Agenda Item No. 3A2
Meeting of 4.23.2013

# City *of* Tigard
# Tigard City Council Meeting Minutes
# February 26, 2013

EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. to discuss labor negotiations under ORS 192.660(2)(d).

STUDY SESSION

A. Discuss Possible Modifications to the City's Cross Connection Control Program

Staff Report: Public Works Utility Division Manager John Goodrich

Staff is seeking direction on whether the city should consider modifying its cross connection control program.

Utility Division Manager Goodrich reviewed the proposed change in administrative rules to ensure backflow assemblies for commercial and residential cross connections are regularly tested to assure the assemblies are functioning properly.

As a water provider, the City of Tigard is tasked with providing safe, high-quality drinking water to nearly 58,000 customers in Durham, King City, two-thirds of Tigard and unincorporated areas of Bull Mountain. A cross connection is an actual or potential link between the drinking water system and contaminants; most commonly these links occur with irrigation systems. Backflow prevention assemblies prevent contaminated water from being siphoned or pushed into the drinking water system.

Compliance under the current program to test backflow assemblies has fallen from 85 percent to 57 percent. This creates potential health and safety issues and also conflicts with the state's testing mandate. (Note: Nearly 100 percent of the city's non-residential customers comply with backflow testing requirements.)

Currently the Administrative Rules give the city authority to terminate a customer's water service should they fail to comply with testing requirements. Beginning with the 2013 backflow testing year, staff plans to terminate water service to those who fail to comply with testing requirements.

Utility Division Manager Goodrich reviewed the possible program modifications including offering a city service (voluntary) to coordinate testing for water customers. The cost of testing would be passed along to the customer in the utility bill.

Council members supported the proposed changes to the cross connection control program. Staff will prepare amendments to the existing administrative rules. Through the amendment process, the council and public will have an opportunity to provide feedback on any proposed changes.

B. Administrative Items:

1. Updated Agenda Item Summary was distributed to the City Council for Consent Agenda Item No. 3.G., Authorize the mayor to Execute an Agreement with ODOT Regarding the Pacific Highway/Gaarde Street/McDonald Street Intersection Improvements.

2. March Council/CCDA Calendar

- March 5, 2013 - CCDA Meeting, 6:30 p.m., Town Hall
- March 12, 2013 - Council Business Meeting – Canceled
- March 19, 2013 - Council Business/Workshop Meeting 6:30 p.m., Town Hall
- March 21, 2013 - Land Use Planning – League of Oregon Cities Workshop, 9 a.m. - 4 p.m., Tigard Public Works Auditorium (lunch provided)
- March 26, 2013 - Joint Meeting with Lake Oswego, 6:30-7 light dinner; 7-8:30 meeting with Lake Oswego followed by a Tigard City Council Business Meeting.

1. BUSINESS MEETING - FEBRUARY 26, 2013

A. Council President Henderson called the meeting to order at 7:30 p.m.

B. City Recorder Wheatley called the roll:

| Name | Present | Absent |
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| Mayor Cook | | ✓ |
| Council President Henderson | ✓ | |
| Councilor Buehner | ✓ | |
| Councilor Snider | ✓ | |
| Councilor Woodard | ✓ | |

C. Council President Henderson asked everyone to stand and join him in the Pledge of Allegiance.

D. Council President Henderson asks if there are any Council Communications or Liaison Reports

Councilor Woodard announced he would be attending upcoming Westside Economic Alliance meetings.

Councilor Buehner announced she will attend her first meeting as the Metropolitan Policy Advisory Committee Alternate Member on Wednesday.

Councilor Snider announced the Social Services Subcommittee of the Budget Committee met last night. Additional review will occur Wednesday. Recommendations will be forwarded to the City Council on allocation of funds to social service provider grant applicants.

E. Council President Henderson asked Council and Staff if there were any Non-Agenda Items. There were none.

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication: There was none.

B. Tigard High School Student Envoy - Associated Student Body President Megan Risinger presented an update to the City Council on student activities.

C. Tigard Area Chamber of Commerce Debi Mollahan, Tigard Area Chamber of Commerce Chief Executive officer presented an update to the City Council on recent and upcoming chamber activities.

D. Citizen Communication

Ellie Hajduk, 16423 SW 109th Avenue, Tigard, OR said she and her sister have wanted to raise chickens. Recently she explored pursuing the idea and has learned that the Tigard Municipal Code (Section 6.02.070) states that no poultry or livestock, other than normal household pets, may be kept unless housed or retained within a fenced run at least 100 feet from any nearby residence except a dwelling on the same lot.

Ms. Hajduk summarized her research on keeping chickens and learned they are not loud nor is there any offensive odor if properly cared for. She suggested if the number of chickens were kept to a few – three or four – and if there was no rooster, the neighbors would not be aware that their neighbor had chickens. She expressed her disappointment that kids, such as her, are unable to own chickens to work on science projects or earn scout badges. She asked if there was exception to the rule for children and, if not, could the rule be changed to decrease the 100 foot limit in the code to 25 or 50 feet. She also suggested the possibility of the city issuing chicken licenses. She commented other cities in the area allow chickens within 50 feet or less from neighbors.

Ms. Hajduk concluded by saying she hoped the city would consider changing the rules to allow chickens in more backyards.

Assistant City Manager Newton said Community Development Department staff would contact Ms. Hajduk to discuss her proposal for a code change.

Jill Byars, SEIU Local 199 President, referred to a letter submitted to the City Council on behalf of SEIU Local 503/OPEU, Local 199. She advised that on February 27, 2013, represented staff will attend the "City Day at the Capitol Event" in Salem to show support for legislative actions that would restore greater local authority over local decisions and give cities additional revenue resources to "pull us out of our current downward spiral." A copy of this February 21 letter is on file in the record copy of the council packet.

Glenna Thompson, 13676 SW Hall Blvd., Unit 2, Tigard OR 97223. She advised last night the Tualatin City Council unanimously voted to not go forward with the bridge across Tualatin River and the road to extend Hall Boulevard. She said she hoped the Tigard City Council will also cast their votes against the bridge and road extension. Ms. Thompson said she found it hard to believe that after spending $6 million to reestablish wetlands that "we would go through and just desecrate it again."

She said she lives at Fanno Creek Condos and submitted to City Recorder Wheatley a page of the Declaration of Covenants and Restrictions and sketch map. She said part of the property was sold to the City of Tigard on June 5, 2006. By agreement, the city placed walkway through this property and the city was to take care of everything on one side of the fence. However, this has not happened. She said the condo owners planted tree, which are now being affected by overgrown blackberry bushes. People who are walking by get scratched by the bushes and she has a concern that someone could get injured because of the overgrowth; she questioned who would carry the liability – the city or the condo owners. She would like to see the blackberry bushes removed. Assistant City Manager Newton said staff would contact Ms. Thompson about this matter.

Council President Henderson reviewed the Consent Agenda:

3. CONSENT AGENDA:

A. Approve City Council Meeting Minutes for:
   1. November 27, 2012
   2. December 18, 2012
   3. January 8, 2013
   4. January 15, 2013

B. Receive and File: Corrected 2013 Council Liaison Appointment Matrix

C. Establish the River Terrace Stakeholder Working Group – Resolution

   Resolution No. 13-05 – A RESOLUTION ESTABLISHING A STAKEHOLDER WORKING GROUP TO ADVISE STAFF DURING THE COMPLETION OF THE RIVER TERRACE COMMUNITY PLAN

D. Appoint Members to the River Terrace Stakeholder Working Group – Resolution

   Resolution No. 13-06 – A RESOLUTION APPOINTING MEMBERS TO THE RIVER TERRACE COMMUNITY PLAN STAKEHOLDER WORKING GROUP

**Representatives from government agencies**

- Nora Curtis, Clean Water Services
- Marc Woodard, City Council
- Richard Shavey, Planning Commission
- Ernie Brown, Tigard Tualatin School District

**Representatives from community organizations**

- Yolanda McVicker, CPO 4B
- Kathy Stallkamp, CPO 4K
- Lisa Hamilton, Friends of Bull Mountain
- Dick Winn, Friends of Tualatin River Wildlife Refuge

**Representatives from the River Terrace Area**

- Jim Beardsley, Property Owner- Area 64
- Joanne Criscione, Property Owner- Area 64
- Michael Freudenthal, Neighborhood Representative
- Fred Gast, Developer
- Dan Grimberg, Developer/Property Owner- Area 64
- Jerry Hanford, Neighborhood Representative
- Steve Jacobson, Property Owner- Area 63
- Marsha Lancaster, Property Owner- Urban Reserve
- Dina Weathers, Neighborhood Representative
- Matt Wellner, Developer/Property Owner- Area 63

E. Authorize the Mayor to Execute an Intergovernmental Agreement with Metro Regarding the Management of the Fields Property

F. Authorize the City Manager and Chief of Police to Execute an Intergovernmental Agreement with Washington County Juvenile Department

G. Authorize the Mayor to Execute an Agreement with the Oregon Department of Transportation Regarding the Pacific Highway/Gaarde Street/McDonald Street Intersection Improvements

H. Joint Resolution with the City of Beaverton: Agree to Coordinate the Beaverton South Cooper Mountain and the Tigard River Terrace Planning Efforts – Resolution

Resolution No. 13-07 – A JOINT RESOLUITON OF THE CITY OF BEAVERTON AND THE CITY OF TIGARD REGARDING COORDINATION OF THE SOUTH COOPER MOUNTAIN AND RIVER TERRACE PLANNING EFFORTS

Motion by Councilor Buehner, seconded by Councilor Snider, to approve the Consent Agenda minus Consent Agenda Item 3.D.

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

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|---|---|
| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Yes |
| Councilor Snider | Yes |

Item No. 3.D. was voted on separately as Councilor Buehner said she would not vote on this item due to a conflict of interest.

Motion by Councilor Snider, seconded by Councilor Woodard, to approve Item No. 3.D.

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Abstained (citing conflict of interest since this action relates to a client of hers) |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

4. QUASI-JUDICIAL PUBLIC HEARING - ZONE CHANGE ANNEXATION (ZCA) 2012-00002 - HUMMEL ANNEXATION

**REQUEST**: A request to annex one parcel (1.01 acres) on SW 133rd Avenue to the City of Tigard to obtain sanitary sewer service. LOCATION: 14695 SW 133rd Avenue; Washington County Tax Assessor's Map 2S109AC, Tax Lot 0500.

**COUNTY ZONE**: R6: Residential, 5 units/acre minimum density, 6 units/acre maximum density. The purpose of the R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2, Section 300-5, or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

**EQUIVALENT CITY ZONE**: R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also 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, Goal 11, Goal 12, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

Council President Henderson opened the public hearing.

Hearing procedures were reviewed.

Associate Planner Caines presented the staff report, which is on file with the council packet material.

There was no public testimony.

During discussion on the annexation proposal, Councilor Woodard and Councilor Buehner referred to the city's annexation policy with regard to island annexations. Councilor Buehner gave the history of a policy decision by the council in 2006 to not create islands to work with people on Bull Mountain. With this annexation, an island is being created. Councilor Buehner said she understands it is necessary for the applicant to annex to receive sewer service. The policy on annexations and creating islands is something the council might want to discuss in the near future. There is potential for additional islands being created through similar annexation requests prompted by failing septic systems and the need for sewer service.

Council President Henderson closed the public hearing.

Motion by Councilor Woodard, seconded by Councilor Buehner, to approve Ordinance No. 13-03.

ORDINANCE NO. 13-03 - AN ORDINANCE ANNEXING ONE (1) PARCEL OF LAND TOTALLING 1.01 ACRES, APPROVING THE HUMMEL ANNEXATION (ZCA2012-00002) AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT.

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Yes |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

Councilor Buehner left the meeting.

5. LEGISLATIVE PUBLIC HEARING - DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT & GENERAL PLAN DISTRICT STANDARDS DEVELOPMENT CODE AMENDMENT (DCA) DCA2012-00004

**PROPOSAL:** The City of Tigard proposes legislative amendments to the Tigard Development Code (TDC) and Zoning Map in a combined amendment package to adopt two new chapters and clarify the applicable boundaries of four existing chapters. The City proposes the adoption of Chapter 18.605 (Plan Districts) to provide approval standards for the adoption of future plan

districts or the modification of existing and future plan districts. The City and Clean Water Services jointly propose the adoption of Chapter 18.650 to create a new plan district to govern future development within the 106 acre Durham Advanced Wastewater Treatment Facility (Durham Facility). The City also proposes text amendments to TDC Chapters 18.600, 610, 620, 630, and 640 to create a uniform naming convention and add boundary maps to provide clarity as to where the regulations apply; boundary maps to be identical to those adopted with the applicable chapters for illustrative and clarifying purposes only. The City also proposes corresponding changes to the official Zoning Map to add the boundaries of the Durham Facility Plan District and four other existing plan districts which are not presently shown. The proposed amendments for the Planning Commission's review are included in Attachment 1 and summarized below in Section IV of this report:

**APPLICANTS:**

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|---|---|
| City of Tigard<br>13125 SW Hall Blvd.<br>Tigard, OR 97223 | Clean Water Services<br>2550 SW Hillsboro Highway<br>Hillsboro, OR 97123 |

**ZONES:**
Chapters 18.600 & 18.605: Citywide
Chapter 18.610: MU-CBD Zoning District
Chapter 18.620: C-G & MUE
Chapter 18.630: MUC, MUE-1, MUE-2, MUR-1, MUR-2, R-4.5, R-7, & R-12
Chapter 18.640: MUC-1
Chapter 18.650: I-P & R-4.5

LOCATION: Citywide and properties identified in the Attached Maps.

APPLICABLE
REVIEW
CRITERIA: Statewide Planning Goals 1, 2, 6, 9, 10, 11 and 13; Metro Urban Growth Management Function Plan Title 4; Comprehensive Plan Goals 1, 2, 6, 9, 10, and 11; and Community Development Code Chapters 18.380 and 18.390.

Council President Henderson opened the public hearing.

Associate Planner Floyd presented the staff report, which is on file with the council packet material.

There was no public testimony.

Motion by Councilor Snider, seconded by Councilor Woodard, to approve Ordinance No. 13-04.

ORDINANCE NO. 13-04 – AN ORDINANCE AMENDING THE TIGARD ZONING MAP TO INCLUDE EXISTING BOUNDARIES OF THE CITY'S ADOPTED PLAN DISTRICTS; AMENDING EXISTING TIGARD COMMUNITY DEVELOPMENT CODE CHAPTERS 18.600, 18.610, 18.620, 18.630, 18.640 TO ESTABLISH A UNIFORM NAMING CONVENTION FOR PLAN DISTRICTS AND CLARIFY WHERE THE REGULATIONS CONTAINED WITHIN EACH CHAPTER APPLY; AND CREATING TWO NEW CHAPTERS WITHIN THE TIGARD COMMUNITY DEVELOPMENT CODE TO BE KNOWN AS 18.605 AND 18.650 FOR THE PURPOSES OF ESTABLISHING APPROVAL PROCEDURES AND STANDARDS FOR PLAN DISTRICTS AND ESTABLISHING THE DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT.

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Absent |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

6. RENEW ANNEXATION INCENTIVES AND DISCUSS ANNEXATION POLICY DIRECTION - RESOLUTION

Associate Planner Pagenstecher presented the staff report. As stipulated in Resolution No. 12-09, council's annual review of its annexation policy, including annexation incentives is to occur in February 2013. Adopting the proposed resolution would preserve the incentives for another year, pending council reconsideration of incentives at a future date.

Motion by Councilor Woodard, seconded by Councilor Snider, to approve Resolution No. 13-08.

*RESOLUTION NO. 13-08* – A RESOLUTION AMENDING RESOLUTION 07-13 TO EXTEND THE INCENTIVES FOR VOLUNTARY ANNEXATION OF UNINCORPORATED LANDS TO THE MUNICPAL CITY LIMITS TO FEBRUARY 2014

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Absent |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

7. ADOPT A RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY FOR THE 92ND AVENUE SIDEWALK PROJECT - RESOLUTION

City Engineer Stone presented the staff report. The city plans to construct a sidewalk along one side of 92nd Avenue from Waverly Drive (at the south end of the Tigard High School property) to Cook Park. This section of 92nd Avenue currently has no sidewalks and is a highly-traveled pedestrian route. The project will provide a place for pedestrians to walk that is off a paved roadway.

To construct the sidewalk, the city needs to acquire easements and private property for right of way; property must be acquired from one property owner.

The staff report explains the reason for requesting council consideration of the proposed resolution of necessity. If there is a possibility that property condemnation be required, the federal property acquisition process dictates that a resolution of necessity be adopted before negotiations begin. The city follows the federal process to ensure it will qualify for federal funding opportunities now and in the future.

Council members commented on the desire to have a sidewalk at this location for safety, especially when there are large crowds attending events at the high school and Cook Park.

Motion by Councilor Snider, seconded by Councilor Woodard, to approve Resolution No. 13-09.

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

RESOLUTION NO. 13-09 – A RESOLUTION DECLARING THE NEED TO ACQUIRE A RIGHT OF WAY AND EASEMENTS ON PROPERTY FOR THE PURPOSE OF CONSTRUCTING STREET IMPROVEMENTS ALONG 92ND AVENUE AND AUTHORIZING IMMEDIATE POSSESSION OF THE PROPERTY

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Absent |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

8. COUNCIL LIAISON REPORTS – There were none.

9. NON AGENDA ITEMS – There were none.

10. EXECUTIVE SESSION – Not held.

11. ADJOURNMENT – 9:08 p.m.

Motion by Councilor Woodard, seconded by Councilor Snider, to adjourn the meeting.

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

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| Mayor Cook | Absent |
| Council President Henderson | Yes |
| Councilor Buehner | Absent |
| Councilor Snider | Yes |
| Councilor Woodard | Yes |

Catherine Wheatley

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: April 23, 2013

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