

City of Tigard

Tigard City Council Meeting Minutes

September 9, 2014



STUDY SESSION

EXECUTIVE SESSION At 6:30 p.m. Mayor Cook announced that the Tigard City Council was entering into Executive Session called under ORS 192.660 (2) (e) real property transactions. The Executive Session ended at 6:57 p.m.

Administration Items –

1. City Manager Wine said council is looking for council groundrule session dates. She asked council to check their calendars for November 20 and December 4 from 3-6 p.m.
2. Assistant City Manager Newton said council received a link about 1x5x10 meetings. People are signing up online. She said City Manager Wine will be developing talking points on the two main topics: Street Maintenance Fee and Marijuana regulations. Due to a scheduling conflict, Councilor Snider will take Councilor Buehner's October 7 Town Hall date and Councilor Buehner will schedule another.

Assistant City Manager Newton said outreach on the street maintenance fee has been sent to Chamber of Commerce members. Email addresses were pulled from the Springbrook accounting records and businesses were contacted. Councilor Snider asked if the same approach would be used for residents. City Manager Wine said it is unknown if the city will use the same approach since we have only about 5,000 resident email addresses. Councilor Buehner said citizens in Summerfield can be reached through their resident association. Council President Henderson offered some comments on the commercial survey. He suggested thanking people for paying into the street maintenance fee and sharing with them how it has made Tigard's roads better. Mayor Cook said his point was well taken and he always mentions the support the park bond received when discussing the parks with citizens.

The Study Session ended at 6:44 p.m.

1. BUSINESS MEETING – September 9, 2014

- A.  At 7:33 Mayor Cook called the City Council business meeting to order.

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B. City Recorder Krager called the roll:

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

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

D. Council Communications & Liaison Reports - Councilor Buehner has a report.

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

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication – None

B.  Tigard High School Envoy Carter Kruse gave an update on activities at Tigard High School. The Freshman Link Crew assisted with a very large incoming freshman class of over 600 students. He listed the ASB Leadership committee members and their responsibilities. The Tigers won their first home game 49-16. Mayor Cook said Tigard High was mentioned by Friday Night Flights featuring the neon-out and their school spirit. The homecoming parade will be on September 26 and the dance is scheduled for September 27.

B. Tigard Area Chamber of Commerce – Chamber CEO Mollahan gave a report on current Chamber activities. The Tigard Farmers Market will accept Oregon Trail cards and has a matching program with New Seasons. There will be a Harvest Bazaar at Tigard High School on Saturday, November 15 from 9 a.m. to 2 p.m. and they are seeking vendors. She thanked the city for permits, chalkboard and other support for the Third Annual Street Fair. The Mississippi Street Fair organizer observed and gave positive feedback. Councilor Buehner said it would be helpful if the Chamber had signage about Trick or Treat on Main Street so through drivers can avoid the area. CEO Mollahan said they use LED signs at each end of Main Street and police reserves will be working at the event. Councilor Buehner suggested placing signs on Hall and Tigard Streets also. Councilor Snider thanked CEO Mollahan for her leadership on the Street Fair. Mayor Cook said he enjoyed the music from the balcony at the Fair and Ms. Mollahan said that achieved through the vision and efforts of Tigard Cleaners. Councilor Woodard mentioned that he liked the circulation and the ability to walk through the event without worrying about cars.

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

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3. CONSENT AGENDA: (Tigard City Council)

A RECEIVE AND FILE:

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

Councilor Buehner moved for approval of the Consent Agenda and her motion was seconded by Councilor Snider. All voted in favor.

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

4. PROCLAMATION – AMERICAN LEGION DAY

Mayor Cook proclaimed September 16, 2014, as American Legion Day and read from the proclamation.

5. PROCLAMATION – CONSTITUTION WEEK Mayor Cook proclaimed September 17-23, 2014 as Constitution Week.

6. APPOINT MEMBERS TO THE TIGARD YOUTH ADVISORY COUNCIL

Mayor Cook asked those TYAC members present to come forward and receive a city pin.  Tigard High School Student Envoy Carter Kruse discussed the reorganization of the TYAC.

Councilor Snider said it is clear that the former structure was overly robust in direction of how many could be involved, yet it did not have broad focus. Informative discussions indicated the need to broaden the group’s activity. He mentioned the number of members that are high school seniors. Councilor Woodard expressed concern that there would be enough up and coming younger classmates to develop leaders for the future.

Mayor Cook commended Mr. Kruse for his work in bringing many energetic and enthused kids forward. He said bylaws have been done for all the city’s other committees and they need to be updated for this committee. He said it would be great to have youth liaisons on each city

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committee. Council President Henderson said his concern was future leadership and engaging youth. He said this was one of the council goals and he appreciated Mr. Kruse’s enthusiasm. Councilor Snider suggested considering junior high or possibly elementary school students. Mayor Cook said the bylaws allow 6th grade through 12th grade participants.

Councilor Woodard concurred with the mix of 6th through 12th grade students. He presented the idea of assigning a Sims project to youth representatives on boards and committees. Then notes could be compared between the citizen and youth groups. Councilor Snider said interest would need to be gaged as it may not be high for some committees, such as the Audit Committee or Planning Commission. Councilor Buehner suggested going to the high school and speaking during citizenship or government classes about local government.

Councilor Buehner moved for adoption of Resolution No. 14-40. Councilor Woodard seconded the motion. City Recorder Krager read the number and title of the resolution.

RESOLUTION NO. 14-40 - A RESOLUTION TO MAKE THE FOLLOWING APPOINTMENTS TO THE RENEWED TIGARD YOUTH ADVISORY COUNCIL, ZACHERY DEAN, RAYMAN KIRBY, CARTER KRUSE, SHAUN RASMUSEN, JORDAN STEPHENS, CALEB TORGERSON AND JEZETH ZARAGOZA

The motion passed unanimously.

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

7. CONTINUATION OF COSTCO APPEAL – FINAL DECISION ON CUP2013-00002



a. Staff Report - Associate Planner Kowacz gave the staff report on the continuation to finalize the appeal of the conditional use permit. She said council was provided with the final order which incorporates the following changes from the August 12, 2014, public hearing:

- Added language to incorporate bike lane markings into Condition No. 11 (previously Condition No. 10)
- Added Condition No. 4 which requires applicant to provide evidence that the necessary right of way for the right turn lane construction has been acquired prior to issuance of the building permit.
- A statement on the front page clarifying that council is only considering those issues that were raised on appeal and not revisiting the entire planning commission final order.

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Ms. Kowacz mentioned that the final order had a typographical error on page 33 under rough proportionality referring to Condition 1 which should have read Condition 11. This change has been made and corrected copies have been given to the city recorder for the mayor to sign.

Staff recommends that council make a motion to finalize their tentative decision from the August 12, 2014, meeting to deny the appeal for the Costco fuel station.

- b. Council Discussion and Consideration of Appeal to CUP 2013-00002. Mayor Cook asked for comments. Councilor Woodard said the conditions meet his concerns.
- c. Council Vote: Councilor Buehner moved approval and adoption of the final order denying the appeal and upholding the Planning Commission’s approval, subject to certain conditions, of the Conditional Use Permit (CUP2013-00002) for the Costco Fuel Station and specifically including the changes that were recommended by council and outlined by staff and recognizing the change for the typographical error. Councilor Snider seconded the motion and it passed unanimously.

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

8. FIELDS/HUNZIKER INDUSTRIAL CORE PUBLIC INFRASTRUCTURE FINANCE PLAN UPDATE

 Economic Development Manager Purdy said he had good news to share regarding the project initially known as the Fields property but more accurately labeled the Hunziker industrial core. He introduced the team of experts present: Community Development Director Asher, attorney Kelly Hossaini, representing the Fred Fields estate; Mike Merino, Clayton Hering, and Mike Thorp, of Norris Beggs Simpson, and industrial developers Steve Wells and Skip Grodell. Mr. Purdy said this is a good example of a public/private partnership.

Economic Development Manager Purdy said he last spoke to council about this site six months ago. At that time a site opportunity analysis was shared on this 42-acre industrial zoned site. He said it is heavily sloped and has a railroad spur, desirable for some industries but not for all. The site includes Wall Street which is substandard. Even with all the liabilities, it is still a large industrial site and the envy of cities that do not have such a large site available. It is not conducive to a large format development site and is better for employment lands or mixed use. It can support more than one thing – residential and commercial. This problem site requires a public/private partnership in order to move ahead with mixed-use development and staff will need to prepare a Comprehensive Plan amendment, land use map amendment and zone change. The city received a \$30,000 grant

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from the Department of Land Conservation and Development to fund the public infrastructure finance plan consultants. Council and the planning commission recommended that staff move ahead with the analysis.

The partnership began looking at infrastructure to support the site. Key findings include a range of infrastructure and road alignments to serve this area well. A meeting was held on improving infrastructure and 16 stakeholders attended on site and discussed the preferred road alignment which includes 3 parts:

- An upgrade to Wall Street
- A connection to Tech Center Drive
- An eventual connection to Hall Blvd.

A cost estimate of \$7.9 million was developed for the basic infrastructure. A catalyst project may require only \$3.95 million to get Wall Street up to par and possibly create the connection to Tech Center Drive. This catalyst project is estimated to generate over \$22 million in private sector investment. He said the benefit to the Tigard community of \$22 million would be 300-500 new jobs, and over 100,000 square feet of new commercial development. Similar real market value ranges from \$459,000 to \$977,000 per acre. In this area the average market value per acre is \$592,000. This could be an epicenter of employment. In Washington County industrial zoned land averages 5 to 29 employees per acre, and Tigard's average is 5.5. New development would raise this trend for Tigard.

 Mr. Purdy said there are two developers expressing interest and their projects combined would add 170,000 square feet, 300-500 jobs and 300 apartment homes using the uphill portion of the site. Private sector partners want to know what portion of the infrastructure they will have to share and carry. The project team is at the phase where they are working with specific developers to move into implementation.

Real estate professional Clayton Hering said it was a pleasure to work with Community Development Director Asher, Economic Development Manager Purdy and City Manager Wine and said they were problem solvers. He said the development team has a good track record. Trammel Crow Managing Partner Steve Wells has had extensive success in developing industrial properties in this market. GSL Managing Partner Skip Grodell has built over 4,000 units in this market alone. He said a conceptual outline of an agreement has been written, subject to Comprehensive Plan change, land partitioning and zone changes. The multi-family component makes it possible to develop the industrial piece of the property.

Mr. Hering said time is of the essence in real estate and there are four types of risk - entitlement, construction, marketing and financial. He said the first thing that has to fall into place is entitlement. He said they need to start digging into the ground as soon as the weather permits in early 2015, meaning they must move quickly with the public/private partnership. If that doesn't happen there may be increased marketing risk because it is unknown where the economy will be in 2016-2017. He said they are enthusiastic but they need more definition on the infrastructure that will be required to build 300 units of workforce housing and 180,000 square feet of commercial space within the current zoning. Quick calculations indicate that \$45-50 million would be added to the tax

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rolls and it brings to conclusion Fred Fields' vision of what he wanted to have done before he passed away. Fields Trust Attorney Kelly Hossaini is fully informed on all aspects and the trustee is on board. He said this closes the Fields trust. He said if this project moves to fruition everyone will win.

Councilor Snider said this is an exciting time. It is more than conceptual now that progress has been made with the people who can actually do this.

Councilor Buehner said she works in this field and is thrilled with the facilitation and progress that has occurred.

Councilor Woodard asked if there would be a list provided of financial tools for this project. Economic Development Manager Purdy said the next steps are figuring how to close the gap between public and private funding for infrastructure and working on a pre-development agreement outlining expectations. Councilor Woodard thanked Community Development Director Asher and Economic Development Manager Purdy for "bringing the best minds in the business" together on this project.

Mayor Cook asked if council is willing to step forward on amending the Comprehensive Plan and working on financial models. He agreed that this project will help spur development in other Tigard areas. He said he hears consensus from council to move forward. He commented that in the past they heard Tigard was not business friendly. He said adding more jobs and housing would be a positive for everyone. Councilor Buehner asked if staff has done a pre-application conference and Economic Development Manager Purdy said they were not near that point yet.

Mr. Hering said, "One size does not fit all. Your SDCs are going up in October. As you can see, other municipalities are mitigating their SDCs in order to make workforce housing feasible. In order to hit the rental range that is affordable, you may have to look at that."

Council President Henderson asked if the Knez property owners were partners and Mr. Purdy responded that they are not a partner but their input was sought and they are good neighbors. He commented that the Hunziker industrial core includes everyone in that area but when he speaks of the Fields property, he is talking about a specific property.

Mayor Cook reiterated that direction from council is to move forward.

9. DISCUSS WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY (WCCCA) INTERGOVERNMENTAL AGREEMENT AMENDMENT



Assistant Police Chief de Sully discussed the proposed changes to the WCCCA intergovernmental agreement. He highlighted a major change in how the agencies are billed. WCCCA proposes to move to a different way of charging member fees that is in line with

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population, public calls for service and actual air time. Staff is seeking input and will return with the IGA amendment at a future council meeting.

Councilor Snider asked if staff had an estimate of what the change in fee structure will cost. Assistant Chief de Sully said the Police Department is seeing a five percent increase for member fees. Councilor Snider asked if the fees were expected to continue to increase or drop and Assistant Chief de Sully said initial analysis indicates they will be relatively flat but will increase as Tigard's population and calls grow. He added that as officers are trained to use computers more for daily business, air time will be reduced.

City Manager Wine said the WCCCA Board said governance changes are also being considered, such as which cities are included. She said there may be a communication bond measure. Assistant Chief de Sully said they are still preparing what to propose and have partnered with Clackamas County, Lake Oswego and Washington County. In response to a question about whether the bond would be for capital or equipment expenditures, Assistant Chief de Sully said this is still under discussion. He said he will return to a future council meeting to seek approval for executing the amendment.

10. CONSIDER A RESOLUTION OF NECESSITY TO ACQUIRE EASEMENTS FOR THE BONITA PUMP STATION PROJECT

 Lake Oswego/Tigard Water Partnership Manager Koellermeier presented this item. He said the water project has progressed to the point where water line locations can be planned and pipe from the pump station put in place. Easements are required for pipelines and water supply equipment used to convey water to the Bonita pump station in Tigard.

Although most of the pipeline route is in the public right of way, permanent or temporary easements are required from four property owners. The city follows the federal process which requires negotiations with the property owner and purchasing the easements at a fair price. He said as a last resort, it is occasionally necessary to acquire easements through a condemnation. Staff follows the federal process which requires a resolution of necessity be adopted before the negotiations begin. Tigard wants to follow the federal process to ensure eligibility for federal funding.

Councilor Snider moved for adoption of Resolution No. 14-41. Councilor Buehner seconded the motion. City Recorder Krager read the number and title of the resolution.

RESOLUTION NO. 14-41 - A RESOLUTION DECLARING THE NEED TO ACQUIRE PROPERTY FOR THE PURPOSE OF CONSTRUCTING WATER IMPROVEMENTS ALONG SW BONITA ROAD AND AUTHORIZING IMMEDIATE POSSESSION OF THE PROPERTY

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A vote was taken and the motion passed unanimously.

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

11. DISCUSS POTENTIAL FOR ESTABLISHING TAX ON THE SALE OF MARIJUANA

 Finance and Information Services Director LaFrance led a discussion on the potential for taxing gross receipts based on income of anyone registered to sell marijuana in the Tigard. He asked council if this was something they are interested in doing. There is a likely to be an initiative on the November ballot similar to the one in Washington which would legalize recreational use of marijuana in Oregon. There is a section in the proposed law that allows states to tax but is silent on whether or not cities can tax. But there is a chance, if cities get a tax on their books prior to the election, they may be able to tax marijuana sales. If it is not in place they would not be able to tax later.

Mr. La France said policy questions are whether or not to tax, and what amount. The ordinance prepared for council review is modeled on the City of Ashland's and taxes medical marijuana five percent and recreational retail marijuana ten percent. In response to a question from Councilor Snider he said the tax would be on the final sale at registered dispensaries or retail sales businesses. He asked council if they want to keep a different rate between medical and retail sales, noting that Ashland's desire was to offset enforcement costs. He said Tigard council may want to consider higher rates.

Mayor Cook said council will take public comment at their next discussion. Potential reasons for taxing marijuana are that the city could make money, it may make Tigard less attractive for these businesses, and it would help cover the costs of enforcement services. He said the percentages under discussion are 5 and 10 percent but the city could change those percentages in the future. Councilor Snider asked City Attorney Rihala if in the event the city is allowed to tax, could the percentages be raised or lowered to reflect the actual cost and she said they could.

City Attorney Rihala said medical marijuana would be unaffected by the November ballot results. Council President Henderson asked if council is too concerned with something that might not even happen. City Attorney Rihala said the city is preserving its right to tax if this is implemented.

Councilor Woodard said there were two ways to look at it, and the cities may not be able to tax at all. Mayor Cook agreed but said in the chance that cities can tax, it must be on the books 30 days ahead of the election. Finance and Information Services Director LaFrance said September 23, 2014, would be council's last chance to vote for this.

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Councilor Snider asked on what Ashland is basing their 5 or 10 percent tax figures. Finance and Information Services Director LaFrance said it is unknown how much revenue that would generate. It is supposed to cover additional costs that Ashland might incur caused by the sales of marijuana. It is a best guess. Mayor Cook said it can be raised or lowered and added that even if the law passes, we are still looking at 18 months for OLCC to write rules and get facilities licensed, etc.

Councilor Snider said he has concerns about industrial grow sites.

Council President Henderson said this will cause costs related to increased addiction, prevention of children using it, and mental health needs. He said gambling only allowed one percent to go back towards gambling addiction prevention and, "We know there are higher costs than this. I am opposed to marijuana and supporting it in any way." He suggested taxing it at 100 percent, and said, "This is a huge problem."

Councilor Buehner said costs could be extrapolated from what is spent due to the effects of alcohol and prescription drug use. She said, "We need more money for mental health but we also need to recognize that there is a population using it for legitimate medical reasons." She said she wanted to be careful not to tax medical marijuana at a rate that puts it out of reach for those who really need it.

Councilor Woodard said a bottle of liquor costs about 95 cents for the actual product and the rest is taxes. Mayor Cook said the proposed tax rates might not be enough to cover costs. But at the same time, we can raise or lower taxes. He referred to the proposed ordinance and said that charging 5 or 10 percent is really charging 9.5 and 4.75. It is not a gross receipts tax but the employer still handles that burden himself and he has trouble with that. Mr. LaFrance said that section in the ordinance is modeled after the state gas tax. Councilors Woodard and Snider suggested striking the section on the costs of doing business.

Councilor Snider supported moving forward with 5 percent for medical and 10 percent for recreational. He said the purpose is two-fold. The city can cover some costs of services and there will be an opportunity for revenue generation. He suggested adding something that taxes the grow operations to help defray those costs too.

Councilor Buehner agreed with Councilor Snider regarding taxing growers. She said just having growing operations will create more crime.

Finance and Information Services Director LaFrance asked if there was an opinion on gross tax receipts. He said there is limited time to get the agenda packet together to place this on the September 23, 2014 council business meeting. City Attorney Rihala said the language is written that the 10 percent tax is paid to the seller. She suggested scratching the 10 percent of the gross which takes out the limitation that it has to be an individual. The medical part would get a reduced rate if they have a card. A recreational user would be taxed at 10 percent. The seller to the medical marijuana dispensary would also pay the increased tax and this doubles the tax for medical.

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Mayor Cook asked if the city has home rule authority to tax the wholesale sale and Councilor Woodard said that would present an opportunity for marijuana that is grown elsewhere. Councilor Snider said if it is grown in another city and sold in Tigard, the city doesn't have to spend resources patrolling that grow operation.

Finance and Information Services Director LaFrance said the intent is not just to tax the last transaction, but other steps in occurring in Tigard. Councilor Snider said taxing ten percent of sales is great to capture retail sales but doesn't cover the product grown in Tigard but sold somewhere else. Council President Henderson commented that the end user in Tigard pays twice. Councilor Snider said this may reduce interest in growing marijuana in Tigard. He said it is short-sighted to think that grow operations will not create problems.

City Manager Wine said she will work with City Attorney Rihala and Finance and Information Services Director LaFrance and bring back a suggested ordinance reflecting the changes.

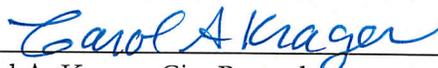
12. COUNCIL LIAISON REPORTS  Councilor Buehner sent a copy of a draft Metro report regarding population growth changes anticipated over the years 2015-2035. She said she felt the projections for Washington County were low. She also said Washington County has a huge employment center but employees, particularly those who live in south Multnomah County or Clackamas County, will travel through Tigard to get to work. The number of people that are projected to live in these other areas has an effect on Tigard in terms of future congestion. She said she could not attend the next Metro meeting but will ask Associate Planner Floyd to attend and prepare a detailed report. Councilor Snider asked how council can make an effect. Councilor Buehner suggested talking to Metro councilors about this issue and perhaps testifying at Metro meetings about how the numbers are estimated. In response to a question from Councilor Snider on what the incentive is to keep modeling projections this way, Councilor Buehner replied that it is designed to keep most of the growth inside the City of Portland. Council President Henderson said there is a strong direction nationally that the growth should happen in the downtown areas. Councilor Buehner said most of those arguments are based on second and third tier suburbs and Tigard is a first tier suburb to Portland. She said she is bringing up this issue because she will not be in office next year to follow up on this. Mayor Cook said this was brought forth to the Washington County Mayor's Association. He agreed with Councilor Buehner that talking to Metro councilors will make a difference. He said Washington County cities need to do this as a team. There will be further discussion after the next report is issued.
13. NON AGENDA ITEMS: Mayor Cook noted that he put information in the council newsletter regarding a proposal to change an ACT (Area Committee on Transportation). He said there are areas in rural Clackamas County and Hood River are not in an ACT and are asking for more of a voice. The State Transportation Division has assembled a task force to study this. The next meeting is September 22, 2014, and council can forward questions to Mayor Cook. Councilor Buehner suggested getting the notes from the League of Oregon Cities Transportation Committee as they would be helpful.
14. EXECUTIVE SESSION - None

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15. ADJOURNMENT

At 9:44 p.m. Councilor Buehner moved for adjournment. Councilor Woodard seconded the motion and all voted in favor.

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



Carol A. Krager, City Recorder

Attest:



Mayor, City of Tigard

Date: Oct. 28, 2014