



City of Tigard

Tigard City Council Meeting Minutes

July 14, 2015

STUDY SESSION 6:30 p.m.

Council Present: Mayor Cook, Councilor Henderson, Councilor Woodard, Council President Snider and Councilor Goodhouse. Staff present: City Manager Wine, Assistant City Manager Newton, City Attorney Rihala and City Recorder Krager

- A. COUNCIL LIAISON REPORTS. Councilor Woodard reported on the Relay for Life. He reported that the PRAB recommends that the community center should be called a community recreation center.

Councilor Henderson said he was elected chair of the CDBG and commented that the program continues to shrink. He asked about the grant for the Hunziker property and City Manager Wine clarified the state would match the \$1.5 million. Councilor Henderson handed out a copy of an engineer's report on the downtown art base work. City Manager Wine said she will forward it to City Engineer Faha and ask for a redesign if warranted.

Council President Snider said the LO/COT Water Project is progressing well. An executive session will be scheduled in the near future.

Councilor Goodhouse reported on the Westside Economic Alliance meeting. He noted that the TriMet payroll tax increase equals one-tenth of one cent for ten years.

B. PROPOSED CHARTER AMENDMENTS

Assistant City Manager Newton led a discussion of two proposed charter amendments and said she will prepare resolutions for council approval to place them on the ballot.

1. Allowing Council to Seek a City Office without Resigning – Council President Snider said this was something that Councilor Henderson requested because mid-term councilors are at a disadvantage. Councilor Henderson said it would create an issue if there are two councilors running and may lead to hard feelings. Councilors Henderson, Goodhouse and Snider were in favor of this and the Mayor agreed if it does not apply to sitting councilors. He said he does not want this to be for current council to avoid the appearance of being self-serving. Councilor Woodard said this could be a problem if all the council is running.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

Councilor Goodhouse said it will lead to a better pool and opens up the playing field so it is better for citizens.

2. **Increasing Term Limits** – Ms. Newton said council agreed to have a total cap of 16 years but the mayor is limited to two terms. The 16 can be in any combination. Council President Snider and Councilors Woodard, Henderson and Goodhouse agreed. Mayor Cook said he wanted just a 16 year term limit total. Councilor Woodard said he thought it good to have new blood after someone has been mayor for two terms, but agreed that experience is valuable.

Mayor Cook said he wants to get public comment when this is discussed on the July 28 agenda.

Administrative Items –

City Manager Wine received council preferences for League of Oregon Cities conference. She asked if anyone was interested in participating in the elected official paddle on the Tualatin River. Councilors Woodard, Henderson and Goodhouse said they wanted to participate.

There will be a council groundrules session on Monday, August 31 from 4-6 p.m. as a check in on leadership styles. Consultant Lenny Borer will contact each councilor prior to the meeting

The council fifth Tuesday event might use a school as the venue. Assistant City Manager Newton will do some research. Councilor Goodhouse said that a banner would be helpful at offsite council events. Ms. Newton said Senior Management Analyst Wyatt posted some pictures from the July 7 Council Cookout on the Strategic Plan page on the website.



1. BUSINESS MEETING

A. At 7:34 p.m. Mayor Cook called to order the Tigard City Council and Local Contract Review Board.

B. City Recorder Krager called the roll.

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

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

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

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

2. CITIZEN COMMUNICATION 

- A. Follow-up to Previous Citizen Communication – None.
- B. Tigard Area Chamber of Commerce – Mayor Cook said there would be no report from the Tigard Chamber because they were having their 60th birthday party. He said the chamber, known then as the Tigard Businessmen’s Association was the organization that incorporated the city in 1961.
- C. Citizen Communication – No one signed up to speak.

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

- A. APPROVE WORKERS’ COMPENSATION INSURANCE FOR CITY VOLUNTEERS

RESOLUTION NO. 15-34 - A RESOLUTION EXTENDING THE CITY OF TIGARD’S WORKERS’ COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY

- B. APPROVE THE PURCHASE OF FOUR 2016 FORD EXPLORERS AS POLICE FLEET REPLACEMENT VEHICLES
- C. RECEIVE AND FILE:
 - 1. Council Calendar
 - 2. Council Tentative Agenda for Future Meeting Topics

Mayor Cook asked if anyone wanted to remove an item for separate consideration and there was no request. Councilor Woodard moved to approve the Consent Agenda. Council President Snider seconded the motion and all voted in favor.

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

4. PUBLIC HEARING – CONSIDERATION OF COMCAST CABLE FRANCHISE AGREEMENT RENEWAL

- a. Open Public Hearing: Mayor Cook opened the public hearing.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

- b. Staff Report: Network Administrator Sears gave the staff report. He noted that Fred Christ, Administrator of the Metropolitan Area Communications Commission (MACC) along with former MACC Administrator Bruce Crest were in attendance.



Mr. Christ said the unanimous recommendation from MACC is to renew the Comcast franchise for another ten years. He noted that Councilor Woodard was the Vice Chair and Councilor Henderson also served as Tigard council liaison to the Commission in the past. He commented on the long process it took to reach an agreement but said all parties are pleased with it.

- c. Public Testimony: No one signed up to speak.
- d. Council Discussion and Questions:

Councilor Woodard commented that it has been a long work in progress and all jurisdictions worked together. He said the agreement is a good deal and Tigard retains a five-percent franchise fee. He acknowledged the \$1.00 per month fee for Public Access/Education and Government channels (PEG) was reduced to 80 cents but more subscribers were added. He thanked outgoing administrator Bruce Crest for his service.

Council President Henderson asked about changes to the PEG channels. Mr. Christ said the PEGs are in a good position in this franchise and will all be upgraded to high-definition (HD) over time. He noted the long term stability of the 80 cent PEG fee which will continue to provide equipment and other resources cities have come to depend on. He said there are six channels and these are not jeopardized.

In response to a question from Council President Snider, Mr. Christ said negotiations were at times cantankerous and combative but they arrived at a fair franchise for both parties. Mayor Cook thanked both MACC and Comcast for reaching an agreement and avoiding a lawsuit.

Councilor Woodard said a franchise is a partnership and complimented the attorneys for Comcast, MACC and the cities. He also applauded the MACC staff.

- e. Close Public Hearing: Mayor Cook closed the public hearing.
- f. Council Discussion and Consideration:

Councilor Woodard moved to approve Ordinance No. 15-11. Councilor Henderson seconded the motion. City Recorder Krager read the number and title of the ordinance.

ORDINANCE NO. 15-11- AN ORDINANCE OF THE CITY OF
TIGARD GRANTING A NON-EXCLUSIVE CABLE FRANCHISE
TO COMCAST OF OREGON II, INC.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

A roll-call vote was taken and Mayor Cook announced that Ordinance No. 15-11 was adopted unanimously.

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

Mayor Cook announced that the order of Agenda Items No. 5 and 6 would be reversed. Agenda Item No. 6 (Rosacker Annexation) will be heard prior to Agenda Item No. 5 (Appeal of Heritage Crossing Zone Change and Subdivision).

6. QUASI-JUDICIAL PUBLIC HEARING – CONSIDER APPROVAL OF ROSACKER ANNEXATION (ZCA2015-00001)

- a. Mayor Cook opened the public hearing.
- b. City Attorney Rihala announced the quasi-judicial hearing procedures, a copy of which was available at the front of the room.
- c.  Declarations or Challenges:
 - Mayor Cook asked if any members of council wished to report any ex parte contact or information gained outside the hearing, including any site visits. There were none.
 - Mayor Cook asked if all members had familiarized themselves with the application. Council said they had done so.
 - Mayor Cook asked if there were any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or was there a challenge on the participation of any member of the Council? There were none.
- d. Staff Report: Associate Planner Caines gave the staff report and showed a slide of an aerial photo of the area. She said the site is located within a 7.79-acre island of unincorporated Washington County on the north side of Fern Street. The site includes three parcels totaling 1.75 acres. The two northern parcels are vacant and the owners wish to annex to obtain city services for future development. The third parcel is developed with a single-family home currently on a septic system. The owners joined this application and will be provided with a sanitary sewer lateral during development so they can receive services. Remaining property owners in the island were invited to join the annexation but there was no interest at this time. Current Washington County zoning is R-6 so it will change to R-7 upon annexation which is the closest city zone. There is sufficient water and sewer availability and capacity to serve any future development. The proposed annexation meets the requirements of Tigard's Community Development Code, Comprehensive Plan, Metro and state statutes.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

- e. Public Testimony:
 - Applicant: Ms. Caines said the Rosackers agree with the staff report but would not be testifying. Mayor Cook said they signed up on the testimony sheet and asked if they wanted to speak. Mr. Rosacker indicated from the audience that they were in favor.
 - Proponents: None.
 - Opponents: None.
- f. Staff Recommendation: Associate Planner Caines said staff recommends the city council approve the proposed Rosacker annexation ZCA2015-00001 by adoption of the proposed ordinance.
- g. Close Public Hearing: Mayor Cook closed the public hearing.
- h. Council Discussion and Consideration:

Councilor Henderson asked how this annexation would not create another island. Associate Planner Caines clarified that the lines are hard to view on the slide or in Google maps, but the annexation actually reduces the size of an existing island.

A discussion was held about which water district will serve the annexed area and Associate Planner Caines said language should be added to the ordinance to include withdrawal from the Tigard Water District.

Councilor Woodard asked about incentives for voluntary annexation and if the properties fall within the sewer reimbursement district program. Associate Planner Caines said the properties are not within a sewer reimbursement district. She said the last discussion was that voluntary annexation was extended for those not coming in for development. City Manager Wine clarified that this is not technically a voluntary annexation because it was requested so the properties could be developed.

Council President Snider moved to approve Ordinance No. 15-12 adding removal from the Tigard Water District. Councilor Goodhouse seconded the motion. City Recorder Krager read the number and title of the ordinance.

ORDINANCE NO. 15-12 AN ORDINANCE ANNEXING THREE (3) PARCELS OF LAND TOTALLING APPROXIMATELY 1.54 ACRES, APPROVING THE ROSACKER ANNEXATION (ZCA2015-00001) AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, and the Tigard Water District

City Recorder Krager conducted a roll-call vote of council.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

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

Mayor Cook announced that Ordinance No. 15-12 passed unanimously.

5. QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF HERITAGE CROSSING ZONE CHANGE AND SUBDIVISION (ZON2015-00002/SUB2015-00001/VAR2015-00001)
 - a. Mayor Cook opened the public hearing.
 - b. City Attorney Rihala described the quasi-judicial public hearing procedures noting that council must declare any conflicts of interest and the audience must wait until they are called upon to speak. The order is staff report, hearing from the appellant and then public testimony. She said anyone must testify to protect their rights on appeal.
 - c. Declarations or Challenges:
 Mayor Cook asked if any members of Council wished to report any ex parte contact or information gained outside the hearing, including any site visits. Council President Snider said he drives past the site daily and cannot reach city hall from his home without driving past it. Councilor Goodhouse said he runs, walks or drives past it frequently and Councilor Woodard said the same. Mayor Cook said he knew the owner and visited the house as a child and also had ex parte contact with the applicant and consultant over a year ago prior to this application being submitted to the city. He said they discussed issues that may come forward tonight but he did not feel biased in this case.

 Mayor Cook asked if all members had familiarized themselves with the application. They indicated they had. Mayor Cook asked if there were any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or was there a challenge on the participation of any member of the Council. Hearing none, he asked for the staff report.
 - d.  Staff Report - Associate Planner Floyd gave the staff report with a PowerPoint presentation. He acknowledged council's familiarity with the site but said of relevance was that it is a little over nine acres in size, flat, and unconstrained. He said it is an easy to develop site, well serviced by transportation and other infrastructure. The only constraints on the site are two low quality wetlands, not regulated by the city. The applicant has applied for permits from the state and federal government. He said it is a concurrent application for a subdivision and zone change and he focused his comments only on the zone change which is what the Planning Commission did. He said there are three issues which led to the application being denied by the Planning Commission.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

1. The proposed zoning map amendment changing it from R-12 to R-7 and lowering the density is inconsistent with 32 years of city policy. The R-12 zone was applied in 1983 as part of the city's first state-acknowledged Comprehensive Plan. The reasons for the R-12 zoning application are the same today with no change in conditions or reason to change the zone.
2. The proposed zone change reduces the variety of potential housing types and removes the multifamily option from the site. The application refers to numbers and proportional changes in numbers. The Staff and the Planning Commission's position, as detailed in two letters from Metro is concern about potential losses to Tigard's housing diversity. Specifically, the change in zoning removes multifamily from the site and makes it more difficult to develop attached housing. Tigard has a need for a wide variety of housing types and choices and this application does not serve this. Mr. Floyd said Associate Planner Grass will address housing policy and put this application into the context of the broader housing needs in Tigard.
3. The proposed zone change reduces opportunities because it does not leverage the amenities and location of the site. The site is adjacent to a bus line which TriMet has scheduled to be upgraded from regular to high-capacity service. Mr. Floyd showed a map of the area and said it is a highly walkable site. He summarized the walkability to various sites and schools and said he walked the site to familiarize himself. Walking to the corner store on Hall Boulevard and Durham Road took about two and one-half minutes. He reached the high school in five minutes and Durham Elementary in about eight minutes. Durham Elementary is the designated elementary school for this site and Twality is the designated middle school. There are continuous sidewalk paths to all of the schools. Cook Park is south of the neighborhood.

Mr. Floyd said Hall Boulevard is not just a city arterial and state highway, it is also a regional corridor and is designated as such in the Metro 2040 map. He said he will discuss with council the kinds of things council can consider in terms of a map amendment. This site has been served by transit since at least 1983 and that is one reason why this area was zoned R-12. In 1983, the public and decision makers wanted to place transit near density and also near sites that would be easy to develop. This site meets both criteria.

TriMet bus line 76 is a major connector taking riders to three transit centers, downtown Tigard and Beaverton, Washington Square, Bridgeport Village, Legacy Hospital and the Tigard Public Library. TriMet has expressed interest in more frequent service as part of the SW Enhancement Service, from 30-33-minute headways to 15-minute headways. Reducing ridership along an established transit corridor with significant connections and future service enhancements would be contrary to local and regional policies regarding transportation system development and desired urban forms.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

Mr. Floyd said the Planning Commission heard this application on May 18. They found insufficient evidence in the record to support the gravity of the change and the impact it would have. They felt the applicant could have made a better argument and encouraged the applicant to further refine the design and find something that better met the criteria. It was not an outright rejection but a request that they bolster their argument and return. There was a lot of neighborhood testimony. The Planning Commission acknowledged their concerns. R-12 zoning would result in something slightly different but there is difficulty in matching new development to that developed in the 1980s and 1990s. As time passes, needs change and the market changes and the Planning Commission recognized that you cannot always put next door what was there before. He noted that one planning commissioner talked about his personal experience living in an R-7 development with an R-12 subdivision built across the street. He said they both function well. His comments are detailed in the Planning Commission minutes.

Mr. Floyd said the applicant disagrees with the Planning Commission and is here tonight to appeal. Council is being asked to reconsider the Planning Commission's decision on three approval criteria:

1. Compliance with the Tigard Comprehensive Plan – the application is inconsistent with ten polices in the plan ranging from land use to transportation and housing. If an application is inconsistent with even one criterion it must be denied.
2. Compliance with other applicable ordinances – In this case, Metro's Title 1. Letters from Metro were forwarded to council with their interpretation that this application is inconsistent with Title 1.
3. Change in the community or neighborhood or a mistake in the zoning map. There is no evidence of change in the neighborhood or a mistake or inconsistency in the zoning map.

Associate Planner Floyd said the final order contains a lot of background research and zoning history. There is clear evidence of R-12 zoning being adopted for this area so there is not a mistake on the map. There is an ordinance and a reaffirming ordinance adopted in 1983. Regarding a change in the community or neighborhood there is more evidence of consistency than change. The reasons why R-12 was applied to the site have not changed in 32 years. R-12 zoning was applied due to the flat topography, road capacity, proximity to transit and an arterial, and distance to schools and neighborhood amenities.

Mr. Floyd said Metro Title 1 is a section of the Urban Growth Management Functional Plan which applies to all cities in the region. Cities must maintain or increase housing capacity. There are four exceptions. Reducing capacity by transferring it to another site is one option but is prohibited in this case because Hall Boulevard is a regional corridor. There are three other options but two do not apply because it is not a rezone request for industrial or educational use and the applicant is not protecting natural resources on site. The option the applicant proposed is the exception for negligible effect on the city's overall housing

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

capacity. The applicant did not provide a comparable analysis of the impact on the city's overall housing type allocation in terms of single-family detached or multi-family attached. This was missing in the applicant materials.

Associate Planner Floyd said the other main issue is compatibility and the applicant raises this as a major reason for the zone change. He spoke to the verbal and written testimony received on this issue. He said concerns about compatibility are not supported by evidence in the record. There is no change to height and massing requirements between R-7 and R-12 zoning. This is more an issue of allowed housing types rather than changing height limits. Setbacks are similar; both zones have height limits of 35 feet. The Tigard Transportation System Plan anticipates site development to R-12 levels so the transportation system would not be unduly burdened by development consistent with the current zone. He said the Tigard Development Code acknowledges that there may be conflicts between different housing types such as single and multifamily. To counter that there are mandatory compatibility standards. There would be requirements if someone wanted to build multifamily housing there such as landscaping, setbacks, height limits and parking. There are also flexible design options available to the applicant. One concern expressed was that lots around the sides of the subdivision would be smaller than existing adjacent lots. Lot size averaging is acceptable. Larger lots could be placed around the periphery and smaller lots in the middle. This is a Type II decision and the Director could approve it. There is also the option of planned development. If exact matches are required between existing and new housing it precludes housing choices and housing diversity is needed in the city.

Associate Planner Floyd compared homes in the surrounding area. He showed some images of Applewood neighborhood houses. The houses are all two-story, maximize their building envelopes, and are set about 15-20 feet from the property line. According to the assessor's office they average in the low 2,000 square-foot range with 500 square-foot garages. These are not one-story, small homes built on large lots. They are large homes built out to their building envelope and they all look down into each other's backyards. He said it is a great neighborhood that people seem to like and are invested in. He also looked at housing on the south side of the property and saw that the homes are very similar but built in an earlier decade. Mr. Floyd showed slides of the 15-foot setback required in both R-7 and R-12. Any house built on the periphery will have Applewood neighbors looking down on them. He said in both zones when different densities are alongside each other there is a required setback enhancement of 30 feet. He showed an aerial slide with the setbacks illustrated. Under R-7 there would be 15-foot setbacks but under R-12 there would be 30-foot setbacks. He clarified what R-12 means. He said it can include multifamily dwellings and showed slides of different styles of R-12 homes built in the last ten years. He said it is possible to build detached housing on the site. He said compatibility standards are listed throughout Tigard's Community Development Code.

He called attention to a letter written by Metro Regional Planner Harper, four additional letters from neighboring property owners and one letter from the Applewood HOA. This information was distributed prior to the meeting.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

Associate Planner Floyd noted an oversight in the memo sent to council. On page 4 of the appeal letter it states that staff wrote on page 6 of the Final Order that policy 10.1.2 was not met. There were no findings on this. Staff erred in moving this into the Final Order because this policy does not apply to this project. Any decision made by council should mention this.

Council President Snider asked if some of the letter writers were confused. Mr. Floyd agreed that some seemed confused because they assumed developers usually increase zoning to add more homes, rather than try to downzone.

e. Public Testimony

Michael Robinson, Attorney for the Applicant, 1120 NW Couch Street, Tenth Floor, Portland, OR 97209, distributed materials to council which have been added to the record for this item. He introduced Mimi Doukas of AKS Engineering and Kelly Ritz, president of Stonebridge Homes and Venture Properties, which is the applicant. He said they were present to request that council reverse the Planning Commission decisions and approve the three applications submitted to the city. He said they were principally talking about the zoning map amendment, not the subdivision or adjustment. He began with three main points.

1. Applicant met the burden of proof to show applicable approval criteria were met. Some Tigard Comprehensive Plan policies cited in the Planning Commission decision are not relevant, and are general policies directed towards actions, not towards quasi-judicial policies. He referred to letters dated May 6 and May 14, 2015, to the Planning Commission and also the June 15, 2015, appeal and each letter explained why the plan policies the staff report and Planning Commission rely on are not applicable. Where they are applicable they explained why the substantial evidence in the application meets the policies.
2. The application meets the relevant Tigard Community Development Code policies governing a zone change. The evidence shows that the applicant meets 18.380.C.3 which shows evidence of change in the neighborhood. What has changed is the neighborhood around the R-12 site. They have slides in a PowerPoint to demonstrate this. This represents the change in the neighborhood and that is the basis on which council can find that this is met. The R-12 zone is not compatible with the surrounding R-5 and R-7 developments. What they did not see from the Planning Commission and what they did not discuss and the staff did not tell council was that if one builds single family housing in the R-12 zone what would be butted up against each of the lots in the Applewood subdivision are two lots, not one. The R-12 zone allows about 3,000 square foot lots so the homes will be smaller. All of this does make a difference and staff can try and place design compatibility standards but this does not change the number of lots or the home sizes adjacent to those longstanding homes in Applewood. People that testified for this said the city wants development to occur in a zone that is not appropriate for its location. The R-12 has been there for a long time but the

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

surrounding area has changed and what has grown up around it is not at all what would have been envisioned 30 years ago.

The staff report also noted that the applicant had not described the ways in which the R-12 zone is physically not characteristic of the surrounding zone. He said they did talk about that in oral testimony at the Planning Commission and in one of their letters and in their appeal. What you end up with in the R-12 zone are one-car garages, two lots against each surrounding lot, dissimilar house types and sizes and no, little or on-street parking. All of these things impact surrounding properties. Smaller lots, smaller homes and more of them in the same area will result in incompatible situations. This is why people do not want the R-12 development. The two letters that came in that said they were opposed to the application indicate confusion about upzoning. We are trying to do what most developers do not do, which is take it down a notch.

Mr. Robinson said Tigard Comprehensive Plan policy 2.1.15.f calls for land uses to be compatible. The Planning Commission said the applicant needed to show evidence of incompatibility. That is not what the policy calls for. Its plain language calls for compatibility and R-7 is compatible with the surrounding existing subdivisions. The neighborhood association supports this project. It is fair to say that the majority of speakers at the Planning Commission hearing supported this project.

Mr. Robinson talked about the Metro letter. He said the first letter from Metro did not explain why Metro Functional Plan Section 3.07.120.e was not met. The section states that a county or city may reduce the minimum zoning capacity of a single lot or parcel as long as the reduction has a negligible effect on the city's overall minimum zoned residential capacity. The Metro Functional Plan defines this as the highest number of dwelling units or jobs that are allowed to be contained in an area by zoning. The applicant addressed this in letters and testimony and explained that if approved, this zone change has the effect of less than one-percent on zone capacity. Tigard's Comprehensive Plan document acknowledges this on page 10-2 where it says "The city is committed to providing the opportunity for an additional 6,308 dwelling units between 1998 and 2017." This number shows Tigard's zoned capacity for additional dwelling units. Assuming that this zone change removes capacity for about 60 dwelling units, it would be less than one percent of zoned capacity and is a negligible effect. He said the city, not Metro can decide this is a negligible effect. This was not addressed in any of Metro's letters; they addressed housing types but housing types are not what zoning capacity is about. Metro has not shown that they failed to meet that provision of Metro Title 1. Council can find that changing from R-12 to R-7 is a negligible impact on zoning capacity.

Mr. Robinson showed a slide of the site and a summary of their arguments. He pointed out that staff believes that this application will reduce housing capacity and this is not the case. Tigard, like all other cities in the metropolitan area, must comply with the metropolitan housing rule requiring a certain division of single family and multifamily housing. There is no assertion by approving this application that the city will not be in compliance with this rule. That is the basic template for housing diversity in the city.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

There is nothing in the code that is relevant to reducing housing diversity and if there is, Council should think about whether the right place to encourage housing diversity is a vacant lot surrounded by dissimilar single family homes that has been that way for a long time.

Mr. Robinson addressed the issue of transit and said nothing changes the walkability of this neighborhood. Walking to schools or to the small store on Durham by the high school in a few minutes is the same whether zoned R-12 or R-7. He pointed out there are no employment opportunities or commercial activity nearby. This was clearly not considered by this city council, previous city councils or Metro to be an area to be promoted for high density. Most people in this neighborhood would drive to downtown Tigard for shopping or restaurants. Some hearty souls might walk but he thought most would drive. He said the Tigard Community Plan Policy 10.1.5 calls for high-medium density in areas such as transit corridors (and the applicant acknowledges the site is in a corridor) where employment opportunities and commercial services are either present or planned. The fact that you can take TriMet bus line 76 to Meridian Park Hospital does not mean this policy is not met if the zone is changed to R-7.

Mimi Doukas, AKS Engineering, 12965 SW Herman, #100, Tualatin, OR 97062, gave the zoning history of the property and characteristics of the neighborhood. She showed slides and said a lot of R-12 zoning was placed in this district in 1983, around the time the Albertsons store came in. There were no density requirements or a mandate in this time frame. In 1984, two subdivisions requested R-7 zoning, not to reduce density but to have better setbacks. They wanted to match what was in the neighborhood. In 1996 the Applewood subdivision was zoned R-12 and R-4.5 and blended it by placing R-7 on both properties in 1997. This was related to the Sattler Road improvements improving access. This meant that the Schmidt property was now surrounded by R-7 property on three sides. In 1998 minimum densities were placed over the entire Metro region. It is noteworthy how much of the R-12 zoned properties were built out before the minimum density was applied. In 2013, the entire district was built out and this property is the last remaining piece. She said these are substantial changes since 1983 when the R-12 zoning was applied. A rezone happened to the south to R-7; a rezone happened in the north to R-7 and a re-zone happened in the west from R-4.5 to R-7.

Ms. Doukas discussed the Sattler Road decision. When that zone changed the blending of the densities happened for Applewood and that decision talks about how a mistake in the plan had occurred. This was part of the basis for that decision. There is a mistake in the history of the zoning but she felt it was more important to focus on the fact that the character of the neighborhood has progressed over time.

Ms. Doukas showed slides of additional site plans illustrating ways the applicant could develop this property to the minimum density of R-12 zoning with 30-foot wide lots and 20-foot wide homes. With the surrounding neighborhood's concern about design and compatibility, reductions to side-yard setbacks would not be appropriate. This is minimum density. They cannot go larger and still meet minimum density for single family homes. She showed a slide of an overlay of this design against the existing Applewood

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

neighborhood which indicated two homes for every one home in Applewood and commented that this is a lot of density and not a lot of on-street parking. The plan allows for 30-foot rear setbacks.

Ms. Doukas discussed the variety of homes in R-12 minimum density design. The existing homes in Applewood are 52-feet wide on a 62-foot wide lot. She showed slides of homes that would fit the R-12 lots which were 20-22 feet wide. They are intense little homes. She said Venture Properties looked at how to make R-12 work and found it does not work financially so you would need to go to increased density, which means going to an attached product. She showed a slide of a 93-lot subdivision with attached townhomes which adds another type of intensity to the neighborhood. Another concept is garden style apartments with 108 units. But with the design compatibility standards in Tigard's code, the parking is placed in the back, putting the intense noise, trash compactors, playgrounds, lights and parking up against the neighbors which does not seem fair.

 Mr. Robinson described a slide with a comparison of R-7 and R-12 capacity. He said using 2014 capacity numbers (with River Terrace), rezoning would mean 50 fewer units out of 7,421 which is less than one percent. This is council's decision to decide if this is a negligible effect.

Ms. Doukas discussed the importance of R-12 in relation to supporting services. The neighborhood commercial is small and there is a lack of support services for this type of density.

Mr. Robinson thanked council for their time. He said the evidence in the three letters from the applicant and their application is more than ample to find that relevant policies can be satisfied.

Melissa Blue, 8743 SW Hamlet Street, Tigard, OR, lived south of the property for 10 years. She noted that many slides shown were from Applewood and the houses south of the property are larger. She said she is in favor of the zone change. She expressed concerns about walkability and believed having smaller homes would potentially create more cars and traffic. Hall Boulevard has not been improved significantly and has become less walkable as more traffic builds up on their streets. There are no sidewalks consistently throughout the property. She said the TriMet argument is interesting and whether there are 52 or 110 properties it would not change the need. She said her main concerns are walkability, traffic and compatibility. She does not want taller properties.

Sharon Mead, 15320 SW Empire Terrace, Tigard, OR 97224, said her backyard is underneath the oak tree on the Schmidt property. She strongly supports the change to an R-7 zone. She noted the discussion on compatibility and consistency and how the areas surrounding the property were changed to R-7. The homes built on R-7, even those to the south, have the same look and feel. It would be completely different going to R-12. There is already a traffic issue in the Applewood neighborhood as it is a cut through from Sattler to the high school. This property will open onto Ashford Street and Applewood Street and neighborhood traffic will increase substantially. Regarding the bus line, she has lived in her

TIGARD CITY COUNCIL MEETING MINUTES- July 14, 2014

home for 12 years and the most riders she has ever seen waiting for the bus during rush hour is four. She did not think TriMet would be increasing service anytime soon.

Matt Hughart, 8817 SW Greening Lane, Tigard, OR 97224, is a resident of Applewood and President of the HOA Board. He said residents have carefully monitored interest in this development. Two of their local streets will be used. He said it is clear that more units are available from R-12, potentially double. Narrow homes mean increased trip generation. He said he is a transportation planner and knows that smaller single-family homes have very similar trip generation to larger homes. Trip generating capabilities of more units will have a negative impact not only regionally but on neighborhood intersections. This site needs to be compatible and this is good from a neighborhood standpoint. The applicant has worked well with neighbors to develop a project that is consistent and he appreciates the planning efforts. He discussed what has changed in the neighborhood. There has been a progression of single-family homes and the only parcel that has not changed is this parcel and it is R-12. He said he personally, and the HOA Board and members support a rezone.

City of Tigard Associate Planner Grass said she is the planner who handles the city's housing issues. She said included in the record is a letter she wrote dated April 21, 2015, that recommends denial. The first and foremost issue is the opportunity for housing choice. City adopted policies in the Comprehensive Plan center around opportunities to develop a variety of housing types that meet the needs, preferences and financial capabilities of Tigard's current and future residents. One size does not fit all. The R-12 zoning is an important part of the mix of housing in Tigard. She said Tigard's buildable lands inventory has twice the amount devoted to R-7 as R-12, and River Terrace has three times as much land for R-7 than R-12. She asked that council consider the city's future residents and the housing options they might be looking for. This neighborhood is located near services like the library and transit. She noted the community commercial area is the only one located in the city.

 Applicant Rebuttal: Attorney Robinson said the applicant wants to avail themselves of the right to submit final written argument per state law, with no new evidence after the record is closed to other parties and the period of time is seven days. He indicated that the applicant was fine with seven days. They wish to respond in writing rather than speak now and would like to extend the 120-day clock. Tigard's city attorney said council deliberation was scheduled to occur on July 28 so they will extend the clock another 14 days.

Mr. Robinson said no one testified that they want this to be developed at R-12. The applicant wants to develop at R-7 because she believes it is the right thing to do. Neighbors are the ones most affected by this, not just the developer making money or the city's or Metro's desire for more density. They want it to be developed at R-7 because it would be compatible and comparable to what they have. The only entity supporting R-12 besides the Planning Commission and staff is Metro, and Metro is in the density business. But council has to look at the standards and make a legal decision. There is no evidence that the applicant has not met Metro Title 1 requirements, either by virtue of the numbers shown on the slide tonight or the number in the acknowledged plan. If the city changes this from R-12 to R-7 the reduction on housing capacity is less than one percent. Metro's letter of July

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

13 misses the mark because it doesn't talk about the right standards; it talks about housing type, it is housing numbers. We all understand how important it is that we have density in the right places. The right place is where you have done it well, such as in River Terrace, where the city was thoughtful about where it should go, how it relates to the roads and you do not have existing neighborhoods next to R-12 and R-25 districts.

He said if R-12 remains here it will be an island in a sea of R-4.5 and R-7. The city will meet the Metro Functional Plan, the Metro housing rule for the area is still satisfied and houses and lots will not be comparable or compatible. Council is not legally required to deny this zone change. He suggested if on the fence about a decision, council could approve this in a tentative way when deliberating on July 28th and let the applicant develop findings. If the findings do not meet the legal mark then council can deny the application. He asked that council approve it by reversing the Planning Commission and close the record to all other parties, keep the written record open until July 21 at 5:00 p.m. for the applicant to submit written argument only, without new evidence, and then return for deliberation on July 28, 2015.

Mayor Cook asked if council had questions.

Council President Snider asked a question about a map provided by the applicant. Ms. Doukas replied that from a design standard a 4,000 square foot lot looks similar to a 5,000 square foot lot. Once the garage door is reduced, it becomes the true dominant feature of the lot.

Associate Planner Floyd said the neighborhood is a patchwork of both projects. There are a number of projects that were built in the past ten years that were built to R-12. Council President Snider said he lived in two different lots on the applicant's map and knows how they feel rather than how they were zoned. He asked about the economics of an R-7 compared to an R-12 zone and why they feel R-7 is more economically viable.

In response, Ms. Ritz said they started by looking at compatibility with the neighbors which led to a zone change of R-7. When they looked at the numbers the R-12's smaller lots reduce the value of the individual units. Then she examined how to bridge the gap by doing the lowest density in an R-12 zone. She looks at what price she could sell the homes. Even at lowest density, houses are still skinny and not as compatible. The bigger problem is that if you go to R-12 it has to be maxed out. She considered half R-7 and half R-12 and the challenge is that the house prices for an R-7 home are at least one-third more than a smaller house, or a 3,000 square foot lot. If she goes to R-12 she would have to, "max it out."

Councilor Woodard asked how much time was invested in considering R-12 compared to R-7 zoning. Ms. Ritz said they were proposing a 53-lot subdivision and asked how many units would have to be added with R-12 zoning. City staff said with their street layout they would need to add 21 units but the neighborhood is not compatible and the price goes down. They considered apartments and townhomes. She said she has a philosophical feeling that R-7 is better and wants to go forward with the project. She said she is not against density but does

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

not like it in the wrong place. She mentioned another property she thought was owned by the Schmidts zoned at R-4.5 which ended up taking 125 units and asked how that was fair.

Councilor Henderson asked if Ms. Ritz saw the zone change as a huge problem when first looking at the property or did her concerns rise after investigating the history. Ms. Ritz replied that she has not attempted a zoning change before and usually developers try to increase zoning. She saw that everything around it was zoned R-7 and it had been changed for this property. She did not anticipate that staff would want to stay with R-12 and expected more flexibility. She met with the neighbors and was straightforward with them saying that it was zoned R-12 but she would attempt to change that to R-7. She said Tigard is developing River Terrace so she thought they had a good legal argument to put in something similar. Councilor Henderson said he has been looking at the desirability of Tigard as a place to live and we are facing growth. He said as Mr. Floyd eloquently said earlier, things are changing and we need to understand where the growth will occur. He said he can also understand her point of view on the R-7 zoning.

Associate Planner Floyd said two of the three site plans shown on the screen were new to staff and this is new evidence that they need a chance to review. He said he can understand some of the compatibility issues identified on the site plans but can also spot some easy changes that could be made under the current code. He referred to his pre-application notes and said staff was approached by Venture properties in August. The application came fully formed, the applicant had made up her mind and staff was not asked to help with modifying an R-12 site plan. The applicant has not made an effort with staff to develop a workable site plan in the R-12 zone.

Mr. Floyd returned to the approval criteria discussion. He referred to Metro's letter and said Title 1 was either adopted or readopted within the last four years. This is their regulation and he would recommend that Tigard follow their interpretation of the code. He referred to Ms. Ritz' comment on the Bonaventure project on the other Schmidt property, which is a new assisted living facility. He said that speaks to diversity in housing but these are not the same kind of projects. It is a large facility that is not true household living. There are a number of Comprehensive Plan policies that speak to diversity in housing. Policy 10.1.1 says the city shall adopt and maintain policies, codes and standards that provide opportunities to provide a variety of housing types that meet the needs, preferences and financial capabilities of Tigard's current and future residents. As Ms. Ritz said, her product is of much more value than a product under R-12. Policy 10.1.5 says the city shall provide for high and medium density housing in areas such as along transit corridors where employment opportunities, commercial services, transit, and other public services necessary to support higher population densities are either present or planned for in the future.

Council President Snider asked if the Bonaventure property addresses the housing inventory. Mr. Floyd said it is outside the inventory requirements as he understood it but he could get back to council on that if they want. He said the policies speak to opportunities and not removing the number of households capable of getting on a transit line and going to a job or walking to school and making Tigard's Strategic Plan and Safe

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

Routes to Schools Plans work. Another policy is 2.1.15.d which says the applicant must demonstrate that there is an inadequate amount of developable, appropriately designated land available for the land uses allowed by the new designation. As Associate Planner Grass said, there is a lot of R-7 in the city. He said he understands the compatibility issues, but Tigard is really awash with R-7 and this site is flat, unconstrained and has a lot of services. This is really an opportunity that could be lost. The policies are better served by preserving R-12 than they are by converting to R-7.

Council President Snider: asked what Metro's abilities are to appeal any decision a city council makes. He discussed the rules of quasi-judicial public hearings and said if someone wants to change the Oregon land use rules they should talk to their legislators. City Attorney Rihala said Metro has given written testimony and has standing in this case. It would go to the Land Use Board of Appeals (LUBA). In response to a question from Council President Snider about whether Metro would appeal, Associate Planner Floyd said he approached the question gently and they said it is not off the table.

Council President Snider asked if the less than one-percent change in housing inventory argument was compelling at all from a staff perspective. Associate Planner Floyd said the significance is not defined and the issue comes back to, "one percent of what?" There is no analysis of how many attached units the city could lose. Council President Snider asked if staff could do that analysis. Mr. Floyd responded no, because the burden of proof is on the applicant.

Mr. Robinson said the opportunity for Metro or any other party to testify has ended. Mayor Cook said he had not closed the public hearing. Mr. Robinson said no one asked prior to the rebuttal that the record remain open for evidentiary purposes. He said if council wants another party to testify that is not staff, then they need to discuss an open record period. Council President Snider said that was not his question. He was asking if staff could report back on his question. Mr. Floyd apologized if his answer was misconstrued but typically the applicant provides information and we have pointed this out in the past and it was not done. There is a clock running and the applicant would have to provide an extension. He said it still comes back to how council wants to interpret the Comprehensive Plan policies. Even a small change would be in conflict with the policies to promote and provide for a variety of housing types.

Councilor Goodhouse asked if the Bonaventure memory care development counts as housing units and Associate Planner Floyd said it does not compare in terms of self-contained units and there are more common areas. Councilor Goodhouse asked if some of the units have their own kitchens and some use a common dining area. Associate Planner Floyd said it was his understanding that there is a blending of both types with options.

Councilor Henderson asked about a proposition for denial and then finding conditions that may be found acceptable. He asked what conditions might change that. Mr. Robinson said he suggested council tentatively approve it, ask the applicant to come back with findings addressing each of the relevant approval criteria and then council would take a final vote on

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

it. He said he thought when the council sees the findings they will see evidence that the relative approval criteria can be met. He said council can meet their legal burden and the applicant can demonstrate that with findings. In response to a question from Councilor Henderson, Mr. Robinson said they are asking council to reverse the Planning Commission decision, approve it and ask the prevailing party to come back with findings.

Council President Snider asked if all the evidence should not have already been in the record. Mr. Robinson said all the evidence that would allow the council to reverse the decision is in the record. He disagreed with Mr. Floyd's assertion that they did not put in an analysis of Title 1. He said they addressed it in at least the May 16 letter, if not the May 9 letter, and the appeals statement also addressed it. He said he read about zoned capacity tonight which addressed Title 1. He said if council would tentatively approve this the applicant could draft findings.

Mayor Cook said he has lived here in those 32 years and knew the property owner well. He could have changed his property as did the properties around him but he did not want it developed while he was alive, or even some time after his death. Everything around it changed but in 1998 things changed and we had minimum density requirements. The Metro 2040 map amendment identified it as a transportation corridor and the city is not allowed to transfer density to the Tigard Triangle or some other location. He asked when that rule came in and asked if Metro decided that we cannot do trades along the corridor. He noted that Tualatin changed their Transportation System Plan and asked how Tigard should. Mr. Floyd said it is a state highway and arterial, long standing designations. He was unsure when the 2040 map was adopted. Title 1 was adopted or readopted in 2011 in concert with other cities. There was regional buy-in that certain things cannot happen along corridors in order to achieve regional goals. Density did change in 1998 and the zoning in the adjacent properties did change for good reasons at the time. One reason a neighboring subdivision could not be developed to R-12 had to do with problems in setback standards for single family homes in that zone. Applewood site design changed from R-12 and R-4.5 to R-7 and is an efficient, cohesive site design but the net effect was an increase in density in the site. Each decision is made in the context of the moment. Mayor Cook asked again if it is Metro that enforces these requirements and Mr. Floyd said it was. Mayor Cook asked if what Mr. Floyd was saying is if council denies this as the Planning Commission did, Council is following the rules that Metro is requiring. Mayor Cook reminded council of their quasi-judicial roles.

Mr. Robinson said the applicant has asked for the final written record to remain open so council does not have all of the argument before them.

City Attorney Rihala asked for clarification from the applicant about keeping the record open because there was a request from council for additional information about the housing needs. She asked if the applicant agrees to extend the record. Mr. Robinson said they have not asked for the written record to remain open; they are asking for final written argument. He noted that Ms. Ritz will not be available on July 28 and wished to be present for the vote. He asked to come back and deliberate on August 11. Mayor Cook said two councilors will be absent from that meeting. Mr. Robinson asked for the evidentiary record to close but

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

leave the written record open for final argument for the applicant only. He asked for 14 days to do final written argument, which would come in by the 28th rather than the 21st. Council President Snider found it objectionable that a decision like this would be made with almost half the council absent. The next available date is September 8 with a full council.

Mr. Robinson said they are willing to extend the 120-day clock to whatever deliberation date will work for council. He requested that they have until July 28 at 5:00 p.m. to provide the final written argument. The record is closed to all other parties after tonight. The Applicant will deliberate on September 8, which extends the clock by 56 days. City Attorney Rihala and Associate Planner Floyd indicated their agreement.

Council President Snider moved to accept the applicant’s request. Councilor Woodard seconded the motion. Mayor Cook conducted a vote and the motion passed unanimously.

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

7. AUTHORIZE THE CITY MANAGER TO SIGN A PROPERTY PURCHASE AGREEMENT

 Parks and Streets Manager Martin gave the staff report and said council is being asked to authorize the City Manager to sign a contract and a lease agreement. The city would lease the property back to the owner. He said the property is commonly called the Lasich property and the city is purchasing it for \$1.4 million. It is outside of the city boundary currently. It is not within the Urban Growth Boundary or rural reserves and is a 28-acre, flat and beautiful property suitable for a future park.

Councilor Henderson and Councilor Woodard agreed this is a great idea. Mayor Cook explained that property negotiations are done in executive sessions which are closed to the public but council can and wants to talk about this publically now. He said the city is looking for park land in this area and is planning ahead as property inside the Urban Growth Boundary costs about ten times as much as property outside of the UGB. It is advantageous to find a 28-acre property adjacent to Tigard with river access owned by a property owner willing to sell over time. He said the city cannot develop it right now but it can be a passive area. It will be usable but will not be a soccer field for example, right away. He noted that Cook Park was brought into the city before it was within the city limits because someone was thinking ahead. He thanked Mr. Martin for his time and effort putting this together.

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

Council President Snider moved for adoption of Resolution No. 15-35. Councilor Woodard seconded the motion. City Recorder Krager read the number and title of the resolution and Mayor Cook conducted a vote.

RESOLUTION NO. 15-35 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A PURCHASE AND SALE DOCUMENT FOR THE PURCHASE OF THE PROPERTY KNOWN AS THE LASICH PROPERTY

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

Mayor Cook announced that the motion passed unanimously.

8. CONTINUED DISCUSSION ON COMMUNITY CENTER BALLOT TITLE APPROVAL

City Manager Wine introduced this item. She said the question before the city council is should the council refer a measure to the Tigard voters that would authorize the city to issue general obligation bonds for a community center. Prior debates focused on whether or not it might reference operation by the YMCA. The focus tonight once public comment has been received is to consider ballot title language and consider authorization of a measure on the November 3, 2015 ballot.

Mayor Cook announced that those signing up to speak will have two minutes.

 Gene McAdams, 13420 SW Brittany Drive, Tigard, OR, 97223, observed that he does not have all the information he needs. I oppose the project in terms of putting it on the November ballot. He understands this meeting is to possibly develop a title and he believes it must be changed to include new parking for downtown businesses. He said the public is not aware of this. The recreational facilities and other things the city has identified are fine but there should also be emphasis on the performing arts theater. The title to this heavy expenditure needs to contain enough information to allow a prospective voter to readily identify the community center elements. He referred to the 500 parking spaces and compared that to the 110 parking spaces at the library. He said this means five new library parking lot sized parking spaces in the downtown. The alternative is a parking garage. That would be a four- to five-story parking structure right in the downtown. He expressed concern that the planning is not complete on this and the figures are not valid. Going to a November election on this is a mistake and if the city does proceed it will end up with something it does not want.

Vince Arditi, 12820 SW Peachvale Street, Tigard, OR 97233, said he is the Director of Recreation At Your Service, a consulting firm for parks and recreation. He said he was employed as a building

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

manager for three recreation facilities for the City of Portland for 12 years. He was asked to do a study as a follow up to the 2009 parks master plan. He said he made the presentation in 2012 and was contracted by MIG to do the latest survey. He has been asked to comment on the latest ideas about this community center. He said he is a community center guy and knows how good they are for the community. He analyzed the partnerships that could be developed within the city. He said the city has a well-developed recreational services program already in place with private companies. He asked to sit down with council and discuss how this program can be implemented because even though the city is planning to build a new facility, this other program could be implemented in six months at very little cost. He reached out to 15 individuals that were represented from a recreational service guide developed after the first MIG 2009 program and found that they had no knowledge of this guide. They did not know where their advertising was coming from. He said he is in favor of the property but there is misinformation. He held up the YMCA advertisement and said some of the numbers are not correct in any way shape or form, based on his experience managing three buildings. He offered his help because if the voters and the people who are promoting this do not come together this is not going to happen.

Reid Iford, 11575 SW Pacific Highway, Suite 151, Tigard, OR 97223, said there is a saying in the newspaper business, "Happy people don't write letters." He said it can be hard for elected leaders, very accessible to the public, to see people show up to speak at meetings when they are angry, most particularly a NIMBY. But there are far fewer people who show up to compliment or praise our city, elected leaders and fellow residents. So it is a mistake to believe that one or two vocal opponents represent the community as a whole. For every opponent who writes a letter to the editor or speaks at a council meeting, I promise there are thousands of happy people who do not share that point of view. He said Tigard is his hometown and we need to preserve our hometown and build on it. People in the city know what they want. The DAXKO study shows overwhelming support by voters for building our YMCA community center. Our government supports this; the PRAB voted unanimously to encourage council to submit this to the voters. He said at least three elected are supportive, based on past comments. Councilor Snider, Councilor Woodard and Councilor Henderson support giving this to the people for a vote. Nearly 50 downtown businesses are working aggressively to have this sent to the voters in November and have this built in downtown Tigard. Our citizens want a community center and they want it downtown. He asked that council honor the will of the people that put them in office and put this on the November ballot. Let us vote. He added that all of the numbers he has used were carefully vetted and established and he can provide this.

Lea Williams, 12129 SW Anton Drive, Tigard, OR said she disagreed with the previous testimony. There are nine physical fitness centers in the Tigard area. We are not without facilities to exercise in. These businesses make Tigard the unique place that it is. She asked why the council needs to recover costs. You are talking about 88,000 square feet of taxable area being taken away to be a non-taxable sinkhole in the downtown area. Instead, the city could use those nine tax-paying businesses and do all of those things that you want a community center to do. Scholarships could be given to poor people. The brick and mortar businesses are already here. The cost of putting any of these nine tax-paying companies out of businesses is quite high. Support them instead of competing with them. Senior citizens just had a ten dollar increase on their water bills and now the city is going to add this to their tax bill. Most senior citizens are never going to use the facility. This puts a higher burden on people that we should be supporting in their golden years. She disagrees with the whole

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

concept and asked that council make the proponents go through the initiative petition process. She asked, “Why is the city bypassing this process.” If they cannot collect signatures, you will see the voters are not behind this. She disagrees with the city council doing their job for them. She said if the majority of people knew what the city was doing they would say no. Let’s support these businesses and if we need to develop a way to help people afford these activities. Then you will not need someone like the first person that spoke tonight about helping to recover costs.

Robert Van Vlack, 15585 SW 109th Avenue, Tigard, OR 97224, said as much as he is in favor of the mission of the YMCA, or Young Men’s Christian Association, he is not in favor of the city council putting a community center run by the YMCA on the November ballot. The petition group should be the ones to gather the signatures to go through the initiative process. His guess is that the support is not there unless the bond measure is put on by the city council. It is his sense that those who are circulating a petition for the YMCA are using intimidation and fear to make the city council feel they have no choice but to do what they are demanding, which is to burden the citizens of Tigard with another bond measure resulting in higher property taxes on people who are overtaxed already. This bond measure puts the tax burden on the 95-98 percent of Tigard residents who will most likely not use the YMCA. Tigard has a pool that can be accessed by all citizens. The library has a large meeting room that can be used for community events. The Tigard High School auditorium is already being used for theater events. It has been stated that a large parking structure in the downtown will give shoppers more parking spaces. If there is indeed a downtown parking problem perhaps those business owners should purchase land and build their own parking garage. It appears that the community center in the downtown would replace some businesses that are currently paying taxes. A new community center would not be paying those taxes. He urged the city council to seriously consider this and not put this on the ballot in November. He repeated that he is not opposed to the mission of the YMCA. He is opposed to using taxpayer dollars to build their facilities. Many residents of the Summerfield community and other Tigard residents he has spoken to are not in favor of this community center. He has a strong sense there will be an uprising of citizens that will defeat the bond measure if it is placed on the November ballot.

Carine Arendes, Chair of the City Center Advisory Commission, 9524 SW North Dakota Street, Tigard, OR 97223, acknowledged Councilor Henderson for making sure the CCAC was aware the potential ballot language identified the downtown as the likely location. The CCAC is focused on the downtown issues and the urban renewal program. They focused on possible impacts on the downtown area if a recreational facility was located there and were not able to recommend that the ballot measure go forward. However, they are looking at a number of issues that would be raised for whatever kind of facility would be considered for the downtown area. They want council to be thinking about the impacts of siting such a building in the downtown. CCAC’s three big issues are

- 1) Transportation implications
- 2) Effects on existing and new businesses.
- 3) Impacts on tax increment financing revenue that supports ongoing and planned projects.

Ms. Arendes said the CCAC does not have those answers yet so they could not come forward with a recommendation. She said the project has been reverse engineered as Councilor Woodard commented at their meeting last week. Some information may not be available now. Some issues

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

could be handled through the land-use review process and some relate to site identification and design stages. She asked that council keep these issues in mind and hoped that this can be considered in a public process so they and other downtown stakeholders can remain involved. She said if these issues are considered it will be best for the community, best for recreation and best for the downtown area.

Troy Mears, 11680 SW 113th Place, Tigard, OR 97223, and Tim Pepper, 14550 SW 120th Place, Tigard, OR, are members of Tigard's Park and Recreation Board (PRAB). At their meeting last night they voted to recommend the following: Place a measure on the November 2015 ballot in which Tigard voters consider the funding of a community recreation center operated by an experienced, qualified, non-profit operator such as the YMCA." He said they support it and support recreation and look forward to seeing this on the ballot.

Linli Pao, CCAC Vice Chair, 7444 SW Ashford Street, Tigard, OR 97224, thanked council for spending their time here at this late hour and said it means a lot to those in the room and those watching at home. She said she spent most of her adult life in Tigard and echoed some things that Ms. Arendes mentioned. She referred to a copy of a memorandum to council from CCAC. She said speaking from CCAC perspective, in years past, where there was a ballot measures affecting or mentioning downtown Tigard, the CCDA and council requested the CCAC's opinion and advice. We were unable to come up with a recommendation because there are so many unanswered questions. She said it is hard to ignore the fact that the marketing has said the downtown area is implicated as the area where the community center run by the YMCA would be built. There are questions about effects on the tax increment financing and transportation implications. The CCAC would appreciate it if council and CCDA would ask the CCAC for a recommendation. She spoke from a personal view and said it would be great to take a little more time to get more opinions and flesh it out before rushing to the ballot. She remembered growing up in Tigard and being aware of attempts to put in a recreation district and there were also difficulties with the swim center. Things that were rushed did not turn out well. She said if the city takes a harder look, a longer time and does it right the first time, there is an opportunity to really add something to the community. If it is rushed she is not sure what the outcome will be.

City Manager Wine said the question before council is whether they want to refer a general obligation bond to the tax payers for a community center. Prior discussions were about whether or not to name an operator. Staff has deliberately chosen not to put together an administrative recommendation in prior staff reports but some prior discussions focused on legal opinions received from the city's attorney and the bond counsel on how to comply with election law and how to credibly go to the bond market and issue bonds if voters approve.

Ms. Wine said the written opinion from the city attorney says it is preferable not to name an operator in the ballot language. The bond counsel discussed ways to name an operator if that is what council prefers. She reiterated two things: One is that the city has not taken any of the steps needed to appropriately identify community needs, the size, the location, the program needs or the rough cost of the community center no matter who operates it. The second administrative recommendation is that we take the time to do that. She acknowledged that this is an unpopular statement given the community support and the work that has been behind the YMCA that the

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

council wants very much to respond to. But there are steps we would take as a city even if the measure is placed on the ballot and approved. It is very unlikely that we would issue bonds prior to doing some work to identify community needs, do a review of possible operators, conduct a site selection process and this would all be done through a public process because we are using public funds. She wanted to manage expectations because these are steps the city must take time to do in spite of the fact that a measure passes by voters. She said the discussion tonight is whether to place a measure on the ballot and what council wants the ballot language to say.

Councilor Goodhouse commented that council has been talking about this for a while. In the beginning there was much discussion on timing the ballot measure. Many people in the audience, especially Neal Brown, have worked hard to bring people forward and it was agreed upon to put it on the ballot sooner than later. He has always preferred to wait until more research can be done but people want to move forward while the momentum is there. He recommended keeping a vague model if it is placed on the ballot now. If people want more details then we can take more time to do our research and put it on the ballot later.

Council President Snider spoke to citizens who testified that they would rather not see this on the ballot and wanted those interested to gather signatures. He said he understood their sentiment but after having served on the council and seen the initiative petition process, what comes from that is not as good of a public policy as something more carefully crafted and worked on in partnership. He said it would likely be a facility that is a very short-distance from downtown, specifically sized, and would probably contain YMCA language that may pose more liability for the city. This has not happened because the public process at the council level has melded to write something that we do not love but is less risky and inflexible and with less rigidity. He said he does not like the timing but can live with it. He does not want location specifics. He said some people have made vague references tonight that the Tigard Downtown Alliance (TDA) supports this and he had not heard that. He said he asked about buying an insurance policy that would protect the city from potential claims in the future. He said the response around bond insurance was not what he was asking.

Councilor Woodard was curious about what the bond counsel said about not putting the name of the operator in the measure. He thought there were two ways to avoid litigation and the suggestion he liked said, "The city expects the initial operator of the community center to be a non-profit organization like the YMCA," so in the event the YMCA fell through another non-profit could come in. Proceeding forward, an operating agreement needs to be worked on immediately.

Councilor Woodard said what people lose track of is that the city has a lot of kids out there that are forgotten. Things are not working for youth. Statistics show youth crime and drug use has increased. He said when he was a kid we built community because parents took care of their kids and other kids. They took care of other people's kids even if it did not benefit them and that is missing today. He said some councilors may not think so but there are a lot of people who want a chance to have a voice. Ms. Arendes mentioned reverse engineering and this may not be what we normally do. But we have positive survey results and an organization that gives 25 percent to an underserved population that cannot afford to pay. There are many good things the YMCA does as opposed to other non-profit organizations. The ballot title has to make a reference to YMCA because that is what the survey supported. Without putting the YMCA on the ballot it is not worth putting out there because it will be a failed measure. The number of downtown businesses that

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

support this is greater than the number who are members of the TDA. He asked council to put this all in perspective. He is thinking about youth and increased services for police. He would prefer to see proactive activities for children from low income families. The more affluent can help with this. We are talking about \$10 a month which is the cost of a pizza. He noted that the supporters could have gathered signatures and have received some including those from kids. But kids do not get to vote so who is looking out for them? He said it was interesting to him that a majority over 50 years of age who took the DAXKO survey said yes, they will support this. He recommended using the YMCA wording in the measure the bond counsel recommended and immediately begin work on an operating agreement. He asked that council give the grass roots majority a voice.

Councilor Henderson said he first heard about a community center in the parks and recreation master plan and it was identified as something the city wanted to do. It was going to be expensive. The City of Tualatin had in-house recreation. The City of Beaverton started the Tualatin Hills Parks and Recreation District (THPRD). He said the city asked if Tigard could join, but we cannot as it is too expensive. He noted that the THPRD is large and expensive for seniors. He said if there is an error made by Tigard it is that we should have started 20 years ago. Tigard needs to start their own recreation program with a partnership between the city, an operator and a foundation to raise support money. He recommended the city move forward to get a program started because this will only become more expensive in the future.

Councilor Goodhouse said in January council was considering different ways to bring recreation into Tigard, whether through THPRD, a city recreation center or through an operator. He was in favor of not referencing the YMCA and keeping a vague model in the ballot measure. He said council decided to move forward now but agreed to keep it vague since there is no agreement with an operator. The operator can be selected later if voters approve the measure. He would like to move forward with the “skinny model” and then if people want it, we will work on those details. The only other way, if people want all the details now, is to move the vote further down the road.

Council President Snider said he wanted to clarify what appear to be competing opinions of the city bond counsel and city attorney. He asked why the city’s attorney is uncomfortable with YMCA in the title. City Attorney Rihala replied that she looked at it from different perspectives. Bond counsel considered bond risk and she looked at it from the perspective of election law risk. The answer the city attorney’s office gave is that there is the potential if YMCA is listed in the measure, that someone would vote for it based on that language. If later on, the YMCA is not the operator the voter could say they were misled. She said the other point raised is that it is really a matter of timing and the risk that the ballot title will be challenged as misleading and that would likely throw off the November election schedule. Council President Snider said earlier discussion was about whether including the YMCA wording would threaten the ability to levy the bonds and that seems to have been dispelled. He asked if City Attorney Rihala agreed with that statement and she said she did.

Councilor Woodard said he was reading the city’s legal opinion as it relates to the title, not the explanatory statement. We can put that in the explanatory statement but it takes away the liability. City Attorney Rihala said it is all part of the ballot title. Councilor Woodard said Sherwood mentioned the YMCA but they had an operating agreement. He said the statement should include the words, “It is planned that the facility will have all the amenities typically associated with the

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

YMCA including aerobic, exercise rooms, weight training, indoor swimming pool(s) and classrooms.” He suggested adding that there will be no additional tax dollars for the day to day management operations and maintenance of the facility.

City Manager Wine said the city does not have an agreement in place with the YMCA and placing language into the ballot title that would presume something about a future agreement would increase the risk. She deferred to City Attorney Rihala on this.

Councilor Woodard requested to finish his comments. He said we can do the “skinny model” using bond counsel’s recommendation of the one sentence item and these other things could be added. The City of Sherwood did that. There is a YMCA operating agreement that has been distributed and he would be willing to work with Council President Snider on the agreement.

City Manager Wine said the point to make a motion is when staff presents a resolution approving placement of an item on the ballot. This could happen at the next business meeting if council can decide on language tonight.

Council President Snider moved that council make two modifications to the draft document, and replace the words “community center” with “community and recreation center,” and the second is that we use version two of the bond counsel’s language, “The city expects the initial operator of the community center to be a non-profit organization like the YMCA.” Councilor Woodard seconded the motion.

City Attorney Rihala asked for clarification as the word limit has been reached on the question. She said words can be added to the caption and the summary but cannot be added to the question. Councilor Woodard suggested taking out the words “of Tigard” and just say “city.” City Attorney Rihala will work out this language to remain within the word limit.

Councilor Goodhouse asked the City Attorney if using the word YMCA would be misleading. City Attorney Rihala said that it could be misleading prior to the vote because there is not an operating agreement in place and this could cause a ballot title challenge. After the vote there could still be a challenge but it would turn more on council making a sole source agreement. It could also hurt negotiation options. Councilor Goodhouse asked if a few other things could be added after the words YMCA. Councilor Woodard said he thought it read fine the way it was moved.

City Manager Wine asked Councilor Goodhouse what were the other things he wanted to add. Councilor Woodard suggested, “YMCA or other qualified non-profit operators.” Councilor Goodhouse said he would rather have the names and could not vote for this without the additional names. He suggested Salvation Army and Boys and Girls Club. Councilor Woodard said the Boys and Girls Club is a church organization. Councilor Henderson said that would open up the city for a challenge.

Mayor Cook stated the reason he is not going to vote against this is that he is in favor of recreation. He was part of a group that brought forward the Atfalati Recreation District for Tigard and Tualatin in 2000. The city council voted 3-2 to put the item on the ballot. The Atfalati Recreation District

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014

got 46 percent of the vote but had the council unanimously supported it, he felt would have helped them overcome the deficit. He said the reason he is unable to vote for this tonight is the timing. As discussed with the CCAC and other groups, the city has a recreation plan and a recreation study but has not seen how those work yet. The city just sold its public works yard for a downtown apartment complex and housing project. The police station is undersized for the number of officers Tigard has. In November voters will be asked to support the county-wide public safety and library levies. If the library levy passes, it will enable the city to reopen the library on Thursdays. Mayor Cook proposes holding the recreation center measure vote over until at least May of 2016. He said he is going to abstain because according to Robert's Rules of Order, one of two reasons to abstain is insufficient information to make a decision. He said this is what the CCAC was saying; they did not have enough information to make a recommendation to council and therefore he does not have enough information to go forward on this vote. Mayor Cook called for the question and conducted a vote on the re-worded ballot measure language that will go to the attorney who will prepare it for a council decision.

	Yes	No	Abstain
Councilor Henderson	✓		
Council President Snider	✓		
Councilor Woodard	✓		
Mayor Cook			✓
Councilor Goodhouse		✓	

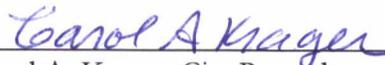
Mayor Cook announced that the motion passed with 3 yes votes, 1 no vote and 1 abstention.

9. NON AGENDA ITEMS – None.

10. EXECUTIVE SESSION – None.

11. ADJOURNMENT – At 10:53 p.m. Councilor Woodard moved for adjournment. The motion was seconded by Councilor Henderson and it passed unanimously.

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



 Carol A. Krager, City Recorder

Attest:



 John L. Cook, Mayor



 Date

TIGARD CITY COUNCIL MEETING MINUTES– July 14, 2014