



City of Tigard Tigard Business Meeting - Minutes

TIGARD CITY COUNCIL

MEETING DATE AND TIME: January 24, 2012 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	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

Staff present: City Manager Wine, City Recorder Wheatley, Assistant City Manager Newton, Assistant Public Works Director Rager, City Engineer Stone, Parks Facilities Manager Martin, Community Development Director Bunch, City Attorney Ramis, Engineering Manager McMillan, Finance and Information Services Department Director LaFrance

A. City Council 2012-13 Budget Review

Assistant City Manager Newton distributed new “Requested” City Council budget information for Fiscal Year 2012-13. The total budget amount requested decreased by \$5,000 because a charge-back for design and communication work was reallocated to another area.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

B. Council Calendar – City Manager Wine reviewed the upcoming calendar items with council members.

January 30, 2012	5:30 p.m. - SW Corridor Tigard Connections Team Kickoff Event - Tigard Public Library Community Room 6:30 p.m. - Dinner with Tigard-Tualatin School District Board - Town Hall 7:00 p.m. - Joint Meeting with Tigard-Tualatin School District - Town Hall
January 31, 2012	5:30 p.m. (time to be confirmed) - Council training session (not a public meeting) - Red Rock Creek Conference Room (RRCCR)
February 14, 2012	6:30 p.m. Study Session; 7:30 p.m. Business Meeting - RRCCR & Town Hall
February 21, 2012	6:30 p.m. - Workshop Meeting
February 28, 2012	6:30 p.m. Study Session; 7:30 p.m. Business Meeting - RRCCR & Town Hall
March 6, 2012	6:30 p.m. - City Center Development Agency - Town Hall or RRCCR
March 13, 2012	Business Meeting - Canceled

Mayor Dirksen announced:

- EXECUTIVE SESSION: The **Tigard City Council** went into Executive Session to discuss real property transaction negotiations ORS 192.660(2) (h). After the City Council Executive Session, the **Tigard City Center Development Agency** went into Executive Session to discuss real property transaction negotiations under ORS 192.660(2)(e).

The Executive session recessed at 7:29 p.m. and was continued after the business meeting at 9:25 p.m.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

1. BUSINESS MEETING – JANUARY 24, 2012

- A. Mayor Dirksen called the meeting to order at 7:38 p.m.

The mayor welcomed members of Boy Scout Troop 846 who were attending the City Council meeting to earn points towards a merit badge.

B. Roll Call

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

- C. Pledge of Allegiance

- D. Council Communications & Liaison Reports: None.

- E. Call to Council and Staff for Non-Agenda Items

2. CITIZEN COMMUNICATION

- A. Follow-up to Previous Citizen Communication: None.

- B. Tigard High School Student Envoy - Courtney Bither

Ms. Bither gave her report of recent and upcoming activities at Tigard High School.

- C. Tigard Area Chamber of Commerce - Chief Executive Officer Debi Mollahan gave her report of recent and upcoming activities of the Chamber. She announced the Tigard Farmers Market is now part of the Chamber and will open on Mother's Day this year.

- D. Citizen Communication – Sign Up Sheet: None.

3. INTRODUCTION OF CITY ENGINEER MIKE STONE

Assistant Public Works Director Rager introduced Tigard's new City Engineer, Mike Stone. Mr. Stone comes to Tigard from the City of Wilsonville, where he was City Engineer for 19 years.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

4. PROCLAMATION - TIGARD BASKETBALL ASSOCIATION

Mayor Dirksen introduced this agenda item to proclaim the city's thanks for the many contributions made by the community volunteers and donors in honor of 30 years of service: Tigard Basketball Association.

Tigard Basketball Association representative Mark Padgett expressed his thanks to the mayor and city for this recognition. He introduced other members of the association who were present:

- Wayne Peterson (one of the founders of the Tigard Basketball Association)
- Derryck Dittman, (current association board member)
- Debbie Fuller (current association board member)

Mr. Padgett described the value of the program for community young people. Council members expressed their thanks for the community volunteers and acknowledged the benefits realized due to their hard work and dedication.

Mayor Dirksen reviewed the Consent Agenda, noting that Item No. D, will be removed from the Consent Agenda for separate discussion and consideration:

5. CONSENT AGENDA: (Tigard City Council)

A. Approve City Council Meeting Minutes for:

1. November 14, 2011
2. November 15, 2011
3. November 22, 2011
4. December 6, 2011

B. Specify City Council Liaison Appointments to City of Tigard and Regional Boards, Commissions, Committees, and Task Forces

C. Authorize the City Manager to Execute an Intergovernmental Agreement with Clean Water Services Regarding the Derry Dell Sewer Project

~~D. Adopt a Resolution of Necessity to Acquire Property for the Main Street/Green Street Retrofit Project—Resolution No. 12-01~~ Considered separately.

Motion by Councilor Wilson, seconded by Council President Buehner to approve the Consent Agenda, less Item No. 5D.

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

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

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

Consideration of Agenda Item No. 5.D: Adopt a Resolution of Necessity to Acquire Property for the Main Street/Green Street Retrofit Project - Resolution No. 12-01

This item was removed from the Consent Agenda at the request of Councilor Henderson, who asked for information and discussion so the public and the 29 affected property owners were aware of this item before the City Council.

Engineering Manager McMillan distributed a list of steps outlining the federal process for acquisition of properties. The list was prepared by Jeff Bennett of the city attorney’s office. The list shows that condemnation would not be a possible first step nor is it the intent of the City of Tigard. Engineering Manager McMillan explained that the resolution would give staff authority to start the process of property acquisition. This acquisition must be done using this federal process because we are using federal dollars.

Engineering Manager McMillan gave an overview of the Intergovernmental Agreement, which has locked the city into using the federal process if it wants to receive federal money for the project.

Engineering Manager McMillan stressed that condemnation would not be the first alternative – it would be the last alternative.

Councilor Woodard said he is in general agreement with the proposed resolution and noted “condemnation,” can be a positive action as described by the mayor because of potential tax benefits for property owners. However, he did not think the following words were needed in the resolution: “...should negotiations prove unsuccessful the resolution authorizes the city to proceed with condemnation...” Mayor Dirksen asked City Attorney Ramis if it is necessary to have this wording in the resolution.

City Attorney Ramis suggested the wording could be changed in Section 4 of the resolution to say “Only in the event that no satisfactory agreement can be reached...” This would make it clear that condemnation is not the starting point. Councilor Woodard said that the language proposed by City Attorney Ramis would help clarify.

Councilor Woodard asked about the impact on a property owner’s improvements in the right of way that are adversely affected by the project. City Engineer Stone confirmed that if the improvements are devalued, the property owner would be compensated. Engineering Manager McMillan presented a map that delineated the scope of the project to purchase permanent right-of-way and temporary construction easements. There are a lot of sidewalks on private property and federal funds cannot be used to work on private property.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

In response to a question from Councilor Woodard, Engineering Manager McMillan said only old sidewalk areas will need to be removed and replaced on private property. There might be some landscaping removed; however, it would be restored if possible.

Council President Buehner asked about the width measurements of the temporary construction easements. Councilor Henderson said they are three to five feet wide.

Mayor Dirksen noted compensation must be made for the value of the land as well as payment for any amount of “devaluation.”

Councilor Henderson said he appreciated the staff presentation. He brought this council matter forward for discussion so the public would understand why the city is using this process.

City Engineer Stone said he has had experience with similar projects to acquire hundreds of pieces of property. He said he cannot recall any of those actions ever going to trial.

Motion by Councilor Wilson to approve Resolution No. 12-01. Councilor Woodard seconded the motion with the change in the *language as proposed by City Attorney Ramis. Councilor Wilson advised he accepted the friendly amendment stated by Councilor Woodard.

**City Recorder’s Note: Section 4 of the resolution, as amended, states: “Only in the event that no satisfactory agreement can be reached on right-of-way or temporary construction easement acquisition for all or any portion of the Properties, then the city attorney is directed and authorized to commence and to prosecute to final determination such proceedings as may be necessary to acquire the Properties or any portion of the Properties, including the exercise of eminent domain, and upon the filing of such proceedings, possession of the affected real property therein may be taken immediately to the extent provided by law.”*

RESOLUTION NO. 12-01 - A RESOLUTION DECLARING THE NEED TO ACQUIRE RIGHTS-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENTS ON PROPERTIES FOR THE PURPOSES OF INSTALLING, REPLACING, AND REPAIRING SIDEWALK AND GREEN STREET IMPROVEMENTS NEEDED TO PROVIDE SAFE TRANSPORTATION ROUTES FOR PEDESTRIANS, AS AMENDED.

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

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

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

6. APPROVE THE CITY OF WEST LINN'S MEMBERSHIP IN THE METROPOLITAN AREA COMMUNICATIONS COMMISSION - RESOLUTION NO. 12-02
(There will be a short video from MACC during the presentation to council.)

RESOLUTION NO. 12-02 - A RESOLUTION APPROVING THE ADDITION OF THE CITY OF WEST LINN, OREGON AS A NEW MEMBER OF THE METROPOLITAN AREA COMMUNICATIONS COMMISSION

Councilor Woodard introduced Fred Christ, an executive officer for the Metropolitan Area Communications Commission.

Mr. Christ delivered a brief overview of MACC's charge and presented a short video about MACC.

The City of Tigard, as one of 14 jurisdictions belonging to MACC, is requested to consider a resolution approving the addition of the City of West Linn, Oregon, as a new member.

Motion by Councilor Woodard, seconded by Councilor Henderson, to adopt Resolution No. 12-02.

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

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

Council President Buehner asked Mr. Christ about the status of Frontier Communications. Frontier subscribers have been uncertain for the last year whether Frontier was going to continue to be in service. Recently, the corporate executives have decided to continue to provide video service.

Councilor Henderson thanked Mr. Christ for his service and leadership during difficult times.

7. CONTINUE TO DISCUSS AMENDMENTS TO TIGARD MUNICIPAL CODE CHAPTER 1.16 AND CONSOLIDATION OF NUISANCE VIOLATIONS INTO A NEW TITLE 6

Assistant Community Development Director Hartnett presented the staff report.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

Presentation summary:

- Overviewed materials provided since the last discussion in December as well as those that will be sent to the City Council over the next several weeks.
- Reviewed the timeframe for the next steps; a public hearing to consider adoption of amendments is scheduled for February 28, 2012.
- Checked in with City Council members regarding items that still need attention.

Council comments:

- Councilor Henderson advised he was comfortable with the amendments proposed since meeting with City Manager Wine regarding the staff's proposal.
- Councilor Wilson acknowledged that some of the issues he has raised are out of scope. At some time in the future, he would like to see the language updated. Concepts of nuisances have changed. He said he is fine with the proposals in general for Chapter 1.16. He commented about noise violations in that most occur when the code enforcement people have gone home for the day and enforcement will fall to the Police Department. He asked if the members of the Police Department will be trained to determine whether a noise violation has occurred. Program Development Coordinator Shields advised that duty sergeants have been trained in the use of the noise meter, which is available to them should there be a noise complaint.
- Councilor Wilson asked about amplified noise, "Exceptions to noise limits," (6.02.450A). This section refers to an exception for non-amplified sounds created by organized athletic or other group activities. He said that he thinks activities at the high school might be amplified, and he wanted to make sure that we are not inadvertently making them out of compliance with the proposed amendments. This same concern would extend to events such as the Balloon Festival and activities in the park where there might be amplified music. Program Development Coordinator Shields said the intent and the effect of this provision, which is in the existing code, is to exempt the non-amplified noise situations; i.e., a team playing at the school, which is non-amplified but might generate a "good bit of noise." Councilor Wilson said he did not see any exemption for amplified sound for events such as the Balloon Festival.

Assistant Community Development Director Hartnett responded that a conditional use permit process would regulate many of those types of institutional activities in residential zones. Also the land use type would address some of the activities. This would need to be reviewed. Councilor Wilson said he wanted to make sure that these are addressed.

- Mayor Dirksen commented that he had had one issue, which was for the definition of graffiti. This was addressed in the proposed language.
- Council President Buehner referred to Chapter 6.01.020, which deals with noxious vegetation. She said she had made the suggestion that the state list of vegetation be considered. While she understands the whole list of more than 200 plants is too large, perhaps the top five most common could be listed specifically; i.e., Himalayan blackberry and English ivy. She said she would be willing to move forward with the language as it is

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

now, but thinks there is a need to come up with a few examples of plants that are the worst offenders. Mayor Dirksen suggested that rather than including the list, a reference be made to the state statute. Assistant Community Development Director Hartnett said staff could do this, but noted as described in the staff memo, there is not sufficient expertise on staff to identify all of the items on the list. The intent of the proposed wording is that if it is vegetation growing wild and meets the definition, staff can address the problem regardless of the type of vegetation. Councilor Wilson commented that the City of Portland has more than 180 species on their noxious vegetation list and, even to a person well-versed on plants, some of species are difficult to identify as native or non-native. He thinks the Portland's list is overboard; i.e., to the point of prohibiting perennial rye grass, Norway maples, etc. Council President Buehner restated she thought a couple of examples would be helpful.

- After discussion on the list of noxious plants, Assistant Community Development Director Hartnett suggested the wording could state a top few number of examples with the words, "including, but not limited to..." This was acceptable to Council President Buehner.
- In response to a question from Mayor Dirksen, City Attorney Ramis said the city would cite a property owner based upon a complaint. The burden of proof for the nuisance would be placed on the city.
- Councilor Wilson noted the state list of noxious vegetation has a number of species that are associated with agricultural problems; i.e., tansy ragweed (a problem for livestock). This issue needs more thought. Council President Buehner agreed the full state list is too much and would like to list a few worst offenders. Mayor Dirksen thought that this would be a fair alternative and a good compromise in that city staff should know what the primary problem noxious plants are and to add the wording, "...including, but not limited to..." Assistant Community Development Director Hartnett suggested that she could consult with Parks Facilities Manager Martin and Associate Planner/Arborist Prager to determine their comfort level to support a citation with the compromise suggested by the Mayor. She said she would also review the state invasive species list and consult with Associate Planner/Arborist Prager regarding the top 5-10. She will also consult the city attorney regarding the wording. The compromise language will be included in the next informational memorandum to the City Council on the code amendment proposals.
- Council President Buehner said her second issue is regarding the hazardous tree issue. In some homeowner's policies, payment for tree removal is authorized to remove a hazardous tree before it falls down if the city code has a provision to declare that it is a hazard. Assistant Community Development Director Hartnett said this will be addressed in the tree code when the City Council reviews language in the next couple of months.
- Councilor Woodard said he was glad to see the changes made to the noise provisions. Staff did a good job drafting language for the protection of water meters. Finally, he said the staff proposal for language regarding notification of out-of-state property owners looked fine.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

8. UPDATE ON URBAN FORESTRY CODE REVISIONS (UFCR) PROCESS

Associate Planner/Arborist Prager presented the staff report, which included the review of the process, public involvement outreach and the next step for this project.

The staff's proposed UFCR draft consists of three volumes. Staff would like to share with the Planning Commission and City Council the story of how this project came to be and what is in the code, with more context provided during the adoption process.

- Volume one summarizes the project background, the citizen and technical committee process and deliberations, and why certain decisions were made.
- Volume two includes the draft code language, the Urban Forestry Manual, and the results of the peer review process.
- Volume three shows the technical details of the code and includes all of the comments received and staff responses made during the input period.

The Planning Commission public hearing is scheduled for February 6 to receive additional public input and to consider forwarding a recommendation to the City Council. Advance notice of this public hearing was sent to every Tigard property owner as required by state law (Measure 56). The purpose of the notice is to engage the public in this process and invite them to the public hearings. Additional background materials were provided with the notice that describes the draft code, called attention to the city's website that provides additional details, and provided staff contact information.

Associate Planner/Arborist Prager advised that, to date, staff has not received a lot of inquiries from the public indicating concern. He has been keeping records of contacts (about ten so far) and questions asked. If the numbers of contacts and concerns begin to increase, staff will update the City Council by sending this information in the Friday mail packets. Council President Buehner and Councilor Woodard said they would like to receive a summary of issues from citizens. Associate Planner/Arborist Prager said the contacts to date have been from people asking how the proposed code changes would apply to their properties.

Assistant Community Development Director Hartnett advised City Council that staff sent out the "Measure 56 notice" to property owners based on advice from the city attorney's office, which was conservative advice. There is only a subset of properties where the UFCR will be applicable; but, rather than trying to determine those properties that would be required to receive notice and given that urban forestry revisions have a history in Tigard of high interest and potential Land Use Board of Appeals filings, the extra effort for notice was taken. This would assure that people would understand that there is action under consideration.

At the City Council workshop (scheduled for late spring), staff will review all the documents. City Council will be provided a quick reference sheet highlighting the main issues raised by the community during discussions. The sheet will describe how the proposed code would differ

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

from the existing code and provide cross-references to more detailed information on each of the issues designed to help the City Council focus on what is of most concern to the community.

Associate Planner/Arborist Prager urged City Council members to direct people with questions about the process to him. The staff proposal for code revisions is not to regulate new or additional situations that did not previously require a tree permit; that is, if one does not need a tree permit on private property now, a permit will not be required with the amended language. For those who are required to obtain a permit, staff is working to have the permit process be more logical than what it is now.

Assistant Planner Daniels advised that staff has developed some tools for online use. Property owners can enter their address to determine whether they have a “tree grove” on their property and whether a tree permit might be required.

Associate Planner/Arborist Prager referred to a proposed timeline distributed to the City Council, which he expects will be pushed back to some extent. The public hearing for the Planning Commission is still scheduled for February 6, 2012, and public testimony will be solicited. Staff anticipates holding additional Planning Commission meetings prior to the commission determining its final recommendation to the City Council.

In response to a question from Councilor Henderson, Assistant Planner Daniels advised the Planning Commission expressed interest in having information regarding fees and what other cities are doing. They also were interested in soil volumes as well as what concerns have been conveyed to staff from members of the public. The Planning Commission also has asked questions about the tree grove program and the health of tree grove stands that remain.

Mayor Dirksen said he is pleased with how well the process has gone so far, which has been very inclusive and has included a variety of perspectives.

- 9. COUNCIL LIAISON REPORTS: None.
- 10. NON AGENDA ITEMS: None.
- > Motion by Councilor Woodard, seconded by Councilor Wilson, to adjourn the business meeting at 9:19 p.m.

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

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

Mayor Dirksen read the statement citing the reason for the executive session, which was continued from the session held prior to the business meeting.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 24, 2012

11. EXECUTIVE SESSION: The **Tigard City Council and City Center Development Agency** went into Executive Session at 9:25 p.m. to discuss real property transaction negotiations ORS 192.660(2) (h).
12. ADJOURNMENT: 10:13 pm.

/s/ Catherine Wheatley
Catherine Wheatley, City Recorder

Attest:

/s/ Craig E. Dirksen
Mayor, City of Tigard

Date: February 14, 2012