of this concern and that this had not been discussed at the Planning Commission hearing.

At the City Council hearing on April 13, 2010, the staff report was presented. Four people testified in favor of the proposed amendment and City Council decided, after hearing the public testimony and noting the concerns brought forward in the workshop, to explore some alternative approaches during a workshop that was held on April 20th. The hearing tonight is a continuation of the hearing begun on April 13, 2010. During the April 20 workshop meeting, staff presented options to the City Council. Council members discussed the proposed options and made changes to one of the recommendations. Based on that discussion and recommendation, staff prepared an ordinance reflecting the changes for City Council consideration. She outlined the recommended changes.

9:02:14 PM

Association Planner Caines advised that after the first public hearing, staff received an April 14, 2010, email from John Frewing regarding this issue. City Council has been made aware of this testimony and Association Planner Caines introduced the communication into the record.

- e. Public Testimony

9:02:55 PM

Ernie Platt, representing the Homebuilders Association testified; 15555 SW Bangy Road, Lake Oswego OR. He said based on the comments of this evening and those comments contained in the staff report, he said he would have preferred a uniform extension of all categories of land use, but this is still an acceptable resolution to the situation.

- f. Staff Recommendation: Association Planner Caines said staff is forwarding the Planning Commission's recommendation to approve the requested Development Code Amendments.

Councilor Buehner asked if the proposed ordinance before the City Council is the item the City Council discussed with modification to Option 2, which is different from the Planning Commission. Association Planner Caines said this is the modified ordinance and clarified that staff is recommending that Council approve the ordinance that is before them tonight.

- g. Council Discussion

Mayor Dirksen advised that the ordinance before the City Council is Ordinance No. 10-07, which has been modified with respect to Option 2. Assistant Community Development Director Hartnett said the material the City Council received tonight is consistent with the direction given by City Council at last week's workshop. If this is what the City Council wants to do, then she suggested the motion be to

approve the ordinance as modified. Assistant Community Development Director Hartnett said the staff recommendation is for approval of the Planning Commission's recommendation, which was brought to the City Council on April 13, 2010.

Councilor Henderson asked for clarification on the proposed ordinance's effect. Association Planner Caines clarified the extension dates, which vary depending on the application. Most will expire in 2010 and have gone through extension requests. The language is broad to include all applicable development applications made in the time period affected by the recession and to extend those to December 31, 2011.

- h. Mayor Dirksen closed the public hearing.
- i. Council Consideration: Ordinance No. 10-07

Mayor Dirksen suggested wording for a motion. Association Planner Caines clarified that the proposed ordinance before the City Council is set forth to have subdivisions only extended to 2011.

Motion by Councilor Buehner, seconded by Councilor Webb, to adopt Ordinance No.10-07 in the format provided this evening from staff.

ORDINANCE NO. 10-07 – AN ORDINANCE AMENDING THE TIGARD COMMUNITY DEVELOPMENT CODE (DCA 2010-00001) CHAPTERS 18.360 SITE DEVELOPMENT REVIEW, 18.420 LAND PARTITIONS, AND 18.430 SUBDIVISIONS TO EXTEND LAND USE APPROVALS AND ADD A NEW CHAPTER 18.115 LIST OF TERMS, THAT LISTS ALL DEFINED TERMS FOUND IN THE DEVELOPMENT CODE.

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

Mayor Dirksen:	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

8. COUNCIL GOAL UPDATE

9:09:20 PM

Assistant City Manager Newton reviewed the progress on goals. A copy of the report is on file in the City Recorder's office.

9. COUNCIL LIAISON REPORTS

Councilor Buehner gave a report on a workshop she attended last week of all the experts involved in advising what kind of water treatment process would be appropriate. By the end of the day, after detailed analyses of the pros and cons of 17 options, the options were limited to six proposals to be carried forward for further discussion at the next workshop. The big issue is to determine whether to use a membrane-type treatment system. It was decided that with the costs and needs of the area, there was no need to look at that type of methodology. They are only going to consider a basic treatment process.

In response to a question from Councilor Henderson, Councilor Buehner advised the options for treatment are much more sophisticated than what exists now at the treatment plant. When the new plant comes on line, only

one system of treatment will be used. Mayor Dirksen said he understands that the goal is to find a process that meets all current federal requirements and also any anticipated requirements in the near future.

9:13:57 PM

Mayor Dirksen gave a brief report. He said he is a member of the Oregon 217 Interchange Study group where they are looking for some short-term improvements to Hwy 217 to make it function better. The current RTP and long-term plans call for 217 to be widened an additional lane in each direction, but the cost for this is anticipated to be between \$800 million and \$1.1 billion, and no one has this kind of funding available. Therefore the group is looking for other, more reasonably implemented options in the meantime for better functioning. The group identified several options that could be implemented quickly, and a couple of others that will take a little longer.

One of the options is to add targeted shoulder widening in areas where there is not an adequate shoulder to move crashes out of the travel lane. On 217 there is a crash in the average of every other day. Moving these out of the travel stream quickly would do a lot to reduce congestion. Another option is to install signs that would provide travel time information. One of the problems on 217 is many people who live in the corridor use it for short trips rather than for longer trips out of the area and this congests the freeway. If local residents as they approach are given information about current travel times because of congestion, it might encourage them to use local streets instead. A third option would be to install variable speed signs on the freeway. As congestion goes up, speed limits would be reduced so traffic would not bunch up and people would not be reacting to slow traffic. Rear-end accidents on 217 are a big problem because people traveling at 55 mph come upon a congested area and are not able to react quickly enough. These options will be implemented over the next couple of years.

Mayor Dirksen said in the longer term an additional study will be done to look at the possibility of closing some interchanges on 217. As 217 was developed from a surface highway, some of the intersections are too close together to make them functional as freeway interchanges.

Councilor Buehner suggested that the Mayor take back to the group the situation when exiting Hwy. 26 onto Hwy. 217, if there is traffic congestion farther down the road, you cannot see it because it is a blind corner. She has had a rear-end accident here and has written to Oregon Department of Transportation and has not received a response about placing an incident reader board warning when there is an accident is ahead.

Mayor Dirksen said there will be a public outreach program planned to meet with stakeholders at locations along the corridor.

10. NON AGENDA ITEMS

- Greenburg Road/Pacific Highway Improvement Project. City Attorney Ramis advised that in order to secure immediate possession of the property, staff needs the City Council to authorize staff to issue the necessary funds to do that.

Motion by Council President Wilson, seconded by Councilor Webb, to authorize the City Manager to issue a check for deposit to the court in the amount \$662,100 for the purpose of property acquisition.

Councilor Buehner added a friendly amendment that this would authorize the City to take immediate possession of the property.

Mayor Dirksen said this would allow the City to move forward within the construction schedule for this improvement.

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

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

11. EXECUTIVE SESSION: Not held.

9:20:56

12. ADJOURNMENT

Motion by Council President Wilson, seconded by Councilor Webb, to adjourn the meeting.

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

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

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