

REGULAR MEETING

February 2, 1998

CALL TO ORDER:

A regular meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Council Chambers, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, February 2, 1998, at 6:36 p.m.

ROLL CALL:

Present were Mayor Drake, Counc. Evelyn Brzezinski, Wes Yuen, Dennis Doyle, Forrest Soth and Cathy Stanton. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Operations/Maintenance Director Steve Baker, Police Chief David Bishop, Community Development Director Elaine Wilkerson, Administrative Chief Gary Nees, Human Resources Director Sandra Miller Library Director Shirley George, Development Services Manager Irish Bunnell, Traffic Engineer Randy Wooley, Associate Planner Margaret Middleton, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Henry Kane, 12077 SW Camden Lane, stated that he had filed request for a petition of filing a writ of mandamus the past week, and would move forward with that unless the Council took the Miller Sanitary Service Appeal APP 98001, off the February 17, 1998 Council calendar. He said if an appeal of the Planning Commission (PC) order to the Council was to be filed, the City Recorder should work with the appellant to pick out a date, and if the appellant was not the applicant, the two had to agree and if the two could not agree, the Council would set a hearing date. He also noted that the code states that a twenty-day notice must be given and there was no way that a twenty day notice could be given if the hearing was held February 17, 1998. He commented he was being selfish and wanted to get time to confer with The 1000 Friends of Oregon, environmental attorneys to see about hiring, with other peoples' money, a traffic engineer and an environmental engineer so at this de novo hearing when held, the Council will have expert testimony.

Kane stated that he was going to file a memorandum challenging the so called, "conclusion of law" which was part of the PC action signed January 30, 1998. He said the findings reeked of having been written by the representative of the applicant, Miller Sanitary Service.

COUNCIL ITEMS:

Coun. Brzezinski reported she placed a notice on the Councilors' desks about the Beaverton Sister Cities Foundation dinner and auction to be held on March 7. She expressed her hope that those in town could attend, and said she also was looking for donations for the auction. She noted that one person had donated a pick-up load of firewood and

encouraged donations of things one could do, in addition to things one could provide.

Coun. Yuen reminded Council that the Boards and Commissions dinner was scheduled for Friday, March 6.

Coun. Yuen requested that the Councilors list the liaison's they were currently assigned, note if they would prefer to continue or change, and if change, to what.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Yuen MOVED, SECONDED by Coun. Soth, that the consent agenda be approved as follows:

Minutes of the regular meeting of December 22, 1997 (Carried to 2/9/98)

98-29 Liquor Licenses – Annual Renewals

98-30 A Resolution Declaring a Nuisance of a Discarded Vehicle, on Property at 6173 SW Valley Avenue, Beaverton OR 97008 (Tax Lot #1S1 21 AB 1000), and Ordering its Abatement

98-34 Additional Traffic Commission Reappointment

98-35* Additional Boards and Commissions Appointments

Contract Review Board:

98-31 Contract Award – Mailing Services for Utility Bills and General Mail

98-32 Retainer Agreements and Authorization to Enter into Contracts for Development Application Reviews

Coun. Yuen requested Darleen Cogburn, City Recorder, get back to him with a clarification on page eight of the minutes.

Mayor Drake suggested they continue consideration of the minutes to the next meeting. Council agreed.

Coun. Brzezinski asked about the Liquor Licenses renewal noting when Broadway Saloon and Eatery first applied for their expanded liquor license there was a lot of concern from neighboring businesses.

Dave Bishop, Police Chief, said they had monitored the situation, contacted businesses and no complaints were received. He reported they were now doing much more extensive background checks than in

the past. He noted they were also making the owners aware that Council was informed of situations relating to liquor license renewals.

Coun. Doyle thanked Kevin Kelly, Reprographics Supervisor, for his excellent response to questions on AB 98-31.

Question called on the motion. Couns. Soth, Brzezinski, Stanton, Yuen and Doyle voting AYE, the motion CARRIED unanimously. (5.0)

PUBLIC HEARING:

98-33 Appeal of Murray Manor Planned Unit Development APP 96018

Mayor Drake stated the public hearing had been scheduled, but staff requested and the applicant concurred, to continue it to February 23.

Coun. Brzezinski MOVED, SECONDED by Coun. Soth to continue AB 98-33 (Appeal of Murray Manor Planned Unit Development) to February 23.

Coun. Doyle asked why they requested a postponement.

Mayor Drake explained there needed to be some more information and background work. He said there were also some additional issues and the staff person involved was ill and not able to get the needed information.

Question called on the motion. Couns. Brzezinski, Doyle, Soth, Stanton and Yuen voting AYE, the motion carried unanimously. (5:0)

RECESS: Mayor Drake called for a recess at 6:48 p.m.

RECONVENE:

Mayor Drake reconvened the meeting at 6:56 p.m.

WORK SESSION:

97-342 Draft Transportation System Plan (carried from 12/15/97)

Randy Wooley, Traffic Engineer, introduced Randy McCourt of DKS and Associates (consultants), and Margaret Middleton, Associate Planner, who has been very involved on this project.

Wooley commented this project, the Transportation System Plan (TSP or Plan) began almost two years ago and had a great deal of public involvement largely through the Traffic Commission (TC). He reported that in December 1997, the TC recommended the Draft TSP, which Council had been given. He noted there were also attachments A, B, C, and D, which were revisions.

Wooley stated they were not there to adopt the book, but the work session's purpose was to tell the Council where they were going. He said staff was putting together amendments to reflect what was in the TSP, which would come back through the hearing processes. He said he hoped it would all come back at the same time, so it would not be too confusing. He said they wanted to make sure the Council knew what the Plan was and agreed on the Plan. He asked the Council to direct staff to make the amendments and submit them through the development process, including the review and hearing processes.

Wooley said Randy McCourt would give a summary focusing on the areas where this TSP was significantly different from where our codes currently were. He noted that McCourt would concentrate on functional classifications, funding strategies, things done to comply with changes and mandates in regional and state planning laws, work that the TC did on goals and policies, and public involvement. He said that after the summary, Council questions and direction would be requested, and also asked for editorial corrections.

McCourt focused on areas where they had made changes. He noted that with the Functional Class modifications, which had been contentious, they had found the same issues in several communities. He stated the most important area was to preserve and protect existing and future mobility and access for all modes of transportation. He reviewed the difference between local and arterial types of streets and noted the function of a street had to do with its connectivity, and was not defined by the number of lanes; it was the way they moved through the community. He said in responding to the Metro Functional Plan, which outlined different levels of connectivity through the system, the TSP tried to define the consistency throughout the City of Beaverton. He explained they did not want to be inconsistent with the regional plans when they become final. He noted that one thing they defined was one area that was usually missed, and that was the "neighborhood route," which was different from a collector or local street. He reported that they had removed the classifications and ranks, such as major and minor, from the levels of connectivity, there was just the level of connectivity. He said the levels were based on the issues of demand on the street.

McCourt said *access management issues* were another thing they would look at, which referred to the number of driveways, and the number of intersections along the roadway. He noted that it could be a collector or arterial street that has residential frontage. He said they needed to find the streets that had cut-through traffic, and generally they were the streets that had faster moving traffic. He explained they need to be serviced in a way that allowed the traffic to move through. He noted in the plan they had talked about limiting the amount of access for single family residential onto streets such as arterials and collectors.

He explained that in the new classification system there were five basic routes and classifications, and the first and highest level of regional connectivity was Freeways such as Highways 26 and 217, which

provided the maximum level of access control. He said the second level was the arterial streets which served regional traffic and typically extended beyond the City limits. He noted that the third level was the collector roadway, which was down to the City of Beaverton scale of a roadway. He explained that to protect livability; the fourth level was neighborhood roads, unique in that they were not cul-de-sacs or dead ends. He further explained they were longer than a local street but shorter than a collector. He said the last level were the local streets, which provided local access to a variety of different types of land use such as residential, retail and industrial. He suggested Arctic was an example of a local street.

Mayor Drake noted Arctic Street ran between Allen and Western.

Coun. Stanton stated that she thought it was a collector.

McCourt explained Arctic was a local street since it was smaller and more localized and did not run through to other cities. He noted Denny was an example of a Collector road.

McCourt reviewed the fundraising strategies noting the most important element was that it was not a plan to make one agency pay for everything, but all the needs for all the agencies would be shared and balanced. He suggested they needed to prioritize the projects and make sure they were dealt with in that manner. He said they needed to work with Metro and the Oregon Department of Transportation (ODOT) to fund eligible projects through the Regional Transportation Plan (RTP) which would be used to allocate regional money through the City of Beaverton. He also noted in areas where they have identified future right of ways (ROWs), they would need to provide the exaction process for providing fronting improvements and protecting ROW needs for the future.

McCourt said they needed to work aggressively with the legislators in Salem to make sure the necessary changes were made, in terms of the transportation funding system that could be made from a State-wide basis. He noted that over half of the City improvement plan items were related to ODOT or State related facilities.

McCourt stated the need to examine increases in the existing process used to collect fees from development and look at Traffic Impact Fees (TIFs) to reflect future needs. He said the Major Streets Transportation Improvement Program (MSTIP), which the County had used to fund many improvements, needed to be looked at as a method of expanding the ability to improve the roadway system. He reported that in interchange areas they may be looking at Local Improvement Districts (LIDs) for such things as adding turn lanes. He said they might potentially create interchange improvement districts or in industrial or commercial areas create districts that would pay for fronting roadway improvements. He said they would probably need to look at other funding sources such as State agencies, and gave the example of adding fees that could be attached to the Department of Motor Vehicles fees or a fee based on the

number of miles driven.

McCourt said they had looked at State, County and City facilities, which included small things such as transportation demand management, minor improvements and neighborhood traffic management, to major capital items such as interchange and freeway improvements. He stated there was a shortfall of nearly \$300-400 million. He commented with every transportation system in the west that had plans in place and the public had acknowledged the need for improvements, the funding had come second after the plan. He noted California had used sales tax to fund transportation improvements, and the City might find new funding sources in the State but first there must be a common bond and ownership with the public to understand the transportation funding needs and balance those needs.

McCourt noted there were several new issues in the TSP, including improvements for bicycles, pedestrians, transportation demand and system management. He said the State Transportation Planning Rule and Metro Functional Plan requirements were also addressed. He explained that they had looked at the entire Portland region and focused on the planning requirements in the City, and all the areas in the immediate fringe. He said they identified the levels of service (LOS) standards, had looked at intersections, and would keep them within LOS "E" and not move to LOS "F." He noted that one concern was that if they go to LOS "F," the transit system that utilized those routes would not be functional. He noted that the document was by no means final, and they welcomed comments and input from all. He said the Goals and Policies had been reorganized to meet the goals of the City.

Coun. Soth asked if they had talked with Washington County (County), so any extension of City streets and County streets match. He said the street classifications had been entirely different and as a result there were problems. He noted that of specific concern were areas in the Urban Service Boundary (USB), and said he thought they needed common definitions.

McCourt reported the County was working on this, and that the same staff working for the County had sat on the committees on which the City had been working, so they were aware of the City classifications. He noted in addition within the Plan there were detailed maps of neighborhood areas within the City defining which streets might extend or not. He reported that the area of the 173rd, 174th, 175th corridor, where they crossed Hwy. 26, had been identified and they had worked to get that project included in a cooperative effort with Metro and ODOT for regional planning.

Coun. Soth said a common definition had been a bone of contention. He said they needed to have a common definition with the County because their's and the City's did not agree. He said that would become more important as they went along, especially when the County decided they were out of the Urban Services business. He noted that McCourt had mentioned that the functional classification did not depend upon use, nor

use depending upon functional classification. He said he thought that needed to be made very clear. He noted that his street was used as a bypass for Farmington and Murray, and was now classed as minor collector.

McCourt noted that in the Plan there was a table of streets which passed through the different cities, and it clarified how they were identified. He stated, regarding the relationship to the functional classification not being based on use, it was a good question. He said they had worked to deal with that, in trying to deal with the sizing of the streets as a separate issue from the planning or strategic planning of the streets, in terms of which ones go through. He explained that the sizing of the street and its use was dealt with on the demand side, when they did the forecast and demand model, they got to the size of the street. He said the planning function was done first and then it was tested with the land uses.

Mayor Drake noted that Coun. Stanton had asked what public involvement had been done.

Coun. Stanton said her question was answered earlier.

Coun. Yuen commented on Coun. Soth's remarks regarding common road designations between the County and City. He said he agreed with some of what Coun. Soth said, but on the other hand if they were trying to move forward, ahead of the County, and particularly if the County was getting out of urban services, he thought they needed to be forward thinking about the County needing to catch up. He did not want the County to hold the City back.

Coun. Yuen said his next question had to do with the designation of land use and not design. He asked if part of the issue was that if the City had what was designed to be a neighborhood street acting as a collector, it should not be upgraded to collector, it should be reviewed because maybe it was a failure of the system. He suggested they should look at correcting the problem rather than simply redesignating them to collectors.

McCourt responded that was a good point, and they had tackled that problem at the technical level on an ongoing basis. He said what they were trading off in this issue was livability, and if they did not deal with the arterials and collectors they would have that problem. He noted that one of the reasons the streets were designated as neighborhood streets was to protect the livability, and to provide neighborhood routes. He said the intent was to have a good balanced system, and not give away neighborhood livability by widening a street somewhere.

Coun. Yuen asked about definitions of various streets, including Arctic. He suggested in trying to address the definition of a street, they should consider whether it provided City-wide or district-wide connectivity. He stated that he felt Arctic served a district, and he thought perhaps they needed to redefine district.

McCourt noted Arctic was defined as a neighborhood route. He said the reason they were defining the extent of connectivity was to give priority to access control. He explained that on Arctic the level of access control needed in terms of spacing of driveways was not nearly as great as it would be on Allen or Western (two different level streets). He said what they had been defining was the level of access control they wanted and the extent of connectivity, balancing the two as they defined the functional classes. He noted there were some districts they had broadly defined as broader areas such as Parkway and Milikan, while Arctic was defined as a much smaller neighborhood area, which was how it got its designation.

Coun. Yuen suggested that if the Council decided it was a collector they could decide that.

McCourt said that was correct.

Coun. Doyle wondered what the consequence would be of changing the designation; what would happen if it was changed to a neighborhood route.

McCourt responded that the neighborhood routes in residential areas should become areas of priority for neighborhood traffic management. He explained that would provide a means to identify those areas where there was potential for problems where people who were not using arterials and collectors, would go through. He noted that in the case of a collector it defined how far apart driveways should be from one another and where in the local neighborhood driveways were appropriate.

Coun. Doyle commented that he thought that was germane to how roads were classified.

Coun. Soth asked how much consideration had been given to the fact that on Arctic most of the traffic was trucks rather than automobiles.

McCourt responded they had looked at the zoning designations and noted the truck route designation. He explained that they would not find a truck route on a collector, local or neighborhood route; truck routes were generally always on arterials. He said that was where it showed up in the Plan.

Coun. Stanton recalled McCourt had mentioned the 173rd, 174th and 175th issue off of Walker and Hwy. 26, and the over/under pass. She noted that he said they talked to ODOT, the County and perhaps Metro, but she wondered about the people who lived in the neighborhood. She related an issue in her neighborhood where the City had contracted to have trees put in and they put them in the wrong places, because they had no neighborhood input.

Wooley explained in the case of 173rd, 174th and 175th connection, they had talked to the property owners, and noted that most of the land was

currently undeveloped. He reported they had made a special point of that contact.

Coun. Stanton stated, regarding functional class, to which Couns. Soth and Yuen spoke to on the different standards, she did not think this should be about definitions of standards. She said the County standards should default to City standards because the City would have to service the streets (in the long term). She explained that the functional class was a function and issue of demand, and asked about the issue of intent. She gave the example of Greenway, which was built to minor collector status because that was all the land available, but it was now an arterial because of demand. She said Greenway had moved up in a classification hierarchy only because it was the road of choice, which was a failure of the system.

McCourt explained connectivity was the first thing they looked at, and the issue of demand was the second thing. He said after the level of connectivity was planned within a system, then they looked at the land uses on the system. He noted, for example, when the plan was done previously, generally covering twenty years, it was done according to the land uses which were proposed for that period of time. He said for example, Greenway was planned appropriately for the right of way. He noted looking at the plans developed by the County, the level of connectivity of Greenway was what changed over the last twenty years. He said as it had worked its way out, the County had shown a level of connectivity which had inched its way to a different level of function. McCourt related that this got back to the issue of whether you strategically planned the connectivity in your facilities and the function of those facilities or dealt with reaction to the land use. He stated what they had before was reaction to the land use and demand, but what they wanted to do was look at the level of connectivity and strategically plan routes to have the least amount of impact on the community.

Coun. Stanton wondered if she had heard McCourt correctly when he said, "preserve the functional movement on the routes," as one of the issue of connectivity and demand, and "limit local access onto collector and arterials."

McCourt responded that she had heard correctly, and noted that the policies within the Plan called for not approving access for new single family residential on arterials.

Coun. Stanton remarked she thought they were bringing forth the 125th and Scholls Ferry issue, where drivers had ten seconds to turn left onto Scholls Ferry and others have two minutes to move back and forth.

Coun. Stanton remarked Arctic was not a neighborhood route, it was a collector!

Coun. Stanton inquired regarding funding issues, would priorities be based on which projects were the most important to do or based on the

amount of dollars. She wondered how many could be completed.

McCourt responded it was a balance, and sometimes the highest priority projects were the most expensive, but at the same time they would try to complete smaller, less costly projects to get maximum benefit and exposure through the community as quickly as possible with the money available.

Coun. Stanton remarked she had been on the County's Capital Projects Committee for many years and they had a complicated matrix to determine what projects would be done, but funding was always an issue. She said at the County level there were critical projects needing to be done without available funding.

Wooley noted on the funding side, there were projects where it was more strategic to seek funding from a group, regionally or from the County. He explained that for the City to undertake those projects would not be leveraging the money available in the best way.

Coun. Stanton requested clarification regarding the use of LIDs at interchanges. She said she assumed he was not talking about freeway interchanges.

McCourt said that he did mean freeway interchange areas and noted that in many cases there was a cooperative effort with the City, County and ODOT.

Coun. Stanton questioned what the TSP "Support Document" for \$750,000 which appeared on the \$350 million funding list was.

McCourt explained that it provided funding for tasks that would be required to implement the TSP; an example might be to update design standards.

Coun. Stanton commented, regarding the recent California sales tax for transportation, that it was not new, they had those taxes for 35 years.

McCourt clarified they had been taxed for BART but not freeways, and he had been talking about freeways.

Coun. Stanton noted that the TSP achieved acceptable LOS "D" and "E," but said she did not feel that "D" at roadways and "E" at intersections were acceptable, but instead only allowable as a worst case.

Coun. Stanton said she was concerned regarding the previous changing of the *wills*, (we will do something) to *shoulds*, (we should do something). She expressed her concern with the level of flexibility with that shift in language which gave more discretion to staff, through Facilities Review, to the PC, or to the City Council to, at any step along the way, make a substantial change to livability for the surrounding neighborhood. She stated that she thought the previous shift of all the *wills* to *shoulds* was

wrong 98% of the time. She suggested the Council revise the *shoulds* back to *wills*, where appropriate, before going to the PC with this.

Coun. Doyle returned to the issue of different funding possibilities, and stated his opinion was that LIDs at this time, were not appropriate. He noted the Beaverton traffic situation was a function of what had happened there and LIDs were the most unfair way of dealing with them. He said TIFs merited looking at, and he thought it was more desirable since it was done in advance. He said he realized that sometimes LIDs were justified, but many times they were not.

Mayor Drake remarked where they had gotten into trouble with the LIDs was they had placed the Waivers of Remonstrance's on properties and had not called them in when they should have. He noted the situation tried on Davis Road a few years ago where people were really angry, and the LIDs were signed prior to that area being in the City. He clarified that the LIDs go with the land but many had expired, or homes were sold and people forgot. He said he thought where the City had failed that time was not requiring the developer to deposit funds for the improvement of the roadway. He said another area where they would need political will, was the TIF program. He noted it was easy to talk of higher TIF fees but they only covered 21% of the cost of today's projected need, leaving 79% to be funded. He said they would have a lot of arguments if they tacked another \$7,000 - 8,000 onto new houses to cover actual costs; people would say it would kill affordable housing. He stated that they needed to decide as a region how they were going to fund transportation.

McCourt emphasized that there was not going to be one way to do it, it would take compromise and lots of small steps. He said the most important step was to work state-wide and region-wide.

Coun. Doyle recalled that McCourt had indicated earlier that of all the projects included in the \$660 million, 50% were non-Beaverton. He said in the \$280 million revenue potential current sources, he wondered if those current sources were a conglomeration of the various sources they usually thought about such as MSTIP, ODOT, etc.

McCourt said that was correct, there was a long list, because there were a lot of things that were needed. He noted that about 50% was ODOT money, because Hwys. 217 and 26 would take a huge amount. He added that the County was about 30% and the City about 20%, which was why it was so important to work regionally.

Coun. Doyle asked if the 50%, 30%, and 20% had been broken out in the report. He further inquired about community comments on the fact that 1/68 of this process was for bikes and had it been discussed with neighbors.

McCourt responded that it had been discussed, and noted that it was not based on dollars but rather on optimal needs for the system.

Coun. Doyle commented they could make an argument of what they could do on Arctic. He noted the local definition allowed more access to a road and perhaps the community preferred it that way.

Coun. Brzezinski commented regarding Arctic, she was concerned about the discussion because she was worried about it being a "slippery slope," and if they discussed a specific road, it would undo much of the work they had done. She requested if they talked about changing it to a collector they should come back with an explanation.

McCourt reported they had that comment on 155th in the Murrayhill area and the actual functional class was dictated by how the streets were designed. He noted in that case there was still the connectivity but it was off-set, not as through moving as they wanted. He stated that it was the one exception in the Plan where rather than the through connectivity that was provided elsewhere, there was the off-set. He noted it was a unique case and if it were changed, it would be another case that would go away from using that definition.

Coun. Yuen noted, regarding the collector vs. neighborhood, he understood there was great virtue in trying to simplify the designations, but it created complexity. He recalled that one definition of a neighborhood street as defined, was to minimize the amount of commercial and industrial traffic on the street. He said he remembered looking at that when they had the Act III theater issue. He suggested if they designated an industrial street as a neighborhood street, they would have to rethink their definition of a neighborhood street. He explained that the definition would say that the goal of a neighborhood street was to minimize industrial and commercial traffic on the street, where if the Neighborhood street happened to go through an industrial area there would be a conflict with the use and designation.

McCourt explained that the key thing from a planning context was that they created the definition first and then how they want it to be used. He noted how they defined it was connectivity, the issue of who used it afterwards was an outcome of the land uses adjacent to the street, of how the street was used and how the accesses were placed on it. He noted that arterial doesn't always mean commercial or industrial; it could be residential, and local streets could have the same conditions, so the land use did not dictate what a street's function was. He explained it did not mean they could not have a commercial local street or an industrial local street or an industrial neighborhood street.

Mayor Drake asked, as the region grew and became more compact, 2040 was implemented, and with a shrinking resource base, would the standards or numbers change for what a local neighborhood collector was. He wondered if, as they densified, the tolerance level on a local street would increase, or could they just see more neighborhood and collector statuses. He remarked anything under a 1000 cars a day did not bother traffic planners, but anything over 1000, concerned them and made them wonder if the street was as safe as they originally thought.

McCourt said that was good question. He reiterated that they tried to define where the connectivity would be and those streets would be designated differently. He noted that as an outcome of a land use action, they sometimes connected a road. He noted they had tried to identify the routes of connectivity to keep it from getting worse, and said zoning in many cases prohibited growth in some areas. He said other areas in downtown and Murray/Scholls Towncenter, provided an example where things would be different. He said they had tried to provide a framework and a road system in each of those areas where they could support that designation.

Coun. Yuen noted that the City was nearly built-out, and unless they found some land, or large scale development, the income from TIFs would be a diminishing resource. He noted it would be nice to charge 100% for TIFs, but it was 100% of a diminishing amount of money. He related it might look good on paper but realistically they were not talking of increasing the amount of money but hoping the amount they got from TIFs would not go down quite as quickly.

McCourt noted that the public feel that when they pay the gas tax at the pump, they have paid for every road they would ever drive on, but reported that the gas tax paid almost less than what transit subsidies were for transit usage. He stated that the fare back recovery is about 25% to 50% and that was about what came back from the gas tax. He said it was hugely subsidized by TIFs and exactions. He said maybe they would have to increase some other fees such as motor vehicle fees rather than an LID.

Wooley noted that some of the large fees were currently from redevelopment.

Coun. Yuen noted on page 19 of the TSP draft dated December 15, there was a section titled "Pedestrians," and on that page were several bulleted comments related to pedestrians. He said they were apparently prioritized by the TC and a public participant. He wondered if they were planning to ask Council to prioritize this.

McCourt explained that they had a discussion with TC, and went through a "dot exercise" where they put a series of dots on their priorities. He noted that the intent was to get an initial prioritization. He said from the City's standpoint, if there were some priorities, that same thing could be done if requested.

Coun. Yuen said he had a few questions, but if the Council was going to agree with a list of priorities, they should have the opportunity to look at them. He went on to say if the priority list was going to stay in the document, the Council should have the opportunity to decide for themselves that it was a list of priorities with which they agreed.

Coun. Yuen noted he had a question on the draft addendum, provided

under separate cover (in record). He said on page 12, bullet seven discussed bus service. He suggested it should be clarified to say either linear quarter mile, or walking quarter mile, and noted that because of cul-de-sacs, it was now a mile to his nearest bus stop. He noted that how they decided to measure access and availability would really decide how the policy worked.

Elaine Wilkerson, Community Development Director, remarked that his situation was the best support for the TPR in a long time. She said that the main point of the transportation rule was to ensure that a pedestrian could get to an arterial or collector and bus service.

Major Drake noted that was a good question and related that the Joint Policy Advisory Committee on Transportation (JPACT) and the Metropolitan Policy Advisory Committee (MPAC) had discussed that, and had talked about retrofit, infill and redevelopment. He said there were multiple examples of people being landlocked, where they had to go around to get to a bus stop.

Wilkerson noted the problem was that if they said a quarter mile walking they would have to run buses through neighborhoods, which in some cases, would not be possible.

McCourt explained this was really a guideline, and the intent was not to provide transportation to every citizen in Beaverton within one quarter mile of their front door. He further explained that the intent was to provide a general framework to ensure planning actions in the future will deal with developments and site specific criterion to provide needed breakthroughs that were not provided in the past.

Coun. Yuen said they would know whether or not the plan failed, succeeded or had shortcomings, depending upon how they measured. He noted if the plan said that bus service had to be within a linear quarter mile, then every cul-de-sac would pass that. He noted if they had the plan, they would be able to see where the weaknesses were. He said hidden within it were whole neighborhoods without transit access because of the way the streets were designed in the past. He stated it was better to make a realistic statement, and admit that there were portions of the City which failed.

Wilkerson asked if they were trying to get the bus service within a quarter mile or get better access to the bus service for neighborhoods.

Mayor Drake responded they were trying to improve transit service to increase ridership.

Wilkerson said if they were talking about walking distance, it appeared they would be telling the bus service to increase their coverage. She wondered if they should augment the last sentence to talk about looking for pedestrian connections where there were none, to try to achieve this. She explained that they could not run the buses up all the streets, but

could look for additional connections for pedestrians.

Coun. Yuen remarked that he did not disagree with that, and said there was a difference between a goal, policy and reality. He added they should not change their goals to suit realities they would like. He felt they should set a goal and acknowledge that they would not reach it everywhere.

Coun. Yuen noted on page 13, bullet four, there was a recommended action that talked about controlling land uses in airport noise corridors and limiting physical hazards to air impacts. He asked what they were talking about.

McCourt clarified that there was a heliport at St. Vincent's, and they should have something in place since it might be annexed into the City.

Coun. Soth noted they were in a flight pattern for landings from the west. He said in the summary regarding the ability to acquire land by exaction, many present streets had been acquired that way and to go back for another exaction they might run into trouble in view of the Dolan case, and other decisions that had been made. He suggested they look at that carefully in areas of redevelopment rather than new development. He said it had not been challenged on new development in the City, but it could be in the future.

Coun. Soth stated he disagreed with Stanton on the *wills* and *shoulds*, because to him the *shoulds* gave them flexibility, since no two situations were exactly alike. He noted there had been some embarrassing moments when *will* was used and they would have liked the flexibility of *should* but were prevented by the language.

Wooley explained that he thought the *shoulds* were meant for Comprehensive Plan goals, but in Development Code language it would be *wills* or *shalls*, and they could be changed as necessary whereas the Comprehensive Plan was much more difficult to change.

McCourt noted the other issue with regard to redevelopment in terms of exaction, the intent was not to double exaction, but if the development came in now, they would have to play by the rules of today. He explained that the roadways requirement might be bigger, and that would not happen unless the people were asking for approval of a land use action which would have to do with increasing traffic.

Coun. Soth noted, using that as an example, if the property owner came in and said they need a bigger road, what would they do about the rest of the owners who had no intention of developing even though that need might be present. He clarified that he assumed this was a "taking" in the 20 year time frame so the umpteen million dollars was projected out over that period. He said in terms of any defined project, the money needed to be available at the time, but they need to take a look at what was available. He noted that Davis Road had been considered since 1976,

and another one was 125th, which had been considered since 1972.

Mayor Drake commented with the failure of the legislature they were hoping the transportation package would pass this time and 125th would be an easier reality.

McCourt emphasized that the dollars were current dollars, so the cost would increase over time because of inflation.

Wooley commented that Hillsboro and Tigard were working with the same consultant and asked McCourt how they were handling the functional classification issue. He noted there were questions as to how they would handle joining jurisdictions.

McCourt responded that Hillsboro was similar to Beaverton, and Tigard was behind both Beaverton and Hillsboro. He said the concept of neighborhood routes actually started in Tigard. He said there was probably one interface, which was the extension of 125th down into Tigard into North Dakota, where they had made some changes with traffic channelization which limited the amount of two-way traffic on that route. He noted this was probably the most fundamental change where the functional class had been broken down between the two cities, and most of the other ones worked out at least close to the Plan. He noted this was one where there was clearly an issue and the City had recently dealt with it.

Coun. Soth commented regarding Coun. Yuen's remark about transit, his concern was where the routes were placed, because the physical structure of the streets needed to be able to take the heavy traffic, and they needed to remember maintenance and upkeep. He said Tri-Met needed to have some responsibility for where they put their routes.

McCourt said in the Plan there was a set of proposed street characteristics and a layout of such things as vehicle width, on street parking, bicycle lanes, curb extensions, sidewalks, landscape strips, medians, etc. He noted that it laid out the information according to the functional class, and added that arterials and collectors were the appropriate routes for transit.

Wooley said they would have another attachment E and asked if they wanted them to incorporate it into the document.

Mayor Drake said he thought Coun. Yuen was interested in looking at the prioritization and maybe they should do that before it was codified in case there were any major departures.

Coun. Yuen stated he would agree with that and said he hoped they would agree with what had already been done. He noted that ultimately they were responsible for what it said, so they needed to agree. He said he had some questions regarding priorities.

Mayor Drake responded they would look at that, but they would not bring it all back and reopen it.

ORDINANCE:

Second Reading and Passage:

98-28 An Ordinance Amending Ordinance No. 2050, The Development Code, Reducing the Financial Guarantee Requirements of Developers for Subdivision Improvements; TA 970002 (Security for Subdivisions)

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that the ordinance embodied in AB 98-28 now pass. Roll call vote. Couns. Brzezinski, Yuen, Doyle, Soth, and Stanton voting AYE, the motion CARRIED unanimously. (5.0)

OTHER BUSINESS:

Coun. Brzezinski asked if Mark Pilliod, City Attorney, had read the letter received from Mr. Kane and was there a problem.

Pilliod responded he had, and was prepared to respond if a legal proceeding was filed. He said Kane was asking the court to decide how the City process for setting an appeal hearing and giving notice of the hearing would be defined and how the code operated. He said all of this would be part of the City's upcoming land use decision should there be an appeal. He noted Kane would take this out of the Councils' hands by having a Court say they had already given notice and therefore violated the appeal hearing date-setting obligation. He said they had given notice, but those were two distinguishing acts. He explained that if the applicant and appellant were contacted after the time frame for filing had passed, it might be up to the Council the following week, February 9, to decide when the hearing would take place. He noted that under the code, the Council had that choice. He recommended that February 17 be selected, thus giving twenty days advance notice of the hearing on February 17, 1998.

Mayor Drake noted it had gone through an extensive public process already. He said they were trying to hear this in a timely way.

Pilliod said he thought any judge that would choose to hear this would be familiar with the Mandamus process, and familiar with the 120 day rule including the completion of all internal appeals, while satisfying the notice requirements. He reported the City would demonstrate with testimony and a timeline, how difficult it was to conclude the land use process while giving the required notice. He said the Council could decide that the February 17 was too soon. He noted if the applicant and the appellant could not agree that February 17 was an appropriate day, it was the Council's decision to make. He said that was what Kane would take out of their hands.

Mayor Drake asked if there was not a 120 day framework with this issue.

Pilliod said there was not in this case.

Coun. Yuen stated that if there was no 120 day rule, then it was not imperative to schedule in advance.

Pilliod said that was correct and the Mayor's response was basically the reason for the advance scheduling. He noted the original conditional use was granted in October of 1996.

Coun. Yuen noted he was concerned that a judge being familiar with the 120 days and Mandamus, would say making it convenient for some people was not the same thing as trying to get it within 120 days.

Coun. Brzezinski reiterated that the 120 days issue was not relevant in this case.

Wilkerson noted that the same clause applied to the 120 days and their interpretation of their rights under this clause would apply when they do have 120 day limits as well. She said Kane's challenge was that the City could not do it under that clause ever, because his interpretation was that it would not satisfy City code requirements. She said if his interpretation stood, they would have trouble.

Coun. Brzezinski expressed her concern that this was an open discussion.

Mayor Drake asked if Mr. Miller could argue against the Mandamus or was that an option only for the City.

Pilliod responded he did not believe that Mandamus was the appropriate remedy, and that Kane would have a restraining order and injunction, He thought Miller would seek to intervene, and that a Court would likely allow it. He said he thought Miller would want to be involved.

Coun. Yuen asked why they would have to make a decision regarding the hearing on February 9. He wondered what was happening February 9 that would make the Council want to do that, as opposed to doing it that evening.

Pilliod explained that they were talking about setting a hearing on an appeal, but as yet there was no appeal. He noted, under code, the City Recorder was obligated to ask the appellant and the applicant, if different, about the earliest possible date for setting a hearing, and arrive at a common date. He noted if that were not possible, then it would be placed before the Council to determine the date.

Coun. Yuen noted the next opportunity for the Council to set a date would be February 9. He said it appeared that Pilliod thought there would be an

appeal in time for it to come to the City Council on February 9. He asked if the Council could then say they needed to set this 20 days in advance, and do that.

Pilliod said they could do that, or they could decide to have the hearing on February 17.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:39 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 30th day of March, 1998

Rob Drake, Mayor

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