

REGULAR MEETING

July 27, 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, July 27, 1998 at 6:05 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Couns. Yuen was excused. Also present were Chief of Staff Linda Adlard, City Attorney Mark Pilliod, Human Resources Director Sandra Miller, and City Recorder Darleen Cogburn.

EXECUTIVE SESSION:

Coun. Soth MOVED, SECONDED by Coun. Doyle that Council move into executive session in accordance with ORS 192.660 (1)(d), to conduct deliberations with persons designated by the governing body to carry on labor negotiations. All Councilors present voting AYE, the motion CARRIED unanimously. (4:0)

The executive session convened at 6:06 p.m.

The executive session adjourned at 6:27 p.m.

RECONVENED:

The regular meeting reconvened at 6:53 p.m.

Also present at the regular meeting were Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Department Director Thomas Ramish, Operations/Maintenance Director Steve Baker, Library Director Shirley George, Police Captain Richard DeHaan, Principal Planner Ali Turiel, and Senior Planner John Osterberg.

Mayor Drake explained the executive session meeting and why the regular Council meeting started later than usual. He thanked everyone for their patience. He said they had already taken roll call and all of the Council were present except Coun. Yuen, who was excused. He noted they would not be taking public testimony on the Sexton Mountain Village issue, because they normally didn't under consent agenda items. He said their attendance and the information they had given to Council was appreciated. He stated the Council would pull AB 98-211 for separate consideration and a motion would be made to deal with that issue.

CITIZEN COMMUNICATION:

There was no one who wished to speak.

COUNCIL ITEMS:

Coun. Brzezinski announced that the Beaverton Senior Citizen Advisory Committee was holding a workshop on Saturday, August 1. She noted it was free and open to the public and would be held in the Council Chambers at City Hall. She explained it was a workshop exploring Alzheimer's disease and was geared for the lay audience. She said there were five people who would make presentations on various aspects of the disease; legal, medical, care giving, etc., issues that anyone may be faced with at some point in the future. She announced it would begin at 9:45 a.m. and would end by 2:15 p.m. She remarked that lunch would be provided for participants who registered in advance. She concluded by saying interested persons could call 526-2665 for more information.

Coun. Stanton noted on Tuesday night, August 4, the City would participate in its third National Night Out. She said Night Out had happened around the country for a number of years and was dedicated to getting people out into their neighborhoods, to take back their community from less law-abiding citizens. She explained the activity in Beaverton would be an event at Griffith Park, with games, ice cream, a dunk tank, kid's free bike registration and a bike safety course. She said it was a nice way to meet other people in the community and to make the statement that "we care about our City and we care about our neighborhood."

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Mayor Drake pulled AB 98-216, Authorize Mayor to Sign IGA With Marion County to Install the Pavement Management System, and explained that it was not ready to be acted on by Council.

Coun Doyle MOVED, SECONDED by Coun. Soth that the consent agenda be approved as follows with AB 98-211 to be pulled for separate consideration, and AB 98-216 to be heard at a later time:

- 98-211 ECP 97002/ECP 97003 Sexton Mountain Village Comprehensive Plan Amendment
- 98-212 A Resolution Declaring a Nuisance of Discarded Vehicles on Property at 5270 SW Lombard Avenue Beaverton, OR 97005 (Tax Lot # 1S1 15 CA 4100) and Ordering its Abatement
- 98-213 A Resolution Declaring a Nuisance of Noxious Vegetation, on Property at

14275 SW Lisa Lane Beaverton, OR 97005 (Tax Lot #1S116 CC 529) and Ordering its Abatement

98-214 RZ 980011 Stanton Meadows

98-215 VAR 98003 Stanton Meadows

98-216 Authorize Mayor to Sign IGA With Marion County to Install the Pavement Management System

Contract Review Board:

98-217 Waiver of Sealed Bidding – Gasoline & Diesel Fuel for City Vehicles for Fiscal Year 1998/1999

Coun. Stanton thanked staff for answering her question.

Question called on the motion. Couns. Brzezinski, Doyle, Soth, and Stanton voting AYE, the motion CARRIED unanimously. (4:0)

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that AB 98-211 be called up on its own motion for a public hearing *On The Record*, to be held on September 21, and as part of the motion to have September 28, open for the possibility that Council may wish to extend the public hearing over two nights, depending on the length of the hearing.

Coun. Soth said he made the motion because of the split vote of the Planning Commission (PC) and the nature of the proposal, which was different than many things the Council had heard. He noted this element needed Council's consideration and that it did not mean Council would vote one way or the other. He commented that the hearing would be held for two reasons. He said the first reason was the PC was an appointed body and the City Council were elected representatives. He said the second reason was the Council had the responsibility to hold such hearings so citizens knew the elected officials had accountability for issues in the City. He noted that previously all issues came through the Council for rehearing, but they delegated many issues to the PC because most things were not controversial and therefore it was not always necessary for Council to review them. He noted that was why they had an appeal process through the Code.

Coun. Stanton said she would not support the motion because while she agreed with everything Coun. Soth said, she believed that the PC, although appointed, were appointed with deliberation by the interviewing committee and approved by Council and that they had developed expertise over the years. She explained she would vote negatively because the decision had been made and she believed the PC did their job.

Coun. Brzezinski said she would support the motion because she

believed the PC did their job as well. She noted that in the past when she had been a new member of the PC, it had bothered her when City Council overrode a decision that the PC had made. She noted that the Council could draw on additional information that the PC couldn't. She said she was never upset when Council pulled an issue for separate consideration that they felt needed further discussion. She remarked she wanted to make it clear that although she seconded and supported the motion, that did not mean she knew how she was going to vote when it came to the public hearing. She said it was an important issue for the City, and deserved to be heard by the elected officials.

Coun. Doyle said, out of respect for Coun. Yuen and the Mayor, he would hesitantly support the motion. He said it was wide open and was never wrong for the public to work through something as a community.

Coun. Brzezinski asked for an explanation of the term *On The Record*.

Mark Pilliod, City Attorney, explained that generally two options were available to the City Council in conducting a hearing. He said one option was to begin a hearing process with a blank slate: *De Novo* (meaning "new from the beginning") which was a little misleading, because the staff would assemble all minutes and written documentation from the PC proceedings and present it to Council in advance of the hearing for review.

Pilliod noted that the same process occurred with an *On the Record* hearing, but the difference was that in an *On the Record* appeal hearing, the Council would not consider new evidence. He explained that the Council could consider arguments from people on evidence already in the record, but the Council could not accept new evidence. He pointed out that, in contrast, a *De Novo* hearing was where new evidence may be presented for the first time to the Council. He added that as he understood the motion, it would be *On the Record* so new evidence not previously submitted to the PC, would not be considered by the City Council.

Mayor Drake noted they had set aside September 21 and 28 for the public hearing, so the docket was cleared and people could be heard. He said he would like to follow the same format as the PC, where the presentation by the applicant, (Haggens) would be limited. He said they would also limit the time for both the Neighbors for Livability and the Rezone Committee. He specified Council would ask that they not repeat what had been said previously. He stated that the meeting would not go until 3:00 a.m. as it had with the Miller Sanitary issue, but it would end at a reasonable time like 11:00 or 11:30 p.m. He said they might close the hearing, stop taking testimony, and perhaps vote on the third night, the way the PC had.

Coun. Soth noted they already had a four-inch thick notebook of everything, plus more information they received that evening. He said as far as he knew every member of the Council diligently read all the material and made notes so they were sure not to overlook any points in the

record.

Mayor Drake directed Council, staff and the audience to be prepared for the issue to be discussed for two full nights and for the final vote to go to a third meeting if necessary. He commented he supported the effort to call it up, and he was concerned anytime he saw a split vote such as they had on this issue at PC. He explained that the Mayor only voted in the event of a tie, and had only voted three times in the last six years and might not have to vote on the issue. He stated that he appointed the PC, and supported them, however, the Council had the authority to review issues. He clarified that his support for calling it up had nothing to do with whether or not he supported the application for the comprehensive plan change. He commented that he supported the right of Council, as elected officials, to act.

Question was called on the motion. Couns. Brzezinski, Doyle, Soth voting AYE, Coun. Stanton voting NAY. Motion CARRIED. (3:1)

RECESS: Mayor Drake called for a recess at 7:10 p.m.

RECONVENED:

The regular meeting was reconvened at 7:21 p.m.

PUBLIC HEARING:

98-218 Citywide Annexation Policy (CPA 98011)

Coun. Brzezinski said she did not think they needed another presentation, they had all been through it before.

Ali Turiel, Policy Research Manager for the City of Beaverton and Joe Grillo, Community Development Director introduced themselves.

Coun. Soth asked if ORS 195 was the implementing statute for Senate Bill 122 (SB 122).

Turiel said that it was.

Coun. Soth noted that when they discussed it before, they said they did not want any islands, and if there were islands created, they would be annexed according to statute. He stated he did not see islands listed in the staff report and noted they had been major controversial factors in other cities. He explained that Oregon law provided for annexation without public acquiescence.

Grillo asked if he was referring to the factors.

Coun. Soth said a policy went beyond factors. He noted the policy said this was something that needed to be stated as a matter of policy.

Turiel commented that in terms of the actual Annexation Policy (Policy), section 3.11 was the introduction to the listing of factors. She suggested that there should also be a last sentence following the statement about non-residential and vacant properties being generally the most desirable for annexation. She stated that addressed the City's policy that islands would not be a long-term annexation.

Coun. Soth said he thought that except for the issue concerning islands, it was well done and easy to read and understand.

Coun. Brzezinski commented that in the discussions in work sessions, much had been said about whether factors should be factors to be considered or criteria which must be met. She said she agreed with the approach of having them be factors because there were some on the list that were in opposition to each other. She added it would be difficult to meet all of the factors, but they all needed to be considered. She asked if any thought had been given about putting the factors in priority order.

Turiel commented that it was not discussed at Council, but had been discussed at the PC public hearing. She said they discussed what might be considered a heavier weighted factor compared to another. She said the PC could not come to a consensus about what that would be and at the present time they were ordered somewhat by type and that did not imply weighting.

Coun. Brzezinski stated she thought it was a pretty good listing in terms of priority and asked how the other Councilors felt. She noted she thought the wishes for the residents were the most important priority but should not go so far as to make it be a criteria, which must be met.

Coun. Doyle asked what the purpose was for ranking the factors.

Coun. Brzezinski explained that it would accomplish recognition that the wishes of the residents were very important. She said it would take fewer of the factors if they were at the top end, but at the lower end there would have to be a lot more evidence supporting annexation.

Coun. Doyle commented that he did not disagree with the idea, but thought they could spend a lot of time arguing about where these factors should fall on a priority list.

Coun. Soth said he did not agree that they needed to be put in priority order because with the eight methods for annexation existing in statute, there was no way to make some of these factors more important. He noted that with any given area it would depend on the circumstances pertaining at the time as to which of them would be more important.

Grillo commented that he and Mayor Drake had discussed the issue that morning. He noted the informational memo (in record) distributed that

evening indicated that Metro was thinking about providing some additional guidelines to the annexation process, as well as where they believed they needed to be with the dissolution of the Boundary Commission. He explained they might have to come back for some fine-tuning of the policy.

Grillo explained that this was a broad policy issue, and Council should give themselves as much latitude as possible. He said sometimes there were going to be annexations that represented a near term resolution to an issue, and sometimes an annexation might represent a long-term benefit to the community, and the factors should be viewed that way. He reiterated they should give themselves the broadest latitude they could so they could move the community in the direction they wanted it to go.

Coun. Stanton commented that she did not want to move anybody anywhere, but wanted people to be able to choose to be part of the City. She said there were four factors that had to do with things that happened after annexation. She noted the first paragraph talked about Chapter 195, the last sentence said, "it is the City of Beaverton's policy that unincorporated areas... should ultimately be annexed into and served by the City of Beaverton." She said the previous sentence talked about Chapter 195, which did not talk about annexation prior to City services, rather it talked about provision of services with annexation following. She said it was a semantic, philosophical point and she would like it to read: "Should be served by and ultimately annexed..." because SB 122 provided service with future annexation. She pointed out that if they so chose, they could provide services to unincorporated areas and charge for those services.

Coun. Brzezinski referred to the second paragraph and reminded them that they (Council) had agreed with the policy, i.e. "that the City would not extend urban services to parcels outside its municipal limits as a matter of course."

Coun. Stanton remarked she read something about Cooper Mountain water, which was not about annexation but about water provisions.

Mayor Drake said Cooper Mountain was in the urban service area, and with the 1993 agreement, the plan was that at some point it would be annexed. He explained they had a unique situation in that area that as the parcels were developed, they needed water service for consistency, since there might have been two or three providers for that area. He noted they proposed to honor the agreement that the Council and Water Board had approved in 1993, and pointed out that it was part of a phased-in plan. He commented that it was never intended that the City would not annex it.

Coun. Stanton said she understood that but used it as an example of providing the service before the annexation.

Mayor Drake clarified that would at least be a partial annexation and a water annexation, with the notion that at some point it would be a full

annexation. He remarked that was probably a point of frustration with the neighbors because they felt it was some veiled attempt by the City. He commented that the County certainly was not hiding its intentions about providing urban services in urban areas where they thought Cities should. He said the City had been working toward that goal, but it did not necessarily mean it would happen tomorrow.

Coun. Stanton said that was her point. She added she was looking at the language in the third bullet, dealing with the ability to supply City services concurrent with annexation. She noted that she did not want it to be construed that people had to be annexed in order to get the services.

Coun. Brzezinski said she thought that was what they wanted to do; that if someone wanted services they had to annex.

Coun. Stanton said she thought the SB122 process was to figure out the service areas and provide services as necessary, and annexation eventually.

Coun. Soth said the SB122 process was designating that the City would provide the services eventually, and in this case, most of the service providers would not change. He gave examples as Tualatin Hills Park and Recreation District, Tualatin Valley Water District, and Tualatin Valley Fire and Rescue. He said in most cases they were talking about the level of service and if an area annexed first, then it was in a position to say what level they wanted. He noted the City did not provide planning services ahead of annexation and Cooper Mountain was an extremely special circumstance.

Grillo said Coun. Soth was correct in that the SB122 process was only designed to attempt to resolve who would be the ultimate service provider. He noted it did not imply that the City would supply services during the interim. He said, for example, if Washington County was providing code enforcement services in an unincorporated area, it might be that the City would be the ultimate service provider for code enforcement in that area. He explained that did not imply that the City would be providing code enforcement during the interim. He pointed out that would require a separate intergovernmental agreement between the City of Beaverton and Washington County.

Mayor Drake opened the public hearing.

Bob Tenner, 7695 SW Wilson Ave., said he was the Citizens for Community Involvement (CCI) Annexation representative, and had been keeping records. He noted they had discussed this at the last CCI meeting but no decision had been reached. He stated that he did not represent CCI's opinion, but only his own. He commented that he was concerned that at the PC meeting, they could not arrive at a conclusion about what was essential and what was not essential. He stated that he disagreed with the idea that it was not important to have something

essential and not important to have some criteria, but it was only important to have essential topics. He remarked there were at least a couple of essential criteria that should be and must be established. He said the statement "a majority of the resident voters consenting to the annexation" had been the policy and should be made a part of the policy.

Tenner referred to Bullet 3, about who would provide services, stating that his understanding was that SB 122 required the City, at the time of annexation, to provide services. He said the City should have plans in place to service newly annexed properties before they became part of the City and that should be set up as criterion. He referred to taxation and timing the annexation and said that one of the reasons they had not proceeded with annexation was because of the inability to move the taxation forward. He noted when an area came in, a taxation policy should be set up at that time.

Coun. Soth explained the term "to provide services" did not mean the City had to provide them directly but could contract with the already existing service providers. He said they knew that Washington County, through its 2000 Plan, would say at some time in the future, that they were out of the urban services business, so people in unincorporated areas better make up their minds to belong to a City. He said the committee he served on was working with the City of Hillsboro and other interested parties toward providing urban services to unincorporated areas. He commented that the factors addressed all those probabilities very well.

Tenner said the City should acknowledge SB 122 for an annexation policy, which required the ability of a city to supply services. He commented that the annexation policy should say there could be other services than the City actually provided and SB 122 should be acknowledged in that sense as a requirement and not just as general criteria.

Coun. Doyle said he made a similar point, but perhaps as a result of the Public Hearing, staff could craft a better annexation policy.

Tenner explained that his intention was not that everything should be set up as mandatory, but some factors were more important than others.

Coun. Stanton asked what Tenner had said about the bullet nine criteria.

Tenner stated that the timing of the annexation should be determined with how it would be put on the tax roles.

Mayor Drake clarified Tenner's statement by explaining that would mean there would be "no free ride." He said that was what staff had recommended to Council and Council had adopted. He noted recent annexations were planned for up to a year in advance, so the City could plan and not provide free service until revenue could be collected. He said that had not always been the case and Tenner's point was well taken.

Coun. Stanton referred to bullet nine and asked Grillo about the voter approved annexation plan. She said they were talking about resident voters and noted that some cities had a requirement about a citywide vote on annexation. She inquired if there was a special term provided, other than the term "annexation plan," if a neighborhood wanted to join the City and set up a plan ahead of time for when and how they would be annexed.

Grillo said the voter approved annexation plan reflected back to ORS 195.

Coun. Stanton said that was not clear, and the City needed to add information from ORS 195 or SB 122 or change the language so it would not infer that it would only happen with citywide annexations.

Pilliod noted it seemed that section could be read in a way that unduly limited the City to delay bringing the assessed value on, or opposing property taxes. He said in a given case, if they wanted to be more flexible (Cornell Oaks being a good example), when it just said "voter approved" that could be interpreted to mean citywide voters. He noted it could mean as it did in the third bullet, the residential voters of the area to be annexed. He said that was the clarification they were looking for and it might be obvious when you stood it up against ORS 195, but there was no reference to it there.

Coun. Soth said he understood that provision to mean that the people in the area to be annexed would have to approve accepting the City's tax rate for their property if they wished to annex. He said he did not know if it was SB 122 or 4750 where that provision was installed, but that factor was certainly there.

Coun. Stanton said Coun. Soth's explanation only gave credence to what she was saying, which was it was not 100% clear. She reiterated whether they went with essential or non-essential criteria or factors, it should be made crystal clear.

Turiel said it was a compound sentence and suggested it could be cut into two sentences or two factors. She said in the second half of the sentence ORS 195 could be referenced.

Mayor Drake noted that was a good suggestion.

Doug Baxter, 16085 SW Flagstone Dr., said he was not a Beaverton resident, and hoped not to be for awhile. He noted he supported Coun. Brzezinski's idea of making some of the factors essential. He said he agreed when Tenner emphasized the first factor as being essential. He noted if they did not make that factor essential then they would be denying representation for those who were being taxed and that was one of the principles this Country was based on. He said the first factor was ambiguous, and recommended it should be a one-man, one-vote principle as opposed to the idea that a developer with 100 lots would have 100 votes and would vote for the people that had not moved into those houses.

He explained that those people would not be a party to that agreement.

Mayor Drake advised Baxter that the idea of a single parcel and a developer's wishes to be annexed needed to be explained.

Coun. Stanton said the developer would be annexed before he submitted his subdivision. She explained it would be one vote for the whole subdivision or property owner.

Baxter commented that when they considered an area that had both developers and existing development, it was an unfair balance for the developer to vote for annexation on a large parcel of land that would draw the entire existing development into the City. He suggested splitting the annexation between the developed and undeveloped property. He reiterated that the first bullet needed to be essential and clarified.

Baxter emphasized Coun. Brzezinski's point about ranking the factors. He noted that some of the factors opposed each other and it was vital to give consideration to which factors were most important. He agreed with Coun. Soth's point about the City providing services through a third party. He concluded that it should not be a requirement that the City physically provide services in an annexation, but that a third party providing services should be adequate.

Mayor Drake explained that State law currently allowed a third party to provide services.

Baxter commented that it seemed clear that the City did not want to provide services to areas that were not part of the City. He said that at the same time, how could annexations occur if services were not provided to them first. He suggested drawing up agreements that said the City would provide services on the condition that annexation would occur by a certain named date. He said he would like to be kept informed of changes as they were decided.

Coun. Soth referred to the first bullet and said he thought Baxter misunderstood in terms of residents and property owners. He noted that current law required consent or approval of a majority of property owners and residents in a double majority annexation.

Baxter said that was not how the first bullet read.

Coun. Soth explained that was why it said the majority of either or both. He cited the example that Mayor Drake had given concerning one developer who might have ten acres he wanted annexed. He said normally that would be done as a single owner consent annexation, where nobody else had any input. He went on to say the double majority came in when it was a larger area encompassing other properties. He noted as a part of that, as with other types of annexations, if ten percent of the people in that area objected in writing then it could go to a vote of the people. He said it

was not intended to be specific, however they could say "...in accordance with Oregon Law."

Baxter said he thought they should define policy better than saying these factors would be considered. He reiterated that some of the factors should be essentials and noted the double majority wording should be included as an essential. He said he wanted the ambiguities to be clarified when it came to writing policy.

Coun. Soth said the policy was not specific, and explained that policy was a broad outline under which one operated. He said it started with broad outlines, then the specifics were denoted somewhere else in policies or in manuals or other types of directives, which got into the very specifics. He noted that was the difference between policy and specific implementation.

Baxter said he understood Coun. Soth, but wanted the City to make policies as clear as possible, not as vague as possible.

Pat Greisel, 6225 SW Mad Hatter Lane, said she was a member of the Citizens for Community Involvement (CCI) and they had been looking at the policy. She asked for clarification, and said in Council's effort to be flexible, it was difficult to be specific. She said she was concerned about various annexation information which had come to her in the mail. She mentioned it wasn't so much about islands but more about "balloons with long strings."

Greisel said she was concerned about the dilution of services to the rest of the City and maintaining Goal Six. She asked how the City could tell when annexing areas that were floating out there, were causing a dent in services to the rest of the City. She commented she was thinking specifically of police services. She noted she was especially concerned when she looked at areas off of Oleson Road, and understood that it would all be part of Beaverton, but in the interim there was a problem with providing services. She said it looked like there were pieces of land such as the golf course that would be there a long time before being annexed. She said she realized the City could not annex contiguously and wondered if there was a measurement in place to tell if services were not being provided adequately to the rest of the City.

Mayor Drake said he was not sure how to quantify Greisel's statement.

Greisel said if that was not considered to some extent, the movement to have total voter approval of annexations might be the result.

Coun. Soth commented that the ideal situation would be to annex six blocks at a time. He explained the example Greisel used was initiated by the people in that area, and referred to the first bullet and said those people requested annexation. He said the same thing happened in NW Beaverton, the residents initiated annexation.

Greisel said she thought she understood in one of the factors that if the City felt annexation was not appropriate, they could delay it. She asked if that was an option.

Coun. Soth said that was correct. He explained the City delayed one of the proposed annexations for one year because of the timeframe restriction for tax role purposes. He said the idea was to annex at the proper time to provide money to provide proper services.

Coun. Brzezinski referred to bullet four and said it was speaking exactly to what Greisel was talking about; they had to consider the fiscal and operational impact on City services before they agreed to annex even residents who wanted to be in the City. She stated that it should not be an automatic thing. She noted they depended on staff to analyze and report the cost to provide services to those areas and balance that against tax revenues that came in from them. She said regarding the police, the City wanted the police-to-citizen ratio to stay consistent regardless of how many people come into the City. She commented it was not the case of adding more people, but not adding police. She explained the voters had given the City permission to hire police to keep it at the 1.4 officers per thousand-citizen ratio. She trusted that the City was not getting more people in and then not getting more police. She said staff had to show her that the City could afford to provide services to an area even though it might look removed.

Mayor Drake commented that interestingly with the statewide votes for those measures, it made the annexation more attractive because the value of the property was added to the base, thereby not draining other properties. He said the value of the property was added to the City values. He added that the City had negotiated with the County and was not required to take the County's roads. He said staff had been diligent in negotiating with the County to get them to bring the roads up to standard so the City would not take something that was infrastructure deficient. He noted the other possibility was not to annex an area until the roads were brought up to standard. He said if there were major deficiencies in storm drains or similar problems then they would be required, as part of an annexation, to form a Local Improvement District (LID) to take care of that deficiency.

Mayor Drake said Greisel's comments were good and noted that when he was a member of Council he would often ask staff if an issue was a gain, a loss or neutral for the City. He complemented staff for their work and said they put in a good effort to try and give a general answer. He noted it would probably depend on the year (and what was happening at the time) that the question was asked. He commented it would have been looked at long term and assessed as to the needs in the specific area. He said some areas would need more work sooner than other areas. He noted that he lived in a newer part of the City that would not need storm drains or sewers replaced for a long time. He said, on the other hand, there might be older parts of Beaverton where the infrastructure would have to be

replaced because it was forty or fifty years old. He said it was necessary to look at a continuum over time especially in Beaverton where so much growth had occurred in such a short period of time. He commented that the older areas would have to be retrofitted for storm drain or sewer. He explained it was a combination of factors in that parts wear out and as the City expanded bigger pipes were needed to carry water.

Mayor Drake said Greisel's question was a very fair and one the City wrestled with. He said for example, in the recent West Slope annexation the City required the County to bring the roads up to standard before the annexation was approved. He said there had been discussion with the neighbors about traffic calming and the County provided funds with the annexation that were put toward traffic calming.

Coun. Stanton said in December of the past year, when they started the thought process, before it went to the PC, one of the issues that came up on bullet four was the actual expression of the cost/benefit ratio. She commented intentions only went as far as the five Councilors sitting there that night and that was why she agreed with citizens that testified about clarity. She said that by leaving it vague it gave Council more flexibility but also left them open to a future when it could be misconstrued or misused. She concluded they needed to be as clear as they could in making policy.

Coun. Doyle said the Council had obligations as stewards of the citizens dollars and it made good sense to clarify the document. He said he liked the fact that it was only one page.

Jack Young, 10770 SW Heron Circle, Beaverton noted he was at both PC meetings. He said the PC was concerned about criteria in the sense that if criteria was listed, then it must be followed, the way it was in the PC decisions. He explained that an area might not be annexed that other wise should be. He said that they were really annexing persons and leaders and not area, although literally area went with it.

Young said he suggested at the PC that criteria should not be defined and measurable but rather should be safeguards, addressed before annexation was finalized. He explained that where there was clear threat to public health, safety or welfare, the removal of health and safety hazards through the provision of municipal services must be a matter of cooperation, coordination and intergovernmental agreements between Washington County and the City of Beaverton and was therefore not an annexation criteria. He said the administrative and fiscal impact to finalizing an incomplete Washington County permitting processes should also be part of an ongoing cooperation and coordination between County and City. He emphasized accessing the impact of current and future zoning and development, road classifications and road standards in areas surrounding Beaverton where cooperation and coordination would be beneficial to County, City and most importantly to the residents in the affected areas of potential annexation. He noted impacts to land use changes needed to be addressed as both criteria in terms of impact on

the City from the annexation itself, as well as continuing concern in the City's cooperative coordination with the County. He said in conclusion, what he was calling for was the development of criteria as safeguards and as part of a careful planning process in a responsible annexation policy.

Coun. Stanton thanked Young for clarifying the definition of criteria. She referred to his statement about criteria being the safeguards, the benchmark, which indicated that was where they wanted to be.

Young said some criteria could be developed as standards at a later time.

Coun. Brzezinski remarked that if you were a qualitative person, what Young said would be true and if you were a quantitative person it wouldn't. She said that to her a criterion was something that had to be met.

Young said that may be true and the PC did not want to make that decision with a set of those kinds of things that might force them to make a decision. He said the PC felt otherwise it was people and future leaders rather than just land and money would keep them from doing that. He noted his concern was that those otherwise necessarily defined issues could become those things you address, or those things you take into account so some area might be annexed if you understood the impact, rather than if it was an impact of a certain sort that was met.

Coun. Brzezinski said she did not understand what Young said.

Young explained that suppose an area to be annexed needed to meet a certain fiscal impact on the City and it was discovered that fiscal impact couldn't be met immediately. He said that by annexing that area and identifying when the fiscal impact could be met would make the annexation possible and the issue would have been addressed.

Coun. Brzezinski said what it meant was a factor to be considered.

Young responded by saying if it were criteria, you could not annex.

Coun. Doyle said he did not have a problem with a solution that would demonstrate that for the first year the absolute criteria of the tax situation were not met, but that in five years it would be taken care of. He noted both Young's and Coun. Brzezinski's concerns would be addressed by exactly what was before them. He said there would be no hope if they said that for the next ten years the rest of the City would subsidize an area. He commented that there was room to make common sense decisions and hoped that was what the Council would do.

Young responded by saying he respected Coun. Brzezinski's thoughts. He said they should defend criteria and criteria could be safeguards in the sense that safeguards would be addressed.

Coun Brzezinski said for her, the bold face sentence before the bullets,

said that each of the factors would be weighed, not that they might be weighed. She said she felt that was the safeguard that was not going to fall between the cracks.

Young said he testified that night because he felt they needed some criteria. He said he tried to distinguish between criteria which got in the way of annexation, which was why the PC didn't adopt them as that kind of criteria, and a different way of looking at criteria. He explained criteria became weighty in the sense of being weighed but not weighty simply in the sense of being looked at. He said if you addressed a legal or financial problem you solve it at some point, rather than simply saying "we looked at it, since we really like this area we are going to annex anyway and we will solve the problem down the line." He noted that in the discussion before the PC that distinction hovered and that was why he felt closer to Coun. Brzezinski's point than she thought. He said he was trying to pick up what he heard the PC say, which was they were not going to reduce them to the kinds of things that would prevent an annexation if they were not definably and measurably sitting there in front of them.

Mayor Drake asked Young if he was proposing that they potentially all be criteria or if there were key ones. He said for example in the third bullet from the bottom, the word potential was a big word. He explained that under Metro's Framework Plan and Statewide Planning Goals, they could annex 20 acres of land that had a single house on it. He gave the example that a family could have passed the land through to a twenty year old son or daughter with the likelihood they would make the statement, "Mom and Dad gave me the house and I'm going to live here for the next 80 years and I'm not going to touch that land, those woods are going to stay but they are mine, and nobody is ever going to touch them."

Mayor Drake explained further that while there was potential if someone died and the property was subdivided to meet Statewide Planning Goals and the Framework Plan requirement, if the owners were young and healthy they could close the gate and say "leave me alone." He said if that was the case Statewide Planning Goals would not be met. He noted that once the land was brought into the City and if it was inside the Urban Growth Boundary (UGB), to keep the UGB in tight form, you would want to increase density to meet the Framework Plan goals; annexing that piece of property wouldn't necessarily help the City meet its Framework Plan requirements. He reiterated the key word here might be potential, but he wondered if Young was suggesting some criteria, and he thought that was where that intellectual argument came in. He said in the case of the third bullet from the bottom, a large piece of land could be picked up that would never help meet the density requirements.

Young said he thought there were some factors that made annexation desirable, but could not be considered criteria. He said there were other factors that made annexation desirable but did not become a safeguard in any sense of their terms. He noted as to factors that were weighted, then they would be criteria because they had been addressed. He remarked

that a lot of what went on should be in cooperation with Washington County. He commented that there were several areas where he hoped the City would use their own planning goals instead of the County's and if they had to be retrofitted in some sense, the City's standards should apply. He complimented Council by saying there couldn't be five better people to decide on what factors would be chosen.

Coun. Stanton thanked Young for reminding her of something she had noted. She said she circled the five items listed as *potential*, and wondered how *potential* was weighed or measured. She explained that she personally did not think that, since the bold statement did not say "each of the following factors would be weighed equally," she would assume they would be weighed equally. She noted she did not think any of the five *potentials* should be weighed equally with anything, because it was someone's best guess at what something might be someday. She explained she did not see them as essential to determining an annexation and would like them to be in a sub-category as factors. She said the factors were important and needed to be looked at but were hardly "deal-makers" when it came to annexation.

Mayor Drake asked if she was suggesting a tiered approach.

Coun. Stanton suggested that a two-tiered approach would work. She said if they were measuring or weighing, then they needed some things that they could measure against, but the *potentials* were not something that could be measured.

Young said he did in fact address *potential* when he was looking at each factor. He said he did not like the word *potential* either but would like to see an orderly, efficient, provision of public facilities and services, and not the potential to maintain or improve established levels of service, but the capacity to provide those services. He said it might be necessary now or at some point, but if it was a policy it needed to be addressed and agreed upon in the process and a potential to do that was meaningless.

Mayor Drake remarked that they could actually change the word *potential* and add a capital letter to make it a proper noun. He said it would be possible to make tiers.

Mayor Drake closed the public hearing.

RECESS:

Mayor Drake called for a recess at 8:30 p.m.

RECONVENED:

The regular meeting was reconvened at 8:38 p.m.

Coun. Brzezinski apologized because she felt Council was not ready to proceed with the recommended action after the last work session. She

said she wanted staff to be their most negative, and act as devil's advocate to tell her what the disadvantages were to making the first bullet something that was required to happen. She wanted the record to show that she was forcing staff to be negative on this issue.

Mayor Drake reminded them that the bullets most noted were one, three, four and nine. He noted that those were the ones he felt Council and the citizens were most concerned about.

Coun. Stanton said bullet two was required of them, without choice and that was why she thought that should be one of the criteria, because it was forced upon them.

Grillo referred to bullet two and said there was specific procedure in the ORS that dealt with a health or safety hazard that was raised. He noted that whether or not this Council or any future Council adopted it as a factor, criteria or whatever they chose to call it, it was imbedded in ORS, and the City would be asked to participate with the Department of Health. He said then there was a very explicit way in which the Department of Health reviewed it and made the judgment.

Coun. Stanton asked why it was there as part of the policy.

Grillo replied that it was the staff's attempt to be complete as to the issues that came before the Council, recognizing that it was rarely going to be used but it was always there. He said it was not there to be redundant.

Grillo referred to factor one and said there were eight different ways under ORS, that people could come and make the case, and provide evidence that they had complied with ORS, in terms of presenting a petition under a certain annexation. He noted it was not always necessary to have a double majority. He suggested factor one should be written so that it said that the City and or the applicant needed to show they had complied with one of those eight ways that were within ORS. He said the ninth way was not available to Council at that time.

Grillo explained the ninth way was part of the most recent Legislature adopting the aspects of SB 122. He noted it said if the various government agencies came together in the SB 122 process and decided who would be the ultimate governing agency to provide services, then and only then could you produce annexation plans. He commented that those annexation plans had criteria that had to be included within them in terms of what area would be proposed to be taken first, vs. second, or third, how services would be provided, and what the efficiency was. He noted there was a whole list of criteria with which they had to comply. He said that was the ninth way to do annexation and Council did not have it at their disposal at that time.

Coun. Brzezinski noted that Grillo had answered it completely and she trusted and believed there were eight different ways that one could be

annexed. She stated that before she voted on something she would want to know what the eight different ways were.

Coun. Soth said in answer to the question on the word *potential* he suggested on the sixth bulleted paragraph it should be changed from "potential to create" to read "creation of an easily definable municipal limit." He also suggested in the seventh bulleted paragraph the wording be changed to "controlled by the City of development or redevelopment...." He concluded by saying the third bulleted paragraph from the bottom should read "...including Statewide Planning Goals and Metro's Regional Framework Plan." He said he thought that would eliminate the *potentials*, and also clarify and add some positive aspects to the Annexation Policy.

Coun. Stanton said she was comfortable with taking the word *potential* out of the Policy. She noted she still looked at those five things as not critical and should not have to be met, in order to be annexed. She said they could be a factor that could be weighed but she would like to have some criteria or essentials, and she thought those five did not fall into the category of criteria.

Mayor Drake commented he thought Coun. Stanton wanted a framework, a nucleus of basics that would have to be met.

Grillo pointed out that the last two bulleted paragraphs on the bottom of the page were likely to be further refined by Metro and represent Metro criteria. He noted as part of the Council and staff going back and wordsmithing it in a few more weeks they would have a better idea of what Metro would do in their own wordsmithing. He pointed out that the Council was not under a timeframe to adopt the Annexation Policy and noted what they saw in the Periodic Review was that they would revisit and rewrite the Annexation Policy. He said there was no requirement within that commitment that there had to be factors, criteria or whatever. He explained that it would be sufficient to say that Council looked at the Annexation Policy, wordsmithed it, perhaps added a sentence or two and came up with three paragraphs. He clarified that he did not want the Council to leave the meeting that night believing they had to do something in particular.

Mayor Drake suggested the Annexation Policy be brought back to Council at a later date, since a number of recommendations had been received that evening. He said for example, the eight ways approved by State law and a ninth way as soon as SB 122 was finalized, Coun. Soth's suggested ways to remove *potential* and Grillo's description of Metro's criteria in the last two bullets.

Mayor Drake suggested the Annexation Policy be brought back to Council in 30 to 60 days if Grillo thought Metro would be finished by then. He said staff had a September deadline to get the Boundary Commission information to the full MPAC committee. He noted there was a January 1, 1999 deadline that had to be met and the (Metro) Council needed time for their own hearings to get through their own committees. He said to send it

back out within the next couple weeks, make it available to those who testified and anyone else who wanted to see it.

Grillo asked that those who were wordsmithing to share their information with staff.

Coun. Brzezinski responded to Grillo's comment that there was no requirement for Council to change the Annexation Policy. She expressed her appreciation of the recommended Citywide Annexation Policy and said it was much more clear and straightforward than what they currently had and she wanted to continue to devote effort to it.

Coun. Doyle said it needed to be done, and if they waited another 60 days to do it right that would be fine.

Mayor Drake asked for Council's concurrence to bring the recommend Annexation Policy back in October. He said they might have a better picture of where Metro would be at that time. He directed anyone with comments to pass them through the Mayor's office and directed staff to have it done within the next two weeks so people would have a chance to comment on it before October.

Coun. Stanton stated for the record that she wanted the PC to know that they were not re-crafting the Annexation Policy because they did not do a fine job. She explained that Council was just looking at it closer.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:50 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 4th day of January, 1999

Rob Drake, Mayor