

City of Tigard  
Tigard City Council Meeting Minutes  
November 25, 2014

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6:30 p.m.

1. STUDY SESSION

- A. Human Resources Director Bennett discussed the format for the city manager evaluation. She distributed forms for review including an employee input form requested by Mayor Cook. She proposed seeking input from department directors, other staff and City Attorney Ramis. Councilor Snider wanted more discussion on the importance of seeking input from external partners. Ms. Bennett listed three questions used in the past and Councilor Snider suggested there be more questions on how the city, under City Manager Wine's leadership, is working with other organizations. Councilor Buehner suggested letting nearby city managers give feedback. Ms. Bennett said she will refocus the questions.

Directors and external partners responding last year were listed and council was asked who else should be included. Council suggested Joel Rubin, the fire chief, Tigard Chamber CEO Mollahan, leaders from the Tigard Downtown Alliance and Economic Development Manager Purdy. Ms. Wine said the chairs of city boards and commissions and the county were previously contacted but they did not all respond.

Councilor Snider suggested asking external partners how successful Ms. Wine is on leading and working on partnerships, what she does well and what she could do better.

Councilor Woodard clarified that the responses are confidential. He said his concern was addressed three years ago which was to include specific internal team leaders in addition to department directors.

Human Resources Director Bennett asked if council wanted to change anything about the process. Council agreed that external partners and staff input will be joined and council's will be separate. She said feedback she got back was that something simpler would be better. She listed goals so City Manager Wine can see how she rated on meeting them and can plan for the next year's work.

Councilor Snider requested a comments box. In response to a comment Councilor Snider made on city staff being evaluated on the three core values, Ms. Bennett read a statement at the top of the evaluation asking the rater to keep the three core values in mind while doing the evaluation. Councilor Snider said he liked the consistency of including it for the city manager as well as the line staff. City Manager Wine said it will be easier this year for her to understand what the council's intent is regarding goals. Ms. Bennett also had an input form

for City Manager Wine to complete and submit to council listing key accomplishments during the rating period. She could also list her goals for the next evaluation period. HR Director Bennett will distribute electronic and hard copies on Monday and City Manager Wine will submit her lists of accomplishments and goals.

In response to a comment from Council President Henderson, Human Resources Director Bennett said there will be space at the end of the evaluation form for extra comments. She said a public hearing on the process is on the agenda for December 9 and an executive session is scheduled for January 13. Councilor Buehner mentioned that she will be off the council when the executive session is held and asked if her input was relevant. Ms. Bennett said it is as she was a sitting councilor during the evaluation period. Councilor Snider requested City Manager Wine be present during the executive session. Mayor Cook agreed with that.

#### B. Summary of 1x5x10 (Town Hall) Meetings

City Manager Wine said a summary was prepared of notes taken at five town hall meetings hosted by council and supported by a staff person. Topics for discussion included marijuana regulations and upcoming policy discussions about Tigard's Street Maintenance Fee. Citizens raised additional issues related to recreation and parks, transportation, the Urban Growth Boundary and other general topics. She asked for council opinion on the meeting format. Councilor Woodard said he preferred the format to larger town hall meetings. Councilor Snider noted that different people attend them. Council President Henderson commented that he had one person attend but found it worthwhile. He said for him the bottom line is to, "go where the people are rather than have them come to us." Councilor Snider suggested using existing venues such as a school parent support organization meeting, where his experience was that the ten people attending had a lot to say. Mayor Cook said council may not get a complete hour to discuss city issues in another venue. Councilor Snider commented that people will remain engaged if the topic is interesting enough. He asked that council review the summaries from these meetings when preparing to debate the issues at council meetings. Councilor Woodard suggested quarterly reviews at workshop meetings. Councilor Snider said he wanted to tie the review closer to the timing of each discussion.

Assistant City Manager Newton said the city is preparing to launch a residential online street maintenance fee survey, adapted from the commercial version. She said it will be promoted online and in the newspaper and the January Cityscape will have a reminder that it is still active. Councilor Buehner said there are some residents who do not get their city information online, and a notice in the utility bill would reach them more successfully.

Council President Henderson updated council on the Tigard Turns the Tide-sponsored discussion on marijuana and dangers for young people using it prior to the age of 25. He said education on this is important. Mayor Cook said there is an upcoming staff briefing on this scheduled in January.

Admin Items: Council Groundrules will be held December 4  
Councilor Buehner will be arriving late to the December 2 CCDA meeting.

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### **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

2. BUSINESS MEETING

A.  At 7:32 p.m. Mayor Cook called to order the City Council and Local Contract Review Board.

B. City Recorder Krager called the roll:

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

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

D. Council Communications & Liaison Reports – There were none.

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

3. CITIZEN COMMUNICATION

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

B. There was no Tigard High School Envoy present but Council President Henderson reported on the recent Tigard Turns the Tide program, a two-hour educational presentation on the effects of marijuana on youth. Educator Andy Cartmill from Washington County and a representative from St. Vincent’s Hospital discussed how the drug affects young, developing brains. He said there were about 500 people, including many teens and their parents in attendance. He also announced that Tigard High’s football team plays West Salem on Friday at noon at Hillsboro Stadium.

C. Tigard Area Chamber of Commerce – Chamber CEO Mollahan gave an update on upcoming chamber activities. On December 2 they are holding their annual holiday happy hour at Broadway Rose Theater from 6-8 p.m. Admission is canned food, a toy or a \$15 donation at the door. She congratulated newly elected council members and mentioned that Council candidates participated in the chamber’s Candidate Forum in October. She hoped this was helpful to the community as they prepared to vote. The annual holiday tree lighting will be held downtown on December 5 at 7 p.m. with Santa and Mrs. Claus attending.

D. Citizen Communication – Sign-up Sheet. 13 have signed up.

Robert Van Vlack, 15585 SW 109<sup>th</sup> Drive, Tigard, OR 97224, brought a concern from Summerfield resident Sandy Clark who received a letter from Albert Shields on October 22, 2014, in reference to a broken sidewalk on Durham which is a tripping hazard. The sidewalk is on Durham Road, next to her home and she was given 20 days to respond. Public Works

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

Director Brian Rager reassured her that the city is willing to work with her so she can have the sidewalk repaired but it was her responsibility to repair it. Mr. Van Vlack said after taking a closer look, it appears to have been broken by a backhoe stabilizer pad and the curb is also damaged. It does not appear to be tree damage or anything a homeowner would be responsible for repairing. He said he was employed by NW Natural Gas for 36 years and is aware of the damage that a backhoe stabilizer pad can do to sidewalks. He submitted some photographs to illustrate the damage and asked how the city could hold her liable. He asked that the city consider a sidewalk repair program like the City of Sherwood where they raise funds to repair sidewalks damaged by city trees or other actions.

Sandy Clark, 15930 SW Oak Meadow Lane, Tigard, OR 97224, said she moved to Summerfield a little over a year ago. The previous owner of her home had lived there since 1997 and had never received a letter about the sidewalk damage. She said she did not do anything to damage the sidewalk she is being asked to repair and it was not caused by a tree root. She added that many Summerfield residents find it difficult to clear sidewalks of snow and ice. Mayor Cook said staff will look into this and get back to her.

Jim Delmore, Stonebridge Homes, 4230 SW Galewood Street, Lake Oswego, OR 97035, said his firm has been building homes in Tigard for over 20 years. He said sometimes comments about police are negative but council should be proud of the Tigard Police Department, specifically the Commercial Crimes Unit headed by Lieutenant McDonald. From September 2012 to October 2013, his and other construction firms were hit very hard by thieves. They started stealing computers and furniture from model homes and then later on took high-end appliances. Losses were over \$26,000 in appliances and another \$9,000 in computers and furniture. The losses have to be absorbed and cannot be passed along to the consumer.

Mr. Delmore said thefts were taking place in several communities. In other jurisdictions they received the typical response of an officer taking a report and that was it. Tigard's police officers were different from the start. Officer Orth responded and was professional, sympathetic and diligent. He told Mr. Delmore about the Commercial Crimes Unit. Two CCU officers, Hahn and Schweitz were given minimal information and screen shots that the suspect left on a computer. The officers got the IP address and within two weeks a warrant was served in SE Portland. The officers recovered items from two model homes and that recovery led to the arrest of one suspect. Most officers would have figured their job was done and moved on; but not the Commercial Crimes Unit. Over the ensuing months Officers McDonald, Hahn and Schweitz put in countless hours resulting in a conviction of the first suspect, six additional search warrants, recovering property from many storage units and another arrest. The officers were humble about their efforts but Mr. Delmore said the case would not have moved forward if not for them. He said they have so far recovered property in the six-figure range. So many people complain about police but this is not the case. Their actions provide an invaluable service and represent the city at the highest level. He added they should all get some days off.

Council President Henderson said the original funding source for the Commercial Crimes Unit was the business license program so he thanked all the businesses that pay for this. Councilor Buehner noted that the idea for the Commercial Crimes Unit came from a street officer.

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

Reid Iford, 11547 SW Lomita Avenue, Tigard, OR 97223, said he has lived in the city for 46 years. He said he is very concerned about the city selling surplus property. He said he did not consider it surplus property; it was a jewel given by the founders of the City of Tigard and cannot be replaced. He said the way it is being handled disturbs him. Government employees put this package together and it looks like a business plan. He said he was not knocking government employees but felt the plan is unworkable. It involves selling below value and hand-picking a contractor rather than going through a bidding process. He said he pointedly asked if his parent corporation, a major west coast developer, could bid on this and he was told no. He thought when the people of Tigard find out their tax money is being used to subsidize an ill-conceived, unworkable project that will benefit one private contractor; it will never come to fruition.

*\*Mayor Cook offered and Mr. Iford agreed, to include this testimony into the record for the legislative public hearing for Agenda Item 8.*

Linda Day, 9865 SW View Court, Tigard, OR 97224, said she has lived in Tigard for 30 years. She said her neighbors have filled Town Hall tonight to urge the city council to do what is appropriate in the Ingebrand neighborhood. She said neighbor and developer Mike Mitchell met with the City of Tigard in June to present his plan to develop the property he owns half a block from Twality Middle School. It was a cul-de-sac plan to build some new homes on a cul-de-sac and some additional homes off of 97<sup>th</sup> Avenue. In his pre-application meeting staff said the only way the plan would be accepted was one with a through street which has not been approved yet and then met with neighbors. As a result of the meeting with Mr. Mitchell the neighbors were urged to pursue whatever they could to help keep their historic street a dead end street. They set up many meetings with the City of Tigard. Neighbors met with Kenny Asher and he asked them to bring something that he could present to his staff that would be acceptable. They hired attorney Damien Hall to begin their case. They presented the city with many opportunities, both legal and interpretive. She referred council to page 3 of her handout and seven very strong points in their addendum. She said they are here to ask the city council to urge staff to consider the merits of the developer and the community's proposal to develop View Terrace as a cul-de-sac and keep the livability of this neighborhood as it has been for 70 years.

Steve Day, 9865 SW View Court, Tigard, OR 97224. Mr. Day highlighted how long and intensively the neighbors have worked on this project. Their collective research and advocacy process began over three years ago when Mike Mitchell bought the property and shared his intention to develop it. Since then they have put in countless hours of research, outreach and collaboration to preserve View Terrace as a dead end street. In 2011, Amanda Feller, a professor at Pacific Lutheran who grew up on View Terrace began offering her time to the Ingebrand neighborhood. With her assistance Mary Feller assembled the 2011 documentation that went to then Mayor Dirksen and the city council. For the intervening three years neighbors have spent countless hours finding, reading and reviewing urban studies and reports, studying the American Institute of Certified Power Planners Ethics, consulting with developers and investigating development plans, burying themselves in Tigard documents including the municipal code, transportation plan, 20-year plan, 2050 Plan and Safe Routes to Schools initiative. They have been surveying other Tigard residents,

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**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

meeting with city planners and engineers, working with other local organizations, consulting with developers, networking with others and consulting land use experts including our attorney, Damien Hall from Ball Janik. At this point we know a lot about the Tigard City Code. He said their presence here tonight was not to represent an emotional group. They are thoughtful citizens who are well educated on matters relative to this issue. It is important to them that the city council knows how much time they have invested in the situation and in preserving their neighborhood. He said it is important that council know that this proposal is thoughtful, cognizant of the code and truly a provision to preserve a Tigard neighborhood; one that we love. He asked that it be reviewed in that light.

Dean Winans, 9890 SW View Terrace, Tigard, OR 97223, said he moved into his residence in 1967. He loves the neighborhood and the neighbors. He said Amanda and Mike and he will cover four points which highlight the irrefutability of their petition. Their first premise, foundation and position are found in the petition and the addendum to the petition: SW View Terrace has been a dead end street for over 70 years. Neighbor Mike Mitchell is proposing to develop a residential subdivision. Both the developer and the community want SW View Terrace to remain a dead end street. However, city staff take a position opposite of the community, insisting on a street connection that no one wants.

Second, this issue matters to them and they have spent much time, money and human resources. Their efforts include hiring a land use attorney to identify how the code supports the desired cul-de-sac plan. The community and the developer worked together to design a proposal that meets everyone's needs, including the city's. Through their combined efforts they discovered that the development code supports that proposal and they pursued making that case to the city. In this process the city staff conceded that the development code could allow the street to remain a dead end. In an effort to encourage the city to allow View Terrace to remain a dead end they looked into how their concept could allow the city to act within both the technical boundaries of the code and within the public domain promoting livability. The plan for improving the existing dead end street includes sidewalks, a cul-de-sac bulb and a path for pedestrian and bicycle access to SW 97<sup>th</sup> Avenue. He said they have observed that city documents repeatedly mention improvements to livability in terms of pedestrian movement. Their proposed path and sidewalk improvements would provide safe passage for children to bike or walk to Twality and Templeton schools. In spite of their best efforts, city staff refused to work with them towards creating a solution. Each attempt has been met with a hard line and insistence that View Terrace be connected through without providing any real explanations why. Even worse, the staff has threatened to impose a second application fee and charge the developer over \$7,000 just to formally review the cul-de-sac option, despite having no authority to do so.

Mike Hasson, 9835 SW View Court, Tigard, OR 97224, said he was not the realtor Mike Hasson, and gave the third point. He said they know that the city staff solution of a through street is bad for everyone. Unfortunately, following city staff's blind directive to connect the street does not benefit anyone, not even city code. He said their petition documents show how the city's solution does not help in the technical matters, the code, or in broader matters such as safety, crime, social fabric and even the city's strategic 20-year plan. In contrast, the one pseudo-rationale provided by the city is connectivity and that is unsupported as there are negligible traffic benefits to the city's streets system. City staff conceded as much in numerous discussions of the issue. The pseudo-rationale is dangerous because the existing

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

dead end is not improved to standards for width or sidewalks and connecting this street to View Terrace will result in neighborhood children walking to school, being diverted onto a narrow right of way without sidewalks, causing conflicts with through traffic and creating safety risk. Obviously, this would fly in the face of the city's efforts with the Safe Routes to Schools Initiative. It is also an undesirable outcome for both the neighborhood and the developer. In contrast, their solution is good, warranted and consistent with the code.

In this scenario View Terrace would not be connected for car traffic, but would be connected for pedestrians to improve and support the safe travel of young students on bike and on foot to and from Twality Middle School. He said what is interesting is that city staff agree with the community and the developer that the cul-de-sac plan with its improvements is a better outcome and this outcome is permitted with the code. He asked why staff cannot accept the opportunity to work collaboratively with the neighborhood and the developer to pursue a partnership that will benefit the community and the parties involved.

Amanda Feller, 14707 15<sup>th</sup> Avenue South, Spanaway, Washington 98387, testified on a fourth point: As elected officials who have the municipal authority to approve petitions, council can direct city staff to do what they already know is right. The city council adopted the Development Code with built-in flexibility to allow staff to do what is best in various situations. City staff refuse to pursue the solution that benefits us all – the neighborhood, developer, children, and even the city's initiatives to increase livability. She said the city council should use their authority to vote in favor of the cul-de-sac plan and vote to do so without further resubmission costs to the developer. She asked that the elected officials rule on their two-point petition and that it be done so in a manner that is fair, technically consistent with code and permissible. She said most of all, it is keeping with good faith government to approve the two necessary exceptions.

Aly Pierce, 9920 SW View Terrace, Tigard, OR 97224, said when she and her husband were looking to relocate with their family from their Portland neighborhood, topping their list was a desire to live on a safe street. They loved the culture and arts of their former NE Alberta neighborhood but the traffic was becoming increasingly dangerous. They saw a listing for a home on a dead end street in Tigard and purchased it. Sadly, a week before moving their cat was run over by a car. The cat did not get to experience the quiet and safety that comes with a dead end street. She commented that when they moved to Tigard, neighbors brought them produce from their gardens, chicken eggs and offered hospitality she had not experienced before. A few weeks later she discovered an ugly truth. The city had coined a term called "connectivity" with the goal to do away with dead end streets and cul-de-sacs to increase traffic flow. She could not believe that the reason she purchased the house in Tigard was now in jeopardy. She wondered how making this a through street would affect her children's safety, the crime rate, noise levels and property values. She said this is not an improvement but a safety hazard and menace. She said the definition of connectivity is "the state or extent of being connected or interconnected. She said the residents of View Terrace exemplify the meaning of connectivity. She reiterated that dead end streets encourage connectivity, not busy streets with people in a hurry to get somewhere.

Don Feller, 9875 SW View Court, Tigard 97224, said he has lived in Tigard over 51 years. He said council was probably aware of local news reports of Tigard's planning department efforts to turn his 70-year old neighborhood dead-end street into a through street connecting 100<sup>th</sup> Avenue to 97<sup>th</sup> Avenue. This is due to neighbor Mike Mitchell's plans to develop and

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

add five new homes. He wanted to put a cul-de-sac at the end of View Terrace and neighbors agreed with the developer's desire. Mr. Mitchell was told that his application to build would be rejected because the city code now favors connectivity. He said this policy has not always been in effect in their area and properties, some as close as one-half mile from View Terrace, have been developed contrary to those standards. He said connectivity means far more than extending historic dead end streets. It means bike and pedestrian access. Safe and direct access to two of Tigard's schools could be provided by adding a bike/pedestrian path from 100<sup>th</sup> to 97<sup>th</sup> Avenues. Extending their street does nothing to help traffic movement in Tigard but does make it unsafe for children to walk down this substandard street. He asked for council's support in allowing their neighbor to build homes and a cul-de-sac at the end of their historic street.

Lindsey Day, 3319 SW Primrose Street, Portland, OR 97219, said she is the daughter of Steve and Linda Day who testified earlier. She said she is a recent law school graduate and has experience in reading and interpreting city code. The city council has an opportunity to represent their constituents and still abide by the code. This could not be more of a case of interpretation. She listed several points. 1) There is an existing structure in the way of a proposed road and this could be considered an exception. 2) View Terrace is technically a non-conforming street. 3) The traffic study conducted by the city can be looked at two ways. The city says it will not increase traffic by much so a through road should not affect the quiet environment in the neighborhood. But this lends itself to the neighborhood's argument that it would not increase connectivity by much so a through road is not justified. Livability is also an exception. 4) The city has demonstrated their ability to interpret the code in the past in three nearby neighborhoods. She asked Engineering Manager McMillan if a certain development had been developed in a different order, potentially not requiring a through road, would she have required one. She replied that she did not know, so assumedly she would have to interpret the code for that specific situation. Ms. Day said that is the point she wants to make - the code is not a rigid body of law. Along with federal and state and other legislative statutes, these seemingly permanent provisions are constantly being amended and interpreted by a legislative body. That is what we are asking the city to do. We understand city staff's concerns and their initial stance against our position and their desire to uphold the code. She said what she and others, including attorney Damien Hall, are telling council is that you can uphold the code and not require a through road. She requested that council keep an open mind as they read through the materials the neighborhood has given them, keep communication open with the neighbors and hopefully, come to the conclusion that a through road is not required.

Mary Feller, 9875 SW View Court, Tigard, OR 97224, asked the council to cast a yes vote for Mr. Mitchell's cul-de-sac plan. She said that vote was the right one because it supports the long-term aspiration to increase livability, preserves a historic Tigard neighborhood called Ingebrand Heights, honors the developer's wishes and respects citizens and residents of Tigard. She said Community Development Director Asher wants a through street plan. He has told us no. That would require two variations to the city's code. She said what the neighbors want is a cul-de-sac plan and that plan also requires two variations to the code. Either way, council must approve code exceptions. Variances must be given regardless of which plan is approved. The through street plan is without merit or evidence and is also unacceptable to the parties involved, both the developer and the neighborhood. Look at page 3 on our petition, it is carefully laid out. Variances are the same that the city has

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**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

granted in other cases so no precedents will be set. An examination of the Gertz development shows the same exceptions were granted to them. She said the council has the authority to vote on their two-point petition. She said council was being presented this petition as the municipal authority. She said evidence, based on Tigard's code is thoroughly documented in our petition and is irrefutable. She requested that council vote in favor of their cul-de-sac plan whether that is tonight or at the next council meeting.

Mayor Cook replied that the city council will not be voting on this tonight because they have not had a chance to read through the material and the agendas for the next few meetings are full so it will not happen then. He requested that the City Attorney and City Manager explain the petition process. His understanding was that this would go through the planning staff and then arbitration. He said this would not usually come before council.

City Manager Wine said she was discussing what was submitted with City Attorney Rihala and it references a section of code but that section does not have a reference to a petition. She said staff will do some homework to figure out what process is being referenced. She asked for the status of the application prior to the meeting and Mr. Mitchell did submit a subdivision application. Staff did a completeness review and asked for more information in order for the application to be complete and that information has not been turned in. The city has not received an application. More process will follow once the city receives a complete application but eventually the decision about this matter would go before a hearings officer. If the petition has to do with an appeal for an application the city has not received yet, we may need to figure out where we are in the process.

 Councilor Snider referred to the city's core values (Respect and Care, Do the Right Thing and Get it Done) and said council takes them very seriously. He said there is an opportunity to listen to everyone on this, including the staff perspective. He asked for a show of hands of people in the audience that were present because of concerns about View Terrace and 25-30 people raised their hands. He suggested a partnership effort to solve this issue. City Manager Wine said she could look into that possibility. Everything the neighbors talked about tonight involved conversations with staff and we are not prepared tonight to talk to staff. Councilor Snider said it will take time to set this up. It will not be on next week's council agenda. He said to the group, "You have our attention and we hear you and will get back to you." City Attorney Rihala said she did not have any comments to add.

Mrs. Feller added that Developer Mitchell has not completed his application because staff told him he had to submit for a through street, which he does not want. He is hoping that the city council would say, "Go ahead and submit the plan you want, with the cul-de-sac." She said that is why he has not submitted his application yet.

4. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board):

A. RECEIVE AND FILE:

1. Official November 4, 2014, Election Results for the City of Tigard Mayor and two Councilor positions.
2. Council Calendar
3. Council Tentative Agenda for Future Meeting Topics

B. APPROVE CITY COUNCIL MINUTES

- September 23, 2014

C. AUTHORIZE THE MAYOR TO SIGN AN AGREEMENT REGARDING THE MAINTENANCE OF WATER QUALITY SWALES ON PACIFIC HIGHWAY

D. CONSIDERATION OF WAIVING SIGN PERMIT FEES FOR TIGARD LITTLE LEAGUE

**RESOLUTION NO. 14-52 – A RESOLUTION WAIVING \$244 IN TEMPORARY SIGN PERMIT FEES FOR TIGARD LITTLE LEAGUE BASEBALL**

E. LOCAL CONTRACT REVIEW BOARD:

AUTHORIZE A CONTRACT AMENDMENT FOR RIVER TERRACE STORMWATER MASTER PLAN IMPLEMENTATION

Councilor Snider moved for approval of the consent agenda. Councilor Woodard seconded the motion and the motion passed unanimously.

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

4. UPDATE ON THE STATUS OF AN AGREEMENT REGARDING COOK PARK FACILITY USE WITH TWO SPORTS LEAGUES

 Assistant City Manager Newton said she has been working with the Public Works Department to redo the agreement the city has with two sports leagues including terms, surety of field use and costs. She has spoken with both leagues today and a meeting scheduled in the near future. Mayor Cook concurred that this is moving forward. Ms. Newton said she will keep council updated.

5. BRIEFING ON AN INTERGOVERNMENTAL AGREEMENT WITH KING CITY REGARDING WATER SYSTEM OWNERSHIP AND WATER SERVICE

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**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

☞ Lake Oswego-Tigard Water Partnership Project Manager Koellermeier noted that he has reported to council on this agreement previously and can report that all issues with the intergovernmental agreement have been resolved, at least at the staff level. In response to a question from Councilor Snider about whether King City council had seen it, Mr. Koellermeier said King City has had several councilors resign and it may take some time to get it reviewed. He said we could wait but then we could not report that this is done before the next bond sale in February. Council President Henderson said he would prefer that King City approve first and bring the agreement to Tigard. Councilor Snider asked if this would affect the bond sale and Mr. Koellermeier said he was told it would be better if it was executed prior to the bond rating. Councilor Woodard said without the fact of the high turnover on the King City Council he would be inclined to agree with Council President Henderson, but someone has to take the first step. Mayor Cook said the fact that their council has not seen it concerns him as well. A final version of the agreement is scheduled to come to council for consideration on December 9, 2014.

## 6. CONSIDER ADOPTION OF STRATEGIC PLAN VISION

City Manager Wine said council received a report last week about community outreach which was designed to find out what people in Tigard thought about the proposed vision, goals and a strategic plan. She said the purpose of the strategic plan is to provide direction and focus, and in Tigard's case, having this focus and vision is meant to build upon the assets of what is uniquely Tigard. It is focused on improving the quality of life, making community connections, and striking a balance between maintaining those assets and growing the value base in the community.

☞ Ms. Wine said the department directors and a core group of the leadership team worked to develop a draft vision that is distinctive. The city will continue to provide city services such as paving streets, issuing permits and answering police calls, but these activities will be seen through the lens of the strategic plan. She said they received mostly favorable feedback from the community on this vision and would like council to affirm this strategic vision. She said by doing so council is authorizing a shift in focus of how the city prioritizes capital projects to make walking connections, and filling in missing links in sidewalks and trails. There will be a focus on safety and safe routes to schools. The city will also continue to maintain and grow financial reserves. Ms. Wine said staff will be searching for "lighter, quicker and cheaper" projects to fill missing links in infrastructure connections as well as technology connections to city programs. The Executive Staff held their monthly leadership discussion on leading during uncertainty and one theme that arose was change is constant and the organization that can take opportunity and shape it will be the one achieving the greatest success for the long term. Another reason to put the vision out to the community for comment and to seek council leadership is that even if it needs to be adapted over time, this is the first step that we can take to shaping the future of the city and it is an opportunity. She recommended council adoption of the strategic plan.

Council President Henderson said funding Goal No. 4 says plainly that most resources will go towards this strategic plan. He said this is concerning to him when he does not know what those numbers are. City Manager Wine said the point is to strike a balance between sustaining what we have and growing the value of the community (by growing our tax base and illustrating to our voters that there is value they may be able to give us). She said Tigard will need to ask for additional

resources from the public to be able to move this vision forward and also fund our core services. In the current fiscal year building our reserves was one of the first steps to take.

 Councilor Woodard said this reminds him of the tree canopy discussion, where the aspirational goal was 44 percent but it is really closer to 25-27 percent. It takes resources and time. He said he is concerned about park maintenance too. Our vision is an aspiration to make Tigard more of a desirable, livable, and economically sustainable community.

Councilor Snider said Goal 4 is the balance of trying to do the core activities but using the vision to help provide focus when making strategic investments and weighing one project over another. He said he was proud of the work the city has done on this and that it included community input. He noted that the community is enthusiastic about this.

Councilor Snider “enthusiastically” made a motion for approval of Resolution No 14-53. Councilor Woodard seconded the motion. City Recorder Krager read the number and title of the resolution.

**RESOLUTION NO. 14-53 – A RESOLUTION OF THE TIGARD CITY COUNCIL ADOPTING THE 2014-2034 STRATEGIC PLAN INCLUDING A VISION AND FOUR STRATEGIC GOALS**

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

Mayor Cook announced that Resolution No. 14-53 is approved unanimously.

**7. ADOPT 2015 STATE AND FEDERAL LEGISLATIVE AGENDAS**

Assistant City Manager Newton referred to a summarized a list of items council covered during their legislative agenda discussion on October 14. This list is in the packet for this meeting. She said she initially wanted a more fully vetted version but a few things have come up since that she thought council may want to consider.

Ms. Newton said adding funding for Hall Boulevard sidewalks has been added to page 2 of the state agenda. She noted that of all projects discussed with the community during vision outreach, the lack of sidewalks on Hall came up frequently. Mayor Cook said this is a state highway so the city would need to work with the state to get money to push this forward. Ms. Newton said there is a strong priority at the state level for transportation funding and that they will want to weigh in on the gas tax. She asked if there was anything specific to add. Mayor Cook and Councilor Snider said they were comfortable with these additions.

Council President Henderson found it interesting that the state wants to give Hall Boulevard to the city. He asked about that process and if they would improve it before Tigard took control. He said some improvements have been made to Hall. Assistant City Manager Newton said we

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

need to have a dialog with state and tell them we do not have the money to improve it but we want to partner with them.

Mayor Cook commented that there is a new transportation strategy committee that he and Councilor Woodard sit on and this is on their agenda. They have been looking at road and bridge costs to not only bring it up to par but to figure out long term costs when it is added to the Pavement Management Plan. Councilor Snider asked what it would cost to put sidewalks on Hall. Mayor Cook said an estimate four years ago was \$12 million just to improve the road. That amount does not include bridge replacement or sidewalks. City Manager Wine said the state is considering doing what Washington County has done before and offer to bring the road up to standard before transferring jurisdiction. They are looking at transferring what they call their, "orphan highways." Council President Henderson said under the pavement management program we need to take a good look at this and talk to the community to see if this is what they want. Mayor Cook council hears about wider turn lanes onto McDonald or requests for sidewalks.

Councilor Woodard moved for approval of the 2015 State and Federal Legislative Agenda. Councilor Snider seconded the motion. Mayor Cook conducted a vote and the motion passed unanimously.

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

8. LEGISLATIVE PUBLIC HEARING – CONSIDER AN ORDINANCE TO AMEND THE TIGARD MUNICIPAL CODE (TMC) 3.44 SALE OF SURPLUS PROPERTY

- a. Open Public Hearing – Mayor Cook opened the public hearing at 8:59 p.m.
- b. Hearing Procedures – This is a legislative public hearing in which any person shall be given the opportunity to comment. Mayor Cook said Mr. Reid Iford testified on this agenda item during the Citizen Communication portion of the meeting and asked City Attorney Rihala if he should be asked to repeat his testimony or if his comments could be moved to this section. City Attorney Rihala said staff could do the latter.
- c.  Staff Report – Redevelopment Project Manager Farrelly said that Oregon law under ORS 271.310 gives cities broad authority to dispose of real property no longer needed for public use. Tigard’s Municipal Code Section 3.44 restricts that authority and establishes a process that gives the city very little flexibility. The current process is to hold a hearing offering the property, establish minimum terms, place the property on the market and accept sealed bids. The city is required to accept the highest bid and complete the sale. No other factors can be considered. The type or design of property development, amount of eventual tax generation, the developer’s experience and financial resources, or the achievement of important city plans and

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**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

goals cannot be considered under the current process. For example, a city plan developed by residents and stakeholders could call for housing but the highest bidder could acquire the property and build self-storage units or some use not consistent with planning for the area. Or the high bidder could be an inexperienced developer and unable to obtain financing and as a result the property sits idle for many years.

Mr. Farrelly said City Attorney Dan Olsen has worked with several Oregon jurisdictions and commented that Tigard's current process is the most restrictive he has come across. It seems to rule out requests for proposals for surplus land which is a common way to attract development that will further city goals. The code amendment being considered is fairly narrow and only applies to city-owned surplus property in the urban renewal district. The amendment would allow the city to transfer property to an urban renewal agency provided that it finds: 1) the redevelopment of the property is consistent with and furthers the goals of urban renewal; 2) the property is not needed for public use or the public interest would be served by the transfer; and 3) the transfer is otherwise permitted by law. The code amendment would allow transfer of property to the city's urban renewal agency with or without compensation. However if the property was acquired with funds that legally must be reimbursed, such as the gas tax, the urban renewal agency must reimburse those funds. A proposed transfer must be placed on a regular council agenda so the decision will be made in a public forum, and after a transfer to the urban renewal agency any sale would also be held in a public forum with elected officials making the final decision. Staff believes that this amendment is consistent with the voter-approved City Center Urban Renewal Plan, City Council 2013-14 goals for revival of the downtown, and is also consistent with the Economic Development Chapter of Tigard's Comprehensive Plan. He added that it is consistent with the city's strategic plan.



d. Public Testimony –

Proponents –

 Tom Murphy, 8152 SW Ashford Street, Tigard, OR, 97224, said he was speaking as a private citizen not a representative of the City Center Advisory Commission or the Tigard Downtown Alliance. He said he did bring along with him his downtown Tigard bias and it is the reason he is urging council to adopt this measure. It is good for downtown Tigard. He said it is unknown why Section 3.44.015 was enacted and he doubted the possibility of transferring property from the city to an urban renewal agency crossed anyone's mind at the time. It predates the downtown urban renewal agency by almost 20 years. He said he believed if council was writing on a clean slate tonight that they would not strap the city into this straitjacket. It is unduly restrictive and prevents the city from considering any value of a property other than its short-term market price. He said if we are talking about a pickup truck then perhaps this is good enough. But real property is unique and there is a limited quantity of land in downtown Tigard and the city owns some of the best of it. He said it is in the city's best interest to treat that property as a resource, not just as a commodity.

Section 3.44.015 deprives the city of any influence over the use to which property will be put after a sale beyond the minimum zoning requirements. That contradicts the underlying premise of urban renewal that planning and intentionality add value. The measure before council would allow the city to utilize property in the urban renewal district in a strategic manner. Such property can be one tool at the disposal of the CCDA and can be brought to bear in combination with other tools to further the goals of urban renewal. Used appropriately, the flexibility that this measure would allow can produce a return on investment to the city far exceeding the payoff from a price-driven sale. This amendment is good for downtown Tigard and it is good governance to give the city council authority to act in a strategic and planned manner in marshaling its resources. He asked the council to vote in favor of it.

Opponents –

**\*Mayor Cook asked Mr. Iford if he wanted his earlier Citizen Communication comments to be written into the record and copied into the opponents section. He asked if he would like to add anything to the record. Mr. Iford concurred and his testimony given earlier in the meeting follows:**

Reid Iford, 11547 SW Lomita Avenue, Tigard, OR 97223, said he has lived in the city for 46 years. He said he is very concerned about the city selling surplus property. He said he did not consider this surplus property; it was a jewel given by the founders of the City of Tigard and cannot be replaced. He said the way it is being handled disturbs him. Government employees put this package together and it looks like a business plan. He said he was not knocking government employees but felt the plan is unworkable. It involves selling below value and hand-picking a contractor rather than going through a bidding process. He said he pointedly asked if his parent corporation, a major west coast developer, could bid on this and he was told no. He thought when the people of Tigard find out their tax money is being used to subsidize an ill-conceived, unworkable project that will benefit one private contractor, it will never come to fruition.

Response to testimony by staff - Redevelopment Project Manager Farrelly said he had no comments.

- e. Staff Recommendation - Redevelopment Project Manager Farrelly said staff recommends approval of the proposed municipal code ordinance.
- f. Close Public Hearing – Mayor Cook closed the public hearing.
- g. Council Discussion and Consideration of Ordinance 14-13.

Council President Henderson asked if this is the only hearing. He said he expected more comments from people.

Councilor Snider said his assessment of the current code is that it is overly restrictive and burdensome, making it difficult for him to act in their role as a CCDA Board member. He said he was in favor of this change.

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

Councilor Woodard commented that he was amazed at how the municipal code predates the comprehensive plan and the urban renewal district and expressed frustration that so many comp plan and code changes come before council so the city can retain competitiveness with other cities. He said, “If we are so restrictive that we cannot do anything, it defeats our vision.” Council President Henderson said there have been comprehensive plan and periodic reviews but the city still runs into this. He said, “But for some reason this part was put in the code. There must be a reason.” Mayor Cook said he had no issue with the change if it is just about urban renewal but agreed with Council President Henderson that it was put into the code for a reason and if the change was broader he would be concerned but this use by the urban renewal agency was all right.

Councilor Snider moved for approval of Ordinance No. 14-13. Councilor Woodard seconded the motion. Mayor Cook asked the city recorder to read the number and title of the ordinance.

**ORDINANCE NO. 14-13 – AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE TO AMEND SECTION 3.44.15 AND ADOPT A NEW SECTION AUTHORIZING THE TRANSFER OF PROPERTY TO A CITY URBAN RENEWAL AGENCY**

City Recorder Krager conducted a roll call vote.

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

Mayor Cook announced that Ordinance No. 14-13 passed unanimously.

9. UPDATE ON MEDICAL MARIJUANA

 Associate Planner Floyd presented this agenda item. He described the public outreach conducted by staff and council in their 1 x 5 x 10 meetings. He said the response was more modest than expected but is illustrative. He partnered with Economic Development Director Purdy to seek input from Tigard business owners in his monthly survey. He said they waited until after the election to avoid the appearance of taking any political side. They have heard back from 18 percent and 85 percent of those said legalization of marijuana would not change the way they do business. 55-50 percent did not believe it would have a negative impact on their businesses. One in six said they might participate directly or indirectly in the new economy. 60 percent said they did not want local regulation of marijuana businesses. 75 percent supported distance buffers from schools and parks. There was support for hours of operation and security requirements.

Associate Planner Floyd said Measure 91 passed by 12 percent statewide. He has been in touch with Representative Doherty about things the city may see coming from the legislature. There is a two-track system that legalizes possession, use and growing of recreational marijuana but did not address the medical marijuana system. It is unknown how the OLCC will address this. There may be a good argument for establishing uniform rules in cities for both.

Timelines include the temporary moratoriums on medical marijuana businesses expiring on May 1, 2015. Recreation use becomes legal on July 1, 2015. The OLCC will start to accept recreational marijuana business licenses in January, 2016. Local governments will need to comply with state law but also reduce risk of federal penalties and risk of lawsuits.

Associate Planner Floyd has been working with the city attorney on drafting code and a draft is close to completion. He said the challenge is complying with state law but also reducing the risk of federal penalties and risk of lawsuits. Councilor Snider asked if there was concern that the city would become part of a federal enforcement action. City Attorney Rihala replied that there is a requirement when accepting federal grants that all federal laws be complied with and there could be a test from an Oregon city. Associate Planner Floyd said staff could focus on making the code restrictive but not appear to be enabling. City Attorney Rihala said, "Instead of saying, 'we will allow them' in these zones... we could say 'they are not prohibited' in these zones..." He said per previous council direction staff is looking at the entire "seed to sale" aspect. Other jurisdictions are focusing on the retail side but Tigard is taking a more comprehensive look at possible regulations. The three primary impacts are odor, product access and crime. He noted that Measure 91 restricts the city's ability to regulate marijuana businesses and said that the regulations need to be tied to a community impact.

Councilor Woodard asked what the guidelines from OLCC are. Mr. Floyd said they were not known yet. Mayor Cook said OLCC will schedule listening posts across the state. Councilor Snider said Tigard would need to have a good reason why there would be different rules for medical and recreational product.

Associate Planner Floyd said the Planning Commission will review the proposed regulations first and these code changes and regulations will be considered to council for approval by May 1. Mayor Cook said he did not think the OLCC will give direction by May 1 or that the legislature will have anything ready by then either. He agreed that the city needs to decide what is desired for both products, go through the Planning Commission and council for approval and then take it to the legislature and ask them to approve local control for recreational marijuana as they have with medical. Councilor Snider asked if the legislature will consider the local taxation issue. Mayor Cook said it is unknown. In response to a question from Councilor Woodard, Mayor Cook said 59 cities passed taxation legislation and it will be decided either in court or in the legislature. Council President Henderson said his concern is that someone may grow their three plants in a backyard next to a school. Associate Planner Floyd said the plants have an offensive odor and this is covered in the nuisance code. He said it may be something to handle at the same time regulations are set for backyard chickens. Councilor Snider asked if personal backyard plants can be regulated under land use requirements such as keeping them 1,000 feet from a school.

City Attorney Rihala said under Measure 91 a city can regulate nuisance aspects or time, place and manner of businesses. Associate Planner Floyd said this is an evolving issue and the city may need

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**

to wait and see if there is a problem and address it as they arise. Mayor Cook added that it is more apt to be grown indoors in this climate as opposed to southern Oregon.

Mr. Floyd said there is a workshop scheduled for the Planning Commission and a hearing in January to review staff recommendations. Mr. Floyd said they are expecting to hear from a lot of citizens and potential businesses then. He said he will update council as things move forward.

Mayor Cook announced that Agenda Item 10 is a Local Contract Review Board (LCRB) item.

#### 10. DISCUSSION OF UPCOMING PMP OVERLAY ENGINEERING DESIGN SERVICES CONTRACT

Public Contracts Manager Barrett introduced this agenda item and said council is not voting tonight; he is just seeking input from the LCRB on this upcoming contract award. He said it was a Qualification Based Solicitation (QBS) and the term is one year with four additional one-year options. The negotiated price for the first year is \$268,508 and projected amount over the five years of the contract is \$1.35 million. Proposals were received from four firms and staff is recommending award to Murray Smith and Associates.

LCRB Member Woodard said he does not favor the QBS process because it takes away competitiveness. He said he wants to know the risk of going with a renewable one-year contract instead of one five-year contract. LCRB Member Snider asked who decides on the renewals and Public Contracts Manager Barrett replied that staff will negotiate each subsequent year to determine if the contract will come in under the \$1.35 million total. LCRB Member Henderson said the advantage to having one contractor for five years is that they already have the database but other bidders would have to begin at square one. He said there should be an economy in this somewhere. He favored the five year contract but only if the contractor performs.

A discussion was held on the QBS process. Public Contracts Manager Barrett said staff will need to be ahead of the curve and start negotiations in years 2, 3, 4 and 5 a little earlier than they normally would. If staff is not pleased with the contract, they would need to go out to bid. Mayor Cook said he did not see the QBS process going away due to the current political culture of the legislature. LCRB Member Snider implored staff to stay on top of the timing of evaluation and renewals. Mr. McCarthy said he will watch for checks and balances. LCRB Member Henderson asked if this design and engineering work was done in-house previously. Mr. McCarthy said overall construction inspection costs are less with contracting out the work and design costs are a little higher due to greater geotechnical evaluation. He said better exploration of what is under the pavement gives the city a better paving product. He said costs would be comparable but the city is getting more for its money by contracting out the design and engineering. He added that he has been very pleased with the work in the past few years from Murray Smith.

In response to a question from LCRB Member Henderson on the number of manhours in the \$265,000 contract, Streets Engineering Project Manager McCarthy said billable rates are typically about \$100 per hour, so it is similar to one and one-half FTE's.

Mayor Cook referred to the 200 percent street list and said what struck him was the curb cuts. If the list was shortened to 100 percent and streets were selected that have zero, one or three curb cuts it is very different from selecting streets that require 14 to 25 curb cuts. He said the engineering and

construction of these curb cuts is expensive. LCRB Member Henderson said he does not believe the city has money for them and the requirement to do curb cuts takes money from the Pavement Management Program budget. He added that as long as they are included in the project he will vote no. He said the city is trying to maintain a certain pavement condition index and another resource needs to be identified for curb cuts. Mayor Cook said council voted to move ahead with the pavement program with curb cuts last year but also agreed to talk about this in upcoming street maintenance fee discussions. City Manager Wine said the issues are related and require a clarification by council of the code and finding another source of money. She advised that the contract under discussion tonight is for the design of whatever council chooses to do and however it is decided to pay for it.

LCRB Member Henderson said they are currently evaluating over 146 handicapped accessible curb cuts and asked if the city has to replace each one. Mr. McCarthy said the city does not have to update curbs when doing a pavement overlay if existing cuts are up to par. He agreed that it is an unfunded mandate that affects the overall paving budget.

There were no further questions. The contract will be considered at the December 9, 2014 council business meeting.

11. COUNCIL LIAISON REPORTS: None

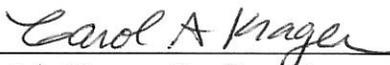
12. NON AGENDA ITEMS: None

13. EXECUTIVE SESSION: None

14. ADJOURNMENT

At 9:56 p.m. Council President Henderson moved for adjournment. Councilor Snider seconded the motion. All voted in favor.

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

  
 Carol A. Krager, City Recorder

Attest  
  
 \_\_\_\_\_  
 John L. Cook, Mayor

January 27, 2015  
 Date

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 25, 2014**