

REGULAR MEETING

August 17, 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, August 17, 1998, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Forrest Soth, Cathy Stanton, and Wes Yuen. Coun. Dennis Doyle was excused. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Community Development Director Joe Grillo; Director of Engineering Tom Ramisch, Operations/Maintenance Director Steve Baker, Police Chief David Bishop, Administrative Fire Chief Gary Nees, City Transportation Engineer Randy Wooley, Development Services Manager Irish Bunnell, City Engineer Terry Waldele, Project Engineer Bob Tamola, Police Captain Richard DeHaan, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

There was no one who wished to speak.

COUNCIL ITEMS:

Coun. Yuen distributed a copy of the annual certification of the jail. He noted that they had received an invitation from Kevin Mannix to participate in the Criminal Justice Roundtable discussion on August 24, 1998 from 9:00 a.m. until 11:00 a.m. at the Garden Home Recreation Center.

Mayor Drake said they had already committed to attend the Roundtable.

Coun. Yuen announced that Sunset Corridor Association and Tualatin Valley Economic Development Corporation had merged into the Westside Economic Alliance. He said he received a FAX regarding a breakfast forum that would meet on August 20, at 7:30 a.m. at the Greenwood Inn. He noted the topic was Regional Connections/How Our Economy Works and he reviewed the various featured speakers.

Coun. Stanton wanted to know if the Mayor's Walk for Central Beaverton was August 20 or 27.

Mayor Drake said it had been moved to August 27, at the request of Council.

Coun. Stanton reminded those present that on September 10, in the Council Chambers, the State of Oregon House Revenue Committee,

would meet from 9:00 a.m. to 2:00 p.m. She said the meeting was to let people know what the state legislators were doing and also to get input and feedback. She noted that Representative Ken Strobeck chaired that committee and would be there. People were welcome to speak to the Committee regarding revenue.

Coun. Brzezinski noted this was the first Council meeting since the Senior Citizen's Advisory Committee held their Alzheimer's Disease workshop on August 1. She reported that they had a really good crowd, about 100 people attended and the speakers were excellent. She noted people expressed how much they were learning from the workshop and the Senior Citizen's Advisory Committee would probably do a similar educational workshop annually. She thanked Mayor Drake for attending.

STAFF ITEMS:

Linda Adlard, Chief of Staff, announced that the City was officially part of a nationwide Red-light Running Strategic Planning Program. She explained that the funds the City was applying for were in grant form and she hoped they would be able to have a full program paid for through Section 402, the Highway Safety Program. She said the Safety Program was implemented in 1966 under the Highway Safety Act and these programs came through ISTEA funds. She explained there were specific dollars set-aside for Red-light Running programs. She said it was the US Department of Transportation, the Federal Highway Administration, Chrysler Corporation and the National Trauma Association who were providing a majority of the money.

Adlard went on to remark that Beaverton and Portland were the two groups in the State that had signed up for the program. She explained that they hoped to run an informative public relations campaign on the dangers of running red lights, and possibly when they went to the Legislature in January they would be able to use some of their experience from that. She said their motto was "Next Time you think about running a red light, think again, by then it will be green." She concluded by saying they (the Federal Highway Administration) had developed several video and radio ads that the City could utilize. She said the material would be brought before Council for approval.

Coun. Brzezinski asked if the City had received the money.

Adlard said they were applying for the money, and hoped they would receive a good share of it, because the City was one of just a few jurisdictions in Oregon. She explained if the legislation went through they would pay for a person, and possibly the cameras and the equipment.

Coun. Brzezinski asked if the City got the money, would they still be able to do it if the Legislature said "No."

Adlard responded by saying the City could use the funds to do a campaign ad on the dangers of running red lights.

PROCLAMATION: Census 2000 Priority

Mayor Drake noted that the US Census Bureau had contacted the City and noted they were setting up shop in the State in the coming year in preparation for Census 2000. He said Beaverton was one of the headquarters for the Census within the State.

PRESENTATION:

98-220 A Certificate of Achievement for Excellence in Financial Reporting

Mayor Drake said the City was honored by receiving the award, and thanked Patrick O'Claire, Finance Director, and his staff for their continued commitment and outstanding work.

98-221 Presentation of Shields and Swearing in of New Officers to the Beaverton Police Department

Mayor Drake noted it was a tradition to swear in new officers at Council Meetings in acknowledgment of the City accepting them into the fold.

Chief Bishop came forward and thanked the Council and Mayor for their continued support and said it was his pleasure to have the opportunity to swear in four new officers. He called the officers forward and thanked the other members of the agency for being present and thanked families and friends for their support.

Bishop administered the oath to Paul Leonard, Brian Blunt, Troy Barnbrook, and Gardner Smith.

Mayor Drake presented the new officers with their shields

Bishop said this was the first part of the presentation, and invited everyone to the Community Center for pinning of the shields and a reception.

CONSENT AGENDA:

Coun. Yuen MOVED, SECONDED by Coun. Brzezinski that the consent agenda be approved as follows: Agenda Bill 98-216 carried to 8/31/98 and AB 98-222 and AB 98-228 pulled for separate consideration.

98-216 Authorize Mayor to Sign IGA With Marion County to Install the Pavement Management System (Carried to 8/31/98)

98-222 New Sister City (Pulled for separate consideration.)

**98-223 Liquor Licenses – Change of Ownership:
Applebee's Neighborhood Grill & Bar
7-Eleven**

- 98-224 Revised Classification Recommendations
- 98-225 SB 980001 Stanton Meadows
- 98-226 Resolution supporting Annexation of Yamamoto Manufacturing and Requesting Annexation of 167th Place Right of Way
- 98-227 Waiver of Sealed Bid – D.A.R.E. School Supplies
- 98-228 Approval and Authorization for the Mayor to Enter into a Loan Agreement with Preserve Spencer House, Inc. for Roof Replacement (Pulled for separate consideration.)
- 98-229 Ratify a Personal Services Contract Entered Into by the City Attorney With Outside Counsel to Provide an Opinion Regarding Employee Disciplinary Measures

Contract Review Board:

- 98-230 Citizen Opinion Survey
- 98-231 Bid Award – Westside Interceptor Storm Drain Project No. 2 (Bonnie Brae/141st Storm Drain Improvement Project) (Not CRB)

Coun. Soth noted that AB 231 was not a Contract Review Board item.

Coun. Brzezinski stated she wanted to make her annual statement of principle about AB 98-227 the D.A.R.E. school supplies. She affirmed she was fully in support of police in schools, and in support of the police as resource school officers. She explained that she was not fully convinced the D.A.R.E. program was the best use of funds.

Coun. Stanton reported that she heard on a local radio talk show, that the D.A.R.E. program was losing its level of support, because the numbers were not bearing out some of the goals they had set. She noted that for her, until something else took D.A.R.E.'s place, she would stick with D.A.R.E. She stated that in her own household D.A.R.E. had made an impact.

Coun. Brzezinski said she did not know if the police had looked for something else and thought the collaboration between the schools and the police department was good. She noted she would like to find a program that had more documented impact.

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

- AB 98-228 Approval and Authorization for the Mayor to Enter into a Loan Agreement with Preserve Spencer House, Inc. for Roof Replacement

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that AB 98-228 be approved.

Coun. Stanton said she read the historical perspective and said it referred to 48 multiple family rental units that would provide housing for 150 families. She asked for an explanation.

John Engel CDBG Redevelopment Project Manager introduced Topaz Faulkner the Executive Director of Tualatin Valley Housing Partners (TVHP), who could answer the question.

Faulkner explained that TVHP had a relationship with Preserve Spencer House, and there was no simple answer if they looked at families. She asked the Council to think of it in terms of individuals, and reported that 150 individuals lived at Spencer House.

Coun. Stanton asked for clarification.

Faulkner explained that she thought what the staff was referring to was that they had individuals in one bedroom units and there were families in one bedroom units as well as families in the two and three bedroom units. She reported that on average they had a little more than three people per apartment and that was how it translated to 48 apartments. She went on to explain that a little over three people per unit, translated to 150 families. She noted it was confusing if you thought of it in families, and reiterated that it was individuals.

Coun. Soth commented that Preserve Spencer House was a neighbor of his, and he had watched it before and after it was built. He said he thought it was one of the things needed in the City. He noted that he supported the concept of the agreement and that it had proven to be a good project over the years.

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

AB 98-222 New Sister City

David Wiles said he was the Chairman of the Beaverton Sister Cities Foundation, and was there to ask Council to consider adding Cluses, France to the Sister City's group.

Coun. Stanton noted that she liked it since it was near Lyon.

Coun. Soth asked in terms of commercial relationships, was there anything existing between the City of Beaverton and the City of Cluses at the present time, or any tentative feelers toward that relationship.

Wiles said they were currently not aware of any business that was

ongoing, but that did not mean that business did not occur outside of the Sister City framework. He said Cluses was selected for a Sister City both for its characteristics that were similar to Beaverton, and for the fact that Cluses was already a Sister City of Trossigen, Germany, which was also a Beaverton Sister City. He noted they thought the opportunity for exchange, both educational and business related, would be a growth possibility for the future.

Coun. Brzezinski said Cluses had recently become involved in the high tech industry and she suspected that was why they had approached the City of Beaverton.

Coun. Yuen MOVED, SECONDED by Coun. Soth that AB 98-222 be approved. Couns. Yuen, Brzezinski, Stanton and Soth voting AYE, the motion CARRIED unanimously. (4:0)

PUBLIC HEARING:

98-232 Rose Biggi Avenue Improvements – Approval of Street Design Concept and Authorization to Submit BDR Application

Bob Tamola, Project Engineer, introduced Greg Kurahashi from Kurahashi & Associates, Inc. (KAI), the City's consulting engineering firm for the planning and design of the segment of Rose Biggi Avenue from Canyon Road to Henry Street (Project).

Tamola said Kurahashi had developed three alternative alignments and would discuss those alignments that evening. He mentioned that there was a separate packet they had received, which was compiled after an informal meeting with the owners of the property. He noted there were six letters received (in the record) about the project and four of them had stated their preference for the three alternative alignments. He said he would review the letters if Council wanted him to do so.

Mayor Drake said they did not need to review the letters.

Coun. Soth asked for the existing width of the right-of-way (ROW) of that section between Canyon Road and Beaverdam Road.

Tamola reported that they had 20 feet and they needed a 50 foot ROW.

Coun Soth noted that would require an additional 30 feet of ROW acquisition.

Kurahashi said he was the civil engineer working for the City of Beaverton on the Project. He explained they would review the comparison of issues regarding alignments, and posted the display boards so Council and the audience could see the displays. He displayed three possible alignments, viewed from Canyon Road north to the Light Rail tracks. He noted that they talked about stopping at SW Henry St. and leaving the last bit of

ROW undone until the actual track work was completed. He said they might have to make some final adjustment when the track work was done.

Kurahashi explained that alternate number one was an alignment that went through the Tri-Met building, used the existing ROW, headed north and went through the Westgate Theater property and building. He said it would go through about half of the building in terms of its present alignment. He explained alternate number two went east of the Tri-Met Signal Communications building and clipped the east end of the Westgate building and would take the whole building. He noted alternate number three went through the west side of the Westgate building.

Kurahashi noted that Exhibit E discussed the comparison of issues. He said there was not a significant difference between the alignments regarding costs or impacts, although owners were impacted differently depending on which side of the ROW they were located.

Kurahashi pointed out that alternate number two, the center alignment was relatively improper since they would be unable to develop it because Tri-Met would not let them take half the Signal Communications Building. He explained that they needed to show it and discuss the issue of what would happen if they could accomplish it. He noted that although Tri-Met had said they could not do it, if enough money was offered and operations were disrupted long enough, it could be done.

Kurahashi said with the East and West alignments, they would still be dealing with impacts. He reviewed the impacts to easterly property owners and said the alignment that went to the east had a greater impact on those owners than if it went to the west. He said the impact to the westerly property owners, depending on which way it went was going to effect the westerly property owners more, if you used the West alignment. He noted that the impact to Westgate Theater, the northern property owner, was such that if they looked at future development, the impact of alternative three bisected the property. He said the parcel narrowed towards Cedar Hills Blvd. and would be broken up into two smaller pieces if they ran too far to the west.

Kurahashi explained that the Center alignment bisected the parcel and created remnant parcels. He noted the Easterly alignment ran along the east property line and did not break up the parcel into to many pieces. He noted that the Western alignment broke it up in to many pieces. He said it was not a decision that should be made based on the cost relationships they had. He pointed out that Council had been given ROW costs as compared to cost of the construction.

Coun. Stanton asked if the ROW costs provided were included in the total road costs in number four.

Kurahashi said that was correct, and reviewed the figures presented in the agenda bill. He noted that the impact for the Tri-Met operations was not

feasible for the Center alignment and fair for both the other alignments. He reviewed the City costs to raise the tracks, and said the West alignment, raised some additional track. He explained the original estimate was 600 linear feet of track raised with one alignment and 400 linear feet with the other. He said the Eastern alignment had a little less track to be raised which generated some additional cost but not necessarily enough to make a decision based only on that.

Kurahashi specified the two buildings affected with all of the alignments were the Top Copy building, located on the east side of the alignment and the Sheet Metal Shop building located on the east end of the alignment. He said if Council desired, he could go into detail about why they would take a building rather than just going in between the buildings. He noted that there was only 40 feet in between the buildings, so they did not have the full ROW between buildings at that time.

Coun. Soth asked if they would they have the 50 feet required if they took parking from the Cleaner's shop.

Kurahashi said they would, and explained that they needed 28 feet for the street, so they would end up being right next to the building with six feet on each side.

Coun. Soth asked if the requirements from those buildings between Canyon Rd. and Beaverdam would be approximately the same in any of the three alignments.

Kurahashi said that was correct.

Coun. Brzezinski asked about Fiscal Year 1998-99 costs of the track-way adjustment and related crossing signals. She said to a lay person who did not own any of the property, the alternatives did not look that different, and it was amazing to her that the cost was three times as much for two of the alternatives as for alternative two. She asked what made alternatives one and three more expensive.

Kurahashi said there were two things that made it expensive. He explained that one of the major reasons for the cost difference was they had already built part of the East alignment, since they needed to get some of the work done before Light Rail started.

Kurahashi explained that another cost issue was once they got into operation of Light Rail, there were major issues regarding how to keep Light Rail working at the same time work was being performed on the alignment. He noted that part of the investment money was spent early on, relative to making a decision on alignment. He explained that Council had taken a risk to spend some of the money and if they chose one of the other alignments they would lose some of that money, but in essence save quite a bit in terms of the overall construction costs. He said since Light Rail would be running, off peak hours had to be utilized for the

construciton. He described several construction projects about raising the track and poles that held electrical wires.

Coun. Stanton asked about ROW acquisition and said they were not talking about dirt, but about taking parts of people's buildings. She asked if it included relocating costs.

Kurahashi said it did include relocating costs. He explained that Sid Olsen, ROW Agent had worked on that part of the project.

Coun. Stanton said it looked like the sheet metal would have to move.

Coun. Soth asked how much distance there would be between Cedar Hills Blvd and the western edge (of the alignment) if the westerly alignment was chosen.

Kurahashi said there would be about 500-600 feet to Cedar Hills Blvd.

Coun. Soth referred to the Easterly alignment and asked how far it was to *The Round* property.

Kurahashi said it would be about 20 feet.

Coun. Soth pointed out the possibility of that property or parcel not being large enough for development. He noted the distance between streets varied in that part of town.

Kurahashi said there was a piece of property that was parceled out, and they did not know what was there.

Mayor Drake expressed his concern about the median on Canyon Road, and loss of access for traffic moving south on Rose Biggi Ave., going left and moving east on Canyon. He said he was surprised that there was no traffic signal planned there.

Kurahashi introduced Peter Coffey from DKS Associates, who could address that issue.

Peter Coffey said he was from DKS Associates and had done some work with the City in relation to the traffic signal. He reported that they worked closely with the State and had evaluated some different options of putting a signal there and what the related impacts. He said one of the biggest elements they found was the extensive amount of vehicle queuing on Canyon Road between Cedar Hills Blvd. and Watson. He noted that currently the queuing extended back from Cedar Hills to Watson, which was one of his concerns and ODOT's, as well. He explained that in the future the Cedar Hills/Canyon Rd intersection could be improved to reduce the queuing and at this stage it would be difficult to put a signal there because of safety concerns.

Mayor Drake noted that the State approved the access to Fred Meyer in front of CARR Chevrolet. He said the idea behind Rose Biggi Ave. was to open up those parcels of land. He named the Westgate Theater, the Biggi family property and *The Round*, and said those properties might be joined together along Beaverdam Rd. in the future. He pointed out that the opportunity for movement out of there and taking some of the traffic off the Hall/Watson couplet was lost.

Coffey said they saw the potential of Henry Street extending from Cedar Hills Blvd. all the way over to Watson. He explained that would facilitate more access so Henry Street could be used to get to Watson, which would facilitate movement out. He said he understood the Mayor's concern was coming out of the Rose Biggi property, the southbound left turn movement. He noted that essentially that movement would happen by turning onto Henry St., Henry to Watson, down Watson to access Canyon via Watson instead Rose Biggi Ave.

Mayor Drake said that Canyon Rd. had almost become Beaveton's main street and it conflicted with the State's notion and the fact that it was a State highway. He noted the vehicle count along there was 40 to 50 thousand cars per day. He said the difficulty was that it cut off the property owners and gave them very little time to consolidate properties or do what ever they would do, especially on the south side.

Mayor Drake said he was concerned about the State's inflexibility on the issue and he inquired of the Transportation Staff about how something like that could be. He asked if Coffey knew about any State plan to improve Cedar Hills and Highway 8.

Coffey said he knew that the City was still going through the process of their Transportation System Plan (TSP) and some improvements had been identified. He reported that the State did not have anything in their Six-year Plan.

Mayor Drake commented that the Legislature had not been funding transportation issues well.

Coffey said he agreed with Mayor Drake in that there were tradeoffs about the function of Canyon Rd. and its trying to serve a multitude of different purposes. He said they had some safety concerns about the problem of queuing and another traffic signal being put in. He explained that they had to facilitate the mobility of the system and another signal there would have some operational impacts and might not get as many cars through as were currently getting through.

Mayor Drake commented that he understood the answer but was not pleased with it. He said they would work with staff and then work regionally to try and get something done sooner at the Cedar Hills Blvd./Canyon intersection.

Coun. Stanton said she understood about not having a light, but she asked why a median was necessary. She said what the median did was stop westbound cars from going southbound into the businesses on the south side of Canyon Rd. She pointed out that had nothing to do with the Rose Biggi Ave. connection except that it would cut someone else off at their business site. She asked if there had been any discussion with the State about not requiring the median. She said she thought about the street one block east of Hall that went into the Damerow Beaverton Ford service area. She noted that it had no signal but served a purpose allowing people to get into some of the service areas. She pointed out that there was no median there, stopping people from access.

Kurahashi said the median was a safety issue with left turns onto Rose Biggi Ave. at that point. He explained that the need for a divider was for the conflicting movements into all the driveways in that general area that would affect the characteristics of turning into Biggi. He said that as far as doing without it completely, he would defer to Coffey in terms of whether or not there would be safety issues or problems with the alignments. He said they were trying to favor the movement that was coming north on Biggi.

Coun. Stanton reported that she worked and did a substantial amount of business in the Parkrose area near Sandy Blvd. She noted that the intersection of 122nd and Sandy was a perfect example of where there were several businesses that caused a queuing because of left turns. She explained that there were areas where cars queued up and everybody knew what to do because they all needed to get where they needed to go. She said her biggest concern was if they made it so safe by blocking one movement that they might end up blocking everybody. She noted it would make people go out of their intended direction, make U-turns, and go around the block to get to the business on the south side of Canyon because the median precluded them from where they wanted to go. She expressed her concern that it was about allowing people access to where they wanted to go, and allowing businesses access to their clients. She said she did not know how that could be addressed.

Coffey said it was a tradeoff between safety and the amount of access they wanted. He said they would have to turn on Watson and then go down Broadway.

Coun. Stanton asked if the State required the median on Canyon Rd.

Kurahashi said he did not think the State had required it. He noted that ODOT was sending a letter regarding their review of that access. He noted that there were two other points relative to that intersection and the reason for the island. He pointed out that the proposal to put an island there also limited the left turn movements off of Biggi, so that an illegal left turn could not be made there, since there was an expectation that people would want to do that. He noted there was also a discussion regarding

what the signal would have done in terms of pedestrian movement. He explained that because a signal couldn't be put there, there was a thought that by putting an island there, it would at least be somewhere to shelter a pedestrian crossing Canyon Rd.

Coun. Soth wondered whether it would be better to avoid installing a median during the construction phase. He suggested that it might be a good idea to wait and see how the traffic patterns flowed before installing the median. He said the reason being that the stacking that occurred there now, east and west of Cedar Hills Blvd., was mostly at peak hours, except on Friday and Saturday, when peak hours were from 10:00 a.m. to 6:00 p.m.

Coffey said there were pros and cons and not a perfect answer and they were trying to achieve what they saw as a safer solution.

Coun. Stanton said Coffey said it would reduce accidents, but there had not been any accidents because the road was not yet there.

Coffey said that was correct, but they were envisioning something that might happen.

Coun. Stanton asked if ODOT required the median barrier on Canyon Road to prevent left hand turns by southbound traffic from Rose Biggi Ave. onto Canyon Road. She said that if ODOT required it then she wanted to see the letter.

Terry Waldele City Engineer distributed a letter he had just received from ODOT. (in record)

Coun. Soth said the way the letter read it sounded like the median would still allow left turns on to Rose Biggi Ave. from Canyon Rd. He noted it appeared to him that a concrete slab would then be east of Rose Biggi Ave. in the middle of Canyon Rd. He said the same situation occurred on Walker Rd. at Hwy. 217 and Roxbury Ave. and drivers would go down Roxbury and make a loop around the median and then down the freeway ramp. He commented that the same thing would occur in this situation as well, and he thought it would be far safer to leave the median out.

Kurahashi noted on the diagram that the black lines were supposed to be curbs and a driver would have to go the wrong way in the flow and head the wrong way in the center lane in order to get through.

Coun. Yuen said it seemed to him that another way to restrict left turns out of Rose Biggi Ave., besides a center median on Canyon Rd. would be to put a "pork chop" there. He reiterated that there was no evidence that there was a problem there, and they could fix later if there was a problem.

Kurahashi explained that with the "pork chop" there needed to be additional ROW which would come out of the Cleaners property.

Mayor Drake opened the public hearing.

Dominic Biggi, 4220 SW Cedar Hills Blvd., distributed his letter to the Council and noted that it was part of the packet. He gave them a copy of the dedication (in record). He said he was representing his parents and aunt, and in his letter dated 7/18, he had noted they liked alignment two, for several reasons which outlined in the letter.

Biggi said alternative two was the best one to use for various reasons and in terms of ROW, and noted that his father Gene Biggi had donated the land for the ROW because of the need for connectivity. He stated that he thought it was important to get a road through there, and Light Rail was spending a lot of money to make a pathway to the station area. He noted they had put approximately one quarter of a million dollars in that particular facility. He said he thought the money was better used to get connectivity to *The Round* as well as opening that property for redevelopment someday.

Biggi stated that they thought there should be a traffic light installed, and asked how cars currently traveling east on Tualatin Valley Highway could get into that property. He explained there was no left-turn lane on Cedar Hills Blvd. and now there would be a similar situation with no left-turn lane on Rose Biggi Ave. He pointed out that there was no left-turn lane on Watson and cars would have to go down Hall and loop around or go in at Lloyd or Hocken to get into that piece of property. He said everyone was in agreement that eventually Henry Street would go through, but that was a long ways in the future. He pointed out that there were three streets in a row with no left-turn lanes and that defeated the purpose of connectivity in the whole area.

Biggi explained that he used that left-turn lane to go into the Cleaners every morning and had no problem taking a left into that one way road. He referred to his exhibit three, which was a copy of a letter from Sid Olsen regarding the Kurahashi survey. He pointed out the second paragraph talked about topographical features and said he and his family did not interpret topographic features as wetland studies. He noted that they would work really hard to make sure the City did not incur the cost of mitigation. He explained that another engineer would have found out that those were not functional wetlands to anybody. He remarked they did not drain off into any river or creek and were not a bio-filter for any body of water. He explained that it was an open field that water collected on during the wet season. He commented that he thought they should work a little closer on those issues and next time he saw something that said "topographical survey" he would imply that to mean wetlands or flood-way and probably call folks to make sure money did not have to be spent on those kinds of things.

Biggi asked if alignment two was adopted, would the land his family had dedicated to that shed be dedicated back or vacated back to the Biggi

family. He said no one had actually mentioned that and asked for verification.

Mayor Drake said he assumed that the land would go back to them. He asked Mark Pilliod, City Attorney, if the land dedicated was not needed, what would happen to the remaining parcel.

Pilliod explained that ordinarily the Council at the time it was determined the property was unnecessary, would be asked to vacate it, but until such time, it was still speculative. He said that answer was a good prediction, but certainly was not binding at that point.

Mayor Drake commented that once final engineering was done, and the road was built, they could survey what was left and presumably it would go back to Louise Biggi-Pinion's ownership.

Biggi asked that that information be in the public record.

Coun. Soth said as far as that issue was concerned, he wondered if it would have to be declared surplus, before they could deed it back to the property owner, even though they might be the only ones with an interest.

Pilliod reported that the process for disposing of surplus property, would not apply to that piece of property, it would go back to where they got it, in accordance with statute.

Coun. Soth said he thought Biggi was asking to see where the wetland was and what it was all about.

Biggi said he had seen the map, and believed the Kurahashi report went to the extreme end to create wetlands there. He said he thought the City and the staff thought it was an unnecessary wrinkle in the project and the Kurahashi folks who did the study went out on a limb to find a wetland there.

Coun. Soth noted that he had experience with wetland issues, and unfortunately the Federal Government had some strict criteria by which to judge. He said he had seen some wetlands on the top of a mountain

Biggi said it was a subjective science, and suggested they work closer on the issues. He stated that he was certain that no one wanted to ruin anything environmentally significant in the area, and believed the Biggi family, as property owners, had a responsibility to the environment around them.

Mayor Drake explained that the City did not go looking for that and was surprised at the study findings, and said that the City did not agree with it.

Biggi commented that he was a Washington County Planning Commissioner, and there was no way it would have gotten by him.

Mayor Drake clarified that it was not a vote the Council or Planning Commission (PC) took; it was a delineation made by the Federal Government.

Biggi remarked that the Federal Government took a vote without anyone else's opinion other than one engineer's study of the area.

Mayor Drake closed the public hearing.

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that the Council adopt Alternative Two, for the Rose Biggi Alignment.

Coun. Soth explained he moved as he did, because in view of the history of this project and the property owners involved and the connectivity besides the restrictions that were inherent in some of the other alignments, it appeared to him that Alternative Two would be the best way to go. He pointed out that it avoided the Tri-Met building, and it did nothing for the area south of Beaverdam Rd. and the connection with Canyon Rd. He noted that the wetland issues were fewer on Alternative Two particularly in the area described by Biggi. He said he believed Alternative Two would prove to be the greatest benefit, particularly in view of the future extension of it north of the tracks, and through the Westgate property which would provide an opportunity for more redevelopment.

Coun Brzezinski asked if Coun. Soth included the second part of the recommended action about submitting the application of the Type Three Design Review.

Coun. Soth said it was included.

Mayor Drake said he assumed that at a staff level they would work with the State to explore some different kind of designs on Canyon Rd. which would not impact the road alignment.

Coun. Soth said that was the intent as well as those technical issues that needed to be resolved with other parties.

Coun. Brzezinski stated that she favored Alternative Two because it did not cut the Westgate property into two pieces, and the difference in costs of track-way adjustments seemed substantial.

Coun. Stanton said she was leaning to not support the motion, and explained that she thought they should go up as far as where Henry St. would eventually go through. She noted that because redevelopment was not being done now, or crossing the tracks now, that development did not have to be done now. She said she was looking at the impact to the existing property owners on the east side of Rose Biggi Ave. She pointed out that they were not present because they wrote their letters and thought that was enough. She said she thought it was too fast.

Coun. Yuen commented that all the reasons he would vote were already stated. He appreciated the alternatives to having a center median and hoped they could find some way to provide access for those businesses on the south.

Mayor Drake restated the motion to clarify the recommended action to include that Council adopt Alignment Two and secondly to submit the project's application for a Type III Design Review and begin final design. He also said it was understood that the City would work with the State to assess whether the median alignment needed to be there and also explore a traffic light for that intersection.

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

RECESS:

Mayor Drake called for recess at 8:00 p.m.

RECONVENED:

The regular meeting was reconvened at 8:22 p.m.

WORK SESSION:

98-233

An Ordinance Amending Chapter 6 of the Beaverton Code Authorizing the City Traffic Engineer and Traffic Commission to Establish Traffic Control Devices

Coun. Stanton asked if Randy Wooley, City Transportation Engineer, got her questions.

Mayor Drake asked for questions.

Coun. Yuen stated that he appreciated the response to his questions and said he had not received a response from his four earlier pages of questions. He noted that there were several issues in the responses to his memo of August 17, he would like to discuss.

Coun. Yuen said in regard to pages two and three, Major and Minor Issues, the language definitions of Major and Minor Issues were a problem. He noted it was like a circular definition in a dictionary and he was looking for more clarification of the delineation between them. He said he would like to see an example in the ordinance of a definition of a minor issue. He explained they were looking at page three, section E, Minor Issues, sub-point 1.

Coun. Stanton said to back up Coun. Yuen, her comment referred to question number two, "What was the difference between D 12 and F." She noted they were exactly the same. She said D 12 was under Major

Issues and F was following the Minor Issues, and it was the new F under Traffic Calming which was identical in language. She defined Major Issues as permanent, and Minor Issues as less than 30 days. She noted there could be overlap in issues that they covered.

Wooley said that was not correct and that was not the intention.

Wooley wondered if they had put in too many examples already and that was where some of the confusion was coming from. He noted they had tried to put a list of what would represent what Major and Minor Issues were, and that was where some of the questions were coming from.

Coun. Soth asked if F and G were just definitions of things rather than a Major or Minor Issue.

Wooley said that was correct.

Coun. Soth suggested that the definitions really belonged up front as in most cases where definitions and explanations of what things were could be found. He explained he saw those as definitions rather than either a Major or Minor Issue.

Wooley said the discussion of Major or Minor Issues were definitions. He said the Major Issues were things that established new regulations on the motoring public, such as stop signs, traffic calming, and turn restrictions. He said things that were more warnings such as street name signs and warning signs done by staff were Minor Issues. He explained that things that did not put new restrictions on the users of the street were Minor Issues and noted there were other definitions for emergency situations.

Coun. Soth agreed with Coun. Stanton, and referred to page four, item F. He asked if they said traffic calming issues were the installation of various kinds of things, and was that a definition that could apply as a Major Issue. He pointed out that when those things were installed it did require more than thirty days and they were intended for more than thirty days.

Coun. Yuen said that F was not related to Minor Traffic Issues it was simply a definition of traffic calming.

Pilliod explained that the 30 days duration appeared to only apply to parking restrictions as an example of a Minor Issue, and did not generally apply to other types of devices or restrictions which were also Minor Issues.

Wooley said the idea of the 30-day restriction was to cover the types of traffic controls done for construction or special events. He noted they did not want every one-day detour to have to come through the full hearing process. He said they were trying to exempt that to allow turn restrictions or whatever was needed for those brief intervals.

Coun. Stanton asked if it only applied to non-permanent parking restrictions and asked if the "less than 30 days" applied only to parking restrictions.

Wooley said that was not the intent. He explained that they wanted to be able to mark detours and put up restrictions, as needed for short term events without going through the full process.

Coun. Stanton suggested putting "less than 30 days duration" after the words "Traffic Issue" in the first line.

Mayor Drake commented that it was describing non-permanent, or was at least defining what non-permanent meant. He stated that he thought it was in the appropriate spot.

Coun. Yuen suggested that examples needed to be included in the ordinance. He noted that all the examples were in one section and there were none in the other section. He said there was a description provided of what a Major Issue was, but that did not clarify a Minor Issue.

Coun. Yuen referred to bullet four regarding Section 6.02.065.4, emergency issues, on page 6. He asked, about the end of the first sentence, why wouldn't the Mayor think it was in the public interest. He asked if it was saying it was the Mayor who would be making the decision and not someone else.

Coun. Yuen referred to Section 5, page 6 and said part of his concern was that he thought they were telling people to do things they were already required to do. He noted that if the intent was they would do something different they should say that, but they should not be saying the obvious.

Coun. Yuen asked what the intent was of the notification. He stated that in this ordinance it required that the written notice of the Council consideration for each issue "shall be provided by regular mail to the Traffic Commission." He said one of the points he wanted addressed was if it was the intent to notify people that there might be a meeting next Monday and the notice was sent out Wednesday, the recipients might be lucky to get it by Tuesday, in which case it would be too late to get to the meeting. He asked if it was the intent to notify people so they could come to the meeting, or should people be notified by whatever means possible that there was a meeting.

Wooley said his intent was both so people would know it was on the agenda and could come. He explained that he did not think this emergency procedure as opposed to the extreme hazard, skipped the normal agenda process in which the agenda was known a week in advance, so there was time to send the information out by mail and be received before the meeting occurred. He clarified that he intended to skip the longer process of going through the Traffic Commission (TC) hearing process, which sometimes added two months to the process because of

the agenda scheduling process.

Mayor Drake explained that the TC met monthly instead of weekly.

Coun. Yuen suggested that the agenda could be revised at the last minute.

Mayor Drake noted that would always happen no matter what.

Coun. Yuen explained that he was concerned that if they simply required that notification was only by mail, then the strict following of this ordinance, might cause people to not be notified in time. He suggested that the notice be provided by whatever way possible, instead of requiring it be mailed.

Coun. Stanton remarked that currently if there were late changes on an agenda, someone would notify interested parties by a phone call. She expressed her concern that perhaps 10 years in the future somebody might operate by narrowly construing everything and saying all they could do was mail out notification.

Mayor Drake suggested adding the terminology "and other reasonable means."

Wooley noted there was a sentence that allowed additional notice, but did not require it.

Coun. Soth suggested "or other methods."

Mayor Drake suggested "and/or other methods." He commented they were looking for more potential means and he didn't think anything precluded anyone from doing that.

Pilliod commented that when "and/or" was used, it only added an element of confusion. He summarized that in all cases they would get regular mail but in order to make sure it was timely the City might also give some e-mail, phone or pager messages.

Coun. Yuen said that raised a good point and his preference would be "or."

Pilliod asked if regular mail could be disposed of, if the information was telephoned or e-mailed.

Coun. Yuen referred to the same paragraph, the last sentence, and asked if it was necessary to state "in the Mayor's discretion." He specified that he would like the last sentence deleted.

Coun. Soth asked if Coun. Yuen thought it was covered in the first sentence.

Coun. Yuen said it was. He clarified that he did not want the ordinance to be so prescriptive that it did not allow for flexibility.

Pilliod clarified the sentence "Notice shall be given by regular mail or by any other method designed to give timely notice i.e.: telephone, e-mail."

Linda Adlard, Chief of Staff, said to take "written" out of the first part of the sentence.

Coun. Yuen referred to bullet nine on page 11, about omitting section F, Notice of Appeal Hearing. He said that was something he had suggested in his previous memo and had not received a response at that time. He asked why that section could not be eliminated and simply say "see Section B-1." He noted that was standard procedure in the Development Code and wondered why another whole section would be necessary.

Pilliod explained that in the event of any confusion or uncertainty they would attempt to model the procedures after the Planning Commission (PC). He noted that if the procedures seemed a little more daunting or extensive compared to what happened at the Council level, particularly as to the notice, it was probably because it had reached that level of severity if it got to the Council level. He commented that he had no personal benefit or requirement that it be more extensive at the Council level. He clarified that notice could be very simple and these were not as exhaustive in terms of the procedural requirements that were in State law for land use proceedings. He said the earlier notice provision could be relied upon, if it said "in front of the Council."

Coun. Yuen said he assumed that TC notices were complete and provided that information as a regular course and asked Pilliod if they did. He thought the notice requirements of an appeal were the same as for a quasi-judicial hearing. He said if that was true, they did not have to spell it out again, because it seemed they were already doing that.

Pilliod said he thought the only difference was the reference as to who the appellants were and what their reasons were for appealing the issue.

Coun. Yuen agreed and said there were two ways to deal with that. He explained that one was not to have that in the document and the other was to say, "Notice of appeals shall be in accordance with section B1..." He suggested just adding the section detail about including the name of the appellant and the reasons. He said his preference was that they did not add the name. He pointed out that it was not done for land use issues, so he could not see why would it be done for TC.

Pilliod verified that they did not do it in PC. He noted that the Council and PC notice, and land use proceedings were essentially the same, other than the obvious difference of which hearing body was hearing it and the date. He clarified that the only other reason to insert the name of the appellant and their basis for the appeal was it would give people some

idea as to who the people were, and that was not really necessary.

Coun. Yuen said he preferred they were consistent, and that people would be more interested in the reasons for a land use decision appeal than they would be for a TC decision. He said if they did not provide that information for land use then he did not understand the rationale for providing it for TC.

Coun. Soth he did not disagree with what Coun. Yuen said, however TC appeals were not quasi-judicial hearings. He noted that the appeals received did not have the same force and affect, therefore they needed to be created a little bit differently in terms of what they required. He remarked it should be made more similar to the procedure followed in land use because people would be familiar with land use procedures.

Coun. Yuen said Council needed to direct staff about what to do. He said his preference was either omit Section F entirely and put verbiage into B-1 that more thoroughly covered the notion of appeal or leave the title "Notice of Appeal Hearing" in there and put in some suitable sentence which referred the reader back to Section B-1. He noted a third alternative was to leave Section F, the title, the appropriate sentence and then include the one extra item that seemed to be different from this in B-1. He said the difference was including the name of the appellant and a brief statement of the reasons for appeal. He expressed his preference to simply put a title and a sentence referring the reader to Section B-1.

Coun. Soth said B-1 did not specifically apply to appeals, which was where one of the confusions existed. He clarified that B-1 provided the notification and B-2 was the context. He suggested they include an explanation of the appeal of the process.

Coun. Yuen said they would get to that later.

Mayor Drake asked Coun. Yuen to explain his issue.

Coun. Yuen explained that it was a whole section that talked about appeal language that was almost identical to what was in B-1 or B-2 and even had more detail. He pointed out that there had been a lot of attention focused on an appeal which they would probably never have, and almost no attention spent on what they would do the most. He said it made no sense to do that for something that had very little use. He noted that in land use, they simply used the same notification process in both cases. He asked why didn't they do that here and what was so different about this that it required all this for an appeal. He said practically speaking they were going to notify the same way.

Mayor Drake asked Pilliod if it could be resolved.

Coun. Stanton suggested that the wording should be "see B-1 and 2 for notice requirements," which would meet her need.

Mayor Drake pointed out that they were not identical.

Coun. Stanton asked if they do that in appeals at the PC, why would they put the appellant's name and rationale. She pointed out that the appellant's name would be included in the notice.

Mayor Drake asked why it was in there.

Wooley said the City Attorney would know. He noted that the notice time was different and there were other differences between the appeal process and a normal hearing process.

Jack Young, Chair of the Traffic Commission, recalled that when they did Code review, some of the sections they identified were clarified by each section being complete in itself. He explained that the only other way to do that was to figure out how one section could be a sub-section of another so that the general category which would include both, would state whatever was common and then the differences would be delineated under the two separate general categories. He noted that way the hearing would have its common elements described in the hearing, and the distinctions would be separated out between the hearing and the appeals in a hearing appeal separate section with the same overall heading. He commented that his concern was about simply addressing the hearing as a sub section of something that was somewhere else did not allow the reader to be comfortable with what may or may not be left out or different from what was in fact in the hearing. He said one of the things a well-written document would do was allow the reader to be completely informed by any given section they were reading.

Young commented on Coun. Yuen's statement about why the appeal was more detailed when it would be used less, and said that was done because the appeal had more intensity to it. He said the regular hearing was formal, where a strict set of orders was followed. He concluded by saying that the intensity of an appeal, on the other hand, carried with it a different feeling for the person who was involved. He said that person was not just coming to a hearing to be part of something there, but they were there with a different feeling of intensity. He said he was not suggesting that Council direct their attention different from what they wanted to and he was simply allowing a different way of looking at the issue in hopes of clarifying it.

Coun. Yuen said he appreciated Young's comments, but disagreed with them. He said he wanted to resolve the issue.

Coun. Stanton read from the Development Code and said in it was clear as to be able to move back to the section where information could be found.

Coun. Yuen noted there was already a forward reference in section B1 in the first sentence. He said B1 looked like it was written to be a reference

from section F, otherwise why would that forward reference be there. He restated his preference was to put in the appropriate verbiage including the differences and refer the reader back to B1 or 2.

Coun. Soth said he disagreed but he believed that Section F could be substantially reduced. He suggested eliminating #2 because the location was already in #3. He said #4 stated that an appeal of a specific item had been filed. He suggested striking the words "and the appellants" and the word "provide," and give a brief statement or reason given for the appeal. He noted that #5 was irrelevant since those people would be there anyway. He said leave Section 6 as it was and delete Section 7 because 7 would be introduced either at the hearing or at the TC hearing.

Mayor Drake said #5 was needed because a person often called to ask whom the contact was for a certain project or appeal.

Coun. Soth said he had no problem leaving #5 intact, and noted that he was only interested in cutting down the verbiage.

Coun. Yuen said the point was there were only two ways to go. He commented that either everything was left in, because everything in there needed to be said, and either it was said in its entirety or take out everything redundant in Section B1 and 2 and only say the things that were different.

Mayor Drake asked staff if that could be done and asked staff to compare one to the other and do what Coun. Yuen suggested. He suggested that they cut down Section F to anything that was new, otherwise refer back to Section B-1.

Coun. Yuen stated that he did not think it could not be that difficult since there were books filled with examples on how this was done.

Wooley clarified that they would keep the differences in notice and time between Section B and Section F.

Mayor Drake agreed that was the intent. He noted that anything dissimilar to the first section would stay in.

Coun. Yuen noted that the other issue they needed to resolve was if the name of the appellant and the reasons for the appeal should be included in the notice. He said he did not think it should be there and said perhaps Council should take a vote on the issue.

Mayor Drake suggested that they should inundate the citizens with more information and make it easier for them to access the process. He noted that if the name of the person was there, citizens could call and get information. He said if there was going to be an appeal of something related to traffic, people might wish to contact the person who filed the appeal. He asked Council why they would be opposed to more

information.

Coun. Stanton said an appeal was of a decision based on an issue and whether they were talking quasi-judicial for PC or a type of siding in the Design Review Board, it was based on the issue.

Mayor Drake said it was up to Council to make the decision but he thought it was inconsistent with the City supplying more information rather than less. He said he thought it was critical that people knew who filed the appeal.

Coun. Stanton said unless they started doing it for Planning appeals and Design Review Board appeals, she did not think it was appropriate for the TC to single out individuals who appealed.

Mayor Drake reminded everyone that it was public record.

Coun. Stanton commented that if people wanted to call staff to find out who the appellants were that would be fine, but she did not want to send it out to in the mail to everybody. She felt there should be some protection for the appellant.

Coun. Brzezinski did not see the need for it.

The majority of Councilors agreed to take out the name of the appellant and the reason for the appeal.

Pilliod clarified that Four was not longer needed. He said his opinion was that regarding F-7 and B-2, broadly stated as it was, they were giving a general statement of the requirements for submission for testimony. He asked if they wanted to include it in the notice that went to the Council, and were they less concerned with the notice of that information to the TC.

Pilliod said if they were satisfied with the statement of what the process was, given at the beginning of the hearing, then there was really nothing about the contents of the notice before the City Council that wasn't, in essence, stated in the notice contents that went to the TC. He said in other words, B-1 could be referred to in this area in total and nothing else was different. He suggested they take out what was listed as F-1 through 7, because the earlier paragraph was different. He said the notification dates, time frames, the emergency action, the notifications in the newspaper of general circulation were all different. He suggested using a simple reference of "notice of the Council hearing shall be in accordance with B, sub 2."

Coun. Yuen referred to his bullet six, subsection 1, or B-1 on page 7 and suggested changing that sentence to refer backwards to section A as well as forwards. He recommended verbiage "except as otherwise provided in subsections A and F." He said that referred backwards to the emergency issues and as well as forward to appeals. He asked if it was the intent

that the City Council notifications supersede that.

Coun. Stanton said it was not part of A.

Coun. Yuen said it was A-3, emergency issue.

Pilliod asked if Council agreed on the verbiage "except as otherwise provided in subsections A-3 or F of this section."

Coun. Yuen suggested that the verbiage should be "except as otherwise provided in subsections... of this section." He commented that "of this section" was redundant because subsection by definition was of that section.

Coun. Stanton noted that not everyone knew that.

Pilliod said there was more than one subsection F.

Coun. Yuen said the more important issue was to incorporate Emergency Issues as well as Appeals.

Pilliod read the final version as "except as otherwise provided in subsections A-3 or F of this section..."

Coun. Yuen referred to his bullet number 10. He noted that he thought the staff was correct on this, and he had been thinking in terms of an appeal before the Council and staff disagreed because they were looking at it as a process rather than the title of an action. He commented that was fine.

Coun. Yuen said it applied also to his comment number 11.

Coun. Stanton noted that the TC did not come up with anything like a land use order. She said Council did not review land use orders, but they head appeals of land use orders and the TC did not do that. She stated that she was comfortable with "review."

Pilliod said in the absence of an appeal it did appear on the Council's consent agenda as a final order.

Coun. Yuen said if he was right, then he wanted the appropriate changes to the verbiage.

Wooley said he was referring to a City Council appeal and it should say "City Council review of an appeal."

Coun. Yuen said when reading through the document the word "appeal" appeared quite frequently and when it came to the word "review", it was confusing. He said the word appeal needed to be included to make sure the reader understood how that all pulled together.

Coun. Stanton said it should read "review on appeal."

Coun. Yuen referred to page 12, section H. He said it was his opinion that Council rules should apply and not the TC rules. He recommended that striking the language that said "pursuant to the requirements of subsection B of this section..." He said the sentence should read "the Council shall conduct a hearing on appeal in accordance with Beaverton Code ..."

Coun. Stanton asked in Section 1 D, first paragraph, and section 1 E, first paragraph and section E 3, if a major issue would not have been imposed or approved through the Design Review Process.

Wooley said that was right, and those would have been approved through the Development Review process itself.

Coun. Stanton asked if the PC made it a condition of development to put traffic calming devices in, didn't that make it a condition of development in the development process.

Wooley said that was right and then it did not have to go through the Major Issue process with TC because it had already been through a public process with Development Review.

Coun. Stanton referred to 1-E, Minor Issue, and asked for clarification.

Wooley said if it had been through that process then it did not go through the staff approval and the appeal process, it would go through the development process instead for appeal.

Coun. Stanton said they were not talking about appeal, but were talking about what the issues were.

Wooley said it would be for either one of them, if their conditions were being reviewed and approved through the development process, he was trying to say they did not go through the process of this ordinance. He said they either went through one or the other.

Coun. Stanton referred to E-3, and said she could not think of anything that Facilities Review did that did not become part of a land use *something* that Council approved under the consent agenda.

Pilliod said Facilities Review made all kinds of decisions that were incorporated into Design Review that never came to Council. He said PC decisions came to the Council.

Coun. Stanton referred to page 8 of section 12, on number 9, and asked if the hearings body chose to reopen the hearings at some future date, they could only do it at a date and time certain. She wanted some verbiage about "notice shall be given to all those who had previously gone through the mill."

Mayor Drake asked how that could be done without going through notice. He said if they were going to rehear it, or unless it was a date certain, they would be notified at the meeting that was originally noticed to be heard or was continued. He said he did not think a re notification was required if action was prescribed at the noticed meeting.

Coun. Stanton said it was number 10, and read the information. She said she wanted to add something that would require notification to people who had been involved previously.

Coun. Soth said that if they chose to reconsider it would be required.

Pilliod said he thought it was implied, but they could add a sentence to that effect. He said part of the confusion was in number 9 where it said "after the hearing body upon its own motion may continue the hearing to a time and date certain." He said the idea there was no additional notice of the continued hearing was required if the hearing body continued. He said in the Council rules, it used the words "announces the hearing..." which he thought was clearer at indicating when the date would be. He said that foregoes the need for a separate notice because they would have announced it.

Coun. Stanton said if anytime prior to the signing of the written order, they could decide to think about it again or reopen the hearing. She said at that point was there some other section that required that all commissions in the City did notice or did it need to be included there.

Pilliod said you would have to include it and it was a little awkward because after the hearing was concluded and a tentative oral decision was reached the staff, as a matter of practice, prepared an order which the chair signed prior to the next TC meeting. He said they would not have the opportunity before its final signed order to say they wanted to reconsider.

Coun. Stanton read from the document "the hearings body may after approving a motion to reconsider modify or change the oral decision." She said if they were doing that was there somewhere else that required notice in other ways.

Coun. Yuen said the verbiage was to provide for the occasion that it might happen, even though the likelihood of it happening was pretty slim because of the way the process worked. He noted that if it could happen it needed to be in the document. He asked if what would happen if somehow the land use order was not signed and at the next TC meeting someone decided to bring it up for reconsideration and the TC said agreed. He asked if that fell under Oregon Public Meeting Law. He stated there was no legal requirement other than what they put into the paragraph that would require subsequent notification.

Pilliod said you had to clarify the difference between public meeting requirements and public hearing requirements. He said if they were going to reconsider and allow testimony then that would be a public hearing and one would expect people to be given some sort of advanced notice of their opportunity to participate in that hearing by giving testimony. He said if it was merely the process of meeting again to talk about it, if they were not intending to solicit or allow public testimony then it would be a public meeting and notice would be given of the meeting in accordance with State law as to public meetings. He said that would be an agenda item. He noted there was a big difference if you were going to allow testimony, then it would be a public hearing. He suggested if in reconsideration the TC would allow additional public testimony on the issue then notice of the public hearing should be given in accordance with B2.

Coun. Stanton said the hearing body might modify or change an oral decision and or choose to re open the hearing, which would mean if they did not sign the final order, they could bring it up at the next meeting and they could change the decision. She said that was legal according to that section.

Adlard said what they needed to do was to use a word that described the changes, which you did not want to happen without further public involvement. She suggested they use the word "significant", or "major." She said the City did not want to notice the public about the change of a word like "shall" to "should."

Coun. Stanton pointed out the wording was to change or modify the oral decision.

Young said they had done this before, and if they had a public hearing and closed it, it was done. He reiterated that if they held a public hearing and closed it then the public hearing was finished. He said the decision that followed had nothing to do with its configuration. He said they could decide for or against something, or modify and come up with any kind of decision. He said if one of the persons from the commission or the chair decided that the decision made at the public hearing wasn't a good idea, they could decide to reopen it. He said at that point they were still at the phase of all ready having conducted the public hearing and the change of the decision was no different in that sense than the initial decision that was made.

Coun. Stanton said that was right, but the people who were at the first meeting, would not be there for the second decision.

Young said if the same evening a person who had voted for something that won said let's reconsider, on the same evening, then that was allowed even though most of the audience had gone home at that point. He said it was no different.

Coun. Stanton said it was different to her, and it was the perception of

openness.

Mayor Drake said it would be just as deceitful doing that after the crowd left as doing it the next week. He said even though it was legal to reconsider at the next meeting.

Coun. Stanton asked if the PC could do that now.

Pilliod said they could

Coun. Soth noted that a motion to reconsider did not mean it was going to pass.

Mayor Drake said one was held accountable for those kinds of tricks. He commented they saw other governments do it, but this government had not done it.

Coun. Stanton referred to page 9 of 12, B6, and said she wanted the final language to make it within three days of the signing of the final order so that it would go out in a timely fashion. She read from the document and noted it did not say when the written order had to go out.

Mayor Drake asked staff for comments.

Coun. Stanton said staff's comments said similar language was available for PC and BDR and that was just a matter of requiring notice of decision must be mailed within three days of the signing of the final order. She said that was in section 50:31.G.2.

Wooly asked if they could come back with a first reading next time.

Coun. Yuen suggested that because of the interest that some of the Council had on the issue, it really needed to come to Council way before the meeting.

Mayor Drake recalled that some comment was asked for and asked if any comment had been given.

Coun. Stanton noted that those comments related to a different issue.

ORDINANCES:

First Reading

Suspend rules:

Coun. Soth MOVED, SECONDED by Coun. Yuen that the rules be suspended, and that the ordinance embodied in AB 98-234 and AB 98-235 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the council. Couns. Yuen, Brzezinski, Doyle, Soth, and Stanton voting AYE, the motion CARRIED unanimously (5:0)

Pilliod read the following ordinances for the first time by title only.

- 98-234 An Ordinance Amending Ordinance No. 1800, The Comprehensive Plan Map And Ordinance No. 2050, The Zoning Map, To Designate The Property Commonly Known As The Engesether Property; CPA 98007 and RZ 980008 (Engesether Property)
- 98-235 An Ordinance Amending Ordinance No. 1800, The Comprehensive Plan Map And Ordinance No. 2050, The Zoning Map, To Designate The Property Commonly Known As Woodside Triangle; CPA 98009 And RZ 980010 (Woodside Triangle)

OTHER BUSINESS:

Mayor Drake reported that he had received some requests for Waivers that were received on fees. He noted that the Rape Crisis Center asked the \$750 be awarded from the CDBG fund.

Coun. Soth said he opposed the award for two reasons. He said if they did not want to comply with the requirements of governing that and secondly he thought that the City was the one who designated those funds. He reiterated that if they were not willing to comply with the restrictions then it would be better to forget that particular portion. He said when the funds were allocated they were allocated according to the guidelines that were used and he said he was not willing to go along with that kind of finagling after things had been done.

Coun. Brzezinski asked if the vote could be postponed until two weeks from that night. She said her recollection from their application at the Social Services Funding was that they not receive CDBG money because of some difficulties they had meeting the criteria. She said it was that agency that specifically asked that it not be CDBG money and she thought that was not passed on to the CDBG person that actually allocated the money. She said she wanted to find out if there was something that fell through the cracks at the end before saying no.

Coun. Soth read the letter and referred to the third paragraph which he felt stated that they did not need the money because they were not willing to do the work to comply.

Mayor Drake said it did contradict it according to the terms and conditions of the contract, the Rape Crisis Center did not qualify and furthermore they said there was an extreme amount of work.

Coun. Brzezinski said her point was they came to Social Services Funding and said this was the amount of money they would like but the Social Services Funding Committee said this was how much they would give. She explained it was then turned over to Tino Fabros, CDBG Coordinator who divided up the CDBG money that was available. She wondered if Fabros was aware of the Rape Crisis Center's request that

they not receive CDBG money. She said if he was aware of it and give it to them anyway, then Coun. Soth's position might carry some weight, but if he wasn't aware that they had made that request, then they should get the benefit of the doubt and find out the answer since they knew coming into it that they did not meet the criteria.

Mayor Drake said it was really the Council's call no matter what Fabros did. He said if they could not receive the money the Council needed to decide whether they would allocate more State Shared Revenue money or simply let that amount go undone. He said it was probably overlooked.

Coun. Brzezinski said she would speak for the Social Services Funding Committee that said they thought that the Rape Crisis Center should get the whole amount of money that included the \$750 from CDBG, therefore she moved that they backfill that \$750 with State Shared Revenue.

Mayor Drake said the \$750 would go back to the CDBG fund.

Coun. Brzezinski MOVED, SECONDED by Coun. Stanton to allocate \$750 from State Shared Revenue's contingency to the Rape Crisis Center and \$750 be reallocated to the CDBG fund.

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

Mayor Drake reported that the Beaverton Creek Restoration Project had a Type II Design Review Fee and it had been requested that the fee be waived by the Wetlands Conservancy who was doing the work.

Coun. Stanton MOVED, seconded by Coun. Brzezinski that the Type II Design Review Fee of \$695 be waived for the Wetlands Conservancy for the Beaverton Creek Restoration Project.

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

Mayor Drake reported that Christmas in April asked for a fee waiver of permits which totaled \$336.55.

Coun. Stanton MOVED, SECONDED by Coun. Brzezinski that the City refund Christmas in April \$336.55 for the modifications before occupancy could be approved.

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

Mayor Drake said he submitted a memo to Council regarding a Vintage Train Event and the the Cities involvement in that event.

Coun. Brzezinski MOVED, SECONDED by Coun. Soth to approve an

expenditure of \$5000 so that Beaverton could co-sponsor the Train Event. Coun. Stanton asked why three cities were involved and why City of Beaverton was picking up half of the tab.

Coun. Brzezinski said it was because Beaverton was proportionally bigger.

Mayor Drake said the reason Tualatin was involved at all was because they would be serving children from the Tigard/Tualatin school district and because Beaverton would have more students visit too.

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

Coun. Brzezinski said the tentative night for the mediation anniversary was the same as the Arts commission auction and dinner.

Adlard said she was discussing the date with a Mediation representative.

Mayor Drake said Coun. Stanton had asked for a Periodic Review update of which she received a copy. He said there was a copy of the Urban Growth Management Functional Plan Compliance Report. He reported it was a draft at that point and if the Council had any questions they could talk at another point about it. He said they were required to have it to Metro by the next day. He commented that they would be requesting an extension of the compliance report.

Coun. Stanton asked if the Mayor would let the Council know how the request for extension turned out.

Mayor Drake replied that he would let them know.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 9: 48 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 4th day of January, 1999

Rob Drake, Mayor