



# City of Tigard

## Tigard Business Meeting – Minutes

---

### TIGARD CITY COUNCIL & LOCAL CONTRACT REVIEW BOARD (LCRB)

**MEETING DATE/TIME:** August 11, 2009/6:30 p.m. Study Session and 7:30 p.m. Business Meeting  
**MEETING LOCATION:** City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223

- STUDY SESSION

Mayor Dirksen called the meeting to order at 6:30 p.m.

**Present:** Mayor Dirksen, Council President Wilson, Councilor Buehner, Councilor Henderson, and Councilor Sherwood.

**Also Present:** City Manager Prosser, Assistant City Manager Newton, Finance and Information Services Department Director LaFrance, Public Works Director Koellermeier, Community Development Director Bunch, City Attorney Ramis, Senior Planner Farrelly, Engineering Manager McMillan, and City Recorder Wheatley

- Development Services for Downtown – City Council received an August 5, 2009 memorandum from Senior Planner Farrelly regarding Summer Lake LLC Downtown Tigard Proposal, a firm offering services in developing an action plan for Downtown redevelopment. A copy of this memorandum is on file in the City Recorder’s office. Mayor Dirksen said the purpose for this on tonight’s study session agenda is to “get a feel for Council’s perspective” and no in depth discussion is scheduled.

Councilor Buehner noted she was concerned the proposal from Summer Lake LLC might conflict with Leland and Associates. Mayor Dirksen said he has been advised this would be complementary work to what has been done by the Leland consultants.

Agenda items were rearranged to accommodate a discussion on development services for downtown. In response to questions from Councilor Henderson, the Mayor and City Manager Prosser advised that this discussion would be before the City Center Development Agency. If the City Council chooses to move ahead with a request for proposal for downtown development services, the city’s RFP process must be followed.

- Gas Tax Discussion Scheduled for August 18

City Manager Prosser referred to the current City gas tax. Code language includes the provision that if the state gas tax is increased, we will lower the gas tax rate in an amount sufficient to offset the additional revenue (revenue neutral). There has been some discussion by individual Council members about possibly looking at other revisions to the gas tax ordinance. At this time, it sunsets once the City has paid for the Greenburg/99W project and any associated financing. One thought

expressed was that rather than have the gas tax go away, to let it go dormant and have the authority remain until another project comes up. House Bill 2001, the State Gas Tax package, increased the state gas tax by 6-cents and does not go into effect until a certain number of months of increased employment is recorded or January 2011, whichever comes first. The legislation also says that once it goes to effect, cities cannot adopt a new gas tax and cannot make changes to existing ordinances. If the City Council wants to make any revisions, there is a window of time before HB 2001 goes into effect, which is September 28, 2009. Tigard's financial advisor issued a memorandum expressing concern about the provision offsetting any increase in state gas tax making it complicated and more difficult for the City to borrow against the City gas tax. City Manager Prosser said there will be one of two results: 1) We will not be able to sell bonds, or 2) We will pay higher interest rate because of the additional uncertainty.

The question before the City Council is: Do you want to consider any changes to the Tigard gas tax ordinance, and if so, what should be changed? Time is available on the August 18 workshop meeting for a City Council discussion and consideration of changes. This matter could be scheduled on the August 25 agenda to pass an ordinance without an emergency clause. If considered on the September 8 or 22 agenda, an emergency clause would be required.

Councilor Buehner said she wanted the ordinance to be "in shape" to make it easy for Bond Counsel to bond. Mayor Dirksen said the reason the gas tax had the automatic sunset was to avoid concerns that this tax, once instituted, would be forever. The Council wanted to show citizens that, if the tax is imposed, the project would be done correctly and that the money was spent wisely. The City could return to the citizens to ask to use this tool again if needed for another project. Since the gas tax ordinance was adopted, State law has changed so the City could not do this as planned. Mayor Dirksen said the Council might want to consider an adjustment to allow the City to continue to do this. Councilor Buehner commented that the petroleum industry did not work toward a statewide gas tax as they said they would. Council President Wilson also noted that the Council assumed the distribution of the statewide gas tax was going to stay the same instead of earmarking the funds using all the money for other places.

Mayor Dirksen said the Council might want the City Attorney to look at whether there is a way the City could change the language so that once we pay off the current project that it not go away; rather, it would go dormant until another project identified. City Attorney Ramis said this has been discussed and he thinks it is a possibility. He added that the City is now in an odd "Catch 22" with the ordinance saying there will be a reduction, but on the other hand, there is a deadline (because of the legislation) after which there cannot be a reduction. City Manager Prosser further explained that the way that HB 2001 is written so that a City you cannot make changes to its existing gas tax ordinance. The assumption was that a City could not increase the gas tax; however, this is not how it is written. This would mean that we cannot do away with Tigard's gas tax, either.

City Attorney Ramis advised Councilor Buehner that his office would also consult the City's bond counsel with regard to proposed amendments to the current Tigard gas tax ordinance.

- Information for Tonight's Business Agenda:
  - Agenda Item 3.3 – Staff learned that a resolution is required to indicate the City Council's approval of the City entering into a Contract with the Oregon Economic Development Department to receive funds. City Council received a copy of the proposed resolution.
  - Agenda Item No. 4 – Proposed Ballot Measure – Bond Issue – To Preserve Clean Water, Natural Areas, Wildlife Habitat:

## **TIGARD CITY COUNCIL/LCRB/CCDA MINUTES – AUGUST 11, 2009**

- Revised Explanatory Statement - City Council received an advance copy in their Friday newsletter packet.
- Written Testimony -- City Council received a copy of the written testimony submitted.
- Agenda Item No. 5 – Aquatic District Petition
  - Council received a copy of the August 10 Financial Pro Forma from Finance and Information Services Department Director LaFrance
  - Council received a copy of the updated Feasibility Statement from Cheryl Berglund Coupé in their August 7 City Council Newsletter.
  - Written Testimony -- City Council received a copy of the written testimony submitted.
- Agenda Item No. 8 – Proposed Sensitive Lands Amendment to the Development Code
  - Written Testimony – City Council received a copy of the written testimony submitted.
- Administrative Items:
  - Direction to Staff Regarding Town Halls and Coffee Discussions (Alternatives to Fifth Tuesdays) City Manager Prosser noted that in place of the September 29 Fifth Tuesday meeting, the Council will be meeting in a brainstorming-type of meeting. Council agreed to October 6 as the Town Hall meeting date. The second Town Hall will be scheduled on June 29. Coffee meeting dates could be on Saturday, February 6, at 10 a.m. (before the Neighborhood open house). The last Coffee date was discussed. Council supported the idea of reserving a coffee house in the evening and advertising this as an event in April.
  - Several City Council members agreed to volunteer to grill hamburgers and hot dogs at Family Fest – September 12, 5:30 p.m.
  - City Manager Prosser introduced the new Assistant Community Development Director Susan Hartnett. She has worked as Director of Transportation Services at OHSU, for the City of Portland in the Bureau of Planning and Transportation, and she has worked as a private developer.
- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:54 p.m. under ORS 192.660(2) (e) and (i) to discuss real property transaction negotiations and the performance evaluation of the chief executive officer pursuant to standards, criteria, and policy directives adopted by the governing body.

Executive Session concluded at 7:25 p.m.

7:30 PM

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the meeting to order.
- 1.2 Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Wilson	✓	
Councilor Buehner	✓	
Councilor Henderson	✓	
Councilor Webb	✓	

- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports (See Agenda Item No. 10)
- 1.5 Call to Council and Staff for Non-Agenda Items: None

**TIGARD CITY COUNCIL/LCRB/CCDA MINUTES – AUGUST 11, 2009**

2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

• Citizen Communication

- John Frewing – 7110 SW Lola Lane, Tigard requested clarification regarding what is the City’s obligation under the IGA between the City of Tigard and Clean Water Services to enforce and apply the CWS design and construction standards in development actions. Mayor Dirksen advised staff would review and suggested a contact with staff at CWS to respond to Mr. Frewing.
  
- Siavash Eslamizar, 13386 SW Hillshire Drive, Tigard, Oregon asked the City Council to extend its support to “millions of Iranian people who are seeking basic human rights and to condemn the ongoing violence, killings and human rights abuses that are clearly seen and reported by the media worldwide. Mr. Eslamirzar submitted written information to support his request and this information is on file in the City Recorder’s office. The written information includes proclamations from Beaverton and Portland. Mayor Dirksen indicated the City Council would review the information Mr. Eslamizar submitted and consider his request.
  
- Brian Wegener, Tualatin Riverkeepers updated the City Council on projects his organization has partnered with the City of Tigard:
  - o For several years, Tigard has supported the Riverkeepers Trips and Tours outreach program. This is the second week of their summer Nature Awareness Day-Camp at Cook Park. This has been a successful event.
  - o On Thursday is the environmental educational and paddle trip and picnic for the Hispanic community.
  - o A Washington County Visitors Association grant will allow the Riverkeepers to buy a new fleet of kayaks.
  - o Last October was the Connect the Drops Events, an educational event for elected officials in the Tualatin Valley regarding low-impact development. Mayor Dirksen and Councilor-elect Henderson participated. Metro published Riverkeepers data for a map and guide to low-impact demonstration projects in the Tualatin Valley. Several of these projects are in Tigard. Metro has contracted with the Riverkeepers to update this information and this has been expanded to include Multnomah and Clackamas counties. Oregon State University Extension is putting together an atlas of low-impact development projects in the state. These techniques, which treat stormwater as a resource and reduce stormwater runoff and pollution, are becoming more popular as it is understood how these projects perform. If there are any projects that City of Tigard staff or elected officials are aware of, please let the Riverkeepers know so they can place the project on the map.

Councilor Buehner noted the Community Partners for Affordable Housing low-income housing project in Tigard. Mr. Wegener confirmed that they are working with CPAH.

[7:45:29 PM](#)

Mayor Dirksen reviewed the Consent Agenda:

3. CONSENT AGENDA:

- 3.1 Approve City Council Minutes for June 9, 16, and 23, 2009
- 3.2 Receive and File:
  - a. Council Calendar
  - b. Tentative Agenda

- 3.3 Approve a Contract with the Oregon Economic and Community Development Department (OECDD) as Part of the American Recovery and Reinvestment Act (ARRA) Stimulus Program Worth \$4,796,000 and Authorize the City Manager to Sign the Contract. Res 09-54
- 3.4 Approve a Local Agency Agreement (No. 25,365) with the State of Oregon: Surface Transportation Program – Urban; SW Main Street: 99W to Rail Corridor

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

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

[7:46:45 PM](#)

- 4. PUBLIC HEARING ON A PROPOSED BALLOT MEASURE FOR THE NOVEMBER 3, 2009, ELECTION FOR A BOND ISSUE TO PRESERVE CLEAN WATER, NATURAL AREAS, WILDLIFE HABITAT
  - a. Mayor Dirksen opened the public hearing.
  - b. Staff Report:

Public Works Director Koellermeier advised that the issue before the City Council tonight is the consideration of a parks, open space and trails general obligation bond.

The City Council met in a July 21 workshop and received a presentation from Josh Alpert with the Trust for Public Lands. Mr. Alpert was present to answer questions. Mr. Alpert’s analysis is based on a scientifically accurate voter attitude telephone survey conducted in June. About 400 calls were made. Mr. Alpert will share information he gleaned from the survey results.

Some of the questions that have come up for this matter have to do with the bond, the size, and those kinds of issues. The size of the bond was determined based on the capital requirements that are not assignable to growth in the recently adopted Park and Recreation Master Plan. That Plan identifies approximately \$70 million over the next 20 years of acquisition, preservation, and construction needs for the community. Of that, approximately \$20 million is the component that is not assignable to growth through the System Development Charge process. The City Council will go through a System Development Charge update process later this year to deal with that remaining component of implementing the Master Plan.

The action before the City Council is to conduct an informational public hearing to consider the resolution.

Mr. Alpert advised of a potential change in the ballot language the City Council might want to consider after taking public testimony. He suggested the words “wildlife habitat” be deleted from the caption and everywhere else throughout the ballot language. Instead, he proposed “improved parks” be

inserted. This would give the voters a more round picture of the potential things that the proceeds of the bond could be used for if was successful in November.

Councilor Buehner said she noticed the revised Explanatory Statement draft removed the language “acquire park land, develop parks and trails.” She said this language seemed to be very important in explaining what the City is hoping to accomplish. Mr. Alpert said he did not know why the language was removed. Public Works Director Koellermeier advised the Explanatory Statement was reviewed by both the City Attorney’s office as well as the City’s Bond Counsel. It was determined that this language was not necessary; however, it could be added. City Attorney Ramis confirmed Public Works Director Koellermeier’s assessment of why the language was removed.

Council President Wilson said that when the Council established the goals for this year, this type of a bond measure was considered. A lot has transpired since then with regard to the Fowler property. Trust for Public Lands has been assisting the City in obtaining this property. Trust for Public Lands also assisted by taking the scientific survey. Council President Wilson said when he saw the results of the survey, he was surprised about the importance of clean water to people. He is concerned that we do not have any mention for actions for clean water in our Park Master Plan. Clean Water Services has been the agency to take the initiative for clean water. Council President Wilson said he noticed “it came on really strong in the Explanatory Statement and I am wondering if it doesn’t respond a little too much to the opinion poll and, perhaps mislead the public as to what we are really going to do with the proceeds of the bond. I would rather not emphasize something that we don’t have any capital plans for – you could put it down as a potential benefit – but I don’t see us building water quality facilities or things like that with this or disconnecting things from the storm sewer system.” He asked Mr. Alpert to comment.

[7:53:34 PM](#)

Mr. Alpert said the reason the clean water references were in the Explanatory Statement were for the reason of looking at potential acquisition sites, many of which border on sensitive riparian lands. Through the acquisition of those parcels, a benefit will be the preservation of creeks and streams that those lands sit upon. When TPL sees this in a master plan and through informal conversations with cities, they interpret this as a signal that, indeed, a big benefit would be the preservation of clean water. He said TPL did not anticipate building any type of water treatment facilities. He referred to the Explanatory Statement language, “through the acquisition of sensitive lands near rivers, creeks, streams and wetlands” – that truly was the parameter of TPL’s thought-process for including this language.

[7:54:45 PM](#)

Councilor Buehner said she read the language the same way as Council President Wilson did. She said perhaps this language needs to be revised.

[7:54:51 PM](#)

Council President Wilson said he thinks that when the City Council had its goal-setting session, the City Council goal was in response to the fact that Tigard is building out quickly and we want to preserve some of these spaces for both open space/natural areas and developed parks. This would naturally benefit wildlife and water quality – it would have multiple benefits as well as the preservation of greenspaces, etc. Council President Wilson said the language came across a little bit too strong for him.

[7:55:40 PM](#)

Mayor Dirksen said he “kind of agree(s), but I would not want to necessarily strike the words ‘preserve clean water.’ But, perhaps, just like on a food label, you need to put the things that are mostly in there

first and then the stuff that comes later -- later.” Mayor Dirksen suggested moving “preserve clean water” to the end and say, “This is to acquire park land, develop parks and trails, and protect natural areas, lands near rivers, creeks and streams to preserve clean water.” It would be one of the goals/outcomes and why we are purchasing lands near rivers, creeks, and streams ; that is, to preserve and protect clean water. The language does not need to be struck out; it needs to be moved to its proper position.

[7:56:33 PM](#)

Councilor Webb concurred with the Mayor’s suggestion above.

[7:56:41 PM](#)

Councilor Henderson said he has a concern about this 20-year bond. He said that as Tigard grows into the unincorporated Washington County, how do we guarantee that those people are paying for parks and receiving parks? Public Works Director Koellermeier responded by saying that when “we were commissioned to do the Park and Recreation Master Plan, it specifically did not include properties outside the current city limits of the City of Tigard. This Master Plan is designed to deal with current city limits. As we will expand, those people become rate payers and, thus, participate in retiring any debt through their taxes to use the park systems that the City of Tigard has constructed.”

[7:57:53 PM](#)

In response to a follow-up question from Councilor Henderson, Public Works Director Koellermeier advised that at the time citizens are annexed into the City of Tigard, they can use City of Tigard facilities and, as taxpayers, they will participate in paying for them. The growth anticipated (reference System Development Charges) is growth inside the city limits of the City of Tigard. Councilor Webb commented that anyone can use our park system now regardless of where they live. Mayor Dirksen added that people who move to the City, even after the bond measure is place, help pay for the bond. If the city limits grow, all of the new areas brought in would also begin paying for and supporting the repayment of the bond.

[7:59:03 PM](#)

City Attorney Ramis commented on process. The City Council has every right and the authority to make changes in the document, but there is a timing issue. We are up against a deadline because of the nuances of the timing of the filings. The ballot measure should be ready by next Tuesday, August 18. He recommended if the City Council decides to make changes, a special meeting should be called to adopt the proposed ballot measure.

[7:59:48 PM](#)

c. Public Testimony

John Frewing, 7110 SW Lola Lane, Tigard, Oregon testified. The Mayor noted that Mr. Frewing was signed up both as a proponent and an opponent of the measure. Mr. Frewing advised that he liked some parts of the ballot measure, but did not like other parts of it.

Mr. Frewing noted he had areas of agreement with Council President Wilson and Councilor Buehner. He said he thought clean water was the domain of Clean Water Services. While the purchases of these lands might help clean water, it is not the primary focus of Tigard’s work. He commented that the ballot title is limited to ten words. He said the ballot title ought to mention both natural areas and park development. The natural areas help wildlife habitat and all of the park purchases help clean water because we are required to manage storm water in accordance with Clean Water Services’ rules.

Additionally, he said there should be “high up” in the explanatory material something that says the expenditures are intended to be roughly half-and-half in these regards. Without that kind of a statement, Mr. Frewing said he thinks there will be people who would be concerned that all of the bond proceeds would go for baseball fields and none into natural area habitat or they might feel it would be the opposite extreme. Mr. Frewing said he thought if the explanatory material promised that roughly half would go to park development and half would go to natural area acquisitions, it would be better.

[8:02:39 PM](#)

Mr. Frewing advised he provided written testimony and submitted a copy to City Recorder Wheatley. A copy of this testimony is on file with the City Recorder. A summary follows:

- The Park and Recreation Master Plan (Appendix C) has a list of potential projects and not one of those is for natural area acquisition. This is why Mr. Frewing is concerned that “it is all going to go into baseball fields.” He is looking for a commitment that roughly one-half will go to park development and one-half will go to natural-area acquisitions.
- The packet material indicates that the proposed bond money would be spent for acquisition, development, preservation of parks natural areas, clean water, open space, and trails – leaving out the concept of buying and protecting areas for wildlife habitat. Comprehensive Plan goals and the policies underneath those goals specifically identify that some areas are going to be considered for purchase for habitat protection. The words “wildlife habitat” ought to be included .

[8:04:00 PM](#)

- The packet material indicates that bond money will be used to leverage SDC funds. These funds are not “big enough” to buy park spaces. The methodology (per the staff report) for SDCs is being updated this year. He urged the City Council to show its commitment by modifying both the methodology and the amount to maximize the amount of SDC funds that come in.

[8:05:22 PM](#)

- People on Bull Mountain have complained that they do not have parks. There should be some mechanism established so that when a new area comes in, it qualifies for parkland or open space acquisition. By making a provision for this in the measure, the City would be showing good faith for those people who might become Tigard citizens.

[8:06:11 PM](#)

- The Park and Recreation Master Plan has no provisions or regulations regarding natural areas and wildlife habitat. He urged the City Council to ask the PRAB to update, as soon as possible, the Master Plan to include policy, needs and recommendations as specific as possible in this area – acquiring natural areas and wildlife habitat. Without that kind of additional update and background information, he said “we don’t know whether this bond is too large or too small.”

[8:06:46 PM](#)

- The staff indicated the amount has been set based on the projects in the Park and Recreation Master Plan. The projects in the Master Plan do not include one natural area or wildlife habitat acquisition. He said he hoped City Council would direct the staff to improve the title and the explanatory material as he does want to support the measure.

Council President Wilson commented that the Fowler property “is in there.” Mr. Frewing acknowledged this as true. Mayor Dirksen said a large portion of this property will be preserved for wildlife habitat. Mr. Frewing referred to Appendix C and the Fowler property is referred to as a “Community Park.” The definition of a community park indicates there are all kinds of human interactions. Councilor Buehner said only a small portion of this property will be developed. The property is mostly wetlands and buffer area.

Council President Wilson said Mr. Frewing raises a valid point, while not entirely accurate; however, it is something the City Council ought to consider.

Councilor Webb also pointed out that with the purchase of the Cache Creek property on Bull Mountain, this area is the second largest park for the City of Tigard. Public Works Director Koellermeier indicated this area is about 40 acres.

Troy Mears, 11680 SW 113<sup>th</sup> Place, Tigard, Oregon advised he was a member of the Park and Recreation Advisory Board. He expressed his support for the ballot measure. This is an investment the City needs to make for its parks, open spaces, and natural areas.

Trish Swanson, 14585 SW Grandview Lane, Tigard, Oregon advised she is a member of Park and Recreation Board. She is in favor of the bond measure. It is important that we access the SDC funds as we move forward with some of the capital development projects, acquiring the Fowler property, trail maintenance, and trail development – this would be an important investment in our community.

Brian Wegener, Tualatin Riverkeepers, 12360 SW Main Street, Tigard, Oregon testified in favor of the proposed bond measure. He offered some history on measures in the area. Metro has run three greenspaces bond measures. The first one did not pass and they learned many lessons, including the need to be specific with regard to the lands being targeted so that every constituency would know they had “a piece of the pie.” He urged the City to make sure that all interests are represented within the bond measure language. He said the City of Tualatin has passed two similar measures. The last bond measure in Tualatin failed and he theorized it was because “they had a gold-plated recreation center that was high-cost and did not have the full the support of the City Council.” Mr. Wegener referred to water quality and said he knows the City of Tigard is working on streamside restoration in Summerlake/Summer Creek area. This is a willing landowner type of program. As “they move on, it’s going to be harder to find those cooperative landowners to let the City do restoration work.” He said if the City owns the property, “then you know you have a cooperative landowner.” The benefits for wildlife habitat and water quality are clear. He referred to cooperative efforts with Clean Water Services.

[8:12:55 PM](#)

d. Council Discussion

Councilor Buehner recommended that “we tweak the language” of the first paragraph of the explanatory statement. In response to a question from Councilor Buehner, City Attorney Ramis advised that the complete package needs to be adopted at once. He suggested that the City Council give staff direction so they can prepare the changes and bring them back for consideration.

Councilor Webb said she was in agreement with the changes the Mayor was going to make.

Council President Wilson referred to the ten-word limit on the caption. He said he agreed with Mr. Frewing’s comments for the change:

“Bond issue to preserve natural areas and develop parks and trails.” (11 words)

Mayor Dirksen suggested:

“Bond issue to preserve natural areas and develop parks, trails.” (10 words)

Council President Wilson said with regard to the 50/50 split by Mr. Frewing, he agreed in principle, but he would prefer to use language such as “balanced between parks and...” – to avoid getting down to “counting dollars.”

Mayor Dirksen suggested the four bullet points in the Explanatory Statement be rearranged:

- The acquisition of land for the creation...
- The acquisition of natural areas...
- The acquisition of land and easements...
- The preservation of clean water...

City Manager Prosser confirmed with Mayor Dirksen that a similar change would be made to the first paragraph of the Explanatory Statement to reflect that order.

[8:17:31 PM](#)

City Manager Prosser referred to the proposed Resolution’s Exhibit A . The “Question” will need some conforming changes to reflect the changes made to the ballot title. There is also a word limit for the “Question,” so staff will need to work on this. Consensus of the City Council was that staff could work given the direction the City Council established on the caption wording and the wording changes in the Explanatory Statement.

[8:18:15 PM](#)

Mayor Dirksen commented on Council President Wilson’s reference about a “balance.” He said he did not see any place where this might be placed. He said he also wondered if it would be good to reference the Park and Recreation Master Plan, saying that this would be the guiding document to provide a balance. People could refer to the Master Plan to see what the City is intending to buy. (For this change, the Mayor said he was looking at the last paragraph in Exhibit C, where it says “Additionally all spending from this measure would be subject to oversight...” He said this language is fine. However, we might want to say the spending would be guided by the City’s Park System Master Plan to provide a balanced system of parks and natural spaces.)

[8:19:28 PM](#)

Council President Wilson questioned whether the wording suggested by Mayor Dirksen might limit us to follow strictly the Park Master Plan. Mayor Dirksen pointed out the term is “guided” by it.

[8:19:39 PM](#)

Councilor Webb referred to wording in the Explanatory Statement, stating “a significant portion of the Tigard Park System Plan...” Mayor Dirksen said that wording would be all right.

[8:19:52 PM](#)

Council President Wilson said there are a lot of greenspaces in Tigard that are tracts left over from development that are owned by the respective homeowners associations. He said he would guess that many of those would be good trail locations, but they do not necessarily need to be purchased. Many of those are not in the Master Plan. He said he would not want to be limited.

[8:20:24 PM](#)

Mayor Dirksen said it would be “dangerous to get too specific because, try as hard as we will, we cannot predict the future. We do not know what kinds of opportunities might arise or things that we would

plan to do that might even be in the Master Plan, which for one reason or another...will not be achievable. We need to be careful not to be too limiting.”

[8:20:44 PM](#)

Councilor Webb noted that in the second to the last paragraph, it says, “In the first year following its passage, the 2009....” She said the name of bond measure will need to be changed on this line, too.

[8:21:15 PM](#)

Public Works Director Koellermeier agreed with the Mayor’s observation that as we attempt to look 20 years into the future, the specificity gets “fuzzy.” The Master Plan is put together with some level of detail, but also has some flexibility. He said “... We are limited with word count. We cannot get everything in those first two statements that everybody would like to see. I think you have done a good job giving us the direction, and between staff and the City Attorney’s office...I’m hearing what we need to make the adjustments.”

[8:22:16 PM](#)

Mayor Dirksen closed the public hearing.

[8:22:21 PM](#)

Mayor Dirksen advised the consideration of the resolution regarding the ballot measure is carried forward to August 18, 2009, as a special meeting of the City Council. The City Council will not be taking testimony, but will be considering the language and considering the resolution.

[8:22:44 PM](#)

Council agreed to begin the meeting at 6 p.m. on August 18, 2009, to consider this matter.

[8:23:38 PM](#)

5. CONSIDER APPROVING A PETITION PROPOSING THE FORMATION OF A SPECIAL AQUATIC DISTRICT (TIGARD-TUALATIN AQUATIC DISTRICT)
  - a. Staff Report

Public Works Director Koellermeier and Finance and Information Services Department Director LaFrance presented information on this agenda item.

Public Works Director Koellermeier advised the issue before the City Council is a proposal to form an aquatic district. City Council heard last month from concerned citizens who are proposing formation of a special district to fund operations of the Tigard-Tualatin School District pools. The School District has determined that for financial reasons, they are considering closing one or both of the pools.

The citizen group was in attendance at the meeting. Public Works Director Koellermeier advised the City Council received all the materials supplied by the citizen group as well as some additional last-minute information supplied to the City Council during the Study Session. The formation of such a district is governed by ORS 198. One of the steps in the process would be for the City Councils of all of the cities affected by the special district to consider a resolution supporting such a formation.

[8:25:40 PM](#)

Finance and Information Services Department Director LaFrance advised there were some changes on the financial information as originally proposed. Those changes included increases to some of the expenses primarily related to staffing costs. Some of the revenues were decreased including the

collection rate that was proposed on the property tax. After these changes, the District could be supported with the 9-cents per \$1,000 of assessed property value. A couple of concerns remained that fell outside a strict financial review. Much of the financial data depended on a certain amount of quid pro quo between the School District and the Aquatic District; no formalized documents have been drawn up. Finance and Information Services Department Director LaFrance said he did not believe these documents will be available for this stage of the process.

[8:27:48 PM](#)

Cheryl Coupe, 15855 SW Windham Terrace, Tigard, OR and Kathy Stallkamp, 17635 SW 131<sup>st</sup> Avenue, Tigard, OR represented the supporters for the aquatic district.

Ms. Coupe said the process they have followed included hundreds of hours of work over the last four months. They have come to the decision to create an aquatic district with the limited purpose of preserving the two pools that already exist. This is the most feasible solution given the strict timeline before the pools are closed. District formation might not be the ideal path; however, they cannot afford not to proceed. The supporters need the City Council to adopt the resolution before it. She said they would be very happy to work with the cities involved to look at alternative options to determine if there is another choice. She reviewed the timeline they are following, which is based on placing a measure on the May 2010 election. They only have a few weeks to gather 7,000 signatures. The boundary for the district is the Tigard-Tualatin School District boundary; they do not have time to consider another boundary. The chosen boundary leaves out part of the City of Tigard (served by the Beaverton School District.) Ms. Coupe said she understands that this area has been identified by Tualatin Hills Park and Recreation District (THPRD) to provide future services. She said the residents of this area of Tigard would not be excluded from the use of the pools. As Tigard residents, they would have complete use as would any other Tigard resident. When the Board is formed, they might assess a fee equivalent to the average tax that residents within the aquatic district boundary would pay (about \$20 a year or less). Another possibility would be to annex those residents into the district at a later time if THPRD was not providing services to them.

Ms. Coupe advised that the aquatic district supporters have resolutions from Durham, King City, Tualatin and the Tigard-Tualatin School District. She referred to the draft Memorandum of Understanding provided to the School District. Overall, they understand that the School District feels comfortable with the direction the supporters are taking. They are also working with the Washington County Commissioners. The pools are well-used resources. She requested the City Council support for the proposed resolution.

[8:33:12 PM](#)

Mayor Dirksen advised the City Council would be considering a resolution approving the petition. This is not a public hearing. He acknowledged a large audience of supporters of the aquatic district in attendance.

[8:34:05 PM](#)

Mayor Dirksen asked City of Tualatin Mayor Lou Ogden to report on the discussion held and the decision by the Tualatin City Council last night. Mayor Ogden noted that he, Mayor Dirksen and Councilor Webb attended the Washington County Board of Commissioners meeting this morning. The Board raised a number of questions and concerns, which were similar to those raised by the Tualatin City Council regarding forming a special district in the long term and how this might conflict with future aspirations for a parks and recreation district in Tualatin. The consternation is whether there is a better way to proceed. Much discussion was held regarding whether there was a way to avoid

going to the ballot in May and still accomplish the same objective. The conclusion reached was that the ballot measure needs to go forward and be available. The Tualatin City Council approved a resolution so the ballot measure remains viable as a tool to provide an opportunity for the citizens to decide whether they want to fund this district.

[8:36:38 PM](#)

Mayor Ogden reported on efforts in Tualatin for a Parks and Recreation District, which was not approved by voters. If this bond measure would have passed, the City of Tualatin was prepared to fund the operational expenses through a park utility fee. He suggested the Tigard City Council consider approving the proposed resolution and then work with those who are interested in determining if there could be an alternative funding mechanism to keep the Tigard and Tualatin swimming pools open.

[8:39:41 PM](#)

Councilor Webb thanked Mayor Ogden for attending the Washington County Board of Commissioners meeting today. She said it was educational to hear what the Commissioners had to say; she learned some new things about what the ramifications of formation of an aquatic district. She agreed with Mayor Ogden's suggestion for everyone to work together behind the scenes to come up with an alternative to formation of an aquatic district. She thanked all the supporters for their efforts and urged them to work with the cities to determine if there is a better solution.

[8:41:23 PM](#)

Councilor Buehner said she hoped a working group could be established. She said her biggest concern is about the smaller partners and their financial ability to participate. Mayor Ogden referred to the support he has seen by representatives from King City.

b. City Council Discussion

[8:43:11 PM](#)

Council President Wilson reviewed his concerns. He said he does not live in the Tigard-Tualatin School District; he is in the Beaverton School District. He said he is skeptical of non-essential services being subsidized. He acknowledged that for a subsidy to work, not everyone who pays for the service will use the service. He said he needs some sort of assurance that this is a good public policy citing the difficulty for some people on fixed incomes to be able to pay additional taxes even though many others might think it is a small amount. Council President Wilson said he would not stand in the way of this since voters can choose the services they want to receive; however, before fully supporting this effort, he would like to gauge overall public support. He commented on the great volume of emails received in favor of the aquatic district but cautioned that there are 50,000 residents and the City's polls have not shown this type of service to be the priority in the community at large.

Councilor Henderson referenced the current economic climate that has "put us into this situation." As the economy comes back, he said he thinks this would be a great way to subsidize our school system in the future, helping both the students and the community in the end. He advised he would support the proposed resolution.

Councilor Buehner said she shared some of Council President Wilson's concerns. She said she was disappointed that the School District made its decision to cut swimming pool funding, which supported not only the schools but also was a community service. She said she believes the decision was shortsighted. She spoke of her admiration of all of the citizens who have taken it upon themselves to put together this proposal. Given the fact there is no time to consider other options, she advised she

would support the proposed resolution. However, she said she hoped a different option could be found to resolve the problem as she is concerned about setting up “so many little micro-districts...so many layers of bureaucracy...” She referred to her concerns for King City residents who already pay to support two pools in their own community.

Mayor Dirksen noted the volumes of emails sent on this matter. He said the bottom line is, “we don’t want to lose the pools.” He was appreciative of the work that citizens have done, taking positive action to save the pools. Mayor Dirksen referred to other discussions whether this is the best way to do it noting the proposal might represent a permanent solution to a temporary problem. While it might be true that another solution might be identified, this would not take away from the work done by citizens on the proposal before the City Council. In fact, “if it wasn’t for the fact that you have stepped up and done this, none of the cities or the County...would be talking about trying to find another alternative...” Mayor Dirksen thanked the citizens for what they have done and said he recommended that the City Council not stand in the way of this path for funding the pools. If there is an alternative, then “we who can do so, should work...[on] a parallel path to search for another solution that may be a better one within the timeline that we have.” He said he was willing to work on another solution and he understands the City of Tualatin will do so also.

Mayor Dirksen advised the City Council would be considering Resolution No. 09-55 and clarified the language under consideration is the proposed resolution recommended by the Tigard City Attorney.

Motion by Councilor Webb, seconded by Council President Wilson, to adopt Resolution No. 09-55.

**RESOLUTION NO. 09-55 – A RESOLUTION OF THE CITY COUNCIL APPROVING THE PETITION PROPOSING THE FORMATION OF SPECIAL AQUATIC DISTRICT, TIGARD-TUALATIN AQUATIC DISTRICT**

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buchner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

[8:53:59 PM](#)

Council meeting recessed.

[8:55:11 PM](#)

Council meeting reconvened.

6. INFORMATIONAL PUBLIC HEARING – FORMATION OF SEWER REIMBURSEMENT DISTRICT NO. 45 (SW HOODVIEW DRIVE)
  - a. Open Public Hearing Mayor Dirksen opened the public hearing .
  - b. Declarations or Challenges: None
  - c. Staff Report: Community Development Department – City Engineer Duenas presented the staff report. The report and presentation slides are on file in the City Recorder’s office.

In response to a question from Councilor Webb, City Engineer Duenas advised that no septic systems are failing within the proposed district; however, some residents are concerned about their systems.

d. Public Testimony

Bill Carver, 10155 SW Hoodview Drive, Tigard, Oregon advised he supported the resolution to form the district so sewer would be available to this area.

e. Staff Recommendation – City Engineer Duenas recommended the City Council approve the proposed resolution to form the reimbursement district.

f. Council Discussion – Mayor Dirksen and Councilor Webb spoke in support of the proposed district.

g. Mayor Dirksen closed the public hearing.

h. Council Consideration:

Motion by Councilor Buehner, seconded by Council President Wilson, to adopt Resolution No. 09-56.

**RESOLUTION NO. 09-56 – A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 45 (SW HOODVIEW DRIVE)**

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

7. INFORMATIONAL PUBLIC HEARING – FORMATION OF SEWER REIMBURSEMENT DISTRICT NO. 46 (SW BAYLOR STREET)

a. Open Public Hearing: Mayor Dirksen opened the public hearing.

b. Declarations or Challenges: None

c. Staff Report: Community Development Department – City Engineer Duenas presented the staff report. The report and presentation slides are on file in the City Recorder’s office.

In response to a question from Councilor Webb, City Engineer Duenas advised that no septic systems are failing within the proposed district.

In response to an inquiry from Mayor Dirksen, City Manager Prosser confirmed that no liens are placed on properties within a sewer reimbursement district. The reimbursement district’s existence is recorded and is a matter of public record.

d. Public Testimony

An email communication was received from Dayle Beach noting his support of the sewer reimbursement district.

Byron and Julie Wagar, 10160 SW Hillview Court, Tigard, OR (for Kaneko Wagar, 14845 NW Ridgetop Court, Beaverton, OR 97006) testified in opposition to the formation of the district. Their property in the district is a small residential property and their current sewer situation is adequate. In their written testimony, they asserted the proposed district was at the request of a developer and the sewer was not wanted or needed now.

Phil Geutemann, 7128 SW Gonzaga, Suite 100, Tigard, OR spoke in favor of the formation of the sewer reimbursement district. Mr. Geutemann owns the property at 7106 SW Baylor Street and initiated the request to form the district

In response to a question from Mayor Dirksen, City Engineer Duenas advised that it would not really be feasible to remove one property from the district.

Gene Jackson asked a question about a letter he received. Mr. Jackson was sent an incorrect letter for this commercial reimbursement district, which is not eligible for the incentive program.

[9:22:23 PM](#)

Carlie Connet, 14810 SW 106<sup>th</sup> Avenue, Tigard, OR, advised she is representing someone who lives on SW 72<sup>nd</sup> Avenue. She said it seems that the sewer project was driven by the needs of one person, living on SW Baylor, who went door-to-door soliciting support for this district. A promise was made to each resident that they would not have to pay anything for the proposed sewer system. Residents later learned that a promise of “no charge” was untrue. Concerns were expressed at the last meeting; many who attended were unhappy. The expected charges were excessive and well above what many of them could afford to pay. Many indicated they regretted signing the petition.

Ms. Connet outlined other major disruptions expected with a reimbursement district in the area:

- An excessive disruption to the traffic and access to homes on 72<sup>nd</sup>, Baylor, and Clinton.
- A significant bottleneck effect on 72<sup>nd</sup> Avenue, already a heavily accessed street.
- Flooding on both Baylor and Clinton, which will occur as a result of construction. (This was the experience with the construction on Dartmouth and 68<sup>th</sup>.)
- Excessive restrictions imposed regarding the maintenance and repairs that people will be permitted to make on their septic systems once the sewer is in place. One of the items brought up at the last meeting was the fact that there will be severe restrictions if you have a problem with your septic system once the sewer system is in place. People will be forced to come up with a lot of money that they might not have.
- Excessive spending on a project at a time when people are out of work. This is a huge expenditure and disruption. There is no building going on in this area due to the poor economy. She questioned why a sewer system is needed now.
- No one knows when the economy will turn around and cited the news stories demonstrating the economy remains down. People are having a difficult time right now and cannot afford to look at this type of expense.
- The septic system works for them, but it would not support the commercial development. She reiterated that no one is developing now. She maintained leaving the septic system as is would avoid the negative impacts (expense, disruption, roadway destruction/patching).

Councilor Webb noted a concern about the person circulating the petition and whether he said it would not cost anything. She explained that there is no cost if the property owner does not hook up to the sewer.

Phil Geutemann, 7128 SW Gonzaga, Beaverton, OR advised he was the one who took the petition around for signatures. He said he was careful to explain that there would be no requirement to pay for the sewer until connected. He understood that the cost of the sewer would be based upon either the frontage or size of the lot. Everyone understood that. He referred to the meeting held and said he felt the majority of the people were in favor of forming the district. He said he thinks there is an advantage to doing the sewer reimbursement district now. It will be less expensive to build the district this year because of the economy. Many of the larger contractors are not as busy now. Mr. Geutemann said “another advantage...when you run in the sanitary sewer down Baylor or Clinton, you are basically double loading. In other words, you have people on both sides paying for the sewer, versus if one property owner had to put it in...One lady at the meeting brought up the concern about the disruption to the neighborhood and, I agree. But, the nice thing about it by doing it in the fall, we are not going to have as much dust and...if you are doing the project as one project, you are going to have less disruption than if...an ongoing project over a number of years....There will be some disruption, but it is going to be less than what it would be if you delayed it over 2, 3 or 4-year period.” He reiterated he was clear when he talked to the residents in the area.

Byron Wagar said that they would be incurring a 6 percent per year increase between now and the time they would choose to hook up. He said they are also paying a clear water fee of about \$500 per year and this will go up yearly. If the property owner puts off connecting to the sewer, it will cost them a fair amount of money each year. Mayor Dirksen acknowledged this was a good point.

City Engineer Duenas commented that if the property owner does not hook on within 15 years, then the cost “will go away.” If there is any sewer failure without a sanitary sewer line being there, the system will need to be replaced with another septic system or another system that would cost up to \$20,000. There will be an expense, regardless, if the system fails.

Mayor Dirksen commented on restrictions by Clean Water Services regarding septic systems. He asked if there was a restriction within the County even if there is no sewer present. City Engineer Duenas said “...You have to deal with it. If there is no way to get a sewer there, I think you probably have to put in a sand filter of some kind...If you are within 300 feet of an existing sewer, you do have to hook on.” It is a countywide initiative to get off septic and into the sewer system.

[9:35:08 PM](#)

Councilor Buehner commented that application for the Target project has gone to the Planning Commission. She asked if, as part of the conditions to build, they will have to do significant street improvements along 72<sup>nd</sup>? Community Development Director Bunch advised that they will have to do significant improvements to the transportation system in the area, including 72<sup>nd</sup> Avenue. Councilor Buehner commented that the time to tear the street up to put in the sewer in would be before they do that work, correct? Community Development Director Bunch said it would be the logical time.

[9:36:03 PM](#)

Margaret Cook, 7130 SW Baylor, Tigard, OR said their costs to hook up will be much higher than in other districts because they all have daylight basements. Pumps would be required.

In response to a question from Mayor Dirksen, City Engineer Duenas responded he was not aware of an issue regarding depth. The area is “hard digging” in some sections and should be kept as shallow as possible (hard rock and to keep the cost down). He said he was not aware of any basements not being able to be served. If the property is developed from a commercial standpoint, they should be able to be served because the commercial entities will not have basements as the existing homes do. City Engineer Duenas said this is a mixed-use employment area intended for commercial development and high-density residential – that is the future of the Triangle in this area.

[9:37:59 PM](#)

Linda Dorton, 7075 SW Clinton Street, Tigard, Oregon, said she has lived in the Triangle since 1962. She said it is hard when you are a resident who lives in that area and have done so for years to watch the zoning change. There are many residents present tonight and many who were unable to attend who are opposed to the reimbursement district. She referred to the comment about this being a mixed-use area – Baylor and Clinton are basically residential; it is not a commercial area. She anticipated problems during construction. They park on the street. Many times they are “stuck” on their street because of the amount of traffic on SW 72<sup>nd</sup> Street that is backed up in the mornings and evenings.

[9:39:35 PM](#)

Mayor Dirksen said he appreciated Ms. Dorton’s concerns about access. He said he guaranteed residents would have access during construction. He referred to two sewer reimbursements that were done behind his house at the same time and this caused some inconvenience accessing his property.

- e. Staff Recommendation: City Engineer Duenas advised that staff recommends that the City Council approve the resolution forming Reimbursement District No. 46, SW Baylor Street – 72<sup>nd</sup> Avenue.

[9:40:23 PM](#)

- f. Council Discussion

Council President Wilson commented that formation of sewer reimbursement districts is something that is being done throughout the whole City; it has been a long-term goal. Some property owners are opposed while others are thankful for the sewer service. He understands this is a cost. If the property owners can “wait it out” it will not cost them anything.

Councilor Buehner said she is sympathetic to those who are residents and concerned about the cost. If the resident chooses not to hook up to the sewer, the cost is deferred. However, the City is looking at significant commercial development immediately around this area over the next few years. There are a number of pending land use applications for commercial buildings nearby. The underlying sewer issue needs to be addressed. This district represents one of the last areas in the city to get sewer. This program started in 2001. It is important to get the entire City hooked onto sewers.

- g. City Council Consideration:

Motion by Council President Wilson, seconded by Councilor Henderson, to adopt Resolution No. 09-57

RESOLUTION NO. 09-57 – A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 45 (SW BAYLOR STREET AND 72<sup>ND</sup> AVENUE)

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

[9:43:10 PM](#)

8. CONSIDERATION OF PROPOSED ORDINANCE FOR A DEVELOPMENT CODE AMENDMENT REGARDING SENSITIVE LANDS PERMIT REQUIREMENTS (DCA2008-00005) TO REMOVE CRITERION THAT PROHIBITS PATHWAYS LOCATED WITHIN OR ADJACENT TO THE FLOODPLAIN TO BE BELOW THE ELEVATION OF THE ANNUAL AVERAGE FLOOD (18.775.070.B.5) (Continued from July 14, 2009.)

**REQUEST:** To remove Section 18.775.070.B.5 of the Sensitive Lands Permit requirements which reads:

"5. The plans for the pedestrian/bicycle pathway indicate that no pathway will be below the elevation of an average annual flood;". Removal of this section would allow pathways to be installed in areas which would benefit the public's access to and educational appreciation of ecological areas. On April 6, 2009, the Planning Commission recommended the City Council replace the subject section with "Pedestrian/bicycle pathways within the floodplain shall include a wildlife assessment to ensure that the proposed alignment minimizes impacts to significant wildlife habitat." **LOCATION:** Citywide. **COMPREHENSIVE PLAN DESIGNATION:** All City Comprehensive Plan Designations. **ZONE:** All City Zoning Districts. **APPLICABLE REVIEW CRITERIA:** The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; [Goal 1, Public Involvement; Goal 2, Land Use Planning; Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces; Goal 7, Areas Subject to Natural Hazards; and Goal 8 Recreational Needs]; any federal [FEMA] or state statutes or regulations found applicable; any applicable METRO regulations; [Metro Code Sections 3.07.300, Urban Growth Management Functional Plan; and Title 3, Water Quality and Flood Management]; any applicable Comprehensive Plan Policies; [Goal 1, Public Involvement; Goal 2, Land Use Planning; Goal 7, Hazards; Goal 8, Parks, Recreation, Trails, and Open Space]; and any applicable provisions of the City's implementing ordinances [TDC 18.130, 18.380, 18.390 and 18.775].

- a. Mayor Dirksen announced this hearing is continued from July 14, 2009. Mayor Dirksen advised that the public hearing had been closed; however, it is now recommended that the hearing be reopened to receive testimony on the Code changes proposed by the City Council on July 14, 2009. City Attorney Ramis confirmed that the City Council had given direction to staff regarding changes in languages. Staff has prepared the language changes and indicated the options for the City Council's consideration. The hearing should be opened to address those specific changes. City Attorney Ramis confirmed for Mayor Dirksen that among the comment letters received, there were letters that raised the question about whether the proposal was in compliance with Metro's regulations. The City referred that question to Metro and the August 11, 2009, email communication from Brian Harper of Metro constitutes Metro's response. Metro agrees with the analysis of the City and disagrees with the claim that the City's proposal violates Metro's rules. Mayor Dirksen paused the meeting to give the City Council members a few minutes to review the written information supplied to the City Council.

[9:46:30 PM](#)

- b. Staff Report: Associate Planner Pagenstecher presented the Staff Report. The City Council packet provided revised findings. A copy of the written staff report is on file in the City Recorder's office. Associate Planner Pagenstecher referred to the written comments submitted most recently from Mr.

## TIGARD CITY COUNCIL/LCRB/CCDA MINUTES – AUGUST 11, 2009

Frewing and Ms. Beilke and distributed to the City Council. These comments are on file in the City Recorder's office.

- c. Public Testimony: Staff recommended that Council open the hearing to allow interested parties to comment on the proposed changes to the code amendment. Testimony should be limited to only the text changes proposed by Council at their July 14<sup>th</sup> hearing and the revised findings in support of those changes.

Brian Wegener signed in to speak, but declined to do so at this time.

[9:47:45 PM](#)

John Frewing, 7110 SW Lola Lane, Tigard, Oregon provided comment and suggested changes to what staff has called "Option 3." A copy of Mr. Frewing's written testimony is on file in the City Recorder's office.

- d. Staff response to Mr. Frewing's testimony:

[10:08:07 PM](#)

Associate Planner Pagenstecher responded to the "clear and objective standards" issue presented by Mr. Frewing. There are requirements for clear and objective standards. There is also the option for a discretionary approval process. Cities are required to have the clear and objective standards, which the City of Tigard met with the sensitive lands code revision adopted in 2007. In addition, staff thinks that this Development Code amendment meets the Metro Code standards:

The implementing ordinance provisions of such a discretionary process specify that the property owners have the choice of proceeding either under the clear and objective approval process, which each city or county must have, and require a level of protection for enhancement of the fish and wildlife that meets or exceeds the level of protection or enhancement that would be achieved following the clear and objective standards.

Associate Planner Pagenstecher said with this section pertains to pathways in a floodplain. It is likely that property owners and the implementers of the pathway will be the City. The level of protection is significantly above that of the clear and objective standards previously adopted. Nowhere else is there a requirement for a wildlife assessment. This proposal is consistent with the discretionary approval process, which is provided for under the Metro standards.

Councilor Buehner said she agreed with Mr. Frewing's comment that we should be using the term *wildlife habitat assessment* all the way through instead of just saying *wildlife assessment*.

Associate Planner Pagenstecher said he would have to no objection to that. He added that he agreed with Mr. Frewing's observation that the wording should be clarified to indicate that the designs for the pathways shall include the wildlife habitat assessment. Both wording amendments would be diminimus changes.

Community Development Director Bunch noted that Mr. Frewing made a comment about the Tualatin River Basin Rules. The City complied with the Tualatin River Basin Rules by adopting an ordinance in 2006. The City meets Metro requirements.

Mayor Dirksen declined Mr. Frewing's request to respond to the staff comments.

Brian Wegener of Tualatin Riverkeepers said he attended many of the Goal 5 meetings and acknowledged that Council President Wilson also attended these meetings. A large part of that Tualatin Basin plan is Clean Water Services' Design and Construction standards for vegetated corridors. He described onsite mitigation and restoration standards that might address Mr. Frewing's concerns. Constructing a trail in this type of corridor may improve the habitat because of the wise and innovative standards by Clean Water Services. Mr. Wegener said he was initially concerned that some land not in the stream corridor was in the annual flood area. After looking at the maps, he did not see anything that would raise that concern. Clean Water Services Design and Construction Standards are included in the Tigard Code by reference. [10:14:40 PM](#) He said he did not know whether this would meet the clear and objective standards; however he said he thinks the intent of the Tualatin River Basin group was to use those as the clear and objective standards.

Council President Wilson said he supported the two small changes for clarification: "... *pedestrian/bicycle pathway projects within the floodplain shall include a wildlife habitat assessment that shows the proposed alignment minimizes the impact to significant wildlife habitat...*"

[10:15:45 PM](#)

City Attorney Ramis recommended that if the City Council voted to adopt the document to state in the motion that Mr. Brian Harper's (Metro) communication is included as part of the findings. City Attorney Ramis said he thought this communication contained a good description of Metro's interpretation of its rules.

In response to a question from Councilor Buehner, City Attorney Ramis advised the City Council to describe its intent in its motion to change the words *wildlife assessment* to *wildlife habitat assessment*.

10:16:31 PM

Motion by Councilor Buehner, seconded by Councilor Webb, for adoption of Ordinance No. 09-11, including the diminimus changes substituting *wildlife habitat assessment* for *wildlife assessment* and including, *Pedestrian/bicycle pathway projects...* and also including Mr. Harper's memo dated August 11, 2009, as part of the findings.

10:17:20 PM

City Recorder Wheatley read the following:

ORDINANCE NO. 09-11 – AN ORDINANCE AMENDING THE TIGARD COMMUNITY DEVELOPMENT CODE SECTION 18.775.070.B.5, REMOVING A CRITERION WHICH PROHIBITS PATHWAYS LOCATED WITHIN OR ADJACENT TO THE FLOODPLAIN TO BE BELOW THE ELEVATION OF THE AVERAGE ANNUAL FLOOD AND, INSTEAD; REQUIRE THAT THE PEDESTRIAN/BICYCLE PATHWAYS WITHIN THE FLOODPLAIN INCLUDE A WILDLIFE \*{HABITAT} ASSESSMENT THAT SHOWS THE PROPOSED ALIGNMENT MINIMIZES IMPACTS TO SIGNIFICANT WILDLIFE HABITAT WHILE BALANCING THE COMMUNITY'S RECREATION AND ENVIRONMENTAL EDUCATIONAL GOALS (DCA2008-00005), AS AMENDED.

\*City Attorney Ramis advised the title in the final version would be amended according to the motion. Councilor Buehner agreed with City Attorney Ramis' that this was her intent with how the motion should be worded.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

9. CONSIDER FORWARDING A REQUEST TO WASHINGTON COUNTY TO FORM CPO 4T

Assistant City Manager was available to answer questions as she prepared the staff report that is on file in the City Recorder's office. Mayor Dirksen said he would recommend the resolution be modified to read:

*A resolution of the Tigard City Council requesting that the Washington County Board of Commissioners remove land within the Tigard City limits from CPO 4B and CPO 4M and consider creation of CPO 4T, which would make provisions for the automatic transfer of property to CPO 4T.*

Assistant City Manager Newton said this was a good change since this is a decision that is to be made by the County and we can only make a request that they consider Tigard's proposal. Mayor Dirksen said a possible outcome of this would be that the City would be removed without another CPO being formed.

Council President Wilson noted that Councilor Henderson had requested this Consent Agenda Item be removed for separate consideration due to his concerns. Councilor Henderson said he was concerned that removing the City of Tigard would devastate CPO 4M and leave those people without much of a significant area. He also referred to the Durham area that would be impacted. Councilor Henderson said he has had conversations individually with City Council members regarding past problems. He said he would prefer that more discussion be held and said this looks to be a divisive action. He noted that Commissioner Rogers said he was agreeable to discuss this matter. Councilor Henderson questioned whether this action was a step forward to achieve a compromise or whether it was divisive. He commented that the CPO's role was only for information gathering.

Mayor Dirksen said he could see where Councilor Henderson was coming from on several of his concerns. Mayor Dirksen referred that this was why he recommended the wording changes for the resolution as this would open the door for dialogue. He said he was particularly sensitive to the possible plight of the Durham area and also for CPO 4M. Mayor Dirksen noted CPO 4M sent a letter. Councilor Henderson said CPO 4M was only saying they were neutral on this at this time; they were not saying "we are neutral forever..." They clarified in their letter they were neutral because they would not be able to discuss this matter for a couple of months.

Councilor Buehner said she has been heavily involved in the CPO process advising she was one of the founders of CPO 4K, which broke off from 4B in about 1996. The area served by CPO 4K is approximately the same size or smaller of what would remain in 4B. The CPO process was set up by the County a long time ago when the County was much smaller. The County has not done an update on the CPO's for at least 20 years. A couple of the CPO's that exist are huge – in excess of 100,000. This is an untenable number of people to function as a neighborhood organization. Councilor Buehner strongly agrees that the City should follow Beaverton's leadership and pull out because we have our own neighborhood associations. The primary job of CPO's is to get information out to citizens and to provide an opportunity for citizens to get information back to

their local government. This could certainly be served by the City neighborhood associations whether or not people participate with another CPO.

Councilor Henderson asked if the neighborhood associations give their information to the County? Councilor Buehner and Councilor Webb both said “yes.” Council President Wilson said the associations should send information to the County. He agreed this is divisive – it is literally dividing the CPO in half and that is intentional. Council President Wilson said it is his view that Tigard, through its neighborhood organizations, has not made its interests known to the extent that they should to the County Commissioners. Typically, Tigard citizens come to the City for their concerns. The County tends to think that we are not interested in County issues; this has been a bad thing and it would be a good opportunity to try to rectify this.

Assistant City Manager Newton referred to the map. Tigard is in two CPO’s. If we had a CPO 4T or a more concerted effort on the part of the neighborhoods then matters of concern might be brought forward to the County by an organized group of Tigard citizens who are not split in two CPO’s, or we encourage more participation through the neighborhood organizations. Perspective on issues might be different depending on whether you live in or outside of the City. Having a CPO 4T consisting of citizens in Tigard might encourage citizens to go to the County directly on issues. Now because of the way the current CPOs are split, Tigard citizens are going to the Metzger CPO or CPO 4B. This proposal might be a good way for the County to have a link to the citizens of Tigard.

Council President Wilson commented that when the neighborhood organizations were set up in Tigard, we drew the boundaries mostly based on school boundaries, recognizing that people whose children attend the same school have certain things in common. The County divisions are arbitrary and obsolete. The change proposal to form a common political boundary makes sense.

Councilor Webb said she asked for this matter to be considered by the City Council. She said she feels that divisiveness has occurred in the past. She said the neighborhood associations were set up for better communication with our citizens. Beaverton did the same thing. Their citizens are not in a CPO but they are in neighborhood associations. Their citizens are better informed and attend more City Council meetings regarding issues of concern to them.

Councilor Henderson said he believes there is a reason for both the neighborhood associations and the CPO’s.

Councilor Buehner said there have been multiple requests to the County to update the CPO process and divide the CPOs so they would be smaller and the CPOs would more closely resemble the CPOs in the beginning.

Councilor Henderson said this should be discussed first and reiterated his concerns. Councilor Buehner responded to a comment by Councilor Henderson and said that most of the Metzger community is not in the City of Tigard.

Motion by Councilor Webb, seconded by Councilor Buehner, to adopt Resolution No. 09-58, with the change proposed by Mayor Dirksen.

Mayor Dirksen read the number and title with changes he proposed:

RESOLUTION NO. 09-58 -- A RESOLUTION OF THE TIGARD CITY COUNCIL REQUESTING THAT THE WASHINGTON COUNTY BOARD OF COMMISSIONERS REMOVE LAND WITHIN THE TIGARD CITY LIMITS FROM CPO4B AND CPO4M AND CONSIDER CREATION OF CPO4T MAKING PROVISION FOR THE AUTOMATIC TRANSFER OF PROPERTIES TO CPO4T AS THEY ARE ANNEXED TO TIGARD CITY LIMITS

## **TIGARD CITY COUNCIL/LCRB/CCDA MINUTES – AUGUST 11, 2009**

The motion was approved by a majority vote of City Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	No
Councilor Webb	Yes

10. COUNCIL LIAISON REPORTS

Councilor Webb advised she was elected Chair of Community Development Block Grant for the next 1-1/2 years.

[10:34:25 PM](#)

Councilor Buehner asked Mayor Dirksen, and he agreed, that she would have an opportunity to make a presentation at next week's workshop meeting on the urban and rural reserves process. She would like to update the City Council before the August 20 public hearing.

11. NON-AGENDA ITEMS

[10:35:03 PM](#)

12. ADJOURNMENT:

Motion by Council President Wilson, seconded by Councilor Webb, to adjourn the meeting.

The motion was approved by a unanimous vote of Council present.

Mayor Dirksen	Yes
Council President Wilson	Yes
Councilor Buehner	Yes
Councilor Henderson	Yes
Councilor Webb	Yes

\_\_\_\_\_  
/s/ Catherine Wheatley  
Catherine Wheatley, City Recorder

Attest:

\_\_\_\_\_  
/s/ Craig Dirksen  
Mayor, City of Tigard

Date: September 22, 2009

E:\ADM\CATHY\CCM\2009\090811 final.doc