

REGULAR MEETING

August 31, 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 31, 1998 at 6:02 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Coun. Wes Yuen was excused. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, 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, and 1(h), to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed. Couns. Soth, Doyle, Brzezinski and Stanton voting AYE, motion CARRIED unanimously. (4:0)

The executive session convened at 6:03 p.m., in the Third Floor Conference Room.

The executive session adjourned at 6:15 p.m.

RECESS: Mayor Drake recessed the meeting at 6:15 p.m.

RECONVENED:

The regular meeting reconvened at 6:38 p.m.

Also present were Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Department Director Thomas Ramisch, Operations/Maintenance Director Steve Baker, Library Director Shirley George, Irish Bunnell Development Services Mgr., Randy Wooley Transportation Engineer, Jeff Salvon Associate Planner, and Pete Davis Street/Traffic Supervisor.

PROCLAMATION:

### Recognition of the Murrayhill Little League Softball All-star Team

Mayor Drake called the team members and their coaches forward and read the proclamation. He called the players' names and gave each of them a copy of the proclamation, and recognized their efforts as a team.

The team received applause from those present and congratulations for their success.

### CITIZEN COMMUNICATION:

Dick Schouten, 6105 SW 148th Ave., said he was speaking on behalf of West Beaverton NAC about the barricade on 149<sup>th</sup>. He reported that the NAC was appreciative of the traffic speed and volume monitoring and they were in favor of the barricade opening. He stated that they understood the monitoring would also lay the groundwork for a possible traffic light and said there was concern about people trying to cross over at Murray to catch the bus to the Light Rail.

Schouten said they would like the City to be aware of that area, particularly since the new library would also be on the bus route. He noted they were hoping the City could put a sign that would make drivers aware that there was a fair amount of children's activity, partly because of Brookview park being so close to where the barricade was coming down. He requested that a "dead end" sign be placed there, as well.

Mayor Drake explained that he had asked staff to look at the justifications for a signal at 6<sup>th</sup> Street. He agreed with Schouten that Murray Blvd. between Allen and Farmington was a long stretch. He noted that with the amount of traffic and speed on Murray, one literally put his or her life in other drivers' hands, either driving or walking across it. He said a traffic light for safety or an impression of safety could be necessary.

Schouten said they would do everything they could to help persuade the County to get a light installed.

Coun. Doyle asked staff to investigate an appropriate sign for that location, since it was a change.

Mayor Drake said they would look at the situation and report back to Council.

Coun. Doyle said he also thought a traffic light needed serious consideration.

Robert Gally, 14820 SW Bonnie Brae St., said he had presented a petition to the Council that had been signed by the majority of households on 149<sup>th</sup>, Glenbrook and Bonnie Brae Streets that requested the Council to disapprove Traffic Control Board (TCB) Issue 391. He said they believed the current intersection at Bonnie Brae and Murray was congested, and

dangerous and opening up as a method for through traffic and removing the barricade would introduce more traffic to the intersection of Bonnie Brae and Murray. He said that would make it more dangerous and present a liability to the City.

Gally said the original recommendation to remove the barricade was six years ago and was predicated on the assumption that a traffic light would be installed on 6<sup>th</sup> Street. He noted that was no longer valid and 6<sup>th</sup> Street was open without a traffic light. He explained that six years earlier it was recommended that a traffic study be done before removal of the barricade. He explained that the purpose of the study was determine that removal would be an improvement to the traffic situation as opposed to making a bad situation worse. He said the Traffic Commissioners said it was a measure of safety to have a second access to the neighborhood, but the two streets had existed for 20 years with only a single access. He said to the best of his knowledge no credible evidence had been presented that anyone had been endangered for lack of emergency access. He said in addition, Tualatin Valley Fire and Rescue (TVF& R) had not requested the street be opened or the removal of the barricade. He concluded that they did not believe an objective study had been made of whether removal of the barricade would improve or degrade the neighborhood. He informed Council that a majority of residents in the vicinity of the barricade, 44 homes out of 62, opposed removal of the barricade.

Mayor Drake noted that in the packet was a letter dated August 14, 1998, from TVF&R that said they were in agreement with the recommendation to remove the barricade.

Galley noted that the majority of the signers of the petition were not notified by the NAC. He said he realized that the NAC was in favor of the barricade removal, but the decision was made without the endorsement of TVF&R on behalf of the Traffic Commission and that neighborhood had existed for 20 years without dual access. He contended that the neighborhood could exist another 20 years without anyone being endangered for lack of a second access. He commented that they did not understand why it was being requested now, and point out that there was no opportunity to speak to that issue to ask whether the need really existed.

Betty Bolz, 7305 SW Trillium Ave, said she was concerned about the paving on Hart Road, in front of Hearthstone, because there was no white line for defining the street or sidewalk. She noted that whenever there was an intersection that was involved when a highway was being paved, there should be a flagger present. She reported that she was almost hit by a car because a flagger was not there to stop traffic.

Mayor Drake asked Steve Baker, Operations and Maintenance Director to explain the paving process at Hart Road and Trillium.

Baker said the project took place along Hart Road and down Sorrento Rd. He noted that he was informed of the problem with some construction equipment during the paving, particularly on Hart Road where the trucks pulled into the pedestrian areas. He explained that as soon as they heard about the problem, they tried to clear that area so the pedestrian pathway could be used. He pointed out that it was difficult because the road was narrow and the trucks were large. He said there was some problems there but it was only for a short time. He noted as far as flaggers on the road, the contractors often times had one flagger if it was a minor intersection, and if there were potential traffic problems or heavy equipment, generally they would bring in two or three flaggers and more if necessary. He pointed out that as far as drivers paying attention and abiding by the flaggers, he could not take care of that. He stated that the flaggers wore the brightest vests they could and they abided by the law and the requirements of being a flagger. He said the City was trying to assure that the flaggers were out in the open and visible, but drivers did not always abide by the signals. He thanked Bolz for bringing it to his attention.

Mayor Drake pointed out that the City used a kind of asphalt that was not porous, which was different from the type of porous asphalt that was used on State Highways where the water would go through the road itself. He explained that the asphalt the City used was not porous, so water would run off to the storm drains. He said that type could not be applied under 60 degrees and it must be applied during the day. He noted that even if they did use another asphalt, they had a \$800,000 project and to do the work at night would have increased the costs by 26%. He pointed out that there was a lot of activity going on around the County and there were not many places you could drive without coming across a project in progress. He also noted that paving could not be adequately done during the winter months.

Tom Marsal, said he was surprised that the contractor decided how many flaggers to use.

Mayor Drake said there were requirements and asked Baker to explain.

Baker said the contractor furnished the flaggers and the City and contractor decided how many flaggers would be needed at each intersection.

Marsal said he was not representing the Central Beaverton NAC even though he was a member and felt what he was going to say reflected what a lot of people felt. He noted their goal was to make the Central Beaverton NAC a place where people would want to live, work and conduct business. He said they had worked hard on that for a long time and they appreciated the Mayor, Councilors and staff participating in the Walking Town Meeting and making it a great success.

Marsal said there was a lot of work to do to keep the City livable and to promote and maintain a high quality of life and they needed help from City Government. He remarked that they needed additional tools to manage the ever-growing problems they were facing. He named a housing code and enhanced enforcement capabilities for repeated violations of civil codes and help in writing the codes as some of the tools needed. He stated the need for clear, definitive language in the codes; words such as compatible, livability, and sense of community did not belong in the codes, laws or contracts. He said the City needed to be specific when they were being specific.

Mayor Drake thanked Marsal and Neil Langluttig, the current Chair of Central Beaverton NAC. He said he and Council appreciated the large turnout the past week in the NAC for the walk through the area, and expressed his appreciation for the positive reception from the NAC committee and citizens.

Ron Burke, 13375 SW Henry St., said the issue he had to discuss was about D.K. Wilds, and he was concerned that what he had to say might offend some present.

Mayor Drake asked him to talk in general terms.

Burke said it had been said that businesses were neighbors just like families were and there were certain businesses that were not good neighbors and they happened to have one next door to their business and that was D.K. Wilds. He shared with Council the type of products, which were available at D.K. Wilds (he emptied a paper bag of boxes from adult entertainment paraphernalia on to the Councilor's dais). He said he had found the items in his parking lot and propped up against his front door. He explained that he had a business that had tenants and the tenants had found some of the items and were not very happy about it. He noted that his tenants had signed a long-term lease with four options to renew and were now thinking about canceling their leases. He said it affected his business and he would like the Mayor and Council to be aware of that. He looked at the City goals posted around the Council Chambers and said he was not experiencing a safe and healthy community and it was because he had a neighbor who was not a good neighbor. He remarked that Mayor Guiliano had cleaned up Times Square and returned it to the people by doing rezoning laws and he did not understand why the City could not do the same thing.

Mayor Drake recalled that he and Burke had had similar conversations over the years. He noted that the City Attorney had done research and found that the adult entertainment businesses had a constitutional right to operate, and individually as private citizens, he and the Council did not support the activity of those businesses. He said if they were doing something that violated City Code, the City could take action. He said that the difference between Times Square and Oregon is that the Oregon Constitution was different and the Oregon Supreme Court had acted

differently than other states had acted. He noted that the Washington County Circuit Court had overturned the ordinance that the City passed and the City was not in a position to close that business because they had a legal right to be there. He said if D.K. Wilds were doing something unsanitary or unsafe, that was one thing, but if they were leaving packages out on Burke's doorstep, it might be considered clutter. He declared that if it was humanly possible to legally stop that kind of business, he would.

Burke declared that it was not just clutter, it was offensive.

Mayor Drake agreed that it might be offensive but the courts had ruled that people had a right to go there and D.K. Wilds had a right to operate. He commented to Burke that the City had been very supportive of his position but they could not break the law nor could he order the Police Chief to do so.

Coun. Doyle said they there might be something in the recently passed ordinance that could apply to an offensive business.

Burke said they had not contacted the Chief but had contacted several officers, and some of the activities appeared to link to prostitution.

Coun. Doyle said the new ordinance was pretty broad in scope and was purposely done that way to give the City a tool to help keep the community livable and meet the goals displayed in the Council Chambers.

Mayor Drake said Burke should never think that they would waste the Chief's time, and he and the Chief were always available. He said the Chronic Nuisance Ordinance might be able to deal with the trash and any incidence.

Burke said it had been going on for some time and when the paraphernalia was first found they would throw it away. He said it had gotten to the point where it was so common that they started to collect the items and what he had emptied on to the dais was what they collected in two months. He commented that he thought it was disgusting.

Coun. Stanton asked that Burke be provided with a copy of the Chronic Nuisance Ordinance.

Mayor Drake said they would fax it to him.

Coun. Brzezinski asked if it happened at all hours and not just when Burke came to work in the morning.

Burke said that was correct, they had found some of it in bags with receipts. He noted that they had looked for ways that they could help the City Council and the police fight it. He explained that he was not there just to be gross about the issue, but was there to say they had a problem and they needed to work together to solve it.

Coun. Soth said each one of the Council, on a personal basis, agreed with him, but unfortunately court rulings had tied their hands. He said they needed to get the legislature to pass a law that would say the State of Oregon should not be any more liberal than the U.S. Constitution. He suggested the Burke contact local State Representatives Ryan Decker and Ken Strobeck to get legislation introduced at the next session.

Burke requested that the Chief of Police take possession of the adult entertainment paraphernalia he had brought in. He said he wanted it to be part of the police record.

Wayne Van Rayden, 15090 SW 150<sup>th</sup> St, said the Murrybrook Development was about 27 years old and he had lived there 25 years. He noted that he had waited for 25 years for a second option to get out of his development, and he was asking for the barricade to be opened up on 149<sup>th</sup> avenue. He reported there had been a car fire and a house fire in the back of the development, and the house fire blocked six residents in his cul-de-sac. He said the fire engine responded to the house fire but could not get through the barricade at 149th and had to double back and travel on Farmington Road to get into the development. He stated that as a safety issue he would like to have another access in and out.

#### COUNCIL ITEMS:

Coun. Stanton said there were too many meetings, recognitions, and fund-raisers in September and she thought they should spread things out over the year.

Coun. Doyle reminded them of the Beaverton Arts Commission's annual dinner and silent auction. He noted that performer Linda Hornbuckle would provide entertainment.

#### STAFF ITEMS:

There were none.

#### PROCLAMATION:

"Beaverton to the MAX" – September 12 and 13, 1998

#### CONSENT AGENDA:

Coun. Soth **MOVED, SECONDED BY** Coun. Doyle that the consent agenda be approved as follows:

98-216 Authorize Mayor to Sign IGA With Marion County to Install the Pavement Management System (Carried from 8/17/98)

Liquor License – Change of Ownership: Asian Garden

98-237

A Resolution Declaring a Nuisance of Noxious Vegetation, on Property at the NW Corner of Beaverton-Hillsdale Hwy. and Laurelwood Ave. (Tax Lot # 1S1 13 BB 6600) and Ordering its Abatement

98-238

Resolution Requesting for Annexation of Various Public Properties and Rights of Way (ANX 98005)

98-239

Resolution Initiating Annexation of Two Properties and Center Street Right of Way Near 122nd Avenue (ANX 98007) (Beaver Creek)

98-240

Amendment to Greenspaces Intergovernmental Agreement to Extend the Intergovernmental Agreement Sunset Date from September 1, 1998 to December 31, 1999.

98-241

Library Ballot Measure Explanatory Statement

98-242

Approve Application for ODOT Bicycle and Pedestrian Grant

98-243

Traffic Control Board Issues 389 through 391

98-244

CUP 97034 Edgewood Downs Assisted Living Facility

98-245

CUP 97030 Truax Service Station

Contract Review Board:

98-246

Amendment to Photo Radar Contract

Coun. Stanton thanked Pete Davis, Street/Traffic Supervisor, for getting back to her with answers to her questions. She asked if the 1997 Pavement Management system was really only \$700.

Davis said that was correct.

Coun. Stanton said, regarding AB 98-241, the Explanatory Statement for the Library Bond Measure, she had some suggested changes. She noted that she was quibbling over the first sentence and explained that it said, "...the Beaverton City Council *referred*..." and she wanted it to say "is referring."

Coun. Doyle suggested it could be "had referred," since they already had referred it to the ballot.

Mark Pilliod, City Attorney, said there was no problem with making that change.

Coun. Stanton clarified that the change would be to "is referring."

Coun. Brzezinski said she also had some editorial comments for AB 98-241, but some of them were small issues. She called attention to the fourth paragraph and said she thought it should be the third paragraph, which would put the current third and fifth paragraphs together. She explained that the first parts of those paragraphs talked about the population and the circulation figures for 1984 and for today, so she thought they should be together.

Others asked for clarification.

Coun. Brzezinski said they should "flip" or transpose the order of paragraphs three and four. She noted that she would give her notes to Pilliod.

Other Councilors agreed with that change.

Coun. Brzezinski called their attention to paragraph five, the second line, "...circulation levels were about 1.25 million, highest of any public library in the County and the population..." she suggested it should say "the City's population now stands..." instead of "its." She continued on in that paragraph, and asked why he used the word "additions" instead of "annexations." She said she did not know what was meant by additions except annexations.

Pilliod said he thought it was easier for most people to understand in terms of the concept, but obviously annexations was the proper legal term.

Coun. Brzezinski continued to the next to the last paragraph and noted that she did not think they needed the word "functionality" there. She explained that they could say, "besides more space for additional books, seating, and parking, the library design..." She noted that on the second line, she thought that "computer interfaces" did not seem quite right to her. She asked if they meant Internet connections, since to her computer interface was not a feature of a building.

Mayor Drake asked Shirley George, City Librarian, to respond.

George said there were a number of computer interfaces that were significant, not just the Internet. She explained that there were interfaces with the City and County library system, known as WILI.

Coun. Brzezinski explained that to her "interfaces" were software.

Coun. Doyle suggested that after the word "interfaces," they put a list in parentheses: (school, county, national, etc.), which would explain that it was more than just sitting down at the PC and logging onto the Internet. He said interfaces was not an inappropriate name there.

Coun. Brzezinski said that if he thought it was appropriate, then they should leave it.

Pilliod asked what they thought about the parenthetical list Coun. Doyle had suggested.

Coun. Brzezinski replied that she thought it was not necessary, and if Coun. Doyle thought "interfaces" was appropriate, then that was enough. She called their attention to the next to the last line of that paragraph, and asked what it meant to have "security," which she did not think meant the same type of thing as "children's reading area, community meeting space."

Pilliod explained that he could not speak for the Librarian, but to him it meant the various access points in the building. He noted that as he understood it, all public access was from one side/direction and there were security features in that decision. He reported that the current security measures for magnetizing the spines of publications, was a security feature that would become part of the building.

Coun. Brzezinski said that was all right then, and said her last point was that it said in the last paragraph, "A model of the library project can be examined ...," and she thought it should be, "is available for viewing..." She explained that was a more active voice wording.

Coun. Stanton explained to those in the audience that at the election on November 3, included with all the other political races, in Beaverton they would be voting on building a new library at Fifth and Hall. She said they were talking about what would be in the voters' pamphlet as the Explanatory Statement.

Question called on the motion. Couns. Soth, Brzezinski, Stanton, and Doyle voting AYE, motion CARRIED unanimously. (4:0) Note – AB 98-241 passed as amended.

#### ORDINANCES:

##### Suspend Rules:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the rules be suspended, and that the ordinances embodied in AB 98-247, AB 98-248 and AB 98-249 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. Brzezinski, Doyle, Soth, and Stanton voting AYE, the motion CARRIED unanimously (5:0)

##### First Reading:

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

- 98-247 An Ordinance Amending Ordinance No. 2050, the Development Code, to Allow Use of the Town Center – Sub Regional Designation as Defined by Section 3.5.7.5 of the Comprehensive Plan; TA 980001
- 98-248 An Ordinance Amending Ordinance No. 1800, The Comprehensive Plan to Add New Provisions to the Commercial Land Use Section Defining “Town Centers”; CPA 98010
- 98-249 An Ordinance Amending Ordinance No. 2050, The Zoning Map, From (RA) to (R-5), For the Property Located North of Otter Lane Between 135th Avenue and Citation Drive (Stanton Meadows); RZ 980011

Second Reading and Passage:

Pilliod read the following ordinances for the second 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)

Coun. Soth MOVED, SECONDED by Coun. Brzezinski, that the ordinances embodied in ABs 98-234 and 98-235 now pass. Roll call vote. Couns. Brzezinski, Soth, Stanton and Doyle voting AYE, motion CARRIED, unanimously. (4:0)

OTHER BUSINESS:

Coun. Soth MOVED, SECONDED Doyle, to authorize retention of attorney Victor Calzaretta to represent the City in a case regarding termination of an employee.

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

Library Information

Linda Adlard, Chief of Staff, displayed the drawings of the proposed new library. She displayed some samples of banners, bookmarks, and a card that would be available to distribute as they talked with citizens.

Adlard said she wanted Council to see the presentation they would be giving to the NACs and other citizen groups to inform them about the bond measure requesting funds to build a new library. She noted that the

presentation had many statistics showing the growth of the City and the tremendous increases in the various uses and the fact that the building was very small for the need. She reviewed the presentation.

Coun. Soth said the information was well put together and noted that they could not go beyond the factual information. He asked if the Washington County Public Affairs Forum had been contacted for presentation.

Adlard said they had not yet been contacted but were welcome to participate. She noted that there would be other informational items, also.

Coun. Soth said on Community Access television there was a program called *The Forum Presents*, which they might be able to get the information on.

Adlard said they were meeting the next day with someone about producing their own question and answer production.

Coun. Brzezinski stated that everyone knew that the City could not do anything to advocate passage, but only provide information. She asked if the items being produced were automatically run through the City Attorney's office to make sure there was a legal opinion provided.

Adlard said she was presenting it to the City Attorney's office.

Coun. Doyle asked how long the presentation was because he might be able to get it to the Rotary Club.

Adlard said the presentation took approximately 15 minutes with 10 minutes for questions.

#### Light Rail Opening

Mayor Drake noted that the Chamber related that September 12 & 13 was the "Beaverton to the MAX" weekend in the City. He said there would be a large celebration similar to the Taste of Beaverton and passengers could ride the trains and buses free.

#### ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 7:47 p.m.

---

Darleen Cogburn, City Recorder

#### APPROVAL:

Approved this 11<sup>th</sup> day of January, 1999

---

Rob Drake, Mayor