Agenda Item No. 3.A.1
Meeting of June 26, 2012

City *of* Tigard
Tigard City Council Special Meeting Minutes
June 5, 2012

1. SPECIAL MEETING

Mayor Dirksen called the meeting to order at 7:50 p.m.

Deputy City Recorder Krager called the roll:

Name	Present	Absent
Councilor Henderson	✓	
Councilor Woodard	✓	
Councilor Wilson	✓	
Council President Buehner	✓	
Mayor Dirksen	✓	

Staff present: City Manager Wine, Assistant City Manager Newton, City Attorney Bennett, Deputy City Recorder Krager

Communications & Liaison Reports - Mayor Dirksen said he would forward some committee liaison materials to City Manager Wine for distribution to council.

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

2. DETERMINE PROCESS FOR VACANCY IN THE OFFICE OF MAYOR

Mayor Dirksen said the final process for the Metro councilor position race is not complete and formal acceptance of the May 2012 primary results is not scheduled until Metro Council's June 28 meeting.

Councilor Henderson requested a continuance of the discussion on this topic.

Mayor Dirksen said that while he is not prepared to tender his resignation, it did not preclude council discussion on the process to use if the office of mayor became vacant. He said he recommended moving forward tonight so council will be prepared when Metro's final

determination of election results is received, allowing for a declaration of vacancy and opening for applicants. The deadline for putting mayoral candidates on the November ballot is August 6, 2012.

Council President Buehner inquired about the possibility of asking Metro to formally accept the election results earlier than June 28. City Manager Wine said she will discuss this with them.

In response to a question from Councilor Wilson about why he was waiting for the formality of Metro election results acceptance before submitting a letter of resignation, Mayor Dirksen said he wanted the further certainty and though he didn't doubt the outcome, it seemed presumptive to resign without that. City Attorney Bennett added that a resignation is not revocable.

City Manager Wine said it was council's decision on how to fill the vacancy and once guidance is given to staff they can begin the election process steps, or if council chooses to appoint, they can begin supporting council in their process to pursue an appointment.

Councilor Wilson said the short timeline may be more of an issue for a member of the public who wants to run than it would be for current city councilors. City Manager Wine said maximizing the amount of time to file and campaign for office is part of the time consideration. Councilor Wilson said a shorter timeframe constricts the democratic process. He said, "On the other hand, an appointment really short-circuits the democratic process."

Council President Buehner said a third option would be to leave the vacancy in the mayor's office open for the remainder of the term, Councilors Wilson and Henderson could run again for their seats, and then operate as a four-person council until 2014.

Councilor Henderson questioned Councilor Wilson's eligibility for running for councilor and said he was term-limited. Councilor Wilson said there was a break in service between his first term and his appointment when Councilor Harding resigned. City Attorney Bennett said the city charter does not specify the length of a gap in service. City Manager Wine read a timeline prepared by City Recorder Wheatley and noted that Councilor Wilson was appointed to fill a vacancy (Councilor Sally Harding) until the November election where he ran to fill the remainder of her unexpired term.. City Attorney Bennett said that means Councilor Wilson is nearing the end of his first term. Councilor Henderson asked for a legal definition. City Attorney Bennett replied that he could prepare an opinion, but noted that City Attorney Ramis has previously issued an opinion that the two-term limit does not apply to filling an unexpired term, whether through election or appointment. He said that period is carved out of the term limitation.

Referring to Council President Buehner's suggestion of a four-person council, Councilor Woodard expressed concerns about tie votes. Councilor Wilson said there also may be quorum issues when someone needs to be out of town.

Mayor Dirksen said the framers of the city's charter provided options for council to function under unusual circumstances such as when a vacancy cannot be filled right away. He said the framers' intent was to allow council the authority to fill a vacancy with an appointment when circumstances did not allow for an election. He said his opinion was that the only justification to appoint would be when a physical or timeline constraint precluded having an election.

Councilor Henderson said he was concerned that Mayor Dirksen is resigning at a time when there is a new city manager and there are major things ahead for Tigard. He said City Manager Wine is doing a great job but there is a lot to do He expressed concerns about filling the void and suggested that appointing himself or Councilor Wilson to assume the position for two years would provide a good transition. The appointed councilor could shadow the mayor for the next six months before he leaves office. He said he was worried about continuity on some of the committees Mayor Dirksen sits on. Mayor Dirksen said some committees have no requirement that the vacancy would be filled by his replacement. He said it is almost certain that his place on the JPACT Committee would go to a mayor or councilor from another city as that is the usual process. He said there are other committees where he will be replaced by Tigard's new mayor or their designee. Councilor Henderson specifically mentioned the Lake Oswego/Tigard Water Project. Council President Buehner said she shared his concerns that Tigard gets a good council person on that committee. Mayor Dirksen agreed and said that particular project was a major concern of his but he had little concern that other things will continue to move forward.

Councilor Henderson said if he is appointed to fill the unexpired term he would run for council again in the future if citizens wanted it, but guaranteed that he would not stay on as mayor after the interim appointment ended.

Mayor Dirksen said his only concern is circumventing the democratic process. Councilor Wilson noted that following the city charter means that there are two councilors and a mayor up for reelection at any given time. He said that every time the mayor runs, there are two councilors also up for reelection. He said this is the way it is intended and that voters want term limits.

Mayor Dirksen said if he had been eligible at the end of his current term to run again for mayor he would not have entered the race for a Metro council position. He said he is term-limited and does not have the option to continue as mayor.

Councilor Wilson said, "The bottom line is that we have a democracy and we need to respect that." Councilor Henderson said he had no problem with going through the election process but there are extenuating circumstances, and the situation is "outside the status quo." He said he has put in much thought about this and feel this is the best thing for Tigard.

Council President Buehner commented that if both Councilor Henderson and Councilor Wilson run for mayor, they cannot run for reelection to their council seats. That would put two new people on the council. Councilor Wilson said he felt positive about the people who have mentioned to him they are interested in running for council.

Councilor Henderson said he wouldn't want to be appointed as mayor unless the vote among council was 100 percent. Mayor Dirksen agreed that continuity is important but said he did not think the concern was sufficient to circumvent the process.

Councilor Woodard commented that, "Turnover is not all bad; there are a lot of good people out there. But it is unfortunate for me to watch three talented people that I respect possibly not be here next year."

Mayor Dirksen moved that the process to fill the vacancy of mayor, if there is one in the next six months, would be an election during the general election in November to fill the remaining two years of his term. Council President Buehner seconded the motion. The motion was amended by Councilor Wilson to include a provision that there be at least one month between the vacancy announcement and the filing deadline. Mayor Dirksen accepted the friendly amendment and there being no further discussion, called for a vote. The motion passed by a majority. Councilor Henderson abstained.

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

Mayor Dirksen said he will submit his resignation from the office of mayor when the final election results are accepted by Metro. City Manager Wine will follow up with Metro on whether or not these results can be accepted earlier than June 28.

3. COUNCIL LIAISON REPORTS -None

4. NON AGENDA ITEMS

5. EXECUTIVE SESSION – None held

6. ADJOURNMENT

At 8:23 p.m. Councilor Wilson moved for adjournment. Council President Buehner seconded the motion and the motion was approved by a unanimous vote of City Council present.

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

Carol A Krager

Carol A. Krager, City Recorder

Attest:

Mayor, City of Tigard

Date: 6/26/2012

I/ADM/CATHY/CCM/2012/Final/June/120605