City *of* Tigard
Tigard City Council Meeting Minutes
May 28, 2013

Mayor Cook to call the meeting to order at 6:30 p.m. and advised the City Council would be meeting in Executive Session.

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

Staff Present: City Manager Wine, Assistant City Manager Newton, Community Development Director Asher, City Attorney Ramis, City Recorder Wheatley

The mayor read the following citation and information regarding the purpose of the Executive Session. The Executive Session scheduled for the discussion of labor negotiations was cancelled; this matter will be rescheduled.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. for consultation with legal counsel about litigation likely to be filed under 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.

Executive Session concluded at 7:12 p.m. and the City Council study session convened.

- STUDY SESSION
  Track 3
  City Manager Wine reviewed the following administrative items:
  - The Tigard Chamber requested scheduling a *Meet Your City Council* event on either September 23 or 30 (both are Monday nights) from 6-7 p.m. Appetizers will be served at this event. Council members advised that either date is all right.

- City Council members were asked to contact staff if there was interest in participation in the League of Oregon Cities City Awards program.

Council Calendar:

June

4	Tuesday	City Center Development Agency – 6:30 p.m., **Red** Rock Creek Conference Room
11*	Tuesday	Council Business Meeting—6:30 p.m., Town Hall
18*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
25*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall

- In response to a question from Council President Henderson, City Manager Wine confirmed the city will be applying for Community Development Block Grants.

Study Session concluded at 7:19 p.m.

1. BUSINESS MEETING - May 28, 2013

A. Mayor Cook called the meeting to order at 7:31 p.m.

B. Mayor Cook asked City Recorder Wheatley to call the roll:

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

C. Mayor Cook asked everyone to stand and join him in the Pledge of Allegiance

D. Council Communications & Liaison Reports – Mayor Cook asked for communications and reports from the council. Councilor Buehner advised she would give a report at the end of the business meeting.

E. Mayor Cook called for non-agenda items. There were none.

2. CITIZEN COMMUNICATION

A. Consider a Resolution Acknowledging and Commending Megan Risinger for Her Service as Tigard High School Student Envoy to the City of Tigard.

Mayor Cook introduced this agenda item and read the proposed resolution thanking Student Envoy Risinger for her communications to the City Council about Tigard High School during the 2012-2013 school year.

Motion by Councilor Buehner, seconded by Councilor Snider, to approve Resolution No. 13-22.

RESOLUTION NO. 13-22 - A RESOLUTION ACKNOWLEDGING AND COMMENDING MEGAN RISINGER FOR HER SERVICE AS THE TIGARD HIGH SCHOOL STUDENT ENVOY TO THE CITY OF TIGARD

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

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

B. Honor the 2013 State Championship Tigard High School Speech and Debate Team

Mayor Cook announced the City of Tigard's desire to honor the 2013 State Championship Tigard High School Speech and Debate Team.

The Tigard High School Speech and Debate team won the Oregon School Activities (OSAA) 2013 Speech State Championship. This year's contest was held at Western Oregon University on April 18-20. 440 students from 63 schools in Oregon competed.

This is the second time in four years that Tigard has taken the top prize The team has finished in the top three for the last 4 years: 2010 - 1st, 2011-3rd, 2012-2nd and 2013-lst. Tigard Speech and Debate qualified 22 students to the State Championship, resulting in:

- State Champion (lst place) Dual Interpretation Team - Olivia Cordell and Tristy Retzlaff
- State Champion (lst place) Cross Examination Debate Team - Courtney Bither and Narin Luangrath
- 3 of the top 16 Parliamentary Debate teams in Oregon, including the 3rd place team of Kevin Jiang and Zach Bigej
- 1 of the state's top 16 Lincoln Douglas debaters - Paul Altotsky
- 2 semi-finalists in Humorous Interpretation - Kyle Novy Riley and Tristy Retzlaff
- A finalist in Dramatic Interpretation - Kyle Novy Riley
- A finalist in Impromptu Speaking - Max Redman
- Second place finisher in Extemporaneous Speaking - Kevin Jiang

The head coach is Matthew Compton and assistant coach is Amber Manning.

Three students qualified for the National Forensics Tournament, to be held in Alabama this summer - Kyle Novy Riley, Tristy Retzlaff and Olivia Cordell.

C. Follow-up to Previous Citizen Communication

Announcement was made that follow-up on some pending items will be reviewed during the non-agenda segment of the meeting. (See Item No. 8)

D. Citizen Communication – Sign Up Sheet

Jim Long, Chair of Citizens Participation Organization 4M (CPO4M), 10730 SW 72nd Avenue, Tigard, Oregon 97223 distributed a document, *Questions to ask Walmart and the City of Tigard.*

He advised he was in Salem earlier today where Governor Kitzhaber signed a proclamation recognizing Patricia Whiting who served in the past as a chair of CPO4M.

He advised Walmart had been invited to send representatives to CPO4M meetings in April and May. When Walmart was unable to send a representative during these months, he said Assistant City Manager Newton suggested the CPO develop questions related to Walmart development. At last Wednesday's CPO meeting, the attendees submitted questions which are listed in the document distributed to the City Council. Mr. Long drew attention to a few of the questions on the list:

1. Requested the Walmart topic be placed on the next City Council agenda.
2. People were wondering about lack of transparency on the city's part noting the Walmart project was reviewed and approved with the application showing "un-named applicant."
3. Why is the City Council approving gas tax usage for a non-priority project such as Walmart to the detriment of previously designated priority projects?
4. Due to the sensitivity of the current gun debate, is it prudent for the city to approve development for the nation's largest retailer of firearms?
5. How many vehicle trips will there be per day and what will be done to prevent traffic from spilling onto residential areas?
6. What will the tax subsidies be from the city, county, state and federal governments for the Walmart store?
7. What type of annual taxes will Walmart pay to the City of Tigard?
8. Where will all the wastewater be deposited during construction?

Mr. Long reviewed a list of comments and requests outlined on the last page of the document he submitted to the City Council.

Steven Schafer, 11200 SW 83rd Avenue, Tigard, Oregon 97223 advised he started an online petition to keep Walmart out of Tigard. Since the Town Hall meeting last month, there have been a total 503 signatures collected. Of this number, about 242 are from Tigard citizens who are angry and have spoken out and want to know what the City Council is doing to keep Walmart out of Tigard. He said he is reaching out to Representative Doherty for her support and she would like the council's support also. Mr. Shafer said he would like to know, on the public record, if each council member is individually willing to sign the petition and, if not, why. He said due to the exponential growth of traffic in the area since the original traffic study was done, he requested a new traffic impact analysis with updated information for growth projections for the next 20 years. He requested assistance on how to formally request the traffic impact analysis if it is not through the City Council.

Steve Bintliff, 13520 SW 122nd Avenue, Tigard, Oregon 97223 referred to comments written by former State Representative Larry Galizio noting people in Tigard have legitimate concerns "...about this massive facility. They want to know what it will do to our traffic and our environment. They have serious worries about the impact on small businesses and local retailers, quality jobs with decent benefits and the overall quality of life in our community."

Mr. Bintliff advised that in 2006, Representative Galizio formed a group called "Tigard First" to oppose a development of Walmart at the Tigard current site. The group, with support from then Mayor Dirksen, ultimately succeeded in stopping that development. Since 2006 the plan remained intact with only minor modifications. It has been three years since there has been any opportunity for public input through a city sanctioned hearing. Today the groundbreaking on the site is only days away; however, there are still concerns about traffic, wetlands on the site and impacts on small businesses. None of the questions have been adequately answered.

Despite vehement opposition by Tigard citizens of the Walmart development in the past, the city continues with its preparation for this project with no attempt to get citizen input. Two weeks ago the City Council gave an engineering firm $108,000 to finish the site and granted them an exemption from the city's competitive bidding regulations. The council approved the use of the city's eminent domain powers to condemn the land needed for intersection improvements. The council has agreed to an ambitious street improvement plan with funding of up to $1 million from the city's gas tax fund – at the expense of much-needed improvements in neighborhoods such as his. He said the commitment of these funds represent a partial back-door subsidy of the Walmart development at the expense of most neighborhoods in the city. He urged the city to have a dialogue with its citizens about this

project and what it will mean. He requested the city hold some town hall meetings and council meetings for the specific purpose of reviewing this issue to give the citizens a voice/say in what is to happen.

Jennifer Vasicek, 11010 SW Eschman Way, Tigard, OR 97223 shared her account of her opposition to the proposed Walmart at 72nd and Dartmouth. She became involved with this issue when she attended the April 30 Tigard Town Hall meeting. During the Town Hall meeting, the mayor and council agreed to hold a study session on this topic. The citizens in opposition have been told repeatedly that the city attorney is reviewing the subject and may or may not recommend the council hold the proposed study session. Meanwhile, groundbreaking on the new Walmart could happen any day. There is also an unsubstantiated rumor in the community that the mayor and council have been advised to not discuss the Walmart project without a Walmart representative present.

Ms. Vasicek said that Walmart has operated under a such a cloak of secrecy that she soon came to realize that she was not the only one finding out about this project in the 11th hour. It became her goal to educate as many people as possible. On May 4, she sent an email to the Tigard area website administrators asking if a message could be conveyed to the readers of these websites that community members had come together to oppose the new Walmart. Two days later an email was sent to the administrators reminding them that program guidelines prohibit advertising on the blog. Tigard Area 3 currently has a post titled, *Walmart announces plans to open a store in Tigard*, which links directly to Walmart's website. No mention of the community opposition group was ever made on any of the neighborhood websites.

On May 4, Ms. Vasicek sent an email to the Downtown Tigard Business District asking for support. She received no response. She said she later learned that this group is administered by the Tigard Area Chamber of Commerce.

She said that on May 19, a group opposing the Walmart project gathered on the public sidewalk outside the Tigard Farmer's Market and the police were called in an attempt to remove them. She said the Market is run by the Chamber of Commerce.

Ms. Vasicek reported that in March of 2012, the Chamber of Commerce Director went on record with the Portland Tribune stating she was excited about the 300 jobs that Walmart will bring to the area.

On May 16, Ms. Vasicek submitted a public information request to the City of Tigard. She requested any and all emails relating to Walmart between the dates of May 1 – 16. She was told the estimated cost for 80 emails would be between $320-475 and they would need to be reviewed by the city attorney before being released. She said she also learned that fee

waivers are rarely, if ever, granted and that her private dollars would be needed to fund her request.

She said the petition in opposition to Walmart has more than 500 signatures. At the last City Council meeting, she said a City Council member asked the question, "How do we get engagement from the community?" She noted the community is now engaged and questioned how the City Council plans to respond.

Ms. Vasicek said she has been met with resistance from "those who are supposed to be my advocates and claim to be proponents of small business in this community."

She asked the council to be mindful of what its constituency is saying both here at this meeting and through the petition and take direct action to stop the Tigard Walmart development.

Deborah Norton, 10425 SW 43rd Avenue, Portland, which is near the proposed Walmart site. She said she was before the council as a representative for human rights all across the country. She referred to an industrial disaster at the Rana Plaza building in Bangladesh (April 23, 2013) where 1,120 workers who sewed clothes for Walmart perished in the rubble. She said putting a Walmart in any city after such a tragedy is a "...bad place to be for any politician." She said she has spoken to many Tigard residents who are "...shocked and sad and they are also giving up...that means they have given up on you because you let the beast in..." She said this is a direct betrayal to the companies on Main Street, which has been undergoing revitalization efforts by the city. She said she hopes the council considers the serious impacts that Walmart places on this planet and the tragic loss of lives in the effort for us to look good to buy more and pay less.

Justin Kertson said he lives in SW Portland on SW 43rd Avenue. He said he hears people talking about the 300 jobs the Walmart store will create for the City of Tigard. While that might sound great, he said he thinks it is important to ask what kind of jobs are these. According to a Bloomberg study the average Walmart associate makes only $8.81 per hour. An employee who works at Walmart 34 hours per week makes $15,000 per year – less than $1,300 per month – this is below the poverty line. In this area, the average cost of a one-bedroom apartment is around $700 per month. He questioned how a family is expected to survive on such a wage.

Mr. Kertson referred to the effects on taxpayers because of Walmart's low wages. He said in communities where there are Walmarts, they create tax burdens. He said major studies in the states of Georgia, California and Massachusetts found that Walmart employees cost taxpayers an average of $420,000 per store per year for food stamps, Medicaid and other state health insurance programs. In some stores, as many as 80 percent of Walmart's

workers are on food stamps, costing US taxpayers annually over $1 billion. Walmart's low prices are taxpayer subsidized. He said, "They get away with it because we let them. Are Tigard residents really willing to pay an additional $420,000 per year in taxes to subsidize Walmart's low wages and low prices. As of last year, January 2012, Walmart no longer offers health benefits to who work less than 24 hours per week. And, they raised the premiums of their eligible workers by up to 120 percent, making even eligible employees unable to afford the benefits, so they turn to state programs instead."

Mr. Kerston said in 2002, over 400 employees from 24 of 27 stores in Oregon sued Walmart for several million dollars in stolen back pay. There were similar lawsuits pending in 30 other states. Between July 2005 and June 2011, Walmart settled an estimated 70 state and federal class-action wage and hour lawsuits, costing them over $1 billion.

Mr. Kerston asked, "Is this the kind of company, are these the kinds of jobs that we really want to bring to this community? Is this the kind economic development that the Mayor and the City Council really want to be remembered for?"

Mayor Cook reported on follow up from the Town Hall meeting. He said the council agreed to ask the city attorney's office to prepare information listing options on this issue for council review. The City Council received comments from the city attorney tonight. The mayor said he has not had a chance to look at the city attorney's comments and was not prepared to comment on any of the testimony tonight.

Councilor Snider clarified council promised to look at other policy options, which was the subject matter of the document received by the council from the city attorney this evening. It is important to note that from a land use perspective, the process is over for the Walmart project. The application as it came in was not proposed as Walmart. The application was approved, with conditions. As long as the conditions are met, there is no opportunity to follow up with the community because there is nothing up for consideration (from a land use perspective). The council will review the options outlined by the city attorney and consider whether there should be a future discussion.

Mayor Cook asked Assistant City Manager Newton for an update about her meeting with Walmart representatives today. Ms. Newton said Walmart has selected a contractor. The city staff met with the contractor today. A timeline is being developed. There must be a preconstruction meeting with the Oregon Department of Transportation (ODOT) because many of the off-site requirements are ODOT requirements. Walmart has significant requirements to protect the wetlands and all of those protections must be installed and approved before "they can turn any dirt on the site." She said citizens might see some fencing going up – and this could start fairly soon. Information will be posted on the city's website by next Monday regarding what citizens should expect with regard to activity on the site.

City Manager Wine said some assertions have been made about some city projects; i.e., 72nd and Dartmouth. City officials would be happy to be part of public meetings to discuss projects related to the city. She referred to a condition of one of Walmart's permits requiring Walmart to have public meetings about the project. City officials want Walmart to speak directly about their project. She called attention to the distinction about participation on the part of the city – city officials will gladly answer questions about city projects including those that are related to the Walmart project. These projects will improve our transportation system and are changes the city would have made in any event.

3. LEGISLATIVE PUBLIC HEARING: TIGARD GOAL 10 POPULATION AND HOUSING REVIEW - COMPREHENSIVE PLAN AMENDMENT (CPA) 2013-00001 AND DEVELOPMENT CODE AMENDMENT (DCA) 2013-00002
7:50 p.m. - estimated time

REQUEST: To adopt the Population and Housing Review as a component of Tigard Comprehensive Plan Goal 10: Housing; to amend the current Tigard Comprehensive Plan Goal 10: Housing goals, policies, and recommended action measures; to amend Tigard Development Code section 18.360; and to amend the current Tigard Comprehensive Plan Goal 2: Land Use Planning

LOCATION: Citywide.
ZONE: All City Zoning Districts.
APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.360; Comprehensive Plan Goals 9; Comprehensive Goal 2; and Statewide Planning Goals 1, 2, 10 and 14.

a. Mayor Cook opened the public hearing.

b Associate Planner Daniels presented the staff report. The City of Tigard is currently undertaking the Comprehensive Plan periodic review. One of the work tasks is to conduct a population and housing review. The city received grant funds from the Oregon Department of Land Conservation and Development for technical consultant assistance to complete this work. The project meets the state requirements for Goal 10, Population and Housing Analysis and it acts as a resource for staff decision makers and the public.

Ms. Daniels said there are four components of the proposal and she reviewed them. The end result will be for a list of potential strategies that the city can take to meet its future demand for housing to implement the city's aspirations and the state

requirements. The key points that will occur if the proposed ordinance is adopted are listed below:

- Adopt the population and housing review as a component of Tigard's Comprehensive Plan Goal 10: Housing
- Amend the Tigard Comprehensive Goal 10: Housing to reflect current conditions and trends
- Amend the Tigard Comprehensive Plan Goal 2: Land Use Planning
- Amend Tigard Development Code Section 18.360 to ensure the city's standards related to housing are clear and objective.

Ms. Daniels noted the housing strategies report recommends additional Development Code amendments to further the city's vision for future housing. These amendments will be included as part of an action plan and addressed as part of the Community Development Department's future work program.

c. Council questions/comments:

Councilor Snider recalled this matter was on a study session agenda previously. He asked if any changes were incorporated based on input provided at this session. Ms. Daniels said no direction was given to staff for changes. However, she received comments from Justin Wood of the Homebuilders Association and those comments were distributed to the City Council.

Mayor Cook asked how often the Comprehensive Plan is updated. Senior Planner Wyss said the Oregon's Land Use Planning Rules recommend periodic review for cities and counties to occur every seven years; however, due to staffing and budget issues with the Department of Land Conservation and Development, the review has not been conducted for almost 20 years. Tigard's entire Comprehensive Plan was updated recently; the Goal 10 housing section was one of the components updated. In response to a comment from Mayor Cook, the Comprehensive Plan can be reviewed and updated by the City Council at any time.

d. Public Testimony – There was none.

e. Staff Recommendation – Ms. Daniels advised that staff recommends that the Tigard City Council adopt the proposal as determined through the hearing process.

f. Mayor Cook closed the public hearing.

g. Council Discussion and Consideration: Ordinance No. 13-08

Mayor Cook referred to the Housing Strategies Report, under No. 2 in the first paragraph. There is a statement that Tigard is the 13th largest city in Oregon. He understands that Tigard is the 12th largest city, but is the 13th largest if some unincorporated areas (i.e., Aloha) are included.

Councilor Buehner said it has been her experience that the population forecasting provided by Metro has been inaccurate; population estimates tend to be too high for Multnomah County and too low for Washington County in general and the cities within Washington County. When she was involved in the urban reserve process a few years ago, she was unable to ascertain Metro's methodology for population forecasting. In 1980, Metro projected Tigard's population to be 40,000 by 2020; however, Tigard's current population is almost 50,000. Councilor Buehner advised that staff and the consultant have done a good job on this project; however, the state requires use of the Metro population projections and this will cause a problem with the final product. She said she will vote no on this since she believes the numbers are flawed and will not serve our population with regard to the Comprehensive Plan.

Council President Henderson said he thinks the information gathered from this project is of great value for how we continue to grow in Tigard. He indicated he was glad this section of the Comprehensive Plan is being updated.

Councilor Snider asked if the methodology concern raised by Councilor Buehner is a statutory requirement. Senior Planner Wyss clarified that the population estimate that was done for the Goal 10 Housing Study uses census data and the average annual rate of growth. The Metro growth forecast was not used for this study.

In response to a question from Mayor Cook, Senior Planner Wyss said Metro is tasked by the state to do the growth forecast for the Portland metropolitan region, which is how urban growth boundary expansion decisions get made. Transportation planning for Tigard's Transportation System Plan also utilizes the Metro numbers. Mayor Cook referred to testimony supplied by Justin Wood of the Homebuilders Association whereby he was accepting of the forecasting numbers with the caveat

that the numbers could be inaccurate depending on how development occurs. Mayor Cook noted the city should have the opportunity to review and adjust its forecast if circumstances change.

Motion by Councilor Snider, seconded by Council President Henderson, to adopt Ordinance No. 13-08.

City Recorder Wheatley read the title and number of the proposed ordinance:

ORDINANCE NO. 13-08- AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA 2013-00001 AND DCA 2013-00002 TO ADOPT THE POPULATION AND HOUSING REVIEW AS A COMPONENT OF TIGARD COMPREHENSIVE PLAN GOAL 10: HOUSING; TO AMEND TIGARD COMPREHENSIVE PLAN GOAL 10: HOUSING; TO AMEND TIGARD DEVELOPMENT CODE SECTION 18.360; AND TO AMEND TIGARD COMPREHENSIVE PLAN GOAL 2: LAND USE PLANNING

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

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	No
Councilor Snider	Yes
Councilor Woodard	Absent

Mayor announced Agenda Item No. 4:

4. ADOPT AN UPDATED 10-YEAR FRANCHISE AGREEMENT WITH PORTLAND GENERAL ELECTRIC

Assistant to the City Manager Mills presented the staff report. Highlights of the proposed updated agreement are outlined in the staff report on file with the council packet materials.

PGE Local Government Affairs Representative Mark Fryburg spoke highly of the negotiation teams who worked on coming to agreement.

Motion by Councilor Buehner, seconded by Councilor Snider to approve Ordinance No. 13-09.

ORDINANCE NO. 13-09 - AN ORDINANCE GRANTING A RENEWAL OF THE NON-EXCLUSIVE FRANCHISE WITH PORTLAND GENERAL ELECTRIC COMPANY (PGE) TO OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF TIGARD, OREGON, INCLUDING THE RIGHT TO PLACE AND OPERATE THIS SYSTEM IN THE PUBLIC

RIGHTS-OF-WAY; FIXING THE TERMS AND CONDITIONS FOR SAID FRANCHISE, REPEALING ORDINANCE NO. 93-07, AUTHORIZING
THE MAYOR TO SIGN THIS AGREEMENT, AND DECLARING AN EMERGENCY.

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

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

Mayor Cook announced Agenda Item No. 5:

5 LEGISLATIVE PUBLIC HEARING: MASCO DEVELOPMENT CODE AMENDMENT - (DCA) 2012-00003

REQUEST: The amendment would alter Land Use Table 18.530.1 (Industrial Zones) to change Industrial Services from a prohibited land use to a restricted land use within the I-P: Industrial Park Zoning District.

LOCATION: All properties located within the I-P: Industrial Park Zoning District

ZONES: I-P: Industrial Park Zoning District

COMP PLAN: Light Industrial

APPLICABLE REVIEW CRITERIA: Statewide Planning Goals 1, 2, & 9; Metro Title 4; Comprehensive Plan Policies 2.1.3, 2.1.7, 9.1.2, 9.1.3, & 9.1.7; and Community Development Code Chapters 18.380, 18.390, & 18.530.

a. Mayor Cook opened the public hearing.

b. Associate Planner Floyd presented the staff report. He reviewed the Planning Commission recommendation on the proposed amendment to Table 18.530.1 of the Tigard Development Code. This amendment was initiated by a property owner. The effect of the amendment would be to allow industrial services as a restricted land use within the Industrial Park Zoning District. He reviewed the key points of the proposed amendment highlighted in the written staff report.

In response to a question by Councilor Snider, Associate Planner Floyd advised staff had no concerns or reservations about the request.

c. Mr. Lans Stout, 7650 SW Beveland, Tigard, Oregon was present to represent the applicant, MASCO. His client felt it was worthwhile to go through this process to restore their conformity to the zoning code and correct a problem that exists for them and other property owners in the City of Tigard.

Mayor Cook noted appreciation for the applicant's work to come forward to go through the process and pay the costs to propose this amendment with which the staff supports. The benefits derived from this action that will improve the code.

Councilor Snider disclosed what could be perceived as a conflict. Councilor Snider said he does not believe he has an actual conflict but advised that his father handled litigation on behalf of MASCO many years ago.

There were no proponents or opponents to present testimony.

d. Associate Planner Floyd advised staff recommends that the council find in favor of the Planning Commission's recommendation and adopt the proposed ordinance.

e. Mayor Cook closed the public hearing.

f. Motion by Councilor Buehner, seconded by Council President Henderson, to adopt Ordinance No. 13-10.

ORDINANCE NO. 13-10 - AN ORDINANCE AMENDING TABLE 18.530.1 OF THE TIGARD COMMUNITY DEVELOPMENT CODE TO CHANGE INDUSTRIAL SERVICES FROM A PROHIBITED LAND USE TO A RESTRICTED LAND USE WITHIN THE I-P: INDUSTRIAL PARK ZONING DISTRICT (DCA2012-00003).

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

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

Mayor Cook announced Agenda Item No. 6:

6. CONSIDER FEE WAIVER FOR CREATIVE HANDS COOPERATIVE PRESCHOOL

Assistant City Manager Newton presented the staff report. Approval of the request would allow a nonprofit cooperative preschool in Calvin Presbyterian Church at 10445 SW Canterbury Lane. The church is located in a residential zone as churches are allowed in residential zones as a conditional use. The preschool would go into the space previously occupied by Mitch. Preschools that are church sponsored are allowed as an accessory use to the primary use and the fee for such preschools is calculated as an accessory use or as part of the original conditional use. There are not many situations similar to the situation being experienced by Creative Hands. A conditional use fee is $5,722.

The council is authorized to waive the charge for an application for a non-profit organization if they request the waiver in writing. Council's responsibility is to determine whether there are community benefits offered by the proposed activity that outweigh the financial burden on the city. Attached in the council packet materials is information provided by Creative Hands stating what they think are the community benefits of the preschool.

Staff review included an evaluation of whether granting such a waiver would establish a precedent. Ms. Newton reviewed and looked at potential preschool iterations. Most of the preschools in Tigard are home-based, part of an existing church or they are a commercial entity. There are 19 churches located in residential zones where this might come up. There are a few churches that have preschools; however, most of them do not. It is staff's opinion that it is unlikely that granting this fee waiver would set a precedent where the city would forego a large amount of revenue. Staff recommends that the City Council make a motion to approve the request for the fee waiver for this use.

Councilor Snider said it is his understanding that fees are set to recoup the costs of providing the service. The $5,722 seems excessive. Ms. Newton said the fee is set based on an average for processing all conditional use applications. Generally such aspects include examination of traffic impacts, noise, etc. The preschool in the matter before the council is a compatible use in an existing church in a neighborhood. Later, Ms. Newton advised that the conditional use review for the preschool would not be as extensive as some other conditional use reviews.

Council President Henderson referred to the Mitch Charter School that was at this location previously – so there is history for such a use. He asked if this information could be used. Ms. Newton said this was reviewed and Mitch was defined in the conditional use as a "school," and this preschool is defined as a "daycare."

Councilor Buehner commented on the preschool issue noting her church had a preschool located within it. She said she is unclear as on the distinction between a private preschool located in a church versus a church-sponsored preschool. Ms. Newton said the primary difference is if a use is church sponsored, then it is considered an accessory use to the church.

Councilor Snider asked what the charge would be for an accessory use permit. Ms. Newton said $672.

President Melissa Parmelee spoke to the council on the number of children and the mission of the preschool.

Discussion followed and council members weighed in on their support for a reduced fee amount. Staff reviewed the approximate costs to process this request, including this being reviewed by the Hearings Officer.

Motion by Councilor Snider, seconded by Councilor Buehner, to reduce the fee for the conditional use permit to $672.

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

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

7. COUNCIL LIAISON REPORTS

Councilor Buehner gave a report on a recent Metropolitan Policy Advisory Committee. School facility planning schools were discussed and a related senate bill, SB540. City Manager Wine said the last update she received was that this bill was not moving forward. Councilor Buehner advised that a group of consultants compiled information regarding various ways you could improve infrastructure to develop a variety of skills in children. The proposed bill would have provided funding for infrastructure development. A pilot program was conducted among seven school districts in the metro area and Councilor Buehner said she was concerned that the Tigard-Tualatin School District did not participate in the program.

Another topic discussed at the MPAC meeting was a report on community investment initiatives, *Development-Ready Communities Pilot Program.* Councilor Buehner provided a copy of the PowerPoint presentation given during the MPAC meeting and asked that a copy be provided to the mayor and council members. A copy of the presentation is filed with the packet materials for this meeting.

Mayor Cook advised that Tigard is participating in the pilot program. Former Mayor Dirksen was on the mayor's committee for this program and Mayor Cook attended a meeting last week. Additional follow up is scheduled.

8. NON AGENDA ITEMS

City Manager Wine advised that the City Council received, through its weekly council mail packet, information from staff about the Scholls Ferry Road undercrossing and the beaver dam. Clean Water Services is in the lead on this situation. She reported there was a replacement water-leveling system that was installed in mid-May. Clean Water Services is working on a longer term solution, which includes eventually raising the pathway. If council members have questions about this situation, she asked that they contact her.

City Manager Wine followed up on a question raised a couple of weeks ago about the Metro Natural Areas and Parks Levy. Metro has reached out to elected officials and city managers to confirm that with the passage of the levy, they will be putting together detailed work plans. While there was not a portion of the levy identified to be passed onto cities, there is still the Nature in Neighborhoods Grant Program. Tigard has qualified for grants in the past and these will be available again.

9. EXECUTIVE SESSION: Not held

10. ADJOURNMENT – 9:08 p.m.

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

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

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

Catherine Wheatley

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: Sept. 3, 2013