

## REGULAR MEETING

January 25, 1999

### 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, January 25, 1999 at 6:40 p.m.

### ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Dennis Doyle, Forrest Soth, and Cathy Stanton. Coun. Evelyn Brzezinski was excused. 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 Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Development Services Dir. Irish Bunnell, Emergency Manager Mike Mumaw, Utilities Engineer David Winship, Senior Planner Barbara Fryer, Building Official Brad Roast, Redevelopment Project Mgr. John Engel, and City Recorder Darleen Cogburn.

### CITIZEN COMMUNICATION:

There was no one present who wished to speak.

### COUNCIL ITEMS:

Coun. Yuen said he would need to leave early due to return to work that evening.

### STAFF ITEMS:

Linda Adlard, Chief of Staff, reported that the Photo Red Light bill would be coming up at the Legislature, and wanted to be sure the Council was comfortable with the wording on it. She noted that she had given them a copy of HB 2071, which followed the legislation they had the past year, exactly. She pointed out that an element of it was that the presumption of the law was that the driver of the car was the registered owner, and the person who would received the citation for running a red light (which was after the light was completely red for seconds - intentionally running a red light, not when it was yellow but definitely red). She explained that the person would be cited through a picture taken of the vehicle, the driver's

face, the rear of the vehicle, and the license plate numbers would match. She said then, the registered owner of the vehicle would be cited and mailed the citation, just like was currently done with Photo Radar. She noted there were also clauses in the legislation, that allowed a person, if they were not the registered owner and driving the car, to submit a certificate of innocence (just like with Photo Radar), but the person did have to identify the driver of the vehicle and the City would then cite that driver. She said it treated business the same as in Photo Radar, and they would have to give the City the name of their employee who was driving the vehicle.

Adlard pointed out that it was a demonstration project for two years, to be repealed on December 31, 2001, but if it was successful they would then go back to the Legislature with a report from the Department of Transportation (as with Photo Radar). She said the merits of the program would be evaluated and they would decide whether to ask for the program to be permanent or not.

Adlard noted that the impetus for the bill was there was a great increase of running red lights, and in the last three years the increase of accidents was 28%. She said for 1997, '96 and '95, the injury related accidents from running red lights had increased by 88%, and over 50% of the traffic accidents investigated in Beaverton involve running red lights. She noted those were significant numbers and the citizens had responded in the surveys that the top two concerns were traffic congestion and more traffic control. She asked Council to read the bill and get back to her and if they had any changes, it could be amended. She noted that they were happy to take comments from citizens on this issue, and told Council they would need to help with testimony.

Coun. Doyle said he would be able to go with her, and noted that he had pushed to get the bill going.

Coun. Soth agreed that it was important and said he would be glad to go with Adlard to testify. He asked if the City of Portland was supporting it yet.

Adlard reported that Portland would like to have this Red Light legislation, but there were two or three issues they did not agree on. She said she was meeting with them to see if those issues could be resolved.

Coun. Stanton asked if Portland had submitted their own bill.

Adlard said they had not, and said the problem with submitting several pieces of legislation on the same issue is that they usually get combined and in that process are compromised.

Coun. Stanton explained that she was concerned about that and was hoping that Portland had not done that.

**SPECIAL BUSINESS:**

Mayor Drake commented that it was not often they could “one-up” someone who had been on Council for 18 years, and someone who had better memory than everyone in the room, combined. He said that night they would honor someone who could enjoy being honored while they were still serving, rather than the usual situation of honoring someone when they have left service. He announced that they were honoring Councilor Forrest Soth for, to this point in time, his four years of service on the Planning Commission, and his 18 years so far on Council, and noted that Coun. Soth had two years remaining on his Council term.

Mayor Drake read the inscription on the plaque that would be placed in the lobby (placed on the wall near the entrance to the Council Chamber). The plaque outlined Coun. Soth’s service to the community and his dedication to fairness and integrity in local government. Mayor Drake also displayed the engraved banner that indicated the Council Chamber was dedicated to Coun. Soth. Coun. Soth received a round of applause and a standing ovation for his years of dedicated service.

Mayor Drake explained that they had intended to have the plaque and nameplate installed earlier that day, but since Coun. Soth is usually the first person to the meetings, he would have noticed and most likely looked for a ladder to see what was being hidden. He noted that members of Coun. Soth’s family, including his wife of 56 years, Connie, three sons, one nephew, daughter-in-law, and granddaughter, were there to join in the honor.

Mayor Drake said, “Forrest this is for you, and those of us who have served with you, respect you a great deal. I couldn’t think of a better way to honor you for your service to date.”

Coun. Soth said it was one time when he was at a loss for words, and those who knew him, knew that was not usual for him. He expressed his complete surprise, and said he had no indication or even a hint that anything like this would transpire. He said it was very nice of them to do this and everyone could rest assured that he would do nothing to besmirch the reputation of the City, the Council or anyone present. He thanked his family for their support all of these years, and said he appreciated the many friendships that had developed with others and the employees. He said every time he saw the plaque and banner, it would bring back a sense of humility that he felt. He thanked everyone for the honor.

Those present gave Coun. Soth a standing ovation in recognition of his service to the community.

Mayor Drake introduced Jessica Hamilton, Congressman David Wu’s Washington County Field Representative, who read a letter of congratulations to Coun. Soth, from the Congressman. She announced

that there would be a Town Hall meeting in February, and they looked forward to working with the Council.

Mayor Drake congratulated Coun. Soth and said it was really fun to trick him.

Coun. Stanton read a quote from Tom McCall that she said applied to Coun. Soth: "Heroes are not giant statues framed against a red sky, they are people who say, 'this is my community and it is my responsibility to make it better'."

Coun. Soth introduced his family and thanked them for being part of this honor.

Coun. Doyle added his personal congratulations, and said he would share with Coun. Soth the paper he helped his (Coun. Doyle's) daughter write that received national recognition. He said it had been terrific serving on Council with Coun. Soth.

#### PROCLAMATION:

Topaz Faulkner - Recognition

Mayor Drake noted that the City had formed a partnership with other housing providers in the County, and was part of forming the Tualatin Valley Housing Partners (TVHP). He noted that Topaz Faulkner was the one and only Director of TVHP, and she had done a great job representing TVHP and specifically Beaverton's interests in working to obtain affordable housing in the area. He read the proclamation (in the record).

#### PRESENTATIONS:

99-23 Presentation of Shields and Swearing in of New Officers to the Beaverton Police Department

David Bishop, Police Chief, noted that it was appropriate to swear in the new officers after honoring Coun. Soth, since he was an example that they should all follow. He called the new officers forward and issued the oaths to Michael Jolma, George Izzett, and Brandon Herring.

Mayor Drake presented their shields.

Mayor Drake asked Jessica Hamilton to come forward again, and she read a letter to the new officers from Congressman David Wu.

Bishop thanked the officers' families and friends for their support.

Mayor Drake asked them to stay and listen to the presentation on PAL.

99-24 Presentation on the Beaverton Police Activities League

Jill Showalter, Executive Director of the Police Activities League (PAL), and Sam Wade, Beaverton Police Officer and volunteer with PAL, were there to give the presentation.

Wade thanked them for allowing them to be there to talk about PAL. He explained that PAL was a community based, non-profit, crime prevention, life affecting, youth agency. He said that PAL supported and encouraged off-duty officers to participate in activities with kids. He noted that the activities were both educational and recreational, and it did not get any better than that.

Showalter agreed that PAL was another youth-serving agency, and asked them to think about this: PAL provided programs by utilizing volunteer police officers as program leaders, and noted that Boys & Girls clubs do not. She reported that Tualatin Hills Parks and Recreation District charged for their programs but PAL did not charge. She pointed out that PAL used youth crime prevention as their major program development strategy, and the Y did not. She gave some statistics as follows: within the next 24 hours, 1439 teens would attempt suicide, 2795 teenage girls would become pregnant, 9516 would take their first drink/use drugs, and 3561 teens would run away. She took a look back at history and noted that in 1940 school administrators thought the worse problems was kids talking out of turn, chewing gum, made noise and ran in the halls. She reported that in the 1990s the issues were pregnancy, drug/alcohol abuse, suicide, rape, robbery and assault, which was why people were concerned about youth violence in the schools.

Wade noted that National PAL was started in New York City by a police officer Ed Flynn in 1937, when he found some kids breaking windows and the merchants were concerned. He said that the kids told Flynn they did not have anything to do, so he took it upon himself to take the kids to the playground and formed a baseball team.

Showalter noted that there were 500 chapters of PAL in the US and Canada.

Wade said that in 1997 the Beaverton Together Foundation hired a research group to look at the local situation. He reported they found that 1 out of 4 13 year-olds reported carrying weapons, and of those 11% reported the weapon to be a handgun. He said PAL was there to help with such issues; it was not a cure-all but it was another layer of help.

Showalter said several local police officers formed the local chapter of PAL, and then read their mission statement.

Wade said they needed the support of the Chief of Police, which was an easy sell, since he had been a PAL kid as a child. He reported that they then contacted the Beaverton Together Foundation who gave them guidance, and then PAL applied for Community Development Block Grant

(CDBG), and then looked for other partners. He said those included off-duty officers, schools, etc. He noted that Coun. Stanton was one of the founding members and thanked her for her support. He pointed out that there were other local organizations such as Optimists, Kiwanis, and several Neighborhood Associations, that got involved.

Showalter reported that 25% of the officers in the Beaverton Police Department were involved, and they had touched the lives of 700 kids in the last year. She noted that a community volunteer brought in his helicopter and gave rides to the kids, the "Copter Program." She reported that they had officers who teach Kung Fu, and they would be teaching racquetball. She announced that on February 6, at 10:00 a.m., they would have the grand opening of their facility where they host events. She noted they cultivated support throughout the community, and said they started off with CDBG funding, and now they have some savings that would take them into the next year.

Wade related a personal experience that was an example of the positives of the program. He said he was on patrol and he ran across one of the local kids, who was not only gang-affected but also enrolled in PAL, and he asked the kid where one of his friends were because he (Wade) needed to talk to him. He related that the kid told him that he did not know where he was, and he explained that Officer Mark that taught him Kung Fu said he could not attend and learn from him if he hung out with gang members.

Coun. Doyle congratulated them and noted that he was Chair of the Social Services Funding Committee when they awarded the CDBG funding. He asked who was providing the space for PAL.

Showalter said the location was 12602 SW Farmington Rd., the historic Caddy Building. She noted that Mike Lane was the owner and also served on their Board.

Coun. Doyle noted it was terrific to watch it take shape.

RECESS: Mayor Drake called for a brief recess at 7:19 p.m.

RECONVENED:

The meeting reconvened at 7:31 p.m.

CONSENT AGENDA:

Mayor Drake noted that Coun. Yuen asked to pull AB 99-29.

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

Minutes of the regular meeting of October 5, 1998

- 99-25 Liquor License – I Love Sushi: Greater Privilege
- 99-26 Boards and Commissions Appointments
- 99-27 Resolution Opposing New State Board for Building Codes and Supporting an Agreement to Enhance Building Code Enforcement
- 99-28 Draft IGA with Washington County for Urban Planning Services
- 99-29 TA980003 Development Code Text Amendment Relating to Setbacks and Flexible Setbacks and Zero Setbacks (Pulled for separate consideration.)
- 99-30 TA 980007 Assisted Living Text Amendment

Contract Review Board:

- 99-31 Bid Award – Community Center Addition
- 99-32 Exemption From Competitive Bidding – Purchase of One (1) Portable Mobile Data Terminal From an Existing Bid Award Through Washington County Consolidated Communications Agency
- 99-33 Contract Award – SW Rose Biggi Avenue and Library Property Acquisition, Selection of Consultant

Couns. Yuen and Stanton abstained from voting on the minutes.

Coun. Stanton noted, regarding AB 99-27, that there was a bill at the legislature to require a new board be formed for the tri-county area to develop standardize forms, standardized trainings, etc. She pointed out that this would result in such things as additional fees, among other things. She asked what they were doing, besides the resolution in opposition, to be proactive at the legislature. She asked if they had any plans regarding this issue.

Linda Adlard, Chief of Staff, said they had Brad Roast, Building Official, on a committee, looking at this for some time. She noted that both this committee and the lobbyists from each city would be following it. She reported it was a massive bill and would take a lot of help, and the League of Oregon Cities was involved.

Coun. Stanton noted, regarding AB 99-28, that she had received two phone calls and read about it in the paper, so she appreciated the memo from Darleen Cogburn, City Recorder, on Measure 56. She said she felt more comfortable that even though at this point people may feel they had not been involved in forming the IGA, citizens will be involved from that point forward. She asked if that was correct.

Mayor Drake replied that it was correct, and explained that this was really a financial document at the County's request. He clarified that they asked the City to coordinate Metro's required 2040 Planning, in the unincorporated areas of the County, where Beaverton, at some time in the future would provide urban services. He noted that as part of that, two years ago, Metro established an Urban Service Boundary (USB), where the cities of Portland and Beaverton would eventually grow. He reported that they were in the process of determining the USB with Hillsboro, since the County did not plan to stay in the business of urban services. He clarified that all that was being done with this document was setting out the financial agreement to begin the process. He said they had been working closely with the CPOs and this was simply a document to arrange the planning process for the next approximately 2.5 years. He reported that they would be setting up a work plan with the County and CPOs, and explained that the idea was that Beaverton had an interest in the unincorporated areas, long-term. He pointed out the 2040 Planning was planning up through the year 2040, so Beaverton needed to have input into areas that would most likely be in the City.

Coun. Soth clarified that that had nothing to do with any steps towards annexation, nothing to do with tax matters, etc. He said it had to do with two people from Washington County would be sitting in the same office with two people from the City, talking face to face, to share the ideas and build consensus as to the matters of planning.

Coun. Doyle noted, regarding AB 99-27, that the legislation was trying to establish another State board that would oversee what went on in local areas, and said he did not think they needed any more State boards supervising anything! He said to pay for it would mean increases permit fees and building fees, and noted that it was interesting that the tri-county area was trying to come up with a solution, by working out an intergovernmental agreement (IGA) that would help develop building applications and packets that were consistent together and have a common job card for on-site inspections. He suggested that if they could do that successfully, they would have the support of the building community to not have an additional State board. He said if people cared about growth in government they should take the matter up with their local legislator. He stated that it was something they did not need; it was a mistake; unnecessary and he hoped they could keep it from happening.

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

Separate Consideration:

99-29            TA980003 Development Code Text Amendment Relating to Setbacks and Flexible Setbacks and Zero Setbacks (Pulled for separate consideration.)



Mayor Drake noted that Coun. Yuen had some questions regarding this item, and asked Joe Grillo, Community Development Director, if he was going to answer the questions.

Grillo said that Irish Bunnell, Development Services Director and Barbara Fryer, Senior Planner would answer questions.

Coun. Yuen related that when he first heard about this he heard comments from fellow citizens and activists who shared his question of why were they doing it. He noted that he was appreciative of the work of the Planning Commission (PC) who had gone a long way to make it more acceptable, but he was still struck that from the reading of the minutes, he did not see even one person who testified in favor of this. He said one person commented that it was a solution in search of a problem, and he was inclined to agree, and in spite of all the work that had been done, he was inclined to vote against it.

Coun. Yuen noted that one of the purposes of the IGA they had just passed, was looking at changing the code of the urban unincorporated areas to be more like the City, since the City would potentially annex those portions. He explained that was why he was perplexed that they would lower the City standards to the level of the County (with this TA). He expressed his concern that since the City was basically built-out, and many of the annexations were coming from the County, they were being developed to different standards than those of the City. He said he understood that was a reason to try and make the City and County Codes more alike. He noted that there was much in the TA that had very little to do with any of that, such as zero lot lines, flexible setbacks, etc., none of which had to do with what he understood to be in the County. He suggested there must be another motivation.

Coun. Yuen noted that when he was on the PC for four years they had struggled with the issue then, of the inordinate number of rezones from RA to R5, when there was a perfectly acceptable R7 zone. He reported that finally someone said that R5 allowed flexible setbacks and R7 did not, and a variance was required to get flexible setbacks. He said that was fine with him and it might be a good idea to have flexible setbacks in R7. He stated that this document did that which was fine for him. He continued that PC had done some things that made it a Type III hearing that would go back to them, which would provide for adequate citizen review.

Coun. Yuen explained that what he did not understand were the zero setbacks, and said he would like some discussion on what the motivation was for doing that. He said some would say it would allow for row houses, but he understood zero setbacks would also apply as equally to single lots as to multiple lots. He wondered why they had a one lot zero setback.

Barbara Fryer clarified that flexible setbacks were allowed on single lots, but zero side yard or back yard setbacks were only allowed through a subdivision process.

Coun. Yuen said as he recalled that was part of the discussion before PC, and he understood that the language referred to land divisions, which was actually less than a subdivision. He said part of the reason was because they could already do that through subdivisions, but the Code did not allow for those with less than four acres (less than enough for a subdivision).

Fryer said that was correct and it did apply to land divisions, but a land division had to include a division of land. She explained that they at least had to take one lot and divide it into two lots, so both of those lots would have a zero lot line: a common wall.

Coun. Yuen pointed out that in some parts of the City there were some fairly large lots that could be subdivided into two or three lots. He said this would allow that to happen and someone could build a zero setback development on the one lot.

Fryer said that would be correct once it was divided into two or three lots.

Mayor Drake asked Coun. Yuen if he was asking if the common wall would have to be in the center where the two new lots joined, so it was not impacting the outside lots. He asked Fryer if she could draw it on the board, to make it as simple as possible.

Fryer did so.

Coun. Stanton gave the scenario that if she owned an oversize lot, and chose to divide it and build three row houses on it, in an existing neighborhood, would she be able to do that without going to a public hearing. She wondered if she would have to go to the neighbors with the plan.

Fryer responded that in order to do what Coun. Stanton had just described, she would have to go to a PC hearing, and the PC would make that determination.

Coun. Stanton said the idea of zero setbacks was one thing for new subdivisions, but it was another in existing neighborhoods. She noted that since the City was "running out of dirt," most of what they would see was redevelopment, and this would allow many people to start a process to do anything they wanted to do, which was why she was a big fan of Conditional Use Permits (CUPs) and Variances (VAR). She noted that she knew this was not carte blanche to do whatever they wanted.

Fryer drew an example on the board and explained that if they assumed it was a large lot and divided into three parcels. She noted where an original house was located which would remain, she pointed out that the two

remaining lots could have a common wall development, provided they could get access, etc. She said the other alternative would be...

Coun. Stanton interjected the question of how much the setback was between the outside of the houses and the next property.

Fryer continued that the setbacks would not change, and said she believed it would be a minimum of 10 feet in the rear, and five feet on the sides.

Coun. Stanton asked if the person could ask for a variance to extend it out further towards the side lot lines.

Fryer said in terms of the 10 feet one way or the other, they could not; they could not get a Variance. She pointed out they would be getting flexible setbacks in terms of a zero lot line.

Mayor Drake noted that this was the protection they were worried about, regarding a zero lot line on an outward or adjoining lot.

Couns. Yuen and Stanton both noted that they had been concerned that they could have a zero lot line up to the edge of the abutting property.

Fryer said it could not. She explained that there were three scenarios as follows: 1) the existing home with five-foot side yards, or 2) zero side yard and 10 feet on other side, or 3) they had completely attached walls on the inside.

Coun. Yuen asked what the setback would be on the other side of the drawing she had displayed.

Fryer said it had to be at least 10 feet to the next dwelling, and clarified that there would be a series of restrictions on that particular property. She reported that the owner would have to achieve a five-foot permanent easement for maintenance, and another five-foot easement for utilities.

Coun. Yuen noted that if he had a house with a 10-foot buffer on the side and was expecting the person on the other side of the fence to have the same, this could allow that not to happen. He suggested that the other person could put an easement on his (Coun. Yuen's) property so the other guy could have an easement to his utilities.

Fryer clarified that they could not involuntarily put an easement on your property, you would have to sign over an easement.

Coun. Yuen asked what would compel him to do that; saying it would be out of the goodness of his heart, so the other guy could have a zero lot line on his side.

Mayor Drake suggested that if Coun. Yuen subdivided his (theoretical) lot, and had the lot next door, that would apply, if the second lot were one lot originally that had be subdivided.

Coun. Yuen stated that was fine and it made good sense. He explained that he wanted to make sure that they would not be compelling people to give up easement lands for someone else. He stated that he did not ever want to see that happen in the City and wanted someone to tell him that would never happen.

Grillo clarified that the ordinance allowed the opportunity for the property owner to pursue the flexible setbacks, but in the ordinance, the party that wanted to pursue it, had certain thresholds they had to meet. He noted they had to do that at the PC and if they wanted to do such a thing they would have to talk with the adjacent property owner. He stated that the City was not telling anyone they had to give up the easement.

Coun. Yuen asked if it could go through a process and compel the person to grant an easement.

Grillo said that was not possible. He stated that there was nothing in the ordinance that said if a party wanted to do a subdivision, a neighboring owner could be compelled to give up land.

Coun. Yuen said that perhaps he was getting flexible setbacks and zero lot lines confused. He recalled a long discussion that at one point in time the Planning Director would handle this, and there was concern about not having a public hearing. He pointed out that the City had a process now that if you wanted to change the setbacks, you had to get the approval of the surrounding property owners, and it seemed to him that one of the questions was, "If the person did not get the approval from those owners, what would happen?" He reported that the response was that it could be taken to PC for a public hearing. He asked if he was getting confused with the two issues.

Mayor Drake stated that with this ordinance, unless the neighbors agree to it or you control the property adjacent to it, you could not take it to PC and override the owner.

Coun. Yuen asked for someone to show him that in the ordinance.

Fryer said the records he was referring to was on page 4 of Exhibit A, 12/8/98 version, it was under B - Application Requirements, in italicized print, and read from the ordinance (in record). She explained that if the applicant did not get the abutting property owner's signature, they would go to a public hearing. She explained that this section was only for flexible setbacks, not for zero side or rear yard setbacks. She directed them to page 7 of Exhibit A, under A – Procedure Type, for flexible setbacks for a proposed land division or newly annexed land division in the residential districts. She suggested they look at the highlighted, underlined, italicized

text, and read from it (in record). She said the next type of procedure they could apply for was on page 11, zero side or zero rear-yard, and noted that here again a public hearing was required for that request.

Coun. Yuen stated that it said exactly what he thought it said, which was that it did not mean that an individual who did not want a zero setback against their property, and assume the responsibilities of an easement, would never have that happen. He said it said there that it could go through a public hearing process to which that would happen, there was nothing there that said that would not happen, unless he was totally misunderstanding what was written there. He stated that there was nothing in there that said if a citizen did not want to have zero setbacks up against their property line and be compelled to have the easement through their property, all they had to do was say, "No," that was not there.

Fryer referred him to page 12, the Approval Criteria, and read from it (in record). She pointed out item #4, and read from it, also. She explained that one would not be able to come forward and propose a change to your particular plat without your permission.

Coun. Yuen asked if she was saying that the agreement had to be made before it could go forward.

Fryer said that was correct.

Grillo clarified that you had to be a party to the application if your adjacent property owner was looking for that type of land division with that type of zero side or zero rear yard, so either you would be a party to the application or not. He noted they were only looking at the property where it had to be applied for, that was it.

Coun. Stanton called their attention to Exhibit A, page 12, sections 4 and 6, of Approval Criteria C they had been referring to. She noted that when she read 4 (read from item, in record), it said the maintenance agreement had to appear on the plat; it did not say there had to be a sign-off. She asked if that was part of the pre-application; was there a place for the adjacent property owner to sign off on it.

Grillo reiterated that a person could only file an application on property that they owned or had control over, therefore they could not submit an application unless they had all underlying property owners who were implicated, sign or co-sign an application. He said if what they were proposing involved an adjacent property owner, they would need to have their agreement, or they could not consider that property as part of the application. He noted the City would also notice both properties to everyone within 500 feet. He said it had to be an agreement between two consenting property owners before they show up with an application. He said if a property owner wanted to do something interior to their development in terms of zero side or rear yard, they were in control of that property and would be supplying easements.

Coun. Stanton said she had lived in another area where a developer went to an older property owner and got them to sign a paper not knowing what it was, and got something similar to this. She noted that was just a red flag for her, and reasonable, good men would not do that. She read from #6, and asked where a zero setback would be designated, so they would not need a utility easement.

Fryer explained that on her drawing on the board, where the property line was a zero property line and the house was on the line, they would not expect a five foot utility easement to go through the dwelling. She clarified that they require it on all other perimeters and the perimeters of the adjacent lots.

Coun. Stanton said in all honesty, anyone can get their neighbor to sign the paper, and then do something else. She was concerned because she saw that most of this would happen as redevelopment in the older parts of town.

Mayor Drake noted that it had to be consummated before the application was approved.

Grillo agreed that they would have to have the legitimate set of signatures on the application. He said if Council wanted staff to adopt some administrative procedures on this, where they could verify or certify an adjacent property owner filing an easement on a development, they could look at that. He pointed out that as government officials they were already in the front of things, and he would hope that people would look after the property. He clarified that respected what Coun. Stanton was saying, but he just did not know how staff could double-check the signatures.

Mayor Drake suggested a notarized signature be required. He said an example was on Sixth Street, there was a lot where someone was creating a flag lot on a larger lot. He noted that he thought they would see more of that as the redevelopment occurred in the City.

Mark Pilliod, City Attorney, said if the applicant was using the term "easement" he would interpret that as they should be supplying a recordable document and which should be notarized.

Coun. Doyle said he also had some concerns and hoped that the person granting the easement knew what they were doing. He recalled that he signed a waiver once, because the developer told him that it would be a one-story house, but that was not what happened.

Coun. Stanton said she was glad to hear that it would have to be notarized.

Coun. Yuen asked for clarification, and asked if the entire purpose of zero setbacks was for rowhouses, wasn't it. He said he could not imagine another reason for it.

Irish Bunnell, Development Services Director, said that was one of the purposes, but the purpose was more to allow flexibility for infill development.

Coun. Yuen said in other words, in those cases where they had a difficult lot and they could move it more to one side.

Coun. Yuen asked what the motivation was for removing the maximum lot coverage from the Code.

Fryer said after careful analysis they determined that in no instance could anyone build to 100% lot coverage, which was allowed in every residential district except RA. She explained that in trying to be fair to the other zones staff eliminated the maximum lot coverage, subject to whatever setbacks were required on the particular lot.

Coun. Yuen recalled that when he was on PC, a developer wanted flexible setbacks and wanted 5 or 10 foot rear setbacks. He said PC questioned the developers extensively, and finally got to the reason they wanted to do this, which was to build some very large houses on some very tiny lots, such as 3000 square foot houses on 5000 square foot lots, and PC turned them down. He pointed out that these changes would allow for more than that, with only five feet in the rear, 10 in front and five on each side, which was a pretty big house on a lot. He stated he was not inclined to remove it from the Code.

Grillo noted that whether it was a flexible setback, or a rear if side lot zero lot, the PC had review criteria, and they were under no obligation to approve the request. He read the portion that outlined the criteria (in record). He said this gets back to the point of what was the PC looking at in terms of criteria. He noted that just because someone asked, it did not mean they would get it.

Coun. Yuen said he understood that, but recalled from being on PC, that they were frustrated because they all knew that the proposed project did not fit, but they did not have criteria to turn it down.

Bunnell referred to Exhibit A, page 5, C, and read from the text (in record), and noted that it said in determining compatibility, consideration should be given to a list of items. He reported that the PC worked through a couple of public hearings, defining that list. He noted that they had consulted with Pilliod to clarify and define the list.

Mayor Drake pointed out that staff had worked to make the list quite tight and narrow.

Coun. Soth asked if this still required adherence to the solar access codes.

Staff said it did.

Coun. Soth MOVED, SECONDED by Coun. Doyle, that Council approve AB 99-29, TA 980003 Development Code Text Amendment Relating Setbacks and Flexible Setbacks and Zero Setbacks.

Coun. Yuen said he would vote against the motion. He expressed his appreciation for the conversation they had that evening, and the work staff and the PC had put into it. He commented that if they were going to do this, it was probably as good as it could get. He stated that it was still a solution looking for a problem.

Coun. Soth noted that the requirements under the Metro 2040 Plan would require increased density. He said they had to recognize reality with the cost of land, and if they could put two houses where one used to fit, they needed to look at it.

Coun. Doyle said he would support the motion. He noted that he had some reservations, but not as serious as Coun. Yuen's. He explained that he had talked with some other people such as PC and they said if a problem did materialize, they could readdress the amendment.

Coun. Stanton said she appreciated the hard work of the PC, and since they felt comfortable with it she would support the motion. She noted that if there were problems in the future, they could address them.

Coun. Yuen commented that when he was on PC they felt there was some flexibility on R7, but that had been four years ago. He noted that at that time the PC also thought it was way too easy to get rezones because the criteria were so broad. He cautioned them on their optimism that if there was a problem, it would get fixed.

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

#### ORDINANCES:

#### Suspend Rules:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the rules be suspended, and that the ordinance embodied in 99-35 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, Doyle, Soth, and Stanton voting AYE, the motion CARRIED unanimously (4:0)

Mark Pilliod, City Attorney, read the following ordinance by title only:



First Reading:

- 99-35 An Ordinance Amending Ordinance 1800, the Comprehensive Plan Map, by Redesignating Property at Two Locations on the North Side of SW Beard Road, ECP 97002/ECP 97003 (Sexton Mountain Village)

Pilliod read the following ordinance for the second time by title only:

Second Reading and Passage:

- 99-22 An Ordinance Granting A Renewal of A Non-Exclusive Cable Television Franchise Agreement to TCI of Oregon, Inc., And Declaring an Emergency

Coun. Soth MOVED, SECONDED by Coun. Doyle that the ordinance embodied in AB 98-22 now pass. Roll call vote. Couns. Yuen, Doyle, Soth and Stanton voting AYE, motion CARRIED unanimous. (4:0)

WORK SESSION:

- 99-34 New Emergency Response and Recovery Plan (ERRP) to Supersede the Current Emergency Operations Plan (EOP)

Adlard and Mike Mumaw, Emergency Manager, were there to present.

Coun. Doyle suggested they have a summary since it was a televised meeting that evening.

Adlard recalled that in 1994 the City adopted an Emergency Management Program. She noted that the Plan they had today was much improved from the one in 1994. She pointed out that this Plan included the basic Plan and the annexes, and also outlined the organization and the responsibilities. She noted that they had included the recovery plan as part of this document and noted that it was important to let people know about the Plan.

Mayor Drake noted that those in Washington County were blessed because they joint cooperation, and explained that the Offices of Consolidated Emergency Management (OCEM) coordinated disaster activities in the County. He said he thought they were light years ahead of others even in the region. He noted this was a quality document, which was a joint effort, and staff were better trained because of the cooperative effort.

Coun. Soth explained that the County Emergency Command Center was at the Washington County Consolidated Communications Agency (WCCCA) E-9-1-1 Center. He reported that it had been set up, the equipment was ready and the building had been upgraded to meet the

seismic requirements. He asked how many of the individuals, particularly those in the command positions had been through the FEMA training.

Adlard responded that the number was probably not as many as he would think, because the FEMA training back East was not as up to date as California, since they have worked with the earthquakes and taken advantage of that. She reported that the County had done several exercises to test their knowledge. She noted that it was one thing to learn the knowledge and another to apply it in an emergency, so they needed to practice. She reported that it was less expensive to send people to California for training, and pointed out that there had been a number of staff turnovers with retirements, etc. She emphasized the need to remember that when they were budgeting for training, because it was expensive training, but it was invaluable when the citizens have an emergency need. She noted that they would continue to budget for the training, and reminded them that there were a number of new positions, each of which needed a certain level of training. She said she thought with the various trainings, they were covering things quite well.

Coun. Soth said he took the training in 1986, and still remembered most of what he was taught there. He agreed that the education was important, but people also needed the hands-on training.

Mumaw said one of the problems with going to EMI was they have a certain number of slots they assign per state, per function/job. He noted that it was spread out over the 50 states and it was difficult to get people in for the training, so it was more advantageous to take advantage of CSI in California. He said they were trying to get more training in the local area, and an example was OCEM would be sponsoring the disaster recovery operations course for the State later in the summer.

Adlard noted that in an emergency the function of the elected officials was to stand-by, and be ready for the time when their signatures and decisions were needed. She said it would be a difficult function for them because they were all active and involved, but they would need to wait patiently and be ready to make decisions when she or the Mayor came to them. She asked them to take the time to read the plan, and stated that she was very proud of Mumaw for his work, to lead the charge.

Mumaw said he had a short video to show and noted that they had not faced a true disaster, to the grade they could face in the future.

Mumaw played the video.

Mumaw said that the current plan had some shortfalls in it, and pointed out that the plan they were considering would never be perfect, but this was far better than the current plan. He explained there was no such thing, as a final or complete plan, and noted that disasters were not a matter of *if*, but of *when*. He stated that the adoption of this plan would re-establish the

City's commitment to be prepared. He noted that the training costs were not just in class/training costs, but were also time away from their jobs.

Coun. Stanton asked why Tualatin Hills Parks and Recreation District was not on the distribution list.

Mumaw replied that they had not been on the original list, but he would suggest that they be included.

Coun. Stanton referred to the plan and asked who the Branch Director was, if it was another word for incident commander.

Mumaw said it was not the same, and reviewed the chain of command list (in record).

Coun. Stanton asked if they were all chiefs, and wondered if they were also "Indians" at the same time.

Mumaw said there were.

Adlard referred Coun. Stanton to Annex A, page A1, which was a chart that would clarify the reporting line to insure communication.

Coun. Stanton read from the Basic Plan, page 11, Policy 2, and asked why Preparedness was not one of the issues covered by the Council.

Mumaw explained that the Plan strictly addressed only Emergency Response and Recovery, and noted there was a separate Preparedness plan.

Coun. Stanton read from page 16, under City Council B, and asked Pilliod if that subsection made the Council liable for planning for the response.

Pilliod said he did not understand her question.

Coun. Stanton re-read the statement, and said she was referring to the section where it said the Council was responsible for the safety of all citizens.

Adlard said what the section was attempting to say was that the Councilors would not become Branch Managers, but they would be continuing to be the policy people who were responsible in the sense of overall direction to staff.

Coun. Stanton stated that she understood, and asked if it made them liable before or after the fact. She asked if this section could come back to haunt a Council as to personal liability.

Pilliod explained that the would City continue to function whether there was an emergency or not, and they would do their best to respond according to

the availability of their resources to provide a response. He stated that it was not a statement that added or removed potential for liability.

Coun. Soth complimented Mumaw on the voluminous task, and noted that he was familiar with it, and that having it in writing was important so people could familiarize themselves with it. He commented that it was important to be prepared.

Adlard noted that it was important to remember that when an emergency situation occurs, City employees are just as concerned about their families as the other citizens are. She clarified that it is the responsibility of City employees to check on their families first, and then they would be required to show up and respond to the needs of the citizens. She said they would be bringing forward in a coming budget, supplies for each staff person to sustain them for a short time in an emergency.

Coun. Doyle commented that he sensed Mumaw's enthusiasm for the job and noted that it was a huge an important task. He noted that upon reading the material, it was apparent that the City employees would be doing things they were not used to, and it was commendable that they were becoming involved and would be there when the need arose. He stated that he would be there to support the budget measures, and hoped they never had to put the document into effect. He asked for a short report every six months or so to stay updated.

Mayor Drake pointed out that Mumaw's office was not at City Hall, but he worked hard to stay in touch with staff and communicated regularly with him and others in his office. He reported that during the seasonal weather Mumaw kept them updated on the rainfall and forecasts for the actual rain expected in the next 24 hours, which allowed them to staff appropriately. He thanked Mumaw for the good job he was doing.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 9:00 p.m.

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Darleen Cogburn, City Recorder

APPROVAL:

Approved this 16<sup>th</sup> day of August, 1999

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Rob Drake, Mayor

