



City of Tigard
Tigard City Council Meeting Minutes
November 12, 2013

Mayor Cook called the meeting to order.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	(Councilor Buehner attended via speaker phone.)
Councilor Snider	✓	
Councilor Woodard	✓	

Staff present: City Manager Wine, Assistant City Manager Newton, Assistant to the City Manager Mills, Assistant Public Works Director Rager, City Engineer Stone, City Attorney Ramis.

Mayor Cook read the following at 6:30 p.m.:

- **EXECUTIVE SESSION:** The Tigard City Council will go into Executive Session to discuss real property negotiations and for consultation with counsel regarding pending litigation under ORS 192.660(2)(e) and (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: 7:19 p.m.

Study Session agenda items:

- **STUDY SESSION**
 - A. Briefing about Proposed Changes to the Franchise Utility Ordinance (TMC 15.06)

Assistant to the City Manager Mills presented the staff report. Key points included:

- The staff report included proposed changes to the franchise ordinance.
- Legal counsel for this matter is special counsel, Nancy Werner, from the Beery Elsner firm.
- Since the issuance of the staff report, written comments were received from NW Natural Gas and PGE. Mark Fryburg of PGE was present tonight should the council have questions.
- This matter will come back to the council for consideration as a public hearing item in December or January.

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Council comments and responses included the following:

- Councilor Snider acknowledged he raised the issue of auditing and the draft language proposes more than what he was envisioning. It appears that the city is asking the utility franchise to provide a written report containing an accurate statement in summarized form. He said he hoped that NW Natural and PGE would not find it too burdensome to have an officer verify accuracy. Councilor Snider said he would be more satisfied with the statement with an officer’s attestation. Assistant to the City Manager Mills said she understood the feedback from the utilities as a request to not make the reporting requirements burdensome and specialized for Tigard – she said she believes the city’s and utilities’ desires can be accommodated.
- Councilor Woodard referred to Section 15.06.220 – Location of Facilities (Page 4) – he suggested there should be a distinction made with high voltage (the definition). Ms. Mills said high voltage lines cannot be undergrounded. Mr. Fryburg of PGE clarified that the language pertains to a practical limit for undergrounding.

B. Administrative Items

- Holiday Greeting on TVCTV scheduled November 19 at 6:15 p.m. in Town Hall.
- Council Calendar

November

19* Tuesday Council Workshop Meeting—6:30 p.m., Town Hall.

26* Tuesday Council Business Meeting—6:30 p.m., Town Hall.

28-29 Thurs/Fri Thanksgiving Holiday – City Hall Offices Closed.

1. BUSINESS MEETING – November 12, 2013

A. Mayor Cook called the meeting to order at 7:36 p.m.

B. Roll Call – City Recorder

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Council President Henderson	✓	
Councilor Buehner	✓	(Councilor Buehner attended via speaker phone.)
Councilor Snider	✓	
Councilor Woodard	✓	

C. Mayor Cook led the Pledge of Allegiance.

D. Council Communications & Liaison Reports – None.

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

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2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication

Assistant City Manager Newton reported staff received from Environment Oregon a packet of petitions asking for a plastic bag ban in Tigard. Ms. Newton contacted a member of this group advising several of the signatures on the petitions are not Tigard residents. Petitions will be resubmitted.

B. Tigard High School Student Envoy – Associated Student Body President EJ Albaugh gave a report on recent and upcoming Tigard High activities. A copy of his report is in the record copy of the meeting packet.

C. Tigard Area Chamber of Commerce – Chamber CEO Debi Mollahan presented a report on recent and upcoming Chamber activities. A copy of her report is in the record copy of the meeting packet.

D. Citizen Communication – None.

3. CONSENT AGENDA: (Tigard City Council) Motion to:

A. Approve City Council Minutes for:

- September 10, 2013

B. Receive and File:

1. Council Calendar
2. Council Tentative Agenda for Future Meeting Topics

C. Adopt Three-Year Collective Bargaining Agreement Between the City of Tigard and SEIU Local 503/OPEU Local 199 and Authorize the City Manager to Sign

D. Approve a Grant Application to the Connect Oregon V Program to Construct the Tigard Street Trail – Resolution No. 13-46

Motion by Councilor Snider, seconded by Councilor Buehner, to approve the Consent Agenda.

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	Yes

4. QUASI-JUDICIAL PUBLIC HEARING ON THE CONSTRUCTION, MODIFICATION, CONTINUATION OR ABANDONMENT OF TIGARD TRIANGLE LOCAL IMPROVEMENT DISTRICT (LID) NO. 1 (CONTINUED FROM OCTOBER 8, 2013)

- a. Mayor Cook announced the agenda title and the continuation of the public hearing from October 8, 2013.

Council discussed the video record they received and reviewed. Portions of the video files were missing; however, council members had copies of detailed minutes for those proceedings.

Mayor Cook advised the record was left open at the October 8, 2013, meeting.

- b. Mayor Cook called for updates on declarations or challenges:

Councilor Woodard advised he twice walked the land area of the Local Improvement District. He reported his determination is that this area is blighted and undeveloped. His observations do not represent an issue with regard to any conflict of interest.

Council President Henderson said he drove the area to become familiar with the area.

Councilor Buehner advised she was serving on the City Council when the decision was made to form the Local Improvement District in 2008.

Mayor Cook and Councilor Snider advised they have no changes in status from October 8, 2013, with regard to this project as it relates to bias, conflicts of interest or ex parte contacts.

There were no challenges from the audience regarding any councilor's qualifications to hear and decide this matter, or the jurisdiction of the council as a whole to hear and decide this case.

- c. Staff Report

City Engineer Stone presented the staff report:

- On October 8, 2013, staff presented four alternatives for the council to consider. Since then, staff has revisited and discussed the record. Staff recommends to the City Council that the LID boundary be modified to remove certain properties and that the LID be kept intact and unconstructed until such time as the remaining LID participants wish to move forward with the construction.
- City Manager Wine explained there is not a great deal of guidance in the code or elsewhere defining a clear path forward for the council. The staff discussion was about the right thing to do given the circumstances for this LID. The decision was made to offer a recommendation to assist the council but with the acknowledgement that this is a

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council decision. If needed, the basis for the recommendation can be discussed later at the time the council deliberates the matter.

- In response to a question by Council President Henderson, City Engineer Stone agreed the staff recommendation is articulated in the stated Option 3 in the staff report.

d. Public Testimony

- Ken Nadri, 1510 6th Street, West Linn, OR 97068, advised he wishes to have his property removed from the LID. Since the LID was formed in 2008, nothing has happened, which means they have lost five or six years where no work has been done in the area. This has been detrimental to him. At the time the LID was formed the costs were calculated but those costs are now different and continue to be “not in our favor.” Mr. Nadri said in 2008, his assessment was estimated to be almost \$71,000. He calculated (including simple interest for ten years) the payments on the assessments will be close to \$900 per month for ten years. If he could arrange for the same work to be done by a private contractor the amount is about \$50,000 and repayment would be \$562 per month. The LID provides no benefit to him.

In response to a question from Councilor Woodard, Mr. Nadri identified his property in the LID area with the address of 11905 SW 69th Street (Lot No. 7601).

Councilor Snider asked about the nature of what is situated on Mr. Nadri’s property. Mr. Nadri said it is residential (three bedroom, two bathrooms) and in a mixed-use zone. Their future plan for the property is for their retirement residence.

- John Kearney, 2508 NE 24th Avenue, Portland, Oregon, said he was hopeful the council would follow the previously stated staff recommendation, which included the removal of his and Mr. Nadri’s properties from the LID and holding the LID for future construction. He said he was unaware of the staff’s recommendation before this meeting and said he has a prepared statement to read into the record. A copy of this statement and a spreadsheet showing “signalization costs on Dartmouth Street, Dartmouth Townhomes – 11/12/2013” is on file in the council packet.

Mayor Cook asked for questions of Mr. Kearney by the City Council.

Mr. Kearney commented about the methodology of his analysis regarding the equitable share for his property.

In response to a question from Councilor Woodard, Mr. Kearney clarified that he was never in favor of this local improvement district.

- Greg Specht, 15325 SW Beaver Creek Court, Beaverton, Oregon, advised that his company, Specht Development, Inc., was the petitioner for this LID and began the process in 2005. Highlights of his testimony included:

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- His experience with LIDs has been positive. In 1998, his company acquired the 54-acre Beaverton Creek Business Park and assumed two LIDs for a total of about \$1.9 million. The park has grown from one building to 560,000 square feet of buildings and both LIDs have been repaid in full.
- His second experience was with an LID in Tigard. In 1998 he and his partners petitioned the city to create the 69th Avenue Assessment District for a total assessment of approximately \$800,000. Had this LID not been created his company would not have developed their 120,000 square foot Tigard Corporate Center, which is now fully leased to Capital One employing 900 people. This LID provided much-needed infrastructure development in the Tigard Triangle.
- He anticipates similar benefits through the LID now before the City Council to provide needed improvements in this area. He referred to the process used to set up this LID initially by Group Mackenzie and submitted to the city in 2008. It took two years to process this request. The city formally approved the LID in 2008. He said he does not recall why the approval ordinance was declared an emergency.
- The reason for petitioning for LID No. 1 in the Triangle was to support the development of their 70,000 square foot, \$20 million One Dartmouth office building to be located on 68th and Park. The project received SDR approval in late 2007. In 2008 the financial markets bottomed out and only now are there signs of recovery in the commercial real estate business. The One Dartmouth project was shelved due to the financial crisis. The LID improvement process was shelved. To this day, suburban office rents have not recovered to the pre-crisis level and the project still does not make financial sense.
- He said that as to the question before the council tonight regarding the proposed options, he asked the council to consider the following:
 - Through creation and implementation of this LID, the city can support future development within the Triangle.
 - Any change to this financing tool should at least wait until the two ongoing area-wide planning studies are completed – 1) the Tigard Triangle Strategic Plan and 2) the SW Corridor Study. Results from these studies should be received within the year.

Mayor Cook commented that he serves on the committee for the SW Corridor Study. There will be some delineation as to where routes are proposed between now and the end of the year; however, until additional study is done no decisions will be made regarding where lines will be located. Mr. Specht offered that there might be an indication regarding how the corridor study will impact the Triangle.

- Mr. Specht addressed comments made at the October 8, Tigard City Council meeting. During that meeting Mr. Kearney stated that the LID was gerrymandered and some Specht and other properties were removed. In addition, according to the minutes of the October 8 meeting, Mr. Kearney said that "...he did not want Mr. Specht to do this again in the future to unsuspecting landowners. This process has

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been very costly, hurtful, damaging – and I don't want other people to have to go through this.” Mr. Specht said that his company has never conducted its business as Mr. Kearney implies. The creation of the LID was overseen by the city. The district boundary and assessment methodology was determined by Group Mackenzie. Mr. Specht acknowledged during the study process leading to the creation of the district some of the Specht land along the eastern right of way of SW 70th was removed from the district, but this was done for very good reasons. Several other properties, fronting on both Baylor and on 70th Avenue were also removed from the district boundaries. Mr. Specht said that, “For Mr. Kearney to imply that we somehow jiggered the boundaries is simply self-serving and I greatly resent the implication. As for him to warn the city that you should be careful so I don't do this again to unsuspecting landowners goes well over the line and borders on the absurd...” Mr. Specht went on to recount his company's accomplishments and the value added to area communities. He reiterated that “to imply that I would jeopardize my reputation and that of my company and somehow gerrymander a public process for my benefit to the detriment of other property owners is unconscionable.”

Mr. Specht cautioned Mr. Kearney to be careful when he uses the words “hoodwinked,” “gross misrepresentation,” “intentional misrepresentation” and “fraud” when describing his interactions with the city. These words have very serious meanings... “just as does his claim that my company gerrymandered the district boundaries to our benefit. I have no way of knowing what was said between Mr. Kearney and city staff... however, I cannot ever recall a city employee ever misleading or lying to me or to anyone on any project I have ever been involved with and, therefore, I doubt that such a thing occurred in this case.”

Mr. Specht theorized that Mr. Kearney bought seven residential lots at the top of the market and the market moved against him in the downturn – he's looking for someone to blame besides himself for making a real estate investment that did not turn out very well. Mr. Specht said he contends that the existence of this LID against his property has no impact on its value. Either Mr. Kearney has to dedicate the 11 feet and improve the frontage when he develops his property or the “next guy does.” There does not appear to have been any fraud or misrepresentation by the city and there was “certainly no self-dealing on our part.”

Mr. Specht suggested that the city take a “wait and see” attitude towards making any change to the LID. Give time for the results of the two regional studies to be completed to determine if there are predictions for the future and leave this financing tool in place in the interim. If any affected property owner wants to develop the property before the LID goes forward, they can do so with conditions to their approvals by the City of Tigard. As to the recommendation of staff, Mr. Specht said he understands that Mr. Kearney wants to be removed from the LID boundary and for the city to give him a blanket indemnification against having to participate in any future frontage improvements to his property. Mr. Specht said, “...that's silly, that doesn't happen.” The city has standards for SW Dartmouth. Those standards were effective for the building west of Mr. Kearney's property (Tualatin Valley Fire

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& Rescue District property) – they widened their frontage. The same condition applied to the approval of Mr. Kearney’s seven townhomes. Mr. Specht said it seemed to him that the existence of the LID does not affect the value of Mr. Kearney’s land and the city should stay the course to see what happens with the economy and the regional studies. The LID can be revisited at a later date.

- Councilor Snider said he reviewed the record and saw reference that at least on one occasion Specht Development asked the city to not move forward and implement the LID. He asked Mr. Specht to comment on these communications to the city. Mr. Specht acknowledged that Specht Development did make such requests to the city and had talked to former City Manager Craig Prosser. He understood that the city was not interested in selling bonds in the marketplace of the time. It was mutually beneficial not to do anything.
- Councilor Snider asked Mr. Specht if his options were to design and build now or abandon it, which would he choose? Mr. Specht said if they were to go ahead now, Specht’s share would probably be about \$20,000 a month. They are now “in the property for \$4.5 million...I would rather not have to pay \$20,000 per month...If I had a choice of those two options, I would opt out. But, I think that – I believe that – the market is recovering...”
- Council President Henderson asked Mr. Specht if he was willing to wait for two years until the City of Tigard is done with their studies. Mr. Specht said that in the event if they were to wait and keep the LID in place and then, for some reason elect to abandon it, they could still proceed with the development and self-finance the required infrastructure. However, the city would end up with half-street improvements on much of the property.
- Councilor Buehner recalled that when the hearing was conducted in 2008, some properties were deleted from the LID (north side of the LID). She asked Mr. Specht if he thought it was worth revisiting that decision since only half street improvements would be made. Mr. Specht said he believed the properties that were removed at the north end of 69th Avenue were on both sides on the street. On the west side of 69th Avenue and the south side of Baylor, those property owners did not want to participate, they were in the original boundaries of the district. Mr. Specht took the position that the result would be that the sidewalk would end 150 feet from the intersection and if they wanted to opt out that was all right because it would not negatively affect the rest of the district. At the time, this did not bother him. He referred to the earlier (in this hearing) testimony of Mr. Nadri and Mr. Kearney. Their land will be “obvious” if it is not improved, because it will be different from the surrounding properties if the LID goes forward. The 11 feet that will not be widened on the north side of Dartmouth will be an impediment to future traffic – pedestrian, bikes – etc. This would be a financing vehicle for Dartmouth Townhomes. He said he was sympathetic to Mr. Nadri’s situation, which is a rental house that appears to be in need of repairs. But, if you remove this property from the LID, there will be a gap in the improvements in front of this home. In response

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to Councilor Buehner's question, Mr. Specht said while it would be better if the properties to the north were in the district, he would not strongly advocate placing these properties back into the district.

- Mayor Cook said when he reviewed the original drawing, the properties to the north were in the district, but the properties to the south (Dartmouth Townhomes) were not in this drawing. Mr. Specht said he believed that was correct. He did not recall the process by which the Dartmouth Townhomes were brought in other than because he thought they might have had this requirement as a condition of the previous SDR approval that Mr. Stearn received for an office building to widen the frontage. This would have provided a way to finance the improvements and had the LID gone forward, the improvement would be done and the whole street would be finished.
- Councilor Woodard said that in his review of the record, he recalled discussion by the council at the time that there might be some adjustment to costs and looking at different ways to assess individual properties. He said that he would like to offer some ideas later about asking for a council review of potential options for fair methods of determining assessments.
- Council President Henderson asked Mr. Specht if he would consider purchasing any of the properties if offered for sale? Mr. Specht said he purchased the last piece of property in this area from a family (Sternbergs, Lot 2400). It was a 10,000 square foot parcel between Clinton and Baylor. While over-invested in the neighborhood, he would still consider buying property in the area.

Recess 8:40 p.m.

Reconvened 8:45 p.m.

e. Council Discussion and Deliberation

Councilor Woodard referred to the extensive amount of record he reviewed on this matter. Prior to the council making any decision on this LID, he would like some clarification on a couple of areas. He said council might want to review policy and process in three areas to determine if there is a common denominator that would benefit those with land interests:

1. Review the 3:1 assessed land value versus cost of the infrastructure.
2. Review traffic count information for consideration when determining proportional assessments.
3. Review the Floor Area Ratio (FAR) re-designation that occurred relative to the Kearney property restricting how this property could be developed.

In response to a comment by Councilor Woodard, City Attorney Ramis advised city regulations allow the city to determine the assessment methodology. Factors such as the formula used, the degree of ability to develop the property and the proportionality considerations are all elements contributing to assessment. Assessment is not an issue before the council at tonight's hearing.

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The issue before the City Council is, “Is there benefit to the properties within the LID?”

Councilor Woodard said he cannot know the proportionate benefits until the policy/process areas are vetted by council as he described above. City Attorney Ramis advised the legal standard is not whether the benefit is proportional; the legal standard is: “Is there a benefit?” The proportionality aspect will be considered at the time the assessment formula is determined and imposed.

Councilor Woodard referred to other financial tools where other options might be available to property owners; i.e., programs designated to assist the elderly. He would like more information on this.

Councilor Woodard commented that when formed, there were hopes that the LID would be of great benefit to the Tigard Triangle. It appears that not everyone located within the district agrees about the benefit. He said he thought there might be a way, if the City Council holds another discussion on these issues, to determine proportional benefits.

Councilor Woodard reiterated that it would be useful for the other members of council to walk or visit this site to get a feel for the needs of this area before making a final decision on this matter. He said he would like more time to address the questions he raised.

City Attorney Ramis responded to Mayor Cook regarding the issues raised by Councilor Woodard as they pertain to the decision before the City Council. Mr. Ramis advised that, conceptually it is easiest to think about this process in two steps:

1. The first step is to determine whether the properties in the LID boundary are reasonably benefitted.
2. The second step is to impose an assessment; that is, make a determination what the formula will be on the properties.

Step 2 requires more precision about the proportional benefit for each of the properties.

Councilor Woodard referred to the quasi-judicial process. While he has the facts on the matter, he feels he is missing information that could help him judge whether there is a possible solution for the majority of the property owners within the LID.

City Attorney Ramis agreed with Council President Henderson that the question before the council centers on the fact that LID participants have come to the council asking to be eliminated from the boundary of the LID based upon the argument their properties are not benefitted.

City Attorney Ramis said one of the options available to the council is to abandon the LID.

Councilor Buehner asked if the concept “highest and best use” of the property would have any bearing on the discussion regarding benefit? City Attorney Ramis said “highest and best use” can be

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a component when evaluating benefit because the law gives broad discretion when determining what is considered to be a benefit.

Councilor Buehner said she still supports her 2008 position. At that time, there were a lot of older, single-family homes owned by residents who were not ready to redevelop. She said “we have a valid reason to keep the properties in the district that are currently there...” She added that she favored some type of mitigation for the property located along Dartmouth Street. She said it is time to start looking at where we want to go with this property and older, single-family houses are not in the long-term picture for this area – in particular, those located in the middle of Mr. Specht’s properties.

Councilor Snider said he is troubled by council discussion in January 2008 during which Mayor Dirksen and Councilor Buehner stated that the policy of the city was to not include residential properties in LIDs because it was learned in prior LIDs in the same area that the residents do not benefit when the current infrastructure already meets residential needs. This statement was specifically connected to the Dartmouth Townhomes property. He acknowledged Councilor Buehner’s inquiry about highest and best use of the properties; however, this situation has been ongoing for about eight years and has created a situation where people cannot do anything with their property. People need to have certainty somehow – one of the solutions would be to proceed with the LID now. There is uncertainty for the area’s landowners. He referred to small residential property rentals with the estimated assessments at about two-thirds to three-quarters of the amount of rent that could be collected. Councilor Snider said it is “borderline absurd for the way this has gone on...” Councilor Snider said he questions whether Mr. Kearney’s or Mr. Nadri’s property would benefit from the LID. He offered the choices before the council at this point are to either build the LID now or exclude the two residential properties represented by the owners at the hearing. He referred to Mr. Kearney’s request to be granted a permanent indemnification on the property; he advised he would not be in favor of this.

Councilor Snider referred to the emergency clause contained in the 2008 ordinance. The reason stated for such “emergency” was to allow moving the project forward to take advantage of the weather and a good construction pricing environment. He observed that the request for an emergency did not appear to come from Mr. Specht and might have been staff-driven.

Mayor Cook commented he has considered each of the options and, at times, each one has had merit in his opinion. He agreed with the previous comments from the City Council members. If the LID had proceeded on the “fast track” as it appeared to have been planned, the LID would now be five years old but (because of the economy) none of the properties would have developed, but they would have been repaying the assessments for about the last five years. He said he would not favor “dismantling” the LID. The question for him is whether to keep the participants in the LID “as is” or allow a couple of the property owners out. There are pros and cons to taking out the two properties, as was the same case five years ago. Building the LID now and imposing the assessments on the property will not attract development but the record would more clearly reflect why the City Council decided to approve the LID. For five years nothing has happened even though questions were being asked about the LID – there were no discussions on the LID by the staff or the council. He emphasized the importance of creating a record to document why the

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council has made its decision with regard to this LID. Such documentation gives certainty on the city's intention with regard to any decision it makes for property owners and developers. Because property lines were adjusted previously, Mayor Cook said he was inclined to do the same with respect to this LID.

In response to a question from Councilor Snider, City Attorney Ramis advised additional questions could be asked of Mr. Specht if an opportunity is given to anyone else who might want to speak or respond.

Councilor Snider asked Mr. Specht if he was faced with either having the two properties removed from the LID or abandoning the LID, which would he choose? Mr. Specht said he would let the two properties out of the LID. Mr. Specht added a comment about whether this would be of benefit to residential properties – with regard to Dartmouth Townhomes, the current property owners knew when they acquired that property that the FAR had been transferred to the office building. Under the city code, there is a provision that the land could still be developed for residential purposes. There was value exchanged and when the owners of Dartmouth Townhomes bought the land they knew all they could do was to build residential. There was some impact on the price because the FAR had been transferred. Mr. Nadri's property is different as it is "carryover" and is a rental house, which is an approved use in the district. He noted when the properties develop, they will be required to do the frontage improvements themselves.

Mayor Cook asked if anyone else in the audience would like to comment. No additional testimony was offered.

Mayor Cook asked staff about the FAR transfer as it relates to the current Triangle land use planning effort. Would there possibly be an opportunity for additional FAR transfers in the development of the Triangle Master Plan? City Manager Wine and City Engineer Stone responded that this would be a possibility.

Councilor Buehner said she thinks there are different issues with the townhomes on Dartmouth versus Mr. Nadri's property. She said it is her perception that the lack of an equally wide street on Dartmouth, in the short term, will not deter development. However, having one lot "sort of in the middle" not having the street developed at the same time as everything else would appear to be a detriment to the other property owners. She has a problem with the concept of letting Mr. Nadri's property out of the LID. Councilor Snider countered that the standard for whether a property should be in or out of the LID is whether the LID is of benefit to the property owner. Councilor Buehner said the property owner would benefit because the property would be more valuable but if the road isn't developed in front of Mr. Nadri's property, it might deter other development from occurring.

Councilor Woodard said he had a similar concern as expressed by Councilor Buehner, which is why he thought it would be beneficial to have a discussion before a decision is made on this matter to check with the landowners before removing other properties. He urged the council to take a

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more in-depth review on the entire LID process and desired outcomes before proceeding with a decision.

Councilor Snider commented that the central question before the council for this particular hearing is, “Who is benefitting?” Councilor Buehner said ultimately the properties in the LID will benefit, but the benefit might not be apparent immediately. Councilor Woodard said he would like to explore if there is a way to make the process affordable and doable for all property owners.

Mayor Cook agreed with the point Councilor Woodard was making not only in terms of value for these properties in this circumstance, but for other situations as well when attempting to finance infrastructure improvements. For example, could there be a provision whereby the assessment would be triggered only upon sale or some other action. He anticipates there will be more council discussion on how to proceed with financing improvements because it will be coming up more in the next few months.

Councilor Snider said he does not think it is reasonable, in this circumstance, to leave property owners in a position where they have an unknown, indefinite timeline keeping them from doing anything with their property. Discussion followed on timing for the LID with the option of going forward now not viable because of the status of the current Triangle planning process. Councilor Snider added that he did not see a reason for abandoning the LID since Mr. Specht would like it to remain with two of the properties removed. A decision could be made later to change the boundaries of the LID if a new financing tool was developed.

Councilor Woodard spoke again for his support to work quickly to review the situation. He said after walking the area, he saw that it was a blighted area. The LID is a good idea and he would like to have 30 days to review to decide whether the LID could hold solid as it is now formed. Councilor Snider expressed his doubts that a solution could be formed in 30 days given the complexity of the issues.

Councilor Buehner said it is time to look at organized redevelopment and the council needs to move ahead. She said she would like to see any decisions made on the matter before the council tonight be set on a timeline so activity would have to occur no later than when the Triangle planning process is completed. She agreed with Councilor Woodard that long-term solutions need to be discussed and implemented. Council President Henderson and Mayor Cook agreed that a timeline is necessary. Council President Henderson said he is confident that the LID needs to be kept intact, but because of circumstances it would be reasonable to allow those people who want out of the LID to be released. The council will have another opportunity to review the LID after the work is completed at some unknown point in the future.

Council President Henderson said he wanted a firm timeline of two years to relook at this matter. First, the city needs to complete the Triangle Master Plan to better understand how the LID, as it is now formed, fits within the plans for the Triangle. Councilor Snider asked if this was with the two properties being removed from the LID now? Council President Henderson said, “Yes.” Councilor

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Snider asked if this was a motion and Council President Henderson indicated that it was and said, “I make that motion.” Councilor Snider seconded the motion.

Mayor Cook summarized the motion:

*The motion is to leave the LID in place, remove the two properties that asked to be removed for now and to place a two-year time limit ~~to build the LID~~ to conduct another council review of the LID. *(See the clarification below.)*

Mayor Cook clarified that the deadline date could be changed by the council, but the LID would come back before the council within two years for review.

Mayor Cook deferred to City Attorney Ramis who said that, if the council is saying that in two years the LID will be abandoned this is understandable. If the council is saying that in two years the LID will go through a similar proceeding then this is also understandable. But, if the motion is saying the city will just build the LID, then that is confusing.

**After brief discussion, consensus of council was that the plan is to have another proceeding to review the LID in two years.*

Councilor Woodard stated he understands the desires of the two property owners who want out of the LID, but he does not believe that this is the right decision at this time. In the next couple of months, circumstances will likely develop and have unforeseen impacts on this area. He noted his concerns that the property owners might end up regretting the way they feel about this LID now and more information and a little more time might help everyone make a better long-term decision.

f. Mayor Cook closed the public hearing.

Mayor Cook called for a vote on the motion:

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

Mayor Cook announced the motion passed by a 3-2 vote.

Findings and an ordinance will be prepared for council consideration on a future agenda.

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5. REVIEW AND UPDATE OF THE CODE ENFORCEMENT PROGRAM

Albert Shields, Program Development Specialist/Permit Coordinator and Tim Lehrbach, Livability Compliance Specialist presented the staff report. Report highlights included:

- A PowerPoint presentation was referred to during the staff report. This presentation is on file with the packet meeting materials. The slides illustrated code compliance issues and resolved case success stories.
- Overall, staff is pleased with the performance of the Code Enforcement Program within available resources.
- Changes experienced between 2010 and 2013 were reviewed. (Changes enumerated in the presentation outline.)
 - In response to the 2010 staff reductions, the objectives became to do the best possible job to maintain the program until appropriate resources could be restored.
 - Increase efficiency by streamlining and automating complaint intake and case management procedures.
 - Increase effectiveness by adding administrative remedies to the municipal code, including the explicit authority for the city to abate violations.
 - The elimination of the code enforcement officer position meant elimination of the process of receiving complaints by telephone or in person, proactive inspections and officer site visits to confirm the basis of complaint or verify compliance.
 - To adjust to staff cutbacks, compliance functions were spread among staff that had other primary duties. The original plan was to have complaint intake handled by clerical staff but that plan was revised to have this done by code enforcement officers who had other primary duties. Approximately the equivalent of two-thirds of an employee has been assigned to code enforcement with that time split between two employees. Code compliance tasks are done on a part-time, time-sharing basis. Staff has begun to rely on citizens to submit complaint detail and notify the city of compliance or non-compliance on properties.
 - Staff utilizes the Accela Permit Management System for complaint intake and case management. Details of this system were explained, which includes auto-generation of letters to complainants and violators.
 - In February 2012, the administrative abatement provisions were added to the code. The current complaint processing system was described.
 - No staff time is available to investigate every property. A site visit is scheduled only if there is reason to believe a complaint involves a fire or life-safety hazard. If nothing further is heard from the complainant after 60 days, staff assumes the property has been brought into compliance and the case is closed.
 - For Housing or Development Code complaints, staff tries to conduct as much of their investigation as possible by telephone or email

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correspondence. Staff is more likely to perform an onsite inspection for these cases.

- Volume of complaints has dropped by about 50 percent, from approximately 425 annual cases to the current 210 cases. This reflects that the city is no longer proactively inspecting or looking for violations. In addition, it now takes more effort for someone to file a complaint. The current number of cases per year is somewhat steady under the new system. Caseload is seasonal – in summer 43 percent of all complaints are received and in the spring 33 percent of all complaints are received (most are vegetation related and, in fact, such cases make up 50 percent of the total number of cases).
- Comparing accomplishments against objectives, the following was reported:
 - Staffing has been reduced by .35 FTE.
 - The dedicated vehicle was eliminated for code enforcement site visits.
 - Intake and case management were successfully automated.
 - Compliance letters were successfully automated.
 - The administrative and abatement provisions were added to the municipal code in February 2012. These changes consolidated nuisance citations into Title 6, making the provisions more accessible to customers. The abatement provisions work well.
 - The estimated time for receiving a complaint to sending a compliance letter is within two days for 80 percent of cases and within one week for 95 percent of cases.
- Shortcomings were enumerated:
 - Measures for confirmation of compliance are unknown because site visits have been cutback as a practice. Little confirmation is forwarded by complainants or respondents about whether compliance was achieved.
 - Measure for timing of compliance is unknown.
 - There is little or no personal contact with complainants or respondents. This reduces the impact of enforcement actions and customer satisfaction.
 - Types of complaints were reviewed:
 - Respondents say complaints are invalid (incorrect address or assessment of situation).
 - No enforcement officer is available to speak to complainants or respondents.
 - Complainants want to tell someone about the situation rather than fill out a form.
 - The problem does not get fixed fast enough or not at all.
 - No name or phone number is provided in the letters generated to complainants or respondents. Respondents, in particular, complain there is no one to contact when they have brought the situation into compliance or to explain why compliance is difficult for them.

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- In summary, customers want faster, more direct action by the city. Complainants want faster action and often want someone from the city to make a site visit to speak directly with the violator. Some complainants become frustrated if they do not know what has happened with their complaint. They want personal follow up and they are not satisfied with a letter acknowledging the complaint – many do not realize they can search for the case status online.
 - Overall, the program is functioning as had been anticipated when the changes were made in 2010. Both the advantages and shortcomings are largely as expected. Complaint intake and case management procedures have been greatly streamlined and automated and staff is doing the best they can until dedicated resources are restored.
 - For the future, the city has a new Livability Compliance Specialist who will be handling the development and housing code. Staff is looking at doing some possible program adjustments and improvements including naming the enforcement officer on compliance letters and providing a telephone number for call back. In January staff will begin to reexamine the restrictions on chickens and livestock.
 - When resources are restored, staff looks forward to confirming compliance with site visits and proactively enforcing the sign code provisions.
- Council discussion:

In response to Councilor Woodard, Mr. Lehrbach advises he has worked for the city in various capacities since December 2009. His first day as Livability Compliance Specialist is next Monday. This is a full time position and along with code enforcement he will perform planning functions.

Councilor Snider suggested volunteers could take photos (staying in the public right of way) for certain code violations. Councilor Buehner said the complaint system asks for the complainant to provide a photograph of the problem. Councilor Snider said he was thinking this would be to validate the report of the problem for follow up. Mr. Shields responded that this would be a good idea for follow up.

Councilor Woodard inquired if an internship program in this area would be feasible. City Manager Wine said there are several options for structuring the program.

Councilor Buehner referred to the 2010 budget cuts and the representation at that time was that there was going to be a great reduction in staff time spent on code enforcement. With the report tonight, it sounds as if the city is still providing about two-thirds of an FTE for this program while the service has declined significantly. She questioned whether the decision made in 2010 was a good one. Mr. Shields agreed that a full-time code enforcement officer would mean staff could make better inroads in resolving complaints received and allow staff to take proactive action.

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Council discussion followed on the fact that the caseload is down and this is most likely because staff is not out looking for violations. Mayor Cook said this might be acceptable but he is concerned about requiring citizens to go online, navigate the system, fill out the correct information and then they are frustrated when nothing happens not realizing the city was relying upon them to follow up on the situation. This reduces customer satisfaction. The mayor commented on the numerous complaints he receives about code enforcement. He said he often ends up following through by filing the complaint because the citizen was having trouble figuring it out. He acknowledged Councilor Buehner's comments that the city is already funding two-thirds of a position. He suggested this is a discussion to be had during the next budget review.

City Manager Wine confirmed for Councilor Snider that the requested budget from staff regarding the code enforcement program has not been assembled yet.

Councilor Buehner agreed with Mayor Cook that this topic needs to be revisited.

6. COUNCIL LIAISON REPORTS – None.
7. NON AGENDA ITEMS – None.
8. EXECUTIVE SESSION: Not held.
9. ADJOURNMENT: 10:02 p.m.

Motion by Councilor Snider seconded by Councilor Woodard, 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	Yes

/s/Catherine Wheatley
Catherine Wheatley, City Recorder

Attest:

John L. Cook
Mayor, City of Tigard

Date: March 11, 2014

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