

## REGULAR MEETING

November 16, 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 November 16, 1998 at 6:36 p.m.

### ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Human Resources Director Sandra Miller, Community Development Director Joe Grillo, Engineering Department Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Police Chief David Bishop, Administrative Chief Gary Nees, Library Director Shirley George, Development Services Manager Irish Bunnell, Building Official Brad Roast, Redevelopment Project Manager John Engel, City Utilities Engineer David Winship, Principal Planner Ali Turiel, Senior Policy Planner Steven Sparks, Deputy City Recorder Sue Nelson, and City Recorder Darleen Cogburn.

### CITIZEN COMMUNICATION:

There was no one who wished to speak.

### COUNCIL ITEMS:

Coun. Yuen said Council had received a notice regarding the Washington County Tobacco Free Coalition meeting on December 10, 1998. He noted the information indicated they would introduce ordinances and he inquired if Mayor Drake had some idea about their agenda.

Mayor Drake responded that he had not read it, but it was a result of Coun. Doyle's information from 18 months ago. He said he thought they were talking about an ordinance similar to one passed in Corvallis and referred to voters on the November 3 election. He suggested Coun. Yuen contact his assistant Joyce Storms to check on it.

Coun. Soth noted he attended a Boundary Commission meeting the past Thursday and Mayor Drake and Ali Turiel, Principal Planner, were there. He reported that all the "housekeeping" annexations passed. He said it was the last formal meeting of the Commission before they turned over

their duties to another party, and stated that they had done an excellent job over the years.

Coun. Soth said he was privileged to attend Living History Day at Milwaukee High School. He reported that students had raised \$18,000 to redecorate the school, including the auditorium and the gym and hired some performers as well. He noted that one boy raised \$700 by turning over his paycheck from his job at McDonalds. He said there were 600 to 800 veterans in attendance, including one from World War I and others from World War II, the Korean and the Vietnam Wars. He described a great ovation for those from the Vietnam War and said it was part of the healing process that had been lacking for many years, and added that it had felt wonderful. He said the students were there to learn from the veterans about what happened, why it happened, and what part the veterans played. He noted that most of the young people had no understanding of what had gone on.

Coun. Stanton confirmed that the Library Bond passed so Beaverton would get a new Library. She announced that on Tuesday, December 8, there would be a Holiday Open House at City Hall between 5 and 8 p.m. with Santa Claus in attendance.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Mayor Drake noted that Agenda Bills 99-294, 99-299 and 99-300, would be pulled for separate consideration.

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

- 98-294 Transfer Resolution - Appropriation For The Federal Highway Administration Red Light Running Public Information Campaign (Pulled for separate consideration.)
- 98-295 Bid Award – Lombard Avenue Sanitary Sewer Rehabilitation Project
- 98-296 CPA 98017/RZ 980017 R. Storer, 158<sup>th</sup> Avenue Annexation CPA/RZ
- 98-297 CPA 98018/RZ 980018 Cornell Oaks Corporate Center Annexation CPA/RZ
- 98-298 CPA 98019/RZ 980019 P. Williams, Center Street Annexation CPA/RZ
- 98-299 Authorization to Reimburse Tualatin Hills Park and Recreation District for Street Improvements on 158<sup>th</sup> Avenue (Pulled for separate consideration.)

Contract Review Board:

- 98-300 Exemption From Competitive Bidding – Personal Services Contract for Review of Solid Waste and Recycling Rates and Transfer Resolution (Pulled for separate consideration.)

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

SEPARATE CONSIDERATION:

- 98-294 Transfer Resolution - Appropriation For The Federal Highway Administration Red Light Running Public Information Campaign

Linda Adlard, Chief of Staff, noted there were some questions concerning AB 98-294 regarding the fact that the City did not have a financial grant at that time. She explained she wanted Council to be comfortable with the premise the City was going forward with and said she would show two ads, which were provided by the Federal Highway Administration, Chrysler and the National Trauma Association. She established they were ads that were developed and used nationwide on a campaign to keep people from running red lights. She related that running red lights killed many people and it was a difficult task for officers to pursue people who ran the lights since the officer might have to proceed through the red light as well.

Adlard explained they had joined with the national organizations to have federal dollars funneled through the State Transportation System to the City of Beaverton, which would fund the program. She said she had talked to the State Administrator that day about the grant and the following day the Transportation Commission would have the request before them for the grant. She indicated it was the staff's recommendation that it be granted. She said they wanted to have the grant program in place quickly and if they did not get the full amount they would reduce the work program. She said 25% of the cost had to be matched from the City. She said she expected they would almost immediately begin running the ads through the holidays and had already provided citizens with an opinion survey developed by the Federal Highway Administration. She pointed out that the survey was provided free and would normally be a very expensive component to produce (costing approximately \$10,000). She reported that about 800 surveys had been returned. She said as soon as they got the funding they would begin the program, and hire a full-time staff person. She noted that after the first six weeks, they would have a follow up survey to see if attitudes had changed. She said the survey results would allow the Council to direct her in the legislative process on how intensely they wanted lobbying for the Red Light Photo Camera Program.

Adlard played the video of the two ads. She noted that the "tag" for the City of Beaverton was in writing and to add it to the audio would have been very expensive. She said this was much like the Photo Radar process and it would give the City a good basis for the legislative session. She

reminded Council that the City had asked Representative Strobeck to have a photo red light bill drafted and he was in the process of doing that. She noted that Portland had asked to join with Beaverton, and put one bill through. She said it was her understanding that the Chief's association was looking at a second bill, which would be statewide.

Coun. Stanton questioned the City's 25% contribution (approximately \$34,000) and wondered if it was 25% of all the numbers, out of all the budget areas.

Adlard said the Federal Highway Administration (FHA) Grant would not pay for running the ads, the newspaper ads, the report writing and a portion of the street signage. She specified that the City would have to match some portion of the staff person's salary.

Coun. Brzezinski apologized for not getting her questions in early. She noted it looked like a done deal, and asked how long the grant would last.

Adlard said they had requested a three-year period, and the initial dollars should fund the first year. She explained that the door would be open for the City to go back and ask for such things as the photo red light camera equipment, continuation of the person for a public information campaign and some other pieces that the police probably would need on data collection.

Coun. Brzezinski asked if the FTE would be a temporary position.

Adlard said it would be called limited duration.

Coun. Brzezinski asked what the job qualifications would be.

Adlard said she had not gone through those qualifications with the Human Resource Manager, but a list of qualifications would include basic data collection, formatting of promotional kinds of materials, research for the lobbying efforts and report writing.

Coun. Brzezinski stated that she had looked at the proposed expenditures and could not see that it would be one FTE position.

Adlard said she had not put together a work plan but there would be many time consuming components thereby making her believe it would be full-time. She stated that when a work plan was put together, taking into account the amount of money, if it was not a full-time position, then they would make it less than a full-time position and extend it further. She noted the City of Portland had a full-time person on the Photo Radar program. She explained that part of the position that was not readily evident was the development of a manual, with procedures and processes (if passed by the legislature) for a brand new program.

Coun. Brzezinski asked if the City Attorney was confident that those expenditures would be eligible for funding from an FHA grant.

Adlard said she was confident that the expenditures for the activities would be eligible.

Coun. Brzezinski asked if other cities in the metropolitan area had applied for the grant.

Adlard explained that she did not think anyone in Oregon had requested even the grant proposal and that was why she was so optimistic for the City of Beaverton. She remarked that she was excited because of the City's good history and track record with photo radar. She said it was a very successful program with detailed procedures in place.

Coun. Brzezinski noted that in the budget the survey costs were approximately \$10,000 and the City had received it at no cost. She questioned why there was \$9,000 each listed for both the pre-test and the post test.

Adlard said when they developed the budget it was prior to the mail survey. She explained \$10,000 was the development cost the City had paid many times for telephone surveys. She said the grant was submitted like that and it could not be changed midway through submission. She explained that when the money was granted, the City would re-negotiate where those dollars would be placed.

Coun. Brzezinski strongly recommended that some of the dollars be taken to conduct a non-respondent bias study because getting 800 responses to a survey mailed to 3,000 people did not indicate if those 800 people were representative of all 3,000. She said if she were on the opposite side arguing against Adlard's use of the results of the survey that was what she would attack. She explained that citizens were either really positive or really negative and urged Adlard not to automatically take those dollars out, but to do something with it. She stated that she would vote against it because she did not feel like she had an adequate amount of time to learn about it before it had been done. She noted that if it had come up earlier, and she missed the opportunity, then she apologized. She said she was confident it would pass and realized it was perhaps silly to turn down money coming to the City, but she had a fair number of questions about it.

Coun. Yuen noted that some of his comments were brought up by Adlard's comments in her introduction. He referred to the comment about a portion of the expenses not being paid for by the grant i.e.: writing the report, advertising in the newspaper and the television ads. He pointed out that in the budget listed in AB 98-294, the \$500 for writing the report was paid for under the column "Grant Award," and similarly the cost for advertising for the newspaper and television under the column were under "Grant Award." He said if Adlard had not informed him they were not going

to be paid, he would have assumed from reading it that they were paid for by the grant.

Adlard apologized that the numbers were not reflective and said she had just recently learned what pieces would not be included under a grant award. She explained that when one wrote a grant it was assumed that it would pay for everything, so it was written to suggest everything would be paid for, then one started weeding out what really would not be paid for. She said that if the grant instructions had informed the City that advertising would not be covered, then they would not have included it. She noted that they had chosen the elements to make the match up to 25 percent. She reminded Council that in order to have it on the current agenda, the process required it to be in the City Recorder's office three weeks earlier. She explained that they needed to do it as soon as possible because they needed a minimum of six weeks before the legislature began, in order not to influence that process in an inappropriate way. She said they wanted to conduct the campaign of information through the holiday season (when it was badly needed), do what limited research they could to establish a baseline, and then take that information to the legislature.

Coun. Yuen said in trying to understand what components were covered by the grant, what were they authorizing and what would happen if the grant was not awarded to them. He asked if the agenda bill only authorized the expenditure if the grant was awarded.

Adlard said the agenda bill asked the City Council to authorize the expenditure of grant dollars based on what would be received. She noted that she had given Council her best guess of what they had applied for and she could not tell the exact dollar amount that would be received because they did not know until the Traffic Commission made their decision. She said if Council approved the agenda bill that evening but the City did not receive the grant, then staff would not spend any money without Council's approval. She said they would bring back a work plan so that Council was assured that every penny that was authorized would be spent according to a plan which made sense to achieve the promotional pieces that they believed needed to be there in order to go to the legislature. She if they got \$25,000 from the grant instead of \$136,000 they would pare it back to the \$25,000 work plan, of which the City had been notified they would have to have 25% as a match.

Coun. Yuen asked for clarification that if the total dollar was "X" then the City would have to match 25 percent of "X."

Adlard clarified if they received \$20,000 it could be assumed that \$15,000 would be grant money and \$5,000 would be City money which would be necessary in order for the City to draw down the other \$15,000. She said the work plan at that point would reflect a total of \$20,000 worth of work.

Coun. Yuen explained that he was trying to understand the matching concept in this instance. He asked if what they were giving was

essentially a budget of which the City had to pay 25%, or if they simply gave the City an amount and then required the City to spend an additional 25 percent.

Adlard explained that this was an unusual process, for a staff person to put in place in front of a Transportation Commission a request, which was not included in their budget year. She said the Commission was very excited about it and wanted to allocate the money and she hoped she could convince Council that it would be spent very carefully and to the benefit of the citizens. She stated that if it saved one life during the holiday it would be worth it.

Coun. Stanton said in the resolution itself, it was clear that if they did not get the grant award, this was a moot point.

Adlard said that was correct.

Coun. Stanton asked, regarding grant dollars, if in the proposal they explained they would be going beyond the scope of the red light campaign, to use the staff person to do research at the legislature.

Adlard said they were happy to have a person to do good research to relay that to elected officials. She said they also determined that their future plans included another grant in which they would ask for equipment and support of police officers.

Coun. Stanton clarified that her question was if it was clear in the grant proposal that the one staff person would do more than just running the red light public information campaign.

Adlard said she would get a copy of the grant for Council. She noted that it outlined specifically the kinds of functions the person would be doing.

Coun. Stanton asked if this person would be doing preliminary work to take to the legislature, based on the information campaign over the next six weeks.

Adlard said the grant would not pay for someone to lobby, it was not legal to use federal funds for that. She said the preparation of materials so that she could lobby would be legal.

Coun. Soth stated that he thought this was a very important issue. He noted that he had talked to Rep. Strobeck, who indicated the bill had been prepared and would be introduced as soon as possible in the legislative process. He said he was a strong supporter of photo red light and photo radar and the 6-week time frame was a minimum to develop the information needed for the legislature.

Coun. Doyle MOVED, SECONDED by Coun. Soth that AB-98-294 Transfer Resolution – Appropriation For The Federal Highway

Administration Red Light Running Public Information Campaign, be approved.

Coun. Doyle pointed out that time was short and confirmed his trust and faith that staff would carry through this process in a manner which had been discussed that evening. He noted that he had been present at the legislature the past session, and he thought the citizens would support it.

Coun. Brzezinski said she would oppose the motion as a matter of principal as to how the process was undertaken, however she would not like anyone to construe her vote against it as not wanting to save a single life.

Question called on the motion. Couns. Yuen, Doyle, Stanton and Soth voting AYE. Coun. Brzezinski voting NAY. The motion CARRIED. (4:1)

98-299

Authorization to Reimburse Tualatin Hills Park and Recreation District for Street Improvements on 158<sup>th</sup> Avenue

Coun. Yuen said he had asked that AB 98-299 be pulled. He explained that in reading the background information it appeared that the County made a mistake in requiring the Tualatin Hills Park and Recreation District (THPRD) to put in some improvements, and the City passed that through as part of City requirements since the development was in the City. He pointed out that on one hand there was a wrong in which the Park District had to make an expenditure which was not necessary or legally required and the problem was that it was the County, not the City that initiated it. He said he could not support the agenda bill.

Coun. Yuen MOVED, SECONDED by Coun. Stanton. that the Council deny AB98-299, Authorization to Reimburse Tualatin Hills Park and Recreation District for Street Improvements on 158<sup>th</sup> Avenue

Mayor Drake noted that the roadway was not Traffic Impact Fee (TIF) eligible, but what the Park District did was make safety improvements to the roadway and the City staff supported those safety improvements. He said there were only certain roads in the County that were eligible for TIF refunds and that roadway was not. He stated that the improvements were made and the City supported the improvements. He said Coun. Yuen's comments were pertinent but the City did derive some benefits from it.

Coun. Stanton stated that although she seconded the motion, she would vote in opposition. She pointed out that the fact was that the City took information from the County that said they wanted it as a condition of development and the City made it such. She noted that THPRD paid approximately \$38,000 to have those improvements done. She declared that the County should not have asked for it, the City should not have included it, and THPRD should not have paid for it. She said the County now said that THPRD did not ask for a refund within the required time frame and it would not have mattered anyway because if it did not fall under

the criteria for a TIF refund. She explained that she thought the City was personally responsible as the body who required those conditions of development, and she did not want to hold THPRD hostage because of that. She said she would not support the motion.

Coun. Yuen said when he first read it, he wrote a note on his agenda bill that said "the buck stops here," but at some point the City had to tell the County to stop doing this. He commented that it was ridiculous and out of control. He said the City continually did things at the County's request and they never financially owned up to and it had to stop.

Question called on the motion to deny. Coun. Yuen voting AYE. Couns. Doyle, Stanton, Brzezinski and Doyle voting NAY. Motion FAILED (1:4)

Coun. Doyle MOVED, SECONDED by Coun. Soth to approve AB 98-299, Authorization to Reimburse Tualatin Hills Park and Recreation District for Street Improvements on 158<sup>th</sup> Avenue.

Question called on the motion. Couns. Brzezinski, Doyle, Stanton, and Soth voting AYE. Coun. Yuen voting NAY. Motion CARRIED. (4:1)

98-300

Exemption From Competitive Bidding – Personal Services Contract for Review of Solid Waste and Recycling Rates and Transfer Resolution

Coun. Brzezinski explained that she had questions on the exemption from competitive bidding on the Review of Solid Waste and Recycling Rates. She noted that there was one consultant who had done this type of rate review for several counties, and cities, and many had contracts with the same haulers. She said she was not sure what would be done differently if hauler "ABC" had services in Washington County and in Beaverton. She wanted to know why they could not look at the rate reviews on the haulers and make some judgments.

Adlard pointed out that the franchise agreements were very old. She noted that as they negotiated and modified the agreements (not the rates) the agreements for yard cleanup, services to the elderly, etc, they began to talk to the haulers about modifying the rate structure and they wanted to adhere to the franchise agreement. She reported that the City was in a process where they would be renegotiating the franchise agreements in a normal course of operations and noted that Metro had reduced the amount of money they had to spend to get rid of everything thrown away. She said Metro made it clear that they pass those reductions through to the citizens, and explained that they passed that through partly by the extra services. She reported that the profit margins were considerably higher than in other jurisdictions, and therefore she wanted to do a study which would allow her to be able to slice the haulers profit margins to a level that would put the City in alignment with other jurisdictions. She stated that there were two issues and although the City's per can price looked good, she wanted to reduce it over the next 5-10 years to allow the citizens to have the same level of service or better without cost increases or

reductions in current services. She said that could not be justified without going through a study.

Mayor Drake said one of Coun. Brzezinski 's question's was why waive the competitive bidding.

Adlard said no one was out there that did that.

Coun. Brzezinski asked when the franchises expired.

Adlard said she believed they were up in the year 2000.

Coun. Brzezinski asked for clarification if that was the next time the issues could be brought up.

Adlard said she thought there was a clause in the franchise renewal that said it could be brought up at any time. She explained that the downside of doing that was that they would be going into negotiations already breaking one commitment, and that would make for a tougher negotiation. She said what she would prefer to do the study (show the haulers that the City understood clearly what citizens should or should not be paying and why and what the quality of service should be), and then apply that to the negotiations for the negotiations.

Coun. Brzezinski referred to the fifth bulleted item (in record, in the letter from consultants dated August 31, 1998) and asked if they were only going to look at figures from Beaverton and not at hauler "ABC." She asked if they would draw samples of everything hauler "ABC" did or if they would simply take the Beaverton portion of that hauler's activities.

Adlard said they would look at figures from Beaverton.

Coun. Brzezinski referred to page two of AB 98-300, #5, and asked why the targeted completion date of December 15, 1998, was important.

Adlard explained that because of the City's relationship with Metro, they needed to comply with Metro's requests. She said that in order for the City to begin the contract and essentially reserve the City's spot, they needed to get in line as soon as possible. She noted that they could go out competitively and probably not get other bids, but it would be a three-month process. She said they would be out of the loop for at least this firm to provide services to the City because of their current contractual obligations to other jurisdictions.

Coun. Brzezinski asked, for clarification, if staff wanted to do this according to the agenda bill, to pass on the tipping fee savings, and then it expanded to a much bigger process because Adlard wanted to gather information that could be used for franchise renewal discussions.

Adlard said that was a correct assessment. She explained that the tipping fee was the impetus for the City to look at the fees the haulers were charging the citizens for their services as compared to other jurisdictions. She noted that the Council generally liked to see what other jurisdictions were doing. She said it seemed there were some savings in the tipping fee and the charges that had evolved over the years, which were a little out of sync, given the profit margin of the industry. She explained that it had to do with recycling trends and pointed out that paper was a profitable recycle item in its time, and now not much of anything was paying to be recycled. She said one had to figure all the components of services.

Coun. Brzezinski asked how other jurisdictions were complying with Metro's request.

Adlard said some jurisdictions had cut their rate by the amount of the tipping fee.

Coun. Brzezinski asked if the other jurisdictions were doing a straight forward formula of "here's how much you are saving divided by the number of clients you have and reduce everyone's bill by that much."

Adlard reported that when they looked at that theory it was only \$.30 a month.

Coun. Brzezinski asked why they needed \$30,000 when it looked like the total expenditure was \$25,000. She asked if the operational audit funding was \$20,000.

Adlard said the audit fund was \$20,000.

Patrick O'Claire, Finance Director, noted that the wrong paragraph was included. He explained that the entire funding should come from contingency which was what the transfer resolution stated. He clarified that the entire funding would come from the general fund contingency and leave intact the operational audit.

Coun. Brzezinski stated that was good because she would not want to decide how to spend the audit dollars.

Coun. Soth said it seemed like Yogi Bera's statement "deja vu all over again." He recalled that 1981, they went through the same process and a lot of the information the consultant had access to was proprietary information. He commented that he would not want to go through that process on their own again. He agreed with Adlard that given the work this firm had done, the City was justified to use them. He said he thought this kind of analysis was overdue and this firm would give the City a good recommendation when they finished their work.

Coun. Stanton referred to the steps they would go through for the rate review process, and suggested another paragraph be included which

would encompass a rate comparison between other jurisdictions that out-source their garbage services.

Adlard said they probably had much of that, and it would be part of the study.

Coun. Stanton asked how many local jurisdictions in the area did their own garbage hauling.

Adlard replied that she was not sure but she could get that information.

Coun. Doyle asked, if they were to look ahead and think about the franchise agreements (which were up for renewal in 14 months), and went out to bid, what did the staff estimate as to what they would likely incur from somebody who would do it from scratch. He explained that that seemed to be the standard the City had followed, to bring an outside group to look at different issues in front of the City. He commented that he had assumed they were saving money by doing both issues at the same time, but maybe he was incorrect in that assumption.

Adlard reported that she did not have a dollar figure for the amount of money that might be saved. She explained that when they hired highly experienced professionals a particular, narrow field, it did not take them as long to do the analysis. She said in the report (in the analytical piece) there would be some savings. She noted that the collection of data probably also had some cost efficiencies because the recommended provider dealt with the haulers on a regular daily basis, so they would know if the figures were incorrect.

Coun. Brzezinski MOVED, SECONDED by Coun. Soth to approve AB 98-300, Exemption From Competitive Bidding - Personal Services Contract for Review of Solid Waste and Recycling Rates and Transfer Resolution.

Coun. Soth reported that currently, corrugated cardboard and newspapers were only worth \$5 per ton, the lowest it had been in five years. He stated he had seen the ton price as high as \$60 and said the price could not be counted on from one month to the next.

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

#### PUBLIC HEARINGS:

98-301 Public Hearing on the Proposed Use of the Local Law Enforcement Block Grant

David Bishop, Police Chief, reported that the grant was similar to the other grants that had been applied for in the past. He said the amount requested was \$47,185 and the matching amount would be \$5,242, funded through the police forfeiture fund. He explained that this would take

them to the next plateau to train officers and citizens on the problem-solving concept S.A.R.A. (survey, analysis, response, and assessment). He clarified that it was a process of taking a problem and walking it through. He showed promotional videotape to those present.

Mayor Drake noted that the video was produced free of charge, used in recruiting and basically showed the community what the police department did.

Bishop said it was to market the agency and would include some recruiting information.

Mayor Drake presented Bishop with a third place award from the League of Oregon Cities for the Landlord Tenant Program. He explained that the program was about the police working with the larger apartment complexes to coordinate and deal with issues of crime, and to build a better response time with police.

Mayor Drake opened the public hearing.

There was no one who wished to speak.

Mayor Drake closed the public hearing.

Coun. Soth MOVED, SECONDED by Coun. Doyle to approve AB 98-301, Public Hearing on the Proposed Use of the Local Law Enforcement Block Grant.

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

98-302

Hold Public Hearing and Adopt Resolution Establishing the Lombard Gardens Local Improvement District

Tom Ramisch, Engineering Department Director, addressed Council and said that Jerry Williams, Project Engineer, would be present as well as Tony Righellis, Consultant from Harper, Houf and Righellis Engineering. He explained that they could present a prepared narrative of documenting the historical aspects of Lombard Gardens leading into the potential Local Improvement District (LID) or they could give an overview of the background and then go to questions, depending on Council direction.

Mayor Drake explained to the audience, that they had already had extensive meetings with public input on this issue.

Coun. Brzezinski asked if there was anyone in the audience who did not think they had an understanding.

No one responded.

Coun. Soth asked if there was anything different that night than what they had heard before.

Jerry Williams Project Engineer, said the only thing different about this meeting was that staff were prepared to compute the percentage of remonstrance and report before Council took action.

Coun. Stanton asked if all three streets would get sidewalks.

Williams reported that the plan called for sidewalks on both sides of each street.

Coun. Stanton asked if that was something everyone had wanted.

Mayor Drake pointed out that there was not any one thing that everyone agreed to, but there was a lot of agreement in general.

Mayor Drake opened the public hearing.

Ken Condit, 11625 SW 11<sup>th</sup> Ave., commented that the studies indicated there was less of a problem on 11<sup>th</sup> than on 12<sup>th</sup> and 13<sup>th</sup>. He suggested not lumping them all together since there were different problems. He said he was not personally objecting to the formation of the LID.

James Crutcher, 11870 SW 13<sup>th</sup> St., said he thought he missed the last meeting where they got some of it squared away and said was all for the improvements that were proposed. He stated that he understood there were four different options for assessing the homeowners, and by going over the numbers himself using the square footage method and it seemed unfair because some homeowners would be paying much more than others. He referred to the other methods and the dollar ranges. He stated that the unit price would mean they would all pay the same, and since all homes would benefit equally, they should all be charged equally.

Mayor Drake said staff could explain why they recommend the proposed method.

Mayor Drake called Williams and Righellis back to explain the method and why they used it.

Williams said at the last open house and neighborhood meeting, those in attendance reviewed the options, and the strong consensus was that the half-square foot and half-front footage covered it best, so that was what they used in the assessment roll attached to the resolution.

Coun. Soth asked in response to Crutcher, regarding the unit charge, he compared some of the various properties, and noted there was a discrepancy in the sizes of properties.

Williams said there was the issue of flag lots and the opportunity for development in the future. He said those who had a higher assessment would have the opportunity to develop.

Coun. Doyle asked what the time frame was.

Williams reported that they expected to spend the next five to six months developing the plans and going through the review process. He said they planned to be prepared to award a construction contract on July 1, 1999, for two of the three streets. He said due to funding issues, at a previous meeting the Council decided to do the third street in the year 2000.

Mayor Drake asked if that was the street identified with the least drainage problem.

Williams explained that they thought that once 12<sup>th</sup> and 13<sup>th</sup> streets were improved a substantial amount of the water would be controlled so the impact to 11<sup>th</sup> Street would be less.

Coun. Soth asked if it would be bid it as one project with the caveat for two construction seasons.

Williams explained that the City's purchasing process would not allow them to enter into a contract for which they did not have funding. He reiterated that if there was not adequate funding for three streets the first year, they would hold a second bid after funding was available. He clarified that plans and specifications would be prepared for all three streets.

Tony Righellis, from Harper, Houf and Righellis Engineering, clarified that in the next period they would be refining the numbers. He explained that since the LID portion covered the last few dollars of a bigger effort, and they were well aware of how cost estimates vary from the conceptual level to actual figures. He said the refinement of the figures could have a big impact on the assessment and maybe people's desire to continue depending on how the numbers come out. He stated that they would be very careful, and would communicate with the neighborhood as those refined estimates occurred. He explained that they would go through the Board of Design Review process and the solution was a proposed modified RL2, street standard. He noted that it would not be the most straight forward application, because it was not cookie cutter and not exact to the dimensions in the Code.

Coun. Soth asked what the projections were for the level and cost of construction and how busy were contractors.

Righellis commented that they could not get busier, and less site work per dwelling unit was occurring currently, so there were fewer longer streets. He said he did not expect a boom of roadwork construction, since there was no capacity in the community to do more.

Mayor Drake commented it would be nice to have a project that was not a rush job.

Coun. Brzezinski responded to Condit's comments, and explained that she thought the Code would not allow them to look at the different streets separately. She noted that they were looking at it as a whole project because the impact would be on all the streets.

Williams reported they looked at two alternatives, one an interim street improvement that included piping that would deal with the drainage problem on any of the three streets, and another that included sidewalks and curbs. He said there was no link that would connect one street improvement to another in that respect. He said there might be reasons to not separate out the streets, such as cost impacts.

Righellis explained that in this case they could be three separate streets and they had always said if they were going to do just one, do 13<sup>th</sup> street first because it was uphill.

Coun. Soth said to separate them out would require them to have three separate LIDS.

Williams said that was correct.

Coun. Brzezinski clarified that she was not recommending that, but was simply trying to respond to Condit.

Mark Pilliod, City Attorney noted that the Code required the Council to consider both oral and written comments. He indicated that he had not received any comments.

Darleen Cogburn, City Recorder noted that she had received several written remonstrance replies.

Williams noted he had been computing the percentage of remonstrance.

Mayor Drake requested Williams to copy the letters so Council could see them and also so they could be included in the record.

Williams reported that in addition there were a number of forms in support of formation of the LID and since the City ordinance was directed at remonstrance, the letters in support had not been tabulated at that time.

**RECESS:**

Mayor Drake called a recess at 8:15 p.m.

**RECONVENED:**

The meeting reconvened at 8:36 p.m.

Williams explained the remonstrances were counted by the amount of assessment, and the percentage was computed by the amount of assessment that each participant paid. He reported that the total recorded remonstrances against formation of Lombard Gardens LID were 16.69%. He stated that in addition, on October 9, Council received a copy of the petition that had been filed plus the recorded remonstrance and they both totaled 24.75% of the district of the assessment. He concluded that over 75% of the people were not opposed to formation of the LID.

Coun. Soth asked if the petition was received prior to the public hearing being opened would that constitute a petition in remonstrance for the public hearing purposes.

Pilliod replied that the Code was not clear. He read from the Code "... objections or remonstrance to the establishment of the district that are filed with the Recorder prior to the end of the public hearing can be considered." He pointed out that it didn't matter considering the total amount was less than 60%, so the question was more academic.

Mayor Drake asked for any more testimony.

There was no one else who wished to speak.

Mayor Drake closed the public hearing.

Coun. Brzezinski MOVED, SECONDED by Coun. Soth that Council adopt the resolution embodied in AB 98-302, Establishing the Lombard Gardens Local Improvement District.

Coun. Brzezinski commended staff and citizens for working together on what seemed like a very long process.

Coun. Doyle also thanked the staff and neighborhood for their cooperation.

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

#### WORK SESSIONS:

##### 98-303 Committee for Citizen Involvement Annual Work Session

Mayor Drake introduced Jack Franklin, Chair, and Roy Dancer, Vice Chair, of the Committee for Citizen Involvement (CCI).

Jack Franklin said they were at Council that evening to discuss some important issues and to update some issues that had been going on with CCI. He reported that the neighborhood clean-up was a big success and added that Coun. Stanton had volunteered her time. He reported that they

had raised \$2,975 that would be distributed among the Neighborhood Association Committees (NAC) that participated.

Mayor Drake reported that 19 or 20 dumpsters had been filled.

Franklin reported that there would be a follow up meeting the next day and they would probably use the same format during the spring clean-up. Franklin noted they would like to discuss the cost-free appeal issue for the NACs and an amendment to the licensing agreement.

Roy Dancer addressed the issue of the costs of appeals for NACs. He noted that there was a change on the memo (in record) and explained the recommendations to the Council. He said there was money in the budget for appeals and CCI still needed some criteria about how funds should be allocated.

Coun. Brzezinski asked if he meant the criteria for drawing from the budget item.

Dancer said it would be consistent with drawing from the budget amount.

Coun. Brzezinski asked if were criteria for drawing from the budget item as opposed to the actual recommendation that was voted on.

Dancer said CCI did not know there was a budgeted amount at the time they made the recommendation.

Coun. Brzezinski recalled that the budgeted amount was there in response to CCI's appearance at the Council Meeting several months earlier when the Council understood the difficulty of a NAC coming up with the money. She stated that her position was that it cost staff time to process an appeal regardless of who it came from, and it established a bad precedent to say some groups did not have to pay the appeal fee at all. She said the City recognized the difficulty with the NACs so the idea of putting some money in the budget to have NACs be able to draw from was the way to solve the NAC problem as well as keep the precedent in place.

Franklin said he thought that was an important key and the NACs appreciated the way Council looked at it. He reiterated that previously they were not aware that it had been budgeted.

Mayor Drake noted that it had been approved and came up again in the budget process, but there was some misunderstanding with the process probably due to the change in staff with the new Neighborhood Program Manager. He said the Finance Director reminded him that it had been approved.

Coun. Soth said any appeal should meet the City's criteria for an appeal and he would like to see that added to the agreement.

Franklin said that was already agreed to.

Coun. Stanton referred to No. 5 (in memo to Franklin from Dancer, in record) and stated that not every neighborhood association had a board.

Franklin said the by-laws indicated that each association should have a board.

Coun. Stanton said Greenway NAC didn't have a board.

Franklin said that NAC was inactive.

Coun. Stanton said that even when the NAC was active, they did not have a board. She said there was nothing in the by-laws about the Greenway NAC having a board. She noted that there were other NACs without a board as well.

Jim Persey, CCI Treasurer, said there were NACs that did not have boards.

Coun. Brzezinski questioned how a NAC that did not have a board would determine when they had a quorum.

Coun. Stanton recalled that there had to be a minimum number of people (she thought seven to ten) to vote on an issue and bring that issue forward as a NAC resolution.

Coun. Brzezinski suggested that No. 5 could define that a quorum as defined by the NAC's bylaws, must be present at the meeting and that would cover it.

Pilliod said he thought that addressed it but he did not know if the timing requirements could be met. He explained that there had to be an opportunity to meet with an affected developer and a meeting of the board that had to be given at least 14 days notice. He said he thought they would have trouble meeting the deadline for filing an appeal. He was concerned that it seemed to be set up for failure.

Coun. Stanton said, regarding a NAC not having a board, they could still meet and be active, and as to the time frame requirements, she felt the NAC would have to meet the time frame.

Franklin reported that in the bylaws they were allowed to call meetings outside of the regular monthly meeting of the NAC, and the bylaws had been rewritten for Central Beaverton NAC. He said he thought there was a requirement (by the City Attorney) that each NAC have a board.

Mayor Drake reported that Mike Matteucci (previous Neighborhood Program Manager) had wanted all of the NACs to be updated and to have a board. He explained that the update was needed because some of the

bylaws were old and needed some refinement, and pointed out that it was not a dictate from City Hall, only a friendly nudge.

Coun. Soth asked if a notice of appeal must be filed within 10 days after the final action. He said he would like to see conditions of appeal in the statement and a special meeting might be called to meet the criteria. He emphasized his concern of whether there would be an opportunity for a NAC (without a board) to call a special meeting, or the board of a NAC to say whether or not they met the criteria established by Code or notice of intent.

Franklin expressed his belief that if there was enough interest in a project to think about filing an appeal, then the majority of the NAC would turnout for a special meeting.

Coun. Yuen pointed out that No. 2 made it impossible to file an appeal within 10 days. He commented that the sub-committee on NAC Appeal Fees needed to think about what the appeal process was and fit the requirements into the process because it currently was not workable.

Joe Grillo, Community Development Department Director, said the 10 days started when the land use order was mailed and wanted it to be clear on when the clock started ticking. He said generally, (depending on how much work and paper had to be pushed through and the number of mailings) it could range anywhere from four days up to a week before the mailing actually went out and that would start the 10-day clock.

Mayor Drake pointed out that if a decision was not liked, then one could leave the meeting and start their process right away. He said they could send a notice to do something about it and still fall within the period of time to file under most circumstances. He stated that it was up to CCI to stay with 14 days or adopt the Council's suggestion to modify their timeline.

Darleen Cogburn, City Recorder, asked about the 120-day time period.

Mayor Drake said that was a good point and at times they pushed the 120-days because it was not a lot of time to process something. He said they would not want to go over the timeline.

Coun. Doyle suggested that perhaps the Neighborhood Office would sit down with CCI and work out the details.

Mayor Drake suggested they could send it back in an information piece, and if anyone objected, then Dancer and Franklin could come back before Council and argue the case.

Adlard said the Neighborhood Office would be happy to coordinate that meeting, but the current Neighborhood Program Manager would not understand the land use laws.

Mayor Drake agreed with that point.

Franklin asked if they could take a poll by telephone rather than a mailing.

Pilliod said it would depend on the bylaws, and asked what "all active NAC members" meant. He said that even "NAC" was not defined and asked what would happen if an issue was straddling two NAC boundaries or one NAC was more concerned with the proposal, but the action/land use was in another NAC.

Coun. Brzezinski noted there was nothing that said it had to be the NAC in which the land use was proposed.

Pilliod said he understood that, but the implication was that it was the NAC in which the land use action was proposed, but it was not limited that way.

Franklin said at the same time, an individual citizen anywhere in the City could appeal any project anywhere in the City.

Coun. Yuen pointed out that there were certain criteria about who could appeal, and it was the notion of having *standing*. He commented that part of the assumption was that it would be the NAC of *standing*. He stated that if it was not the NAC of *standing*, then maybe Council did not want to have one NAC appeal something that happened in another NAC area. He said he was not sure that would serve the process.

Pilliod explained that in order for a party to have *standing*, they needed to demonstrate that they participated and expressed an opinion on the application, which was contrary to the result. He clarified that the NAC would have had to come out (presumably in opposition) to the application during the initial process, whether that was a hearing or an administrative decision, and then carry that forward.

Mayor Drake suggested Dancer and Franklin craft a policy and then present it to Council, rather than have Megan Callahan, the Neighborhood Program Manager meet with them to discuss it. He noted that Callahan was not an attorney and was relatively new to Oregon. He said the City Attorney could review it and Dancer and Franklin could present it to Council after the first of the year.

Coun. Soth said the issue of *standing* as well as the Code, indicated that any affected citizen could appeal and anyone in the City could be affected but he thought that was stretching it a bit.

Mayor Drake asked if under Ballot Measure 56, the City could be required to notify anything Citywide, and if so, then would all NACs become a party to land use issues anywhere in the City.

Pilliod explained that these types of cases were individual land use applications and Measure 56 dealt with legislation amending either the

Comprehensive Plan or the Zoning Map. He said in his view the City's requirement (or local government's requirement) to give notice under measure 56, would apply in a narrow range of land use cases. He said this appeared to be more focused on the typical quasi-judicial land use application that was not municipal legislation as defined in that Measure.

Coun. Stanton said she disagreed. She recalled Scholls Terrace Apartments on a Text Amendment (TA) that could not be appealed because Comprehensive Plan Amendments (CPAs) could not be appealed in the past. She said just last year the Council developed a process to appeal CPA's and TA. She explained that that a NAC (she used the example of Greenway) would probably only appeal something that happened in that NAC area, in a particular land use quasi-judicial action that would not preclude that NAC from making an appeal. She said there was a wider notice area on CPAs and said she wanted more information on the actual appeal process, but she thought that information was already in the Code.

Coun. Soth said his intent was to include only a statement that an appeal must conform to the procedures in the Code.

Mayor Drake again suggested that Franklin and Dancer work on it and send it back through the Mayor's office and through the City Attorney.

Coun. Yuen suggested for bullets two and five that a statement could be made that said "a meeting could be arranged and noticed in accordance with the NAC's bylaws," because that seemed to be appropriate. He said each NAC functioned differently and uniqueness and individuality of each NAC needed to be accommodated.

Mayor Drake commented that it would also apply to No. 6.

Coun. Doyle asked that they try and get back to Council in January and not a year from that night.

Mayor Drake said it would be as quickly as Dancer and Franklin could refine it and present it to Pilliod for review. He suggested it could be brought back before Council sometime in January.

Franklin asked if a clause that said "a NAC could only appeal a proceeding within their NAC or within 500 feet of the border of their NAC," would be something the Council would rather see.

Mayor Drake asked Council if they wanted that kind of restriction.

Coun. Yuen stated that the issue of *standing* needed to be addressed. He pointed out that even in the case of issues that would affect the entire City, the notion of *standing* would still apply.

Coun. Doyle suggested that it would be important to define what a NAC was, then define what *standing* was, and then somewhere down the line say “a NAC with *standing* may do....”

Coun. Stanton referred to the \$600 per NAC, and asked if it was basically one freebie per each NAC or was it a pot of money that any one particular NAC could dip into several times.

Mayor Drake said it had been allocated to 14 NACs, at \$600 per NAC.

Coun. Brzezinski explained that the Finance Director had pointed out that it in the explanation side of the budget document it said \$600 X 14, to explain how the total got there. She said she thought Council would want to make it possible to allow more than one appeal from any one NAC.

Coun. Stanton specified that it was one “freebie” per NAC.

Mayor Drake reminded Council that they could use their discretion to go beyond that at any time.

Coun. Stanton said she thought the language should be clear so that each NAC would know up front what they had that to work with.

Franklin commented that he and Dancer were not lawyers, so they did not profess they knew how to write legal documents for this project or the next. He said they wanted to get the information to the Council so they could make a decision to fit the criteria for what the citizens needed.

Adlard said clarity was important when they came to a conclusion on how Council wanted money spent. She explained that staff was very clear on that, because when Council came to them during the budget process (even if it was not written down but only verbally represented to Council) and they voted based on that, then staff adhered to it. She explained to Coun. Brzezinski that it was her understanding that what was formally approved was that it was one appeal per NAC per fiscal year. She stated that if that was changed then they needed to get the language to the Finance Director.

Mayor Drake recalled that it had been a specific motion, a specific dollar amount times 14. He said they could spend beyond that as Council and as policy makers.

Adlard stated that if there were 14 NACs and they were in the final month of the fiscal year, and two NACs had used the money and the other 12 came to Council, then out of that pot of money there should be 12 times \$600 left for each of those NACs. She said if the Council wanted to allocate other dollars for something else, then of course they could do that, but out of that pot of money, unless staff was directed differently, that was how staff understood Council voted on that issue.

Franklin asked if a NAC did not use its appeal fund for two or three years, would the NAC be able to accumulate those and use them all in one year.

Mayor Drake explained that one Council could not bind another, but a Council acting as policy makers could make a retroactive decision based on a fiscal year basis.

Franklin gave the Council information from the legislature. He said he and Dancer had several meetings with Representative Strobeck, who was their pipeline to the Legislative Counsel. He said also included in the material was a copy of Beaverton's Chronic Nuisance Ordinance, Portland's Chronic Nuisance Ordinance, and a letter from one year ago when CCI first met with Council to discuss the nuisance issue. He stated that he thought they had addressed several of the questions and problems. He noted that the CCI sub-committee had spent hundreds of hours on the issue and they had a discussion with the Deputy Attorney General (AG). He said that led to a meeting in February that the Mayor called with the Cities of Portland, Hillsboro, CCI and some representatives of the City of Beaverton. He said they had a good discussion on how some of the problems could be controlled.

Franklin reported that they had come up with an amendment to the City's licensing agreement, which was a one-page form. He said CCI would like the Council to be proactive instead of reactive and consider the licensing agreement, which spelled out a number of different violations. He said some of the violations were civil, and some were criminal.

Franklin said he had met with David Bishop, Police Chief, to discuss the amendment. He reported that Bishop liked what CCI was trying to do but not everything in the amendment would fall under police jurisdiction. He said they had originally wanted to make a member of the police department overseer of the program. He said he did not realize the Police Department did not enforce civil violations but that came through Code Enforcement. He said because they had both civil and criminal violations, the logical place to put the administration of the program would be the City Attorney's office, and that was where they had asked it be placed.

Franklin explained that the violations specifically listed had all passed with the Deputy AG who said everything included was on solid legal ground. He spoke about secondary effects that a business causes and how the City could regulate those effects. He said if the City had that type of agreement in place with the problems experienced with Mama Mia's, it would have been a clear-cut and easy solution to getting them closed in considerably less time than it actually took. He noted they closed because they were evicted, not because of the City or OLCC.

Mayor Drake said they did lose their liquor license.

Franklin said a lot of the City's time was spent in trying to find a solution. He said with the licensing agreement in place it would have been a simple

matter to deal with because of the secondary effects that Mama Mia's caused.

Pilliod said he disagreed with Franklin on whether it would be "a simple matter" of revoking Mama Mia's license to operate a business in the City of Beaverton, if the secondary effect amendment was in effect. He said he did not know if the Deputy AG had actually rendered an opinion on the details that had been presented that night. He noted that he had exchanged e-mail with the Deputy AG as to his responding to the letter that was included in the packet (in record) and he (Pilliod) was informed that there was no written response to the letter. He reported that instead there was a telephone conversation in which the Deputy AG offered a very broad opinion as to the legality of a licensing scheme, but not one that was outlined in the other materials that had been presented to Council. He declared that he did not believe it was a "simple matter" to administer and he did not have the staff to administer a licensing program for every business that took place in the City. He said he did not know if there were sufficient resources in the City generally, much less in his office. He noted that was one specific item to be addressed. He said he disagreed with Franklin's opinion that somehow the Mama Mia's situation would have been easier or simpler to address had this amendment been in place.

Franklin declared that it would have been far easier than the process that was taken and it would have cost a lot less money. He said that the applicant would have to agree with the conditions and would understand that if his business created any of the secondary conditions that he would have a citation issued to him. He explained that the business owner would then be called in for consultation and have explained to him exactly what would happen if the secondary effects of his business continued.

Franklin said the business owner would have an opportunity for three citations to be issued to him and at that point would be asked to come in and respond to City Council. He explained that it should be done before the City Council instead of the court system because the court system was extremely plugged up and the City Council issued the license through their designated representative as the official policy makers of the City. He reported that according to the Deputy AG they had the right to remove the business license. He said in regard to Pilliod's comments, that he was correct that they did not get a written opinion, and the Deputy AG explained to Franklin that he could not issue a written response to a private citizen. He noted that if the City requested an official response they would get one.

Franklin reported that the previous week they presented the program to the Chamber of Commerce, but didn't feel they had adequate time to present the issue. He said the Chamber was concerned that the City was setting up a new department just for an administrative license to which he responded that the City was not. He commented that he didn't think the program would take much time to administer. He said a civil or criminal citation would be issued to a business (even if it were issued under the

Chronic Nuisance Ordinance as a citation) and at that time the notification would go to the City Attorney's office that a business had been cited. The City Attorney's office would call the business owner in and explain the license agreement and the rules about appearing before City Council if a third citation was issued. He said the Council would then decide if the business would be allowed to stay in business or not. He said under the Chronic Nuisance Ordinance there had been several stores cited for selling alcohol to underage people and this was a situation that would help to control that. He said once one of those stores was actually brought in and the Council closed it down, the rest of the business would get the message fast.

Coun. Stanton asked Pilliod if the City could pull a business license to shut a business down. She said she understood that a business license did not hold much weight, not like a food service license where the County could come in for health issues. She asked what the consequences would be to business owners who did not have a business license within the City limits.

Franklin said when he moved his business from Washington County to the City, the City sent him a notice, which stated he needed a business license or would be subject to fines and penalties.

Coun. Stanton asked what the penalties would be.

Mayor Drake replied it was a monetary fine.

Coun. Stanton said a business license would not shut a business down.

Pilliod said that the way it was currently set up was that there was an excise tax (a tax collection mechanism from businesses) over and above other taxes they might pay that the City ultimately received, i.e.: property taxes. He explained that in order for the process to function they would have to amend the ordinance substantially, to recognize that it was no longer a matter of simple taxation, but a privilege to operate a business in the City, subject to satisfying ordinance code requirements, identifying what the business was, the location, and the connection between alleged violations of City Code. He said all of that would all have to be clarified in the new ordinance. He noted it was not currently an agreement, it was a privilege to operate basically for revenue purposes only, not for police power purposes. He remarked that what the proposed process did not include, (and seemed to assume) was that once a citation was issued it was counted as a strike. He said each of those citations was subject to a process, which could include a court hearing and a court order would be necessary to make it count as a strike. He specified the citation and court process would be involved at each step except for the last step, which was within the Council's purview. He explained that part of the reason the Chronic Nuisance was set up as it was, was to assure a level of fairness that was designed into the court process. He said although it could be part of the Council process, frankly was open to political influence and ex

*parte* influences that strike as potentially unfair, and to keep it free and above board a third party such as a hearings officer or judge was recommended. He stated that he did not know anything about the proposal except that it would substantially alter the entire history and approach to business licensing in the City, in a way that he had not seen anywhere in the state. He said he did not know why it would be necessary in view of the Chronic Nuisance Ordinance, which had yet to have one strike against anyone. He noted that they went through an extensive process to adopt the Ordinance and the licensing agreement would really change the nature of the business licensing in an extreme way. He said it was not without good intentions, but one which did not seem to address it any differently in ultimate result than the direction the Chronic Nuisance did.

Dancer said in discussing the licensing agreement issue in Salem with the Deputy AG, he said the Council issues the license and the Council could withdraw the license, and it would not have to go through the legal procedure at each step, like a hearings officer. He reported that the Deputy AG said that once the license was withdrawn then the court procedure of appeal could not be taken away. He said he understood there was a lot of difference between the Chronic Nuisance Ordinance and the licensing agreement proposal.

Franklin noted that some of the businesses that had been cited for selling alcohol to minors, had been cited more than one time. He asked what their punishment was. He said they paid a monetary fine and continued right on selling and would get caught in the next sting operation. He said this was an opportunity to be more extreme, and he did not see it as extreme but looked at it as upholding the livability of Beaverton.

Adlard reported that she served on the Liquor Licensing Task Force and going to the Legislature from their commission would be a bill which would be adopted under administrative rules or bylaws, which would allow good companies (businesses with no issues) to have their licenses automatically renewed for two years. She said if there were companies that had even one complaint it would go back through a City process for renewal. She said that was in the works and if they had companies, whether they sold to minors or whatever it was that had one complaint, and certainly if they had a citation, then they would be put through a strenuous process to evaluate if they should have a license again.

Coun. Doyle asked if the Deputy AG had said the City Council could determine the fate of a business by a vote of three, and if there would be no recourse for that business.

Dancer stated that if the Council revoked a business license, the business would have the opportunity for appeal.

Coun. Stanton recalled she heard if the Council gave a license, the Council could take it away. She said the City approved business licenses

but the Council did not, and asked if the Council would have to start approving business licenses.

Franklin stated that the Councilors were the stewards of the City, the policy and rule makers. He said the city business license was instituted as revenue raising medium.

Coun. Stanton explained that in order to take away you had to be able to give and that power was just delegated. She said the business licenses were set up so neighborhoods were protected.

Mayor Drake commented that Code Enforcement took care of some of the nuisance type business issues.

Coun. Stanton said she was caught in the fact that the City had the Chronic Nuisance Ordinance with the process defined. She looked at the outline for the process of business license revocation and noted that the City Attorney's office was involved and the City Council. She asked if there was something other than the decreased property values mentioned, that was different from the Chronic Nuisance Ordinance.

Franklin explained that it was identifying the violations as secondary consequences of the business.

Coun. Stanton asked if that was already in the Chronic Nuisance Ordinance. She explained she did not want to duplicate what had already been done and she was not sure they should pursue the issue in this venue.

Coun. Soth stated that he had the same concerns as Coun. Stanton. He referred to the citation for selling alcohol to a minor and said that instead of the business being cited it was the individual clerk that was cited and that had nothing to do with the business. He commented that it was up to the business owner to give his employees instructions not to sell alcohol to minors.

Franklin said the business owner needed to tell the clerk to check identification and if the business owner did not tell the clerk that, then he wondered where the responsibility was.

Coun. Soth pointed out that that involved the whole area of employee/employer relationship, with which the City did not have control. He said that was an example of some of the problems with Franklin and Dancer's proposal. He gave the example of the definition of lewd behavior in the Chronic Nuisance Ordinance and it came down to each individual having different definitions as to what that might be. He mentioned the paragraph about decreased property values and said in order to establish that one would have to have a certified appraisal.

Franklin reported that they had a case, not a certified appraisal but they ran it by the Deputy AG David Shuman, and he had asked how it would be proved. He said their case referred to a Central Beaverton NAC member who had received her tax assessment in November. He reported that she had appealed it with that fact that DK Wild's (an adult bookstore) had just opened up next to her property and Washington County dropped her property tax evaluation. The Deputy AG said that would qualify as showing that there was decreased property values.

Coun. Soth reiterated that would take an action on the part of the County Assessor or an appraiser to establish. He said he was concerned about shutting a business down immediately, the time involved and staff requirements, as well as due process. He noted that he did not consider the Chronic Nuisance Ordinance to be lacking something. He commented that what he was saying was until there was a better handle on the results and the ramifications of these things they would have to look at some case law in order to establish the guidelines. He noted that an Assistant Attorney General's opinion was only good as an opinion, but did not establish precedence as will a court case.

Dancer clarified that the opinion was under Attorney General Frohnmayer and the 1989 opinion was reviewed and evaluated by Ted Kulingoski and by Hardy Myers and so it was not one man's opinion.

Coun. Soth pointed out that it had never been tested in court, and also that it was difficult to mix criminal and civil violations.

Dancer said that was true, but it did have a lot of credibility when the people mentioned above had all verified it. He declared that that gave him credence to say that it was worth pursuing.

Franklin said he and Dancer were not attorneys and they wanted to outline a process and procedure that "Joe Citizen" could understand. He said it would explain what it meant to have a business license and how one could be shut down if they didn't comply. He noted that an average person would be able to read and understand the licensing agreement.

Coun. Soth noted that there was a difference between a home occupation and a commercial business.

Franklin said the Attorney General said they could not designate a sector of the business and apply a licensing agreement. He said it could legally be applied to all businesses and it could be narrowed for the entertainment businesses, but he thought that would weaken it.

Coun. Yuen commented that most of the information was addressed to adult entertainment. He remarked that CCI had worked on the adult entertainment ordinance since last year and he was not sure CCI should be working on this type of issue.

Franklin responded by saying it was a subcommittee of CCI. He said he had been personally searching for answers since DK Wild's opened.

Coun. Yuen stated that he could not support what Franklin and Dancer were proposing; it looked like they were casting a big net to catch a little fish. He said they had lost track of what they should be doing and he was not pleased with that. He explained that he could not support that kind of ordinance because it would drastically change the notion of what a business license was within the City. He suggested that when the notion of a business license went from a simple tax to an agreement of conduct, it changed the nature of the relationship. He noted that he would think twice about opening a new business in the City. He declared that if he had a business of any substance he would hire a lawyer to interpret the proposed agreement.

Coun. Yuen commented that it sent the wrong kind of message about the City. He said he was not convinced that the proposed agreement had anything that was not covered by the Chronic Nuisance Ordinance. He stated that it looked as if it was a statement to try and legislate a certain type of morality and he thought that was wrong.

Coun. Yuen expressed his other concern with the statement about decreased property values in the adjacent neighborhoods. He said anyone could use the licensing agreement to shut down any business and that would be very unfair. He commented that if it was just Franklin and Dancer he would have applauded them for the amount of work they had completed, but he had a problem with them working on the issue within CCI and he did not think it was an appropriate use of CCI's time.

Coun. Doyle asked how long the current Chronic Nuisance Ordinance had been in effect. He suggested that CCI clarify what this agreement would do, if they were trying to do more than what the Chronic Nuisance Ordinance would do, or if they were dissatisfied with what the Ordinance could do. He said he thought the Chronic Nuisance Ordinance took advantage of a mechanism that was already in place. He stated that if CCI felt the Chronic Nuisance Ordinance was an inadequate tool, then he wanted them to tell him. He said the Council could sense the needs of the City. He said he needed to talk to the business community about many of the issues brought up.

Staff reported that the Chronic Nuisance Ordinance had been in effect two to three months.

Franklin responded to Coun. Yuen and said they were not trying to legislate morality. He said they wanted to make sure existing rules and laws were enforced. He said there were situations at Mama Mia's which affected the surrounding businesses, and frustrated business owners because it seemed like nothing was happening to correct those situations. He commented that the City needed a "hammer" to deal with the businesses that operated in a less than respectable manner. He claimed

that all the proposed licensing agreement did was send a clear message to the business community that the City expected certain standards and if those standards could not be upheld then that business would lose its license. He said 99% of the businesses in the City already operated at a higher standard, which was why it would not take a lot of staff time to regulate.

Mayor Drake asked Council what they would like to do.

Coun. Doyle said he needed some time to weigh the issue of the licensing agreement being more than what was already in effect. He said the City saw a need, which was why the Chronic Nuisance Ordinance was passed.

Franklin said he appreciated Coun. Doyle's attitude and thought as Council read through the information they would see that the Legislative Counsel said it was the answer and the Deputy AG appeared to agree.

Coun. Yuen said Franklin kept referring to "this is the answer." He commented that much of the discussion in the information referred to entertainment zones, but what was in the proposed licensing agreement was not an entertainment zone but an agreement to a certain type of conduct. He said those were not equivalent statements and the materials seemed to refer to entertainment zones and not a business license.

Franklin stated that it was about free speech rights and they could not apply it to a specific segment of business or the Supreme Court would throw it out.

Coun. Yuen stated that it applied to entertainment zones and not business licenses. He asked if the licensing agreement applied to business licenses, since he only read entertainment zones in the information.

Dancer said the problems were in the areas of entertainment.

Mayor Drake reported that he talked to Elaine Spaulding, Executive Vice President of the Chamber of Commerce, and she said the Chamber was not taking a stand. He explained that the Chamber was concerned about how far such an ordinance would go, and had not acted on it but would at some point. He clarified that what he heard from Council was that they would like to see the Chronic Nuisance Ordinance run its course for a while and see those results. He explained that then they would know if there was a need for anything additional or any modifications of that ordinance as opposed to an overlay on that ordinance with the proposed licensing agreement.

Coun. Soth stated that he didn't see anything that indicated a relationship between a City business license and the licensing that went on under OLCC. He noted that they could be cited under a civil code for an incident

(like a fight in the parking lot) but that would not stop liquor from being served, that would be up to the OLCC.

Franklin claimed that after three or four citations they could be shut down because their business license could be pulled. He said the OLCC required a business to have a business license before they could have a liquor license, so if they lost their business license, they would lose their liquor license also. He said the license agreement could not be tied to OLCC because then it would be designated as a certain segment of the business community.

Coun. Soth said there would be court challenges.

Franklin declared that the average citizen thought this was a problem and the CCI subcommittee had searched for solutions. He said this would be an opportunity for Beaverton to be a step above the rest.

Coun. Doyle pointed out that the Chronic Nuisance Ordinance had addressed many situations and the Council's reluctance with this proposed agreement was not due to a lack of concern. He noted the business community did not object to the Chronic Nuisance Ordinance.

Franklin said if the Council's main objection was the decreased property values issue, then they could omit that from the agreement.

Mayor Drake suggested the Council could think about it and wait to see how effective the Chronic Nuisance Ordinance was.

Mayor Drake thanked Franklin and Dancer.

#### ORDINANCE:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the rules be suspended, and that the ordinance embodied in AB 98-304 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 noted that the title of the ordinance was different from the title on the agenda bill.

Coun. Soth asked if it would be necessary to include the code sections in that type of amendment.

Pilliod replied it would not be necessary for a title. He read the Ordinance in AB 98-304, by title only:

An Ordinance Amending Chapter Two of the Beaverton Code Relating to the Board of Construction Appeals (Correct as on Ordinance)

98-293 Compliance Report – Buildable Lands Analysis (continued from 11/2/98)

Steve Sparks, Senior Policy Planner and Ali Turiel, Principal Planner were present to answer Council's questions.

Coun. Brzezinski referred to the November 12, 1998 memo (in record) regarding Metro's vacant land total, and said Sparks had noted that Metro's amount of developable land was too high and asked if that was the basis for the request for an exception. She asked if that appeared somewhere in the plan he was submitting.

Sparks clarified that it was in attachment 1.7, of the report.

Coun. Brzezinski referred to a map presented by staff and asked about the parcels of land identified by Metro to be vacant. She referred to some designations on the map and noted that staff agreed with some but did not with others.

Sparks said the pink properties on the map, were identified by Metro as vacant, and that was incorrect. He referred to the Camp Fire property that Metro marked as developable and said it was not developable because it was park land. He gave examples of other parcels as having development potential contrary to Title 3. He said he hoped Metro would understand why the City said there was not as much land available as Metro thought. He noted that some of the vacant lands Metro identified; the City identified as infill potential, particularly in residential areas.

Coun. Soth noted that in order to have infill one would have to have access. She explained that if a single family residence occupied the area of access, to the extent that they could not get 25 feet of street frontage, then it could not be developed, either redeveloped or infilled.

Sparks noted that the infill in many areas had occurred where buildings had been torn down or moved, and as property values increased, access would be found in some cases.

Coun. Soth stated that he thought that was reaching somewhat, and knew of several such structures that were in good condition and would not be torn down for 50 years. He noted that also applied to churches, with the idea that they were under-utilized. He said he thought that was a perception that was not warranted.

Sparks noted that the church on Murray and Weir was under-utilized in terms of parcel size, with 75% of that parcel was not currently used.

Coun. Stanton commented that the City did not own it and the church had been there less than ten years. She stated that as a Councilor she would not require rezoning of such properties, or tell someone they had not developed their land to a standard the City thought was appropriate.

Sparks explained they were not suggesting they rezone, but were offering a suggestion on how to increase capacity, but not as a requirement.

Coun. Soth asked where the forecast for multiple family development be if the church at Murray and Weir came in with a plan for development.

Sparks said they would have to adjust their forecast to decrease potential dwelling units, but increase it for employment. He pointed out that if the church developed the parcel with an educational facility there would be jobs associated with it.

Mayor Drake stated that this was a November 19 "snapshot in time" and nothing was locked in. He said whether Council liked it or not, it was important not to argue over if what they were doing was right or wrong. He affirmed they were required to do the "snapshot" and that was all it was at that point.

Ali Turiel clarified that Metro required the City to look at the potential for additional use, and that did not mean what they anticipated as a possibility would in fact occur. She said Metro realized that, which was why the Functional Plan required them to monitor it over time. She said the City would report to Metro, on an annual basis, their activity which would allow the City to determine just what their absorption was.

Coun. Soth expressed his concern that about the time Metro got it, they would set it in concrete.

Coun. Yuen said Coun. Soth's point was very well taken. He declared that he did not want to promise Metro any more than the City could actually give them. He stated that he thought the City had justification, and they had talked about 91% on the residential being substantial compliance, and by any measure that was good enough. He said they needed to be very careful about promising Metro more, when the City was already there, since it was too hard to back out of it later.

Coun. Yuen commented that the real irony was the notion of livability. He said in the memo dated November 13, 1998, it referred to the ratio of multifamily to single family residential built between 1990 and 1995. He said he knew it was biased towards multifamily but didn't realize how much.

Turiel said the multifamily had gone down, it was 51% and was now 41%.

Coun. Yuen reported that everyone said the constant perception was that only multifamily homes were being built. He stated that he thought 90% was enough, and there was nothing that made him want to change any of the zoning. He noted that they were already within substantial compliance with the residential, and he encouraged Council to hold that line. He

related that as a matter of personal ethics, he was uncomfortable with overlaying church property with any kind of anticipated use.

Turiel noted that the substantial compliance at 91% did assume that minimum density Citywide and allow for accessory dwelling units.

Coun. Yuen responded that it was also part of Title One requirements. He said everyone should have known the City was going to meet those requirements anyway. He pointed out that those were requirements regardless of whether or not the City fell into the enforcement procedures. He stated that was what the City agreed to do, that was good enough.

Mayor Drake reminded Council that staff was not trying to make them unhappy, and noted that churches had an underlying residential zoning except for one or two parcels in the City. He said a lot would happen in the next 20 years, and this was simply a "snapshot" of the present time

Coun. Stanton asked if the underlying zoning numbers were in the report they were giving to Metro, in terms of potential.

Sparks said they were not.

Coun. Stanton pointed out that the City could probably meet the requirements just in terms of existing underlying zoning in every conditional use in town. She said she was not suggesting staff do that.

Mayor Drake said that was what he was suggesting they do, and so was staff.

Coun. Stanton referred to Metro's vacant land total on page 2 of the report. She said Metro said there were 1160 acres and staff's spot check said there were 700 acres. She pointed out that figure represented a 40% dip in the numbers and she wondered if 40% across the board could be done on residential and jobs. She said that would tell Metro that they overestimated so the City was going to take the numbers off of the top and the City could "zone up."

Sparks said some of the parcels in pink (on map) had been included as infill potential and if he went back and counted that, and compared it he did not think it would meet the Metro total of 1160 acres.

Coun. Stanton clarified that they did not have to meet the acres, only the bodies on the acres if there were 1160 acres. She said they did not have that many acres so it should be based on the number of acres that the City actually had.

Coun. Stanton asked what non-profit organizations were referred to, in the second paragraph, in the section titled "Metro Vacant Land Total."

Sparks clarified that it was churches. He said the City had 700 net acres of vacant land and if one wanted to include parks and parcels that the City owned in Washington County that it would go even higher.

Coun. Stanton commented that churches were like schools and they land banked for growth.

Coun. Soth asked about the percentage of multifamily vs. single family residential, and in which category were condos and row houses counted.

Turiel said she thought row houses were multifamily but condos were not because of the type of building form they tended to be.

Coun. Soth said he thought the public perception was they should all be counted as multifamily because of shared walls.

Turiel said it was single family attached and she would check on that.

Coun. Yuen referred to an earlier comment about how underlying zoning could be applied to churches. He said it was good that they would not need to change the existing zoning on the churches, and he would be interested to see what they would get if they simply applied the current zoning to church property.

Coun. Stanton said she would like to see that for all conditional use permits.

Turiel said she did not think that would yield that much because staff reduced the zoning from the R-2 to the R-4 potential, and it was down to 300 dwelling units.

Sparks said it was 300 dwelling units, and then using the underlying zoning which was predominately R-7 and R-5 it would be about 100 dwelling units.

Coun. Yuen said 100 was better than zero and would get the City into even more substantial compliance.

Mayor Drake said that something to remember when looking at individual parcels was that some parcels, such as the Korean Church behind the library, would not be your typical R-5/R-7 on a major arterial. He said it would make sense on that one (and noted that staff had gone back and looked at some individual parcels) that it had a significantly different use than the backside of SW Bible Church or some of the other churches. He said staff had tried to look at them on a very individual basis and provide some opportunity, (if they ever redeveloped) for what the potential would be.

Coun. Stanton referred back to the fact that Metro 's vacant land in Beaverton was 40-60% higher than the City thought, and asked where that

fell when staff went back to Metro and said their numbers were wrong. She said part of the exception criteria was the City was not supposed to take Metro's numbers unless Metro could show they were correct. She said the City could show the numbers to be incorrect and get them adjusted right off the bat.

Sparks said what Metro identified as developable was vacant and they had assumed that if there was a parcel that was "X" times greater than what the minimum was, then they would have lumped that as redevelopment into their vacant lands. He pointed out that there were actually two separate totals for vacant land and infill land, and suggested taking those two totals together would be closer to the 1160. He recalled that there were 700 net acres of vacant land and about 350 net acres of infill land, which would be close to the Metro number, but not all the way there. He explained that part of reporting process to Metro would be to explain the difference of methodology. He reported that Beaverton was still lower than Metro identified in terms of percent ratio.

Coun. Stanton said she knew there was substantial land on Hall Blvd. from the substation on Green Lane where there were all single family homes. She noted that was zoned for multifamily and would be part of redevelopment and would not be infill. She urged staff to hold the line and expressed her hope that the other Councilors would agree that the City would take their fair share but would not rezone the whole City. She reiterated that she would not want large segments of the City rezoned to a higher density so that the City could meet some arbitrary number put together by Metro telling the City how many bodies must be absorbed. She said she did not think it was appropriate to rezone churches and recommended underlying zoning.

Coun. Brzezinski summarized what she thought Council was concluding that evening. She said what the Council saw as substantial compliance and the fact that staff's numbers were only slightly less than Metro's numbers of developable land, they thought staff should make the case for the exception rather than try to increase the numbers. She commented she thought it would be smarter to lay the groundwork now, so if the residential exception were needed, the foundation would be there, even though the City was already in substantial compliance.

Sparks reported that staff was compiling all the justification for an exception, in this segment of the report to Metro. He said they made the pitch that the City was in substantial compliance on the Citywide residential portion of the numbers, but the other three categories were not in substantial compliance and staff would request an exception for them. He noted that development had occurred since the Functional Plan had been adopted and it had been at lower densities than what was required by Title One, so the City had committed land to development that Metro identified as vacant or redevelopable at a lower intensity and density. He stated that there was ample justification to request the exception, and at

the same time, if Metro would not grant substantial compliance then the City would say they wanted an exception.

Coun. Brzezinski asked what more was needed from Council.

Sparks said they did not need anything else.

Coun. Soth pointed out that in the case of what had been identified as redevelopment or infill, it was important to make sure the County Assessor noted that it was taxed on the use and not the zoning if the zone was changed. He said he was very concerned about that and the fact that many properties could not be redeveloped without substantial acquisition of property between neighbors.

Sparks said from what they heard from Council that night, nothing staff was proposing in terms of actions to do would be a rezoning.

Coun. Yuen said he was pleased with what staff had said regarding substantial compliance or exception. He referred to Table 3, which suggested a whole series of potential actions and asked if the report staff was submitting to Metro would suggest any of those actions.

Sparks noted that staff had not had a chance to caucus after the meeting that night in terms of what would be reported to Metro. He said the report staff presented to Metro would include a request for exception for the three categories. He noted that as an alternative, or other action the City could take would be selected rezoning.

Coun. Yuen asked if this would be a broad statement about suggested rezoning or would it be about specific rezoning.

Grillo responded that staff wanted to be as broad as they could in the statements as to what the other options were. He advised Council to keep the options on the table and proceed as part of filing the report. He suggested describing those options in general terms in the final report, recognizing that if the City had to come back to those, they would have a sense of which one of those options they might want to pursue first, and it would clearly not be churches. He said he had counseled the Mayor all along that there were a number of items that could slide a little either way in terms of the final count. He noted that in terms of what the Council was implying they were going to do, it was important to keep all the options open, without committing to taking any one particular option off the table, except for the mandatory items, which they had to do. He said they would go back to the option list and pull the necessary options off to provide those opportunities.

Mayor Drake commented that what they were saying was "don't shoot yourself in the foot" because there might be people coming along who would want to do some of those options.

Coun. Brzezinski questioned (from a negotiating point of view), if the City reported to Metro that the City believed they should have an exception or were in substantial compliance (which ever of those they decided to do), why would they go the next step and also tell Metro that if they did not agree, "here is what we (the City) would consider." She clarified that the City would give the alternatives if Metro said, "No," but why would the City give them that information prior to a response from Metro.

Grillo explained that if he could provide all of the answers to some of the uncertainties in the reports, they could be much more definitive about what should be in the report and what should be left out of the report. He said he recognized that some of the Council viewed this as negotiation, but did not think it would be viewed as such by Metro, and would be viewed as something else. He explained that he thought it was easier for staff to indicate in the report that there were other additional options that they could take a look at without being specific. He said they could work at the staff level to make the case that the City either got an exception or was in substantial compliance. He noted that an example was that if he knew what the definition of *substantial compliance* was, it would be a lot simpler to write the report.

Coun. Stanton concurred with Coun. Brzezinski and said Grillo was wrong. She stated that she wanted the Council to go forward to Metro and say the City was in substantial compliance, and show how the numbers were figured and what it could look like. She said the City should tell Metro that they believed they could get an exception and ask Metro if they did not agree. She said if Metro said it was not good enough then the City could go back and look at it. She clarified that this was not negotiation, but it was saying that the City believed it was in substantial compliance. She urged Council and Mayor Drake to only go forward with substantial compliance.

Mayor Drake stated that if that was what Council wanted, then that was what would be done. He recalled that it was Elaine Wilkerson who had opened the door with her memo on *substantial compliance*. He commented that he was disappointed because as the whole regional issue evolved there were more issues other than the City offering a rezone of some properties that likely would come forward that way anyway, as they looked at regional money for transportation dollars, grants, etc. He said he believed Metro looked at all the issues and how that partnership evolved for the City, and stated that he thought what staff had offered that night could be done and was reasonable.

Coun. Brzezinski asked how many jurisdictions there were in Metro, which needed to abide with 2040.

Mayor Drake said there were 27.

Coun. Brzezinski asked what percentage of those jurisdictions would be in at least 90% compliance. She stated that she could not imagine that Beaverton would be on the low end of the scale.

Coun. Stanton asked how many were as far in the process as Beaverton was.

Mayor Drake said he did not know how many were at 90%, and thought at least half were this far in the process. He noted that some would meet their numbers and others would ask for extensions.

Coun. Stanton asked how many had submitted their responses to Metro.

Turiel reported that Metro staff said they expected to have all responses by the end of the year, and hoped by the end of November.

Coun. Stanton asked why was there a rush.

Turiel replied there was a deadline.

Coun. Brzezinski said she thought they should submit it.

Mayor Drake explained that they were having the discussion that night so they could make the deadline. He said he respected the Council's concerns and thought they were so close on the numbers that they could do it. He commented that staff had offered some innovative, creative and realistic ways to achieve some of those numbers. He used the examples of the church parcels, and noted that it was irrelevant whether they ever redeveloped because they were talking about a 20-year timeline. He explained that it was a toolbox for them in dealing with people as they came forward. He pointed out that the opportunities for redevelopment, whether the Council liked it or not, there were people who were buying those small lots because of the cost of real estate. He noted that the market was there, would continue to be there, and the City was simply offering some of those opportunities. He said staff had listened closely to what Council had said at the last meeting on this issue, and that was what they had brought forward to the current meeting. He stated that what they presented was a moderate, temperate approach to being able to achieve those numbers.

Coun. Yuen said he agreed with what Couns. Brzezinski and Stanton had said that they should not go forward with more on the table. He stated that the City should tell Metro that they believed the City was in substantial compliance, and if Metro did not agree, then the City wanted an exception. He said he was not comfortable with what was on the menu and before they went ahead and offered it he wanted another look at it. He pointed out that there were two options that looked a lot more attractive than Table 3, and therefore Council needed to have a discussion to prioritize what they really wanted to do on Table 3. He stated that he would be uncomfortable doing something on Table 3 without the Council coming to a consensus.

He pointed out that individual Councilors said there were things they might do on Table 3, but there had never been a consensus. He clarified that he did not want staff to take Table 3 forward and represent that Council had any kind of consensus on it. He stated that the message from the Council was substantial compliance or an exception and everything else came back to Council.

Mayor Drake said he thought that message was very clear, and stated that he did not agree with it. He said his message to Grillo would be that the Council did not want to do it.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 10:58 p.m.

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Darleen Cogburn, City Recorder

APPROVAL:

Approved this 12<sup>th</sup> day of April, 1998

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Rob Drake, Mayor