City *of* Tigard
Tigard City Council Meeting Minutes
June 24, 2014

7:30 PM

1. BUSINESS MEETING – June 24, 2014

A. At 7:42 p.m. Mayor Cook called to order the meeting of the Tigard City Council and Local Contract Review Board.

B. Mayor Cook asked Deputy City Recorder Krager to call the roll.

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

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

D. Council Communications & Liaison Reports – Councilor Buehner said she would report on the Joint MPAC and JPACT meeting at the end of the meeting.

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

2. CITIZEN COMMUNICATION

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

B. Tigard Area Chamber of Commerce CEO Mollahan reported on recent Chamber activities including the election of board members at the annual meeting held at Broadway Rose Theater. New products at the Farmers Market include meat and Red Ox Brewing beer tastings and growlers. House of Bread has expanded their offerings to include sandwiches and coffee. There are many more fun activities this year for children through partnerships

with Home Depot, Orchard Supply Hardware, Whole Foods, and Burgerville. The Harvest Market will be held Saturday, November 15.

She noted the Tigard Downtown Alliance announced that Landmark Ford is the new annual sponsor for downtown events including the third annual Downtown Tigard Street Fair to be held on Saturday, August 16.

In response to a question about the beer growlers at the Farmers Market, Ms. Mollahan said Red Ox Brewing sells filled containers and she did not know if they have a fill station at the market. Councilor Buehner asked about the presence of construction equipment at the upcoming street fair and Ms. Mollahan said recent talks with city engineers verified that contractors will move equipment out of the way and clean up the street for the event. The new intersection at Tigard and Main Streets will be used for a stage and seating, and that end of Tigard Street will be closed to through traffic. Councilor Buehner commented on the need for signage publicizing booths located at each end of Main Street. Ms. Mollahan said there would be greater emphasis on signage and railroad crossing safety at this year's event. A copy of her report has been added to the packet for this meeting.

C. Citizen Communication – Sign Up Sheet. No one signed up to speak.

3. RESOLUTION HONORING CITY RECORDER CATHERINE WHEATLEY FOR 26 YEARS OF SERVICE

Mayor Cook announced that this agenda item honors City Recorder Cathy Wheatley for 28 years of service to the City of Tigard, including 26 years in the City Recorder position.

Councilor Snider moved for adoption of Resolution No. 14-34. Councilor Buehner seconded the motion. Mayor Cook asked Deputy City Recorder Krager to read the number and title of the resolution.

RESOLUTION NO. 14-34 – A RESOLUTION THANKING CATHERINE WHEATLEY FOR 26 YEARS OF SERVICE TO THE CITY OF TIGARD AS ITS CITY RECORDER

A vote was taken and the motion passed unanimously.

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

Mayor Cook asked Ms. Wheatley to come forward and noted that many members of her family were in the audience, including her mother and husband. Mayor Cook read the resolution in its entirety and presented her with a framed copy. Ms. Wheatley received a standing ovation. She said when she began working at the City of Tigard in 1986, Mayor Cook's father was the mayor and said she will miss the city, but will be watching the televised meetings. Councilor Buehner commented that Ms. Wheatley should be recruited for volunteer work.

4. DISCUSS PROPOSED CHANGES TO TMC 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS

Assistant Police Chief de Sully and Sergeant McDonald presented this item and gave council information on proposed changes to the code that will better align Tigard's secondhand dealer regulations with other jurisdictions. Sgt. McDonald said codes from adjoining cities were reviewed and Police Department staff adapted the best ideas and clarified areas in the code chapter.

The changes provide better tools for law enforcement to recover stolen property, yet allow businesses to be more competitive. There is currently a 30-day hold period and staff proposes a 20-day hold to give police sufficient time for identification. A shorter time period gives the businesses an advantage because they are competing with stores in adjacent areas with only a 15-day hold. Sgt. McDonald said there are eight licensed businesses in Tigard and all were either neutral or in support of these changes.

In response to a question from Councilor Snider, Assistant Chief de Sully said when a person brings an item to a secondhand dealer, they get paid and walk away. However, a pawn shop holds the item as collateral for a loan. He said pawn shops are heavily regulated by the banking industry so more stolen items are taken to secondhand dealers.

Councilor Buehner asked about a scenario where a thief steals jewelry and sells it to a secondhand dealer but the victim does not realize they have been burglarized within the 30-day period. Sgt. McDonald said the Police Department communicates regularly with dealers and recently a young person brought in a wide variety of gold items. The department is currently in the process of recovering that property, which was stolen. Assistant Chief de Sully said another tool besides the 30-day hold is photography. Police staff can view items online and easily identify and share photographs with victims to help them search for their unique pieces. Many people also photograph valuables for insurance or appraisal purposes and these can be shared with police if they are burglarized.

Councilor Woodard asked if the city code needed to address stolen items sold through Craigslist. Sgt. McDonald said individuals on Craigslist are not merchants that can be regulated by the city.

Council President Henderson asked if these rules apply to gun sales. Assistant Chief de Sully said there are additional laws and Oregon rules that apply to guns. He said the Oregon State Police regulate gun sales.

Councilor Snider commended Sgt. McDonald and said the Pawnbrokers Association passed word along that he has been a very good partner.

Sgt. McDonald said the proposed changes to the code were vetted through the city attorney's office. Mayor Cook commented, "Any time the city asks the business community beforehand and receives their input, we are working with them instead of changing things against them."

City Manager Wine said the purpose of this agenda item is to give council a briefing prior to staff bringing forward an ordinance for adoption at a future meeting.

5. REVISED RESOLUTION ACCEPTING THE WATER MASTER PLAN UPDATE FOR RIVER TERRACE - RESOLUTION

Assistant Finance Director Smith-Wager said two resolutions were presented to council for approval on June 10, 2014, one for the Water Master Plan Update for River Terrace and one for the Sewer Master Plan Update for River Terrace. After the resolutions were approved staff discovered that an early draft resolution had been attached to the Water Master Plan agenda item summary instead of an updated version. Ms. Smith-Wager requested that council approve Resolution No. 14-35 which is the correct version.

Councilor Woodard moved for approval of Resolution No. 14-35. Councilor Snider seconded the motion.

Councilor Buehner disclosed that she has clients in the River Terrace area. She asked if there was anyone in the audience who had concerns and none came forward. City Attorney Rihala said she could not advise Councilor Buehner and this was a question for the Government Ethics Commission. Councilor Buehner said she spoke to them previously and they did not think that voting on a master plan update that includes the entire area would benefit her client any differently than any other property owner.

Deputy City Recorder Krager read the number and title of the resolution.

RESOLUTION No. 14-35 - A RESOLUTION TO AMEND THE WATER SYSTEM MASTER PLAN TO INCLUDE PROJECTS NECESSARY FOR THE DEVELOPMENT OF RIVER TERRACE

A vote was taken and the motion passed unanimously.

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

6. LOCAL CONTRACT REVIEW BOARD – DECLARATION OF EMERGENCY AND CONTRACT AWARD FOR MAIN STREET SEWER REPAIR

Public Contracts Manager Barrett and Engineering Manager McMillan led a discussion on a request for council to declare an emergency and award a contract for work on the Main Street sewer pipe replacement. Mr. Barrett said the original contractor had issues completing the work on that site which led to a conflict with the city. Multiple letters demanding that the work continue received no response so a decision was made by staff and the city attorney to terminate the contract with Jeff Kersey at that time. The emergency exists because the Main Street portion of the work has not been done and further delays will result in potential loss of revenue for the downtown businesses in the proximity of the project. This has come before council because the amount of the contract is over $100,000 and an emergency declaration needs to be made.

LCRB Chair Cook asked Engineering Manager McMillan to explain the process and the options. He noted that the LCRB can help communicate this situation and its resolution to the affected business owners.

City Manager Wine asked when the Main Street Green Street projects will be complete. Engineering Manager McMillan said by November 15, which is the date of the Chamber of Commerce's Harvest Festival.

Ms. McMillan distributed a matrix that addresses three options. The sewer line is complete from Main Street to manhole number 1. What remains to be finished is the sewer line from Highway 99W to the bridge in Fanno Creek Park.

- Option 1 – Approving an emergency contract will cost $329,000. The work could be completed by the second week of July and does not impact the Main Street Green Street project schedule.
- Option 2 – Staff attempted to add this work on to the ODOT contract for Main Street Green Street but that is a federal contract and though the construction price would be approximately the same, there will be additional fees due to two consultants and ODOT. There is a minimum three-week process as it goes through several reviews. This is not timely and the city could receive a costly utility delay claim from Kodiak Construction. It would not be considered part of the grant funding and Tigard would be responsible for all costs.
- Option 3 – Re-bid the sewer project. There would be a delay and the cost is unknown.

LCRB Member Snider said Option 1 points out that out that the issue was created by the original contractor. He asked what the cost of adding this contract is to the city. Public Contracts Manager Barrett said the actual difference between the original contract and this one is $200,000 but that is partly due for a premium to fast track the project. He said the city needs to move forward with Option 1 and asked Chair Cook to schedule a litigation discussion in executive session to pursue this route.

Engineering Manager McMillan said the work the first contractor did was in the scope of work and he was paid for that work., but from the first week he became non-performing. The city terminated and substituted performance for default. She said the city then terminated, for public convenience, the contractor's work on Main Street because she could no longer hold up the Main Street Green Street project. She verified for Council President Henderson that the original contractor received $120,000 for work he completed, which left $119,000 in the contract. The $119,000 remainder is included in the $329,000.

City Manager Wine said what council will be voting on tonight is not additional appropriations. It is to declare an emergency and award a contract. She asked Assistant Finance Director Smith-Wagar to address LCRB Member Henderson's financial questions. Ms. Smith-Wagar said there is sufficient appropriation available for this project. She said it crosses fiscal years and there is sufficient money in each year. There was money appropriated for sewer repair projects that is sometimes spent or may not be. She said the entire amount of the contract is $329,000 and part of the budget for the original contract was not spent and is available.

LCRB Member Woodard said, "Non-performance happens," and everyone cannot be slowed down because of it. The businesses have lost income because of this project and it needs to get done. LCRB Member Buehner said she agreed with him.

LCRB Member Snider moved for a declaration of emergency and award of a contract for the Main Street sewer work. LCRB Member Buehner seconded the motion and the motion passed unanimously.

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

Chair Cook asked if there would be another closure and detours on Main Street. Engineering Manager McMillan said there will be another closure with one-way access. There will be communications with affected businesses and those in the immediate area are already aware.

7. REVIEW COMMENT CARDS AND FEEDBACK FROM CITY COUNCIL'S 5X3X10 EVENTS

City Manager Wine introduced this agenda item. The council 5x3x10 (5 councilors/3 meetings each/10 citizens) meetings were held as a follow up to the March election on the transit measure. The goal was to hear from a broad spectrum of citizens and ask them if they voted on the measure, how they voted, and why. These discussions were held with citizens to help inform council about placing an advisory ballot measure on the November ballot. Council received a summary of all comments and copies of comment cards attached to their agenda items summary

Mayor Cook suggested a format that begins with each councilor reporting on what they heard from the citizens and then a discussion can be held prior to the first meeting in August to decide if the city is going to place an advisory measure on the November ballot.

Councilor Woodard said the first issue was HCT and everyone he spoke with wanted some relief from congestion but did not want to limit car travel. One person said high capacity transit was a bad idea.

Councilor Buehner spoke with at least 55 people by telephone. She said many people did not understand what the measure was about. They thought it had been settled. What they did understand was that there were two options and more leaned towards BRT than light rail, but they want to see the numbers. Consensus was that the city needs to improve traffic on 99W. She commented that some people did not understand why the vote was happening so they chose not to vote. She felt citizens were misled and angry about it.

Council President Henderson asked Associate Planner Grass to capture comments at his meetings and the comments covered the gamut. There were people there who perceived that HCT would bring trashy people to Tigard or that government was forcing something down their throats. To others this was more about our planning process and most agreed with that concept. He said the public is looking for the need and when they consider it long enough, they understand that there is a future need. He said most signed off on looking at what we and our children will want in the future. He said Tigard does not have the density Portland does, and he is concerned about maintaining the values Tigard has. He said if the corridors can be protected, he supports it

Councilor Snider said community members mentioned in his sessions that the ballot measure was poorly written. He said that no one said the city should not participate in planning. Multiple people voted no but thought the measure stated very clearly that it was coming down 99W through Tigard. He heard about the need for recreation and specific comments about the desire for a destination place (YMCA) for recreation. He heard that kids do not have a place to go.

Councilor Snider heard many positive comments about the strategic plan vision of walkability. People also felt Tigard has a long way to go towards achieving this vision. They agreed that the city was headed in the right direction.

Mayor Cook said he spoke to over 40 people in different sessions. He said what he heard the most was that people want a say in how it comes (funding, light rail or BRT) and where it comes (Hall

Blvd. or 99W). He said council hears from the same 30-40 people who frequently attend meetings and he wanted input from others. The SW Corridor Plan itself includes so many other things (safety, recreation, connections, walkability) besides HCT. These are things that once people see identified with costs, they will feel comfortable about voting on them. People want to see plans and costs. In the past, they weren't asked that question. They are going to be asked in the future. Citizens are going to have a say in whether they want something and how they want to fund it.

Mayor Cook said the city attorney advised that the measure meant that construction or a change in density has to go out for a vote. Nowhere did it say that staff or council had to go to a vote in order to plan. A few attending a Town Hall meeting suggested that Tigard should go out for a vote before any money is spent on planning. Others said, "This is your job. Your job is to bring us back a plan so we can vote on it!" They expect council to do this. He heard them say, "Don't keep going out for a vote every few months. When you have something ready to vote on, come back and ask us then."

Councilor Buehner said she sought out people from Bull Mountain that were not involved previously and she heard from all of them that Tigard needs to, "get on it."

Councilor Woodard said he had not met any of the people he spoke with before. He said the outreach was welcomed by many. He held walking meetings and also met with Summerfield citizens. He heard, "You're an elected official, go ahead and plan on a big project. The measure doesn't prevent us from planning." He noted that people always ask about recreation and ask why Tigard doesn't provide it. He said the city will do a needs assessment to determine what the demands are. A recreation center and a district continue to be requested.

Councilor Snider said Tigard is being compared with Tualatin and the Tualatin Hills Park and Recreation District. He said, "We need to think about what the citizen expectations are and I do not think their expectations are low."

Councilor Snider said he preferred this format of smaller meetings to dialog with the public. He said large, open forums are challenging to facilitate and the same people often attend. It is not a broad enough perspective. Councilor Buehner agreed that the large open forums bring out repeat voices and she liked that each councilor communicated with the public in their individual style in the 3x5x10 meetings.

Mayor Cook promised that council would not just take this information and stop communicating. He said council will continue throughout this year to hold dialogs (one on one meetings) and he was glad to see that each city councilor found different ways to make this communication possible. Councilor Buehner asked the public to contact council because they cannot personally call all 50,000 people in Tigard.

Mayor Cook said council has six weeks to decide whether or not to place an advisory vote on the November 4, 2014, ballot. Councilor Snider asked if several questions can be asked in an advisory vote and suggested, "If you want to ask eight questions, spend the money on a survey. If we have one or two very specific questions, do an advisory vote." Councilor Buehner agreed and said voters start to lose interest when they have to read more than three questions.

City Manager Wine suggested that the city should be indicating to the public that something might be different after the election and asked, "Is an advisory vote an indication of something being different?" If there are multiple questions, maybe a poll or a statistically valid sample would be more useful. She said if council's questions are time sensitive, the city may need to put something on the ballot.

Councilor Buehner asked people about an advisory vote and the vast majority said they thought it a waste of time and effort. When she rephrased the question in the context that it might help educate a large number of residents so they are less easily misled by either side, people were a little more favorable. She said most want to have a vote to repeal the measure.

Councilor Woodard said three of the co-petitioners assured him that this measure would not prevent the city from planning. He said receiving the legal opinion also helped to give him a level of comfort without an advisory vote. He said doing so risks people losing confidence in council's leadership. He said he did not favor putting anything on the ballot until there is a HCT plan with a cost. He said he has never been opposed to voting on construction.

Councilor Snider said he supported the direction Councilors Woodard and Buehner were heading, and suggested that a consensus was developing. He commented that if council had received more mixed information or a larger split, then it might mean broader input is needed, but he did not feel that is the case.

Councilor Woodard said he was also concerned about the shift in tone from transit opponents about the cost of the EIS. He said studies are expensive and while the amount for the EIS is significant, it is a drop in the bucket towards solving Tigard's capacity issues.

Council President Henderson said plenty of information was received from the council 3x5x10 meetings and he would find it helpful to view the combined information listed as a simple yes or no response.

City Manager Wine said council needs to make a decision about a measure on the November ballot by the July 22 meeting so it can be voted on at the August 12 meeting. Councilor Buehner asked for this discussion to be continued at the next council meeting. Mayor Cook said he will look at the next few meeting agendas and see what is available.

8. COUNCIL LIAISON REPORTS - Councilor Buehner reported on a joint JPACT /MPAC meeting and requested that City Manager Wine ask staff to distribute to council copies of the meeting handouts. She said the information presented was very useful. She noted that Clackamas County workers use I-205 and Highway 217 to travel to their jobs in Washington County, as do many from Vancouver, Washington and this increases congestion locally. She said it would be advantageous to have joint meetings on a more frequent basis so that the transportation perspectives from Washington County are included in discussions.

9. NON AGENDA ITEMS - None.

10. EXECUTIVE SESSION - None held.

11. ADJOURNMENT
At 9:28 p.m. Councilor Snider moved for adjournment and the motion was seconded by Councilor Buehner. All voted in favor.

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

Carol A Krager
Deputy City Recorder Carol A. Krager

Attest:

Mayor, City of Tigard

Date: August 12, 2014

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