



# City of Tigard Tigard Business Meeting - Minutes

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

**MEETING DATE/TIME:** December 8, 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

Council Present: Mayor Dirksen, Councilor Webb, Councilor Buehner, Councilor Henderson and Council President Wilson

Staff Present: City Manager Prosser, Assistant City Manager Newton, Public Works Director Koellermeier, Finance and Information Services Director LaFrance, Community Development Director Bunch, Building Official VanDomelen, Deputy City Recorder Krager

Mayor Dirksen called the Study Session to order at 6:30.

- Tigard Municipal Code Amendment - Building Official VanDomelen said a proposed amendment to the Tigard Municipal Code reflecting Senate Bill 915 requirements for civil penalties for Building Code violations would be considered during the Business meeting. He said it was a housekeeping issue that brought the City's Code in line with legislative changes to be effective January 1, 2010. He said a fee would need to be added to the City's Master Fees and Charges Schedule. City Manager Prosser said this can be reviewed when that Schedule is considered as part of the annual budget process.
- At 6:37 PM City Manager Prosser noted that Agenda Item 4.7 – *Support Submission of a Letter of Intent to Metro which is Required for Submission of a Grant Application to Preserve and Enhance Affordable Housing at Tigard's Hawthorne Villa* had been removed from the agenda.
- City Manager Prosser said additional written communications regarding the street maintenance fee had been received and that there was also additional information from Finance and Information Services Director LaFrance in Council's Study Session packet.
- A location for dinner after the December 22, 2009 Council Goal Setting meeting was discussed and Café Allegro was selected.

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## TIGARD CITY COUNCIL MINUTES – December 8, 2009

At 6:40 PM City Manager Prosser announced that the Tigard City Council would enter into an Executive Session under ORS 192.660(2) (i) to review and evaluate, pursuant to standards, criteria, and policy directives adopted by the governing body, the employment-related performance of the chief executive officer, a public officer, employee or staff member. Executive Session adjourned at 6:58 PM.

## STUDY SESSION CONTINUED

Councilor Henderson asked about Consent Agenda Item No. 4.3 - *Approve Resolution of Necessity for the Greenburg Road/ Highway 99W/Main Street Intersection Improvement Project*, and why obtaining the right-of-way wasn't being done by Washington County. City Manager Prosser said it was the City's responsibility. Mayor Dirksen said the property owners will see a benefit as they can defer taxes on capital gains. Councilor Henderson expressed concern and asked if this matter would come back before Council at a later date. Mayor Dirksen said if the process goes smoothly and costs are within the administrative level, there was no requirement for it to come back before Council.

The Study Session adjourned at 7:01 PM and Council recessed until the beginning of the Business Meeting.

### 1. BUSINESS MEETING

1.1 At [7:30:34 PM](#) Mayor Dirksen called the City Council meeting to order.

1.2 Deputy City Recorder Krager called the roll.

	Present	Absent
Councilor Webb	✓	
Council President Wilson	✓	
Councilor Buehner	✓	
Mayor Dirksen	✓	
Councilor Henderson	✓	

1.3 Pledge of Allegiance

1.4 Council Communications & Liaison Reports - none

1.5 Call to Council and Staff for Non-Agenda Items- none

### 2. CITIZEN COMMUNICATION

[7:31:57 PM](#) Tigard High School Student Envoy Taylor Friesen gave a report on current events at Tigard High School, covering academics, sports, arts and club activities. A copy of his report is on file in the City Recorder's office.

[7:34:13 PM](#) New Tigard Chamber of Commerce Chief Executive Officer Debi Mollahan gave an update on upcoming Chamber events. She said planning has begun for the Shining Stars Civic Awards Banquet, which is scheduled for March 5, 2010.

Citizen Communication –

John Frewing, 7110 SW Lola Lane, Tigard, OR said he appeared before Council on August 11, 2009 and asked a similar question and is still awaiting a response. He asked what the effect is of the Clean Water Services Intergovernmental Agreement on Tigard's review of development. He said his observation is that Tigard does not review the Clean Water Services design and construction standards and only requires a service provider

letter. He said these are arcane details but they do make a difference. City Manager Prosser said Assistant Community Development Director Hartnett is working on it and apologized for the delay in responding to him. He said he will ask Assistant Community Development Director Hartnett to call Mr. Frewing next week.

Emily Gottfried signed up to speak on Agenda Item No. 3. – Human Rights Week and Human Rights Day.

3. PROCLAMATION –HUMAN RIGHTS WEEK AND HUMAN RIGHTS DAY

Mayor Dirksen proclaimed December 7-13 to be Human Rights Week, and December 10, 2009 as Human Rights Day.

Ms. Gottfried introduced Laurie Stewart, also a member of the Human Rights Council of Washington County, a group with members from local and state governments, education, law enforcement, faith communities, service providers, community and county businesses who share a common concern for human rights. She said December 10 marks the 61<sup>st</sup> anniversary of the United Nations Declaration of Human Rights. She thanked the City of Tigard for their support in helping to commemorate this important occasion.

Ms. Gottfried said the Human Rights Council of Washington County launched a series of listening forums where local issues have been aired, such as housing discrimination, intimidation, employment intimidation and racial profiling. They recently began holding these forums at high schools. This year they sponsored the first annual human rights poster contest. The grand prize winner was Sophia Qamar and Council was given a copy of the poster. She noted that the posters can be seen on their website, [www.humanrightswashco.org](http://www.humanrightswashco.org) She also introduced Salma Hayeed, another member of the Human Rights Council, who was in the audience.

- Follow-up to Previous Citizen Communication - none

4. CONSENT AGENDA - Mayor Dirksen announced that these items are considered routine and may be enacted in one motion without separate discussion.

4.1 Approve City Council Minutes for September 22 and October 20, 2009

4.2 Receive and File:

a. Council Calendar

b. Tentative Agenda

c. Canvass of Votes for City of Tigard Measure 34-166, Bond Issue to Preserve Natural Areas, and Develop Parks and Trails – November 3, 2009

4.3 Approve Resolution of Necessity for the Greenburg Road/Highway 99W/Main Street Intersection Improvement Project

4.4 Appoint Members to the City Center Advisory Commission

4.5 Appoint Members to the Planning Commission

4.6 Appoint Members to the Budget Committee

~~4.7 Support Submission of a Letter of Intent to Metro which is Required for Submission of a Grant Application to Preserve and Enhance Affordable Housing at Tigard's Hawthorne Villa~~

Mayor Dirksen noted that Item 4.7 was removed from the agenda by staff and will not be pursued at this time. He asked any committee member appointees present to stand and receive recognition by Council. He thanked them for their willingness to get involved and said he looked forward to working with them.

[7:45:26 PM](#) Councilor Webb moved to approve the Consent Agenda. It was seconded by Council President Wilson. Mayor Dirksen called for the vote:

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

Motion to approve the Consent Agenda passed unanimously.

5. UPDATE ON THE BURNHAM STREET IMPROVEMENT PROJECT

[7:45:57 PM](#) Engineer McMillan gave an update on the Burnham Street construction, presenting a brief PowerPoint highlighting project progress. A copy of the PowerPoint is on file in the City Recorder's office. She discussed public information efforts including a full-page ad saying businesses are open during construction, website, signs, and an information flyer with a section promoting Burnham Street and downtown Tigard businesses. She said there is also a hotline card for people having construction issues after working hours, but to date she has not received any calls. She said coffee meetings are held Friday mornings at the Tigard Sub Shop that include herself, the Contractor, Construction Manager and any interested members of the public. She said Mike Marr and the TCBD (Tigard Central Business District Association) sponsor these opportunities to communicate about the project schedule, answer questions and get ideas to post on the website.

Councilor Henderson asked if they were still holding the Friday morning coffees. Engineer McMillan said they were and she hoped there would be enough interest throughout the project to continue them.

6. LEGISLATIVE PUBLIC HEARING – REVISED STREET MAINTENANCE FEE

- a. At [7:52:01 PM](#) Mayor Dirksen opened the public hearing.
- b. [7:52:10 PM](#) City Attorney Ramis reviewed the hearing procedures. He asked if there were any
- c. declarations or challenges. There were none. Mayor Dirksen asked if any Council member wished to declare or discuss a conflict of interest or abstain. None did.
- d. Finance & Information Services Director LaFrance gave the staff report, describing the purpose of the Street Maintenance Fee and what work has been done on the amendment process thus far. He said this was the eighth meeting held on this subject. There were also eight monthly meetings of a citizen group, the Transportation Financing Strategies Task Force. Extensive public outreach included multi-media information prepared and presented by staff to the citizens and businesses of Tigard.

Mr. LaFrance summarized the September 15, 2009 Council Workshop discussion where Council confirmed:

- The stated Pavement Condition Index (PCI) goal should be between 70-75.
- A fee will be used to maintain the pavement management program.
- The price of asphalt used for computation was determined.
- How the cost will be split between residential and non-residential users
- How the cost will be split between types of roads
- The program cost will be indexed to allow keeping up with inflation

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In addition, Council recommended:

- Change the cap for non-residential customers from 200 parking spaces to 250
- The floor of not being able to be charged for under five spaces be removed if a customer has less than five spaces. They will only be charged for the spaces they have.
- The fee increase be phased in over a three-year period
- The right-of-way portion of the fee be phased in during the last two years
- There would be a tier provided for businesses that require fewer than six parking spaces.

Finance and Information Services Director LaFrance referred to the Street Maintenance Crosswalk (Attachment 5 in the Council Meeting Packet) that summarizes each of these areas of direction and shows where in the ordinances and resolutions one can find that direction.

He said the result of this direction is the ability to fund a pavement management program of \$2.5 million per year -\$2.2 million for pavement, phased in over a three-year period, and an additional amount of \$300,000 for right-of-way maintenance on collectors and arterials only. He said the current fee for a residential customer is \$2.18 per month and the fully phased-in amount after three years would be \$6.01 per month. Commercial customers have a current fee of 78 cents per required parking space per month and once fully implemented will be charged \$2.42 per parking space per month.

He acknowledged that this discussion is happening during a tough economic time. He said Council's intention for the three-year phase-in was to provide time for businesses to work this into their business plan and also to allow the economy to start improving. He said by compromising on the implementation through the phase-in period, the City will not be able to reach its PCI goal within five years, as part of the original proposal; it will now take about nine years.

[8:00:03 PM](#) Councilor Buehner sought clarification that because the City waited a year to do this and there is a phase-in that will take time, Tigard's average street level is in decline and won't turn around for a few years, even with the increased street maintenance fee. Finance and Information Services Director LaFrance said that was correct.

Council President Wilson asked if the street maintenance fee booklet created by staff was available on the website. Mr. LaFrance said it was.

- e. Mayor Dirksen opened the Public Testimony portion of the Hearing.

Proponent Testimony -

[8:03:17 PM](#) Darlene Young, 15650 SW 114<sup>th</sup> Court, in the Summerfield neighborhood of Tigard, spoke as a proponent. She said she is a nurse and has watched what happens to people when there is no preventive care, and how much more it costs to repair people later than it would have cost early on. She said Tigard has the same thing going on in the streets and right-of-way. She said she and her husband live on a fixed income and it is difficult to anticipate an increase in taxes but would rather pay the street maintenance fee and do without something else. She said she would rather have the streets fixed and have a gracious entry into the City.

Mrs. Young said the right-of-way maintenance on Durham Road is particularly difficult for residents to maintain on their own outside the wall behind their property. She said she thought it would be less

dangerous for a City truck to put out traffic cones and do the work on this busy street. She said, “Putting off maintenance leaves the problem for our children and grandchildren and would be irresponsible.”

Opponent Testimony -

[8:09:13 PM](#) Mike Stevenson, owner of property and business at 9040 SW Burnham Street, Tigard, OR. Mr. Stevenson complimented Engineer McMillan on doing a wonderful job and said the contractor on the Burnham Street project was bending over backwards to make sure property owners are treated fairly. He said he has volunteered to support downtown improvements and the commuter rail, has tried to work well with the City during property acquisition, and has even tried to repair relationships between Burnham property owners and the City. He said his point was that although he doesn't reside here he has tried to be a good citizen of Tigard. He said his Tigard business has seen a 20% reduction in revenue and lost 16 employees. Many of the remaining employees are on reduced hours. He said survival is on the mind of many small businesses and residents, all having to learn to do with less in this very stressful year. Yet the City is talking about raising taxes again, beyond the 3% that they've been raised each year. He said his business pays \$23,669 to the City of Tigard.

Mr. Stevenson said within three years he will have to pay a significantly increased traffic impact fee for 80 parking spots even though he only has 48. He said he did not think the way this is calculated and the way this is happening is fair. He said City residents need to realize that big businesses are treated differently than small businesses. He asked, “How can we justify putting the greatest percentage on the backs of the small businesses again? How can we justify charging the “big boxes” less per spot knowing that they generate huge traffic numbers on our streets at all hours of the day?” He said the Tigard Central Business District Association (TCBDA) asked to have the City Engineer listen to their many concerns about the tax increase but felt that little of what was mentioned appeared in the final report to Council. He asked Council if they want to have small businesses here and said the increase gives to him the appearance that they do not want small businesses in Tigard. He said the fiscally responsible thing to do is not raise the traffic impact fee on the business community. He said, “We are learning how to do with less in this very difficult time and I am asking the City to do the same.”

[8:13:33 PM](#) Councilor Buehner replied that the City did listen to the TCBDA's concerns and for small businesses that don't have a high parking requirement, the fee is actually reducing.

Mr. Stevenson responded that the City has his business listed for 80 parking spots and he would have to pay a fee to challenge this. He said, “So I have to pay money to find out if you will charge me less.” He suggested going back and finding less expensive ways to do things, similar to what was done with the Burnham improvement project.

[8:15:23 PM](#) Amanda Dalton, representing the Northwest Grocery Association, P.O.Box 981, Salem, OR 97308.

Ms. Dalton said the Association is the primary advocate for the grocery industry in Oregon and represents member retailers, wholesalers and suppliers. She said they understand fully the challenges facing local governments as they try to address serious transportation needs. Ms. Dalton reminded Council that they worked with Tigard five years ago to draft and implement the current street maintenance fee. She said the Association remains committed to supporting local cities in their critical road funding needs and would like to continue to be a supportive partner in the overall transportation funding plan.

Ms. Dalton said the Northwest Grocery members are willing to pay their fair share for road repair and believe the initial street maintenance fee methodology and rates were a fair and efficient approach to providing for street repair and maintenance.

She said they have significant concerns with proposed changes and increases to the street maintenance fee and emphasize that as proposed, their members will see an increase of almost 400%, without any inflation factor, which has been proposed as high as 10%. Their monthly fees increase from \$156 per month today to over \$600 a month in 2012, or over \$7,600 a year. She said with their narrow profit margins this represents \$760,000 in new sales per store to cover the new fees. She said raising prices is their last resort as that is devastating to their customers in this economy. She said they propose a compromise and the following recommendations:

1. Increase the non-residential monthly base rate to \$1.23 per parking space (58% increase).
2. Increase the residential base rate to \$3.00 per month (38% increase).
3. Tie the street maintenance fee to a fixed annual growth rate of no more than 3%.
4. Any small business that does not have parking pays a maximum of five spaces. The City would be prohibited from adjusting for square footage.
5. Any small business with parking could request a pro-rated adjustment to reflect the vacancy rates without filing for fees.
6. Dedicate the projected \$900,000 in new state gas tax revenues to street maintenance projects completed under the street maintenance fee starting in 2011.
7. Eliminate the new right-of-way program priced at \$300,000 annually.

Ms. Dalton said that by using the above figures staff can compute a fair and equitable formula that will not place undue financial constraints on Tigard residents and businesses. She said this will not fully fund staff's request of \$2.5 million but their view is that this number can be reduced by a project-specific prioritization discussion. She said the Association strongly urges Council to consider their proposal because it is clear that Tigard residents do not support the staff proposal. She referred to a recent survey where 70% of Tigard residents said they had not heard of the proposed increases. She said when informed of the increases to residences, 53% were opposed and when informed of the increases to businesses, 70% were opposed to the street maintenance fee increases. She quoted some comments received such as "now is not the time to raise fees on business," and "we can't drive business out of Tigard." She said many felt the increase was excessive.

Ms. Dalton gave Council a handout of the Northwest Grocery Association proposal and executive summary.

[8:19:51 PM](#) Councilor Buehner asked for a copy of the entire survey referred to by Ms. Dalton. She said she walked to over 200 residences with a copy of the street maintenance fee booklet and had a 95% positive response to the proposed fee. She said she met personally with many businesses in town and they were asking why the City had not done it sooner. She understands wanting to control the inflation rate but said the City has no control over the cost of asphalt and the biggest cost of the maintenance fee is the cost of asphalt.

Ms. Dalton commented that a lot of cities do tie to a flat rate of inflation (West Linn and Milwaukie) so it does work. She said, "Our biggest concern is that we're looking at three hits – rate, volume and inflation – and it's a lot for businesses to carry, large or small."

[8:23:00 PM](#) Mike Marr, 4702 Lamont Court, Lake Oswego, is the owner of property and businesses in downtown Tigard. He said prior to his current residence he lived in Tigard for 30 years. He said he has

been an active volunteer in numerous Tigard organizations. He commented that Engineer McMillan is doing a great job. He said he was opposed to the street maintenance fee. He said over the last eleven months he and others have attempted to bring numerous issues and suggestions to Council and staff but with no success to date, as the proposal is significantly unchanged from what was considered in January, 2009, with minimal public involvement.

Mr. Marr said, "There is no argument that the streets of Tigard need to be maintained. However, the degree to which the streets are in disrepair is estimated and questionable. The cost to affect satisfactory repair is also estimated and questionable. Calculations for other projects have significant miscalculations in recent years. Can the community have any confidence in the estimates presented for this street maintenance cost?" He said in numerous conversations, staff members acknowledged the flaws and issues of the proposal and underlying problems but no changes were made.

Mr. Marr said the City's public outreach was just an expensive and time-consuming sales pitch. He said there was very little acknowledgement of the problems that were presented at the public meetings and all that came back to Council was a report advising: 1) the roads need repair and 2) the public had been engaged.

He said staff was presenting to Council tonight a proposal that does not include a copy of the misleading Chapter 18.765 of the Tigard Development Code. He said, "This document has a statement regarding minimum required parking which is absolutely false. It contains requirements that are completely unnecessary, unnecessarily expensive for property development, grossly environmentally unfriendly and completely wrong for computation of the street maintenance fee. These requirements have cost property developers excessive amounts of money for a number of years and probably have deterred development in Tigard for just as many years." He said the proposal could be interpreted to accelerate street maintenance because it has fallen behind over a number of previous years due to a failed street maintenance program and miss-prioritized use of funds. He said explanations for this can be found in the City's recent performance review report and many problems in the report have been observed for years. He asked, "Why has it taken City Hall so long to recognize the problems?"

Mr. Marr said the proposal contains language wherein any protest of the excessive street maintenance fee via withholding of payment, could result in the closure of that business. He said, "If the protest is in the form of a request for modification of the fee, the code has significant restrictions to modifications. Only by putting up \$300 can the business carry the issue forward and through the entire process that business is at the mercy of a biased system without any independent objectivity. This proposal can result in costs to some properties and/or businesses that approach or exceed the City property taxes." He commented that the community votes on property taxes and there should be a vote for such a large cost as the street maintenance fee. He asked, "Should it not be incorporated into a property tax levy, given the amount of money involved?" He said the gas taxes should have been used for street maintenance but the bureaucracy took them into the area of significant capital improvements and so we have a secondary street maintenance fee that is now being asked to fully support street maintenance.

He mentioned the tough economic times and announced that, barring unforeseen changes in the next few weeks, his Tigard Sub Shop will be closing on December 31, 2009. He said the economy, combined with the City of Tigard's failure for years to do any kind of economic development in the downtown, has set the stage for the lack of business viability.

Mr. Marr said the street maintenance fee needs to be turned down. He said the City's finances and community needs should be made transparent and restructured with costs evaluated from a common sense perspective. He encouraged Council to vote no.

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[8:29:47 PM](#) Doug Lepper, owner of a business on 12230 SW Main Street and Commercial Street, Tigard, OR

He said his family operates Crown Carpets, founded 46 years ago by his father. He noted that after almost losing the roof on his building in Tigard six years ago due to snow, his family made the decision to repair the roof and rebuild the entire building, increasing the size by over 10,000 square feet. He said this is evidence that he and his family are committed to the City of Tigard. He said that the City would not permit the expansion because the by expanding the building they would be reducing the parking available.

Mr. Lepper said the increased building size required more parking even though he pointed out that they run a carpet store with 10 employees and only 10-12 customers visiting daily. He said that even if every employee was there at once and ten customers came in they would still require no more than 22 spaces of the 30 already available. He said he was still denied the right to expand the building and was told by the City that due to the expansion even more spaces may be required. His architectural firm communicated with the City, who requested a parking survey. An engineer was hired by Crown Carpets and found in the final report that even if the business expanded by 10,000 square feet they would still only require 22 parking spaces. A compromise was reached with the City and although his Mixed-Use building and parking lot square footage required 40 spaces per Tigard's Code, he was allowed to have 32 (provided two were made ADA compliant). He said he is billed by the City for 56 spaces per month. He called the City regarding this and was told that the number of spaces billed was based on the City's parking code requirements. He said he pays at today's rate, \$524 a year. Based on the actual number of spaces he has, as permitted by the City in 2005, he should be paying \$299.52. But based on the City's projections, he will be paying \$1841.00 for the 56 spaces in 2011-12.

Mr. Lepper said that his paved parking lot is over 16,800 square feet and this has worked for them since 1993. He noted that his parking lot has cracking and loss of fines just like Commercial Street which runs next to it. A repair bid he got last summer was for \$1.11 (per foot), though Tigard's street maintenance brochure listed the cost for repaving at \$1.25 to \$2.00 per foot. He said, "I did not go ahead with the repaving project. Why? Because I can't afford it. And if I can't afford to pave my own lot I'm probably going to have trouble paying money I don't think should rightfully be my obligation to fix the street outside my lot." He said small businesses are struggling yet Tigard is pampering the big businesses by capping their rates while asking the small family businesses to shoulder the burden.

He asked why Tri-Met isn't paying for their impact on Commercial Street

Paul Savory, Southwest Office Supply, 12245 SW Main Street, Tigard, OR 97223. He said he and his brother have owned Southwest Office Supply, which is now called Main Street Stamp and Stationery for over 32 years. He said the street maintenance fee and proposed increases defy common sense and are fiscally irresponsible. He said he has had to lay off several employees and reduce staff wages and benefits this year and the City's added burden is going to negatively impact his business. He said the City of Tigard is not being a partner with the small business owners and asked that Council please reconsider and put off imposing this fee increase.

Don Myers, 12225 SW Main Street, Tigard, OR 97223.

Mr. Myers owns New Shoes Professional Shoe Repair. He said he said he concurs with the opposition and wanted to offer Council some sound business advice regarding the street maintenance fee:

- The formula is flawed and unbalanced and will impact the future of quality businesses desired to locate or remain within the City of Tigard.
- A 200% increase in fees will be assessed to my business by the year 2012.
- It makes no sense to deliver this kind of increase in the current economic conditions.
- The City of Tigard should reflect a pro-business attitude, that is balanced and fair to all business owners with a formula that works to allow a fair-share platform
- The increase will force the closure of some sound, attractive businesses as well as increase the costs to Tigard's customers as businesses raise prices to maintain current profit margins. The City Council and Tigard residents will have to absorb the cost the next time they need services rendered. Is this the City's intention?

Mr. Myers recommended that the City go back to the table and reevaluate the impact on current and future businesses and bring back a fair share and stable proposal.

[8:41:00 PM](#) Steve DeAngelo, 9037 SW Burnham Street, Tigard, OR 97223

Mr. DeAngelo said he is 20-year Tigard resident who owns and has operated a catering business in Tigard since 1987. He said he also jointly owns property in downtown Tigard and is a member of the Tigard Chamber of Commerce and the TCBDA. He said he opposes the street maintenance fee and did not think the public outreach was effective. He said the tax-paying public doesn't understand the fee increase and that it will triple. He said they don't understand the methodology of how the fee was set. He said he was certain that residents don't understand the impact on small business or the cap on the large box business parking spaces, exempting them from the increase. He said it seems unfair that the businesses that share the burden of the traffic don't share the burden of the responsibility.

Mr. DiAngelo commented on the economy and how many people are having to do more with less. He noted that his company's sales volume has rolled back to the year 2001 and 75% of his staff are receiving unemployment benefits. Two of his commercial tenants struggle to pay their rent. He said any increase of this nature at this time will make it a greater challenge to even remain in business.

Mr. DiAngelo said the formula used a rate for asphalt of \$80 a ton. He asked if Council members know what asphalt costs today. He said he did some research, including calling the City's vendor and found that never in the last 24 months did the cost exceed \$75. Today's price is \$52.40.

He said he understands that the fee is based on parking spaces and his business has nine, all for employees. His business is a service business and rarely sees customers at their location. He said big businesses are getting the breaks, not paying fair share. He said the argument appears that those customers who travel to Winco, Costco and Washington Square to name a few, travel on the county or ODOT supported roads. They create many more traffic trips and have more employees than small businesses. He said an obvious solution is to make them pay for their thousands of parking spaces. He said if this fee is passed, the cost of his services will go up and consumers will be footing the bill.

Mayor Dirksen asked if there was anyone else present who wished to testify.

Proponent –

[8:45:36 PM](#) John Frewing, 7110 SW Lola Lane, Tigard, OR 97223.

Mr. Frewing said he endorsed the measure but would like to see two changes. He said he has reduced his driving by 35% since retiring, and is on a fixed income. He said everyone has the same problem yet Tigard citizens surveyed say traffic is the biggest problem. He said the streets need to be maintained and this measure does it. He recommended two changes:

- Get rid of the large store cap.
- Add 5%, on top of what is already being proposed, for sidewalk maintenance.

He said the original citizen proposal for a street maintenance fee included sidewalk maintenance money which was taken out at the request of the grocery people and he understands their commercial interest but Council is supposed to represent the citizens of Tigard. A citizen-based measure would include sidewalk money for 1) safety issues, 2) school access, 3) transit access and 4) other public use needs.

He said with the above changes, the fee should be passed.

Mayor Dirksen asked if there was anyone else who wanted to speak. No one did.

[8:48:00 PM](#) Staff Response to Testimony- Finance and Information Services Director LaFrance said he heard major themes in the testimony presented tonight:

- Appeal Process - In the Ordinance (Section 15.20.080) there is a fee for appeals but this is a two-step process. The first step is administrative in nature. The customer can come in to Public Works and provide written information about their business, use, and size and see if the current calculation is correct. This process is free of charge. The Public Works Director or designee would make a determination based upon the information. If that determination was not satisfactory to the customer they can appeal it at that point and would be charged a fee. If the appeal is done and found in favor of the customer, the fee is refunded. These are the basic steps; more detail is in the Ordinance.
- [8:50:01 PM](#) Large Business Cap – Most of these businesses are located along Highway 99W and most customers going to these businesses are using state and federally funded streets and are not impacting Tigard road maintenance as much. They are affecting Tigard streets in that congestion created on 99W forces people to drive on arterials and collectors. That has been the compromise; the original Street Maintenance Fee in 2004 put the cap at 200 spaces. Through discussions with Council, Tigard decided to raise that cap to 250 in recognition of some fairness for both large and small businesses. Doing so raised the total number of spaces within the calculation. The cost per space went down and it lowered the parking space amount for both large and small businesses by eight cents per month, per space.
- The Calculation – The calculation is complex. He gave a basic summary noting the difficulty of doing justice to all the work done on this process in just one meeting. He said it starts with a five-year maintenance program developed by staff. Costs are then projected for each project. Projects are calculated for residential, arterial, collector and industrial streets. There is a cost total for each of those street types and there is an allocation depending upon the type of street. (For example, a residential street is allocated 100% to residential customers.) There is a percentage cost that will be allocated to residential customers and to non-residential customers. Costs over the five-year period are used to develop an annual total. (\$2.2 million for the pavement portion). Since we know roughly how many residences are in Tigard, and we know how many required parking spaces there are for non-residential customers the total is divided.

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- [8:53:34 PM](#) Required Parking Spaces - This is required by Section 18 of the Tigard Municipal Code. Should Council decide to make a change in the required calculation methodology that lowered the required parking, there would be fewer required parking spaces for all customers but a larger fee per parking space. The end result for any one business would probably not be significantly different. The reason the City uses the parking space calculation is that it was a compromise from the 2004 process and is a proxy for trip generation.

Council President Wilson asked how the parking requirements were developed. Finance and Information Services Director LaFrance deferred to Community Development Director Bunch for an explanation.

[8:55:11 PM](#) Community Development Director Bunch responded that the parking space requirement is the result of the compilation of several technical references. The American Association of Highway Engineers, the Transportation Planning Institute and various planning organizations put together detailed studies about what businesses require for parking. These studies are based on surveys of thousands of different kinds of businesses in various locales and their parking requirements. Parking is a dynamic situation and requirements have changed from the 1970's. In the Portland Metropolitan area there is a regional requirement that we establish both minimum and maximum parking. Maximum parking is not to provide an excess of parking but to lower vehicle trips.

He said his understanding is that when Tigard updated its Development Code in 1998 and then in subsequent updates, they chose not to lower the parking capacity substantially below the maximum. In other words, because the City is such an auto-dependent community, it provides as much parking as the regional functional plan allows. He summarized:

- Many different studies and organizations have found parking to fall within specific ranges and this is used in Tigard's Code.
- Tigard is bound to Metro's functional plan requirements and the City's parking requirements are essentially at the top of that list.

[8:57:30 PM](#) Council President Wilson said, "The bottom line is that the manual that we use to set our parking rates is the standard in the industry for determining that and is based on detailed surveys that are updated, now and then, is that correct?" Community Development Director Bunch said, "That is correct. We follow very specific guidelines and procedures to do that."

Mayor Dirksen asked if staff had concluded their response to comments. Staff indicated they had. Mayor Dirksen asked if there were any questions from Council.

[8:58:17 PM](#) Councilor Buehner asked Finance and Information Services Director LaFrance to summarize for the benefit of the audience, the ratios of who pays for what. He described the four primary street types -

- Industrial – 100% allocated to businesses and are primarily for commercial use
- Residential – 100% allocated to residential customers, who use them primarily
- Arterial – businesses pay 100% and these streets are there primarily for commercial use
- Collector – split 50/50 between commercial and residential users, and are there as a way to get between the other types of streets

He said that these percentages are in the Ordinance and how the calculation is done is codified.

## **TIGARD CITY COUNCIL MINUTES – December 8, 2009**

[9:00:19 PM](#) Councilor Buehner asked if the City's street type codes are consistent with regional street designation standards. Streets and Transportation Senior Project Engineer McCarthy responded that Tigard's street classifications follow national standards set by the Federal Highway Administration. He said that within the neighborhood routes on residential streets staff made a distinction between those that primarily serve residential uses and those that service commercial or industrial uses. The idea behind this is that streets that primarily serve residential users should be paid for by residential users and those streets that service commercial users and few residents should be paid for by businesses.

Councilor Buehner asked, since most of the business owners testifying this evening are from the downtown area, what the downtown area street designations are. Streets and Transportation Senior Project Engineer McCarthy said Main Street, Burnham Street and Scoffins Street are collectors, and Commercial Street between Main Street and Hall Boulevard is classified as industrial. Councilor Buehner asked for clarification that under the City's definition, Main Street, Burnham Street and Scoffins Street maintenance would be split 50/50 between residential and commercial customers, and maintenance on Commercial Street between Main and Hall would be paid for by commercial users. Streets and Transportation Senior Project Engineer McCarthy said that was correct.

At [9:03:06 PM](#) Mayor Dirksen closed the public hearing. He noted that there were two resolutions and one ordinance for consideration by Council.

[9:03:50 PM](#) Council President Wilson said this has been under consideration for a long time. He said the entire process was delayed last January to start an outreach program which some people testified tonight was not adequate. He said, "On the night we are considering this we get a survey from the grocers' association; there's no time to consider this. It would have been helpful to hear comments such as these much earlier." He said, "Some things said tonight were hard for me to accept. A statement was made, 'The City should learn to do with less.' These are your streets. These are the streets we all depend on to get in and out of our places of business and our homes. A city in itself is simply private properties surrounded by public rights-of-way. It's the most fundamental thing that cities do." He said he agreed that now is not a good time to raise fees and the only worse time was a year ago when it was first considered. He said, "At the same time, the deterioration of the streets does not stop. This weekend we are probably going to have an ice storm. The streets are going to get torn up again and this kind of thing can very quickly get away from us." He said, "I understand that this is a difficult time. I'm a businessman myself. But this is something we can't let get away from us because it's going to cost us more in the end. I support it. I would be willing to look at tweaking the formula, but regardless of how we do it or who pays how much, it has to be done."

[9:06:43 PM](#) Councilor Webb said she agrees with Council President Wilson that the streets need to be maintained. She said she is proud of Tigard and thinks the City does a great job, with a lot less than most, to make the community livable. She said, "However, I was the one dragging my feet in the beginning because of the economy and I guess I see it right at my front door every single day with people that I have that are homeless. It is not getting better. It's getting worse. People that live in affordable housing are being hit with the increases...Five dollars is enough to put people out on the street." She said, "Right now, this economy absolutely stinks for us to do this. If the economy was more robust I would be out there working with all the business owners and working with staff to find a way to tweak the formula to better fit the businesses." She said, "I am not willing to vote yes on this if the cost is losing even one more business in Tigard." She said she felt the streets need to be improved and maintained and would be willing to look at this again in a year.

[9:08:21 PM](#) Councilor Henderson said that one of the things the City did wrong was to get started too late. He said, "You need to stay on top of this all the way through and it won't cost so much." He said he is a resident and business man in Tigard, and his business plaza is 50% vacant right now. He said he has also walked the streets and talked to people, as Councilor Buehner has, and people are really concerned about necessities. He said, "I have a great concern that if I vote for this...it will get turned around and turn out to be a public vote later on. I don't think that is the way we want this to happen. I just can't vote for this, not at this time." He said he submitted

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## TIGARD CITY COUNCIL MINUTES – December 8, 2009

ideas at the beginning of the street maintenance fee consideration and what came back to Council was only ten percent less than what had been proposed originally. He said, "I want to say for certain that this is a hard decision."

[9:10:59 PM](#) Councilor Buehner said she has been involved in transportation issues for many years and one of her biggest concerns over the past 25 years is the issue of street maintenance. She said she is a small business owner and is not oblivious to what is going on in the community with the economy. She said she didn't think Tigard residents could afford to ignore the street deterioration. She said, "If the fee is not passed, I shudder to think what the long term cost is going to be for the citizens of Tigard, and what the cost is ultimately going to be for the businesses when people don't want to go to them because the road is so bad it is difficult or unpleasant to go there. It is a tough issue, but we have to draw the line."

[9:13:43 PM](#) Mayor Dirksen said he has agonized over this issue probably more than any other item coming before Council in this term of office. He said he heard testimony tonight that the City needs to consider something else, another way needs to be found to do it, and that the process was flawed. He said, "The process hasn't changed and that is not what is being discussed tonight. The process was already in place. If the process was flawed the time to have talked about was a few years ago." He said it is never a good time to increase fees. He said he was like everyone else, facing reduced work hours. He said Council has spent more than a year, since they heard that the existing street maintenance fee was inadequate, looking at different ways that this could be dealt with. He said Council has exhausted all alternatives. He said that even if the formula is tweaked, the changes would not be substantive. He said, "The streets are the same streets and the money still has to come out of the pockets of the people who live here, whether we do it by this or another method."

Mayor Dirksen said, "We've heard a lot of people talk tonight about what the consequences would be of increasing this fee at this time. But we as a Council need to consider in addition to that, what the consequences of inaction would be." He said if maintenance is deferred, there is no money saved. The streets continue to deteriorate and once a street goes past a certain point the cost to bring it back to a usable surface goes up 3-5 times as much as maintaining it would have cost. He said, "If we do what the people opposed to this increase ask, in a relatively short time it would cost you, me and everyone considerably more money." He said allowing the streets and right-of-way to continue to deteriorate would make Tigard even less attractive to business. It would impact our home and business values. He said, "I feel that if we were to fail to enact this ordinance, there would be a short-term gain. Some people in this room would cheer. But even in the mid-term we would all lose. I feel I need to reluctantly vote in favor of this proposal, though I would recommend one change. I suggest deferring the effective date of the increase a full six months later to beginning of the City's fiscal year, which is July, 2010. This gives us six-months of room to see what happens to the economy between now and then, and to make preemptive adjustments to take that into consideration." He said, "I wish we didn't have to do this. You don't know how much I wish we didn't have to do this. But if we don't, we'll all pay for it. So I reluctantly feel I need to vote yes."

[9:20:46 PM](#) Finance and Information Services Director LaFrance said Exhibit A, attached to Resolution 09-77 lists April 1, 2010 as the effective date, and amends the Master Fee and Charges Schedule. He said if Council amended the April 1, 2010 date to July 1, 2010 it would implement the Mayor's suggestion.

Councilor Buehner requested that Finance and Information Services Director LaFrance prepare for Council updated graphs and charts showing the effects of a later start date.

[9:22:03 PM](#) Mayor Dirksen moved to amend Exhibit A on Resolution No. 09-77 by changing the effective date to July 1, 2010 rather than April 1, 2010. The motion was seconded by Councilor Buehner. Mayor Dirksen called for a vote on the amendment to Resolution No. 09-77, Exhibit A.

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

The amendment to Resolution No. 09-77 – Exhibit A passed 3-2.

City Manager Prosser noted that he and City Attorney Ramis were looking at proposed Ordinance 09-14 and its Section 5 on Page 9 lists an effective date for the fee of January 1, 2010. Mayor Dirksen said that the Ordinance could take effect on January 1. City Attorney Ramis clarified that Section 5 states that the fee is effective January 1, 2010.

Mayor Dirksen made a motion to strike Section 5 of Ordinance 09-14. Councilor Buehner seconded the motion. Mayor Dirksen asked if there was further discussion. There was none. He called for a vote.

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

The amendment to strike Section 5 in Ordinance 09-14 passed 3-2.

[9:26:08 PM](#) Councilor Buehner said, “We put this off a year. The streets will continue to deteriorate and this will affect businesses.”

[9:26:56 PM](#) Council President Wilson suggested having an oversight committee to watch this program and how the money is spent, noting that it is important to keep credibility with citizens. Mayor Dirksen said this could be a task for the Transportation Advisory Committee. City Manager Prosser suggested amending the charge statement of that Committee to include this annual oversight. He said Council could formalize that charge at a future meeting.

[9:30:12 PM](#) Councilor Henderson said an annual review of the Street Maintenance Fee program would eliminate a lot of questioning. He asked if the language regarding the 70-75 Pavement Condition Index is a mandatory level or a goal.

City Manager Prosser said he interpreted this language to mean it is a goal. He said originally staff had set this up to as a goal to be met in five years, but an amendment will push that out further. Council President Wilson said the goal is not based on perfect roads and is the least-cost long-term way to maintain streets.

Councilor Buehner asked if there could be a Street Maintenance Fee report as part of the budget. Finance and Information Services Director LaFrance said that the Ordinance already states that the program shall be reviewed annually as part of the City’s budget process.

[9:39:54 PM](#) Councilor Webb expressed concern about requiring and charging for parking spaces that are not being used. Mayor Dirksen said they are allowed to do business even though they do not meet the standard. Streets and Transportation Senior Project Engineer McCarthy mentioned the appeal process, saying “There will always be the case

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which doesn't match the trip generation and they can come in and appeal. The City can then look at the evidence presented."

Councilor Webb said she experiences the opposite problem. The homeless shelter she manages was built with few parking spaces because homeless people don't drive cars, yet many deliveries and donations come to the shelter all day long so there is a lot of traffic generated.

City Attorney Ramis said the appeal process is described in the ordinance. He said, "If you want to adjust the appeal process, we need to change the ordinance." Mayor Dirksen said, "This could be addressed separately. This is a different issue."

[9:48:20 PM](#) Councilor Buehner referred to the earlier example of Crown Carpets' discussion of disparity in their parking assessment and actual spots.

[9:49:00 PM](#) City Attorney Ramis said, "That situation is not covered in this ordinance. This ordinance says you refer to the Code, you don't refer to some other administrative decision that was made."

Councilor Buehner said, "So under the current language of the Code, if an arrangement like the Crown Carpet example has been reached, that doesn't have any impact on the number for purposes of this statute." City Attorney Ramis agreed and said if that is not the outcome Council wants they need to change the language.

[9:50:01 PM](#)[9:49:59 PM](#) Council President Wilson said, "But the parking theoretically required by the Code is based on trip generation that is based on the manual, is it not?" City Attorney Ramis said staff earlier stated that the City is using the number of parking spaces as a proxy for trip generation. Council President Wilson gave an example of a business owner who comes in and says, 'I'm really not a carpet retailer; I'm a carpet broker. So I don't really have customers.' A look at the manual may yield a different number of required parking spaces for a broker than for a retailer." He asked if this is how the appeal process would work.

[9:51:07 PM](#) City Attorney Ramis replied that in the instance of the original application, when a person wants a reduction in the amount of parking spaces the City would allow them to come in and say, the manual is not controlling here; it yields an incorrect result in the case of my business. So you do an alternative study and you demonstrate that you have better information than the manual and you are allowed to reduce your spaces. That is a separate proceeding than the appeal mentioned in the ordinance. He said, "If there is a reference to it, great. But at this point it just says applicable criteria."

[9:51:55 PM](#) Streets and Transportation Senior Project Engineer McCarthy said he understands that the applicable criteria is a particular type of use and then a unit of size, typically a square foot. The unit of size would be multiplied by the number of parking spaces per square foot for that type of use. He said what could be corrected under this ordinance without going through a different sort of appeal process would be either an incorrect size unit or a different type of use.

City Attorney Ramis said, "I would agree. There are very narrow circumstances in which you'd be allowed review."

Mayor Dirksen asked if there was an appeals process in place, not having to do with street maintenance fee, but having to do with parking requirements.

Community Development Director Bunch said parking requirements are a straightforward application of the code. He gave an example of an appeal: For every 1,000 square feet of active service use area, a restaurant is required to have 20 parking spaces. However, the restaurant owner says 1,000 of his 2,000 square feet is not in active use because some of the property is used for storage or hallways. The City would then go look at the property. If it was true on that basis, as defined by the clear and applicable criteria of the Code, the City could assess a different parking standard.

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Mayor Dirksen asked if, as a result of that, a property's number of parking spaces was reduced, they would be charged less for their street maintenance fee. Community Development Director Bunch said that was correct.

Mayor Dirksen asked what the street maintenance fee appeal was for, if not a parking appeal. In response, Community Development Director Bunch said, "It is to deal with specific situations... It is a proxy for trip generation." Mayor Dirksen referred to his earlier question – if someone comes in saying their restaurant was smaller than the City thinks it is, and the City agrees and reduces their required number of parking spaces, then they do not incur a street maintenance fee filing fee because it doesn't have anything to do with street maintenance, it has to do with parking spaces. Community Development Director Bunch agreed.

Mayor Dirksen confirmed that a process was already process in place that doesn't incur a fee for appealing the number of parking spaces. Finance and Information Services Director LaFrance said the only time the fee would be incurred is if the initial staff decision was not satisfactory to the applicant and the applicant wanted to pursue the matter further.

[9:56:22 PM](#) Councilor Buehner said she still did not have a clear answer. She asked, "If 'ABC Business' comes in because our Code says they should have 40 parking spaces but they only have 32 spaces, will their Street Maintenance Fee be reduced based on 32 parking spaces, or will it remain at 40 spaces, which is the standard for that type of business?"

City Attorney Ramis said, "I think it's 40. If you want it to be 32 because you think that is better policy, I think you should re-write this."

Mayor Dirksen suggested changing it so it doesn't say that the street maintenance fee language says it is based on Code required parking spaces, but on the actual. City Attorney Ramis said if Council wants it to be based on some determination that has been made specific to the property or it's been reduced from what might be apparent, that should be said clearly.

Council President Wilson said it is not based on actual parking, because some businesses may not have enough.

Mayor Dirksen said he agreed with Councilor Buehner that if that determination changing the number of required parking spots has been made by the City then that should be the basis.

[9:58:09 PM](#) Councilor Henderson said, "If all of this is true, then in 100% of the cases they will change. And that would cause a recalculation of the fee, right?" Mayor Dirksen asked him why it would change in 100% of the cases. Councilor Henderson said there is \$2.5 million the City would need to find and if there are fewer parking spots then they would have to compensate for them.

Finance and Information Services Director LaFrance responded in two parts, saying the first is the determination portion which means if there is a land use decision that the required parking for a property is less than the standard, then we can adjust it. He said, "The second part is the math – Councilor Henderson is correct." He said if there are a large proportion of businesses involved in a land use decision in the next few years that reduces the total number of required parking spaces within the City of Tigard; each parking space will then have to pick up a higher share of that non-residential portion of the \$2.2 million.

Council President Wilson said there are a lot of variables such as the price of asphalt and how fast the pavement will deteriorate and that is why it would be evaluated every year.

[10:00:21 PM](#) Councilor Buehner said she would like to see this particular amendment included in the ordinance.

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[10:00:35 PM](#) City Manager Prosser said Council had three options:

- 1. Continue this consideration to a later date with direction to staff to bring back a new ordinance.
- 2. Adopt the ordinance as is, and direct staff to come back with a code amendment.
- 3. Try to put these changes into the ordinance tonight.

Councilor Buehner asked if this would be ready to come to Council by the first meeting in January. City Attorney Ramis said this could be discussed next week with staff and language prepared. Council President Wilson said this would affect a small number of businesses so he recommended option 2 - voting tonight and then amending the Code at a future meeting.

Councilor Buehner moved for adoption of Resolution No. 09-76. The motion was seconded by Council President Wilson. The number and title of Resolution 09-76 were read by Deputy Recorder Krager– A RESOLUTION OF THE CITY COUNCIL ESTABLISHING A LONG-TERM AVERAGE PAVEMENT CONDITION INDEX (PCI) GOAL FOR CITY STREETS

Mayor Dirksen suggested that even Council members who oppose the increased street maintenance fee could vote in good conscience for this Resolution if they agree that the average pavement condition should meet this goal. A vote was taken. [10:02:58 PM](#)

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

Resolution 09-76 passed unanimously.

Councilor Buehner moved for adoption of Ordinance No. 09-14, as amended. Motion was seconded by Council President Wilson. Deputy City Recorder Krager read the number and title of Ordinance No. 09-14 – AN ORDINANCE AMENDING CHAPTER 15.20 OF THE TIGARD MUNICIPAL CODE, WHICH ESTABLISHED A STREET MAINTENANCE FEE TO PROVIDE A FUNDING SOURCE FOR MAINTENANCE OF CITY STREETS, as amended.

Mayor Dirksen asked if there was any further discussion. There was none. A roll-call vote was taken. [10:03:52 PM](#)

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

Ordinance No. 09-14, as amended was adopted by a 3-2 vote.

## **TIGARD CITY COUNCIL MINUTES – December 8, 2009**

It was moved by Council President Wilson to adopt Resolution No. 09-77, as amended. The motion was seconded by Councilor Buehner. Deputy City Recorder Krager read the number and title of Resolution No. 09-77 – A RESOLUTION TO AMEND THE PORTION OF THE MASTER FEES AND CHARGES SCHEDULE PERTAINING TO THE STREET MAINTENANCE FEE AS ADOPTED UNDER RESOLUTION NO. 09-44, AS AMENDED

Mayor Dirksen asked if there was any discussion. There was none and a vote was taken. [10:04:46 PM](#)

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

Resolution No. 09-77 passed 3-2.

Mayor Dirksen asked if a discussion on further amendments could be heard at the December 15, 2009 meeting. City Manager Prosser said that was a Workshop Meeting and the next Business Meeting will be January 12, 2010.

7. PUBLIC HEARING – CONSIDER AN ORDINANCE WITHDRAWING PROPERTY FROM TUALATIN VALLEY WATER DISTRICT (TVWD)

- a. At [10:06:30 PM](#) Mayor Dirksen opened the public hearing.
- b. City Attorney Ramis confirmed the legislative hearing procedures.
- c. Mayor Dirksen asked Council if any member wished to declare or discuss a conflict of interest or abstention. – There was none.
- d. Staff Report:  
[10:07:50 PM](#) Public Works Director Koellermeier said this was a housekeeping item, 35 years in the making. He said in 1972 when the area was originally served it was in the boundary of then Metzger Water District and an agreement was signed with the Tigard Water District to provide water due to flow and pressure issues. He noted that both water districts had morphed into others – the Metzger Water District into the Tualatin Valley Water District and the Tigard Water District has since morphed into the service area that Tigard jointly manages. Staff determined that it was appropriate to clear this up and worked with the City Attorney office to complete what is essentially a map change. There are no changes affecting service and no customers are being served by a different party than they were originally.
- e. Public Testimony – No one signed up to speak. Public Works Director Koellermeier said there was a representative of the Tualatin Valley Water District present to answer any questions. Mayor Dirksen asked if there was anyone present who wished to testify but did not sign up on the sign-up sheet.
- f. Staff Recommendation - Public Works Director Koellermeier said staff recommends that Council execute the withdrawal documents.
- g. Council Questions – There were none.
- h. Close Public Hearing – Mayor Dirksen closed the public hearing at 10:09 PM.
- i. Council Consideration: Ordinance No. 09-15

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Councilor Webb moved to adopt Ordinance No. 09-15 and Councilor Buehner seconded the motion. Deputy Recorder Krager read the number and the title of Ordinance No. 09-15 – AN ORDINANCE WITHDRAWING TERRITORY FROM THE TUALATIN VALLEY WATER DISTRICT SUBSEQUENT TO ANNEXATION TO THE CITY OF TIGARD. A roll call vote was taken:

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

Ordinance Adopted 09-15 passed unanimously.

8. PROVIDE UPDATE ON FEBRUARY, 2010 SPECIAL LEGISLATIVE SESSION  
 Due to the hour, Agenda item No. 8 was tabled until the December 15, 2009 Council Workshop Meeting.

9. CONSIDER TIGARD MUNICIPAL CODE AMENDMENTS REFLECTING SENATE BILL 915 REQUIREMENTS FOR CIVIL PENALTIES FOR BUILDING CODE VIOLATIONS

Building Official VanDomelan said this ordinance modifies the Tigard Municipal Code to align it with the requirements of new Senate Bill 915 which requires an administrative process for challenging civil penalties assessed for building code violations and infractions and also requires that the cities assess civil rather than criminal penalties.

Council President Wilson moved to adopt Ordinance No. 09-16; Councilor Webb seconded the motion. Deputy Recorder Krager read the number and title of Ordinance No. 09-16 – AN ORDINANCE TO ADOPT VIOLATION PROCEDURES AND REMEDIES FOR THE BUILDING CODE ORDINANCE, AMENDING SECTION 14.04.090 OF THE TIGARD CODE AND ADOPTING NEW PROCEDURAL SECTIONS, 14.04.095 AND 14.04.098.

A roll call vote was conducted:

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

Ordinance No. 09-16 was adopted by unanimous vote.

10. COUNCIL LIAISON REPORTS – None

11. NON-AGENDA ITEMS

12. ADJOURNMENT

At [10:14:06 PM](#) Councilor Webb moved for adjournment, the motion was seconded by Council President Wilson and all voted in favor.

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

/s/ Carol A. Krager  
Carol A. Krager, Deputy City Recorder

Attest:

/s/ Craig Dirksen  
Mayor, City of Tigard

Date: January 12, 2010

I/ADM/Cathy/CCM/091208.final