

REGULAR MEETING

June 21, 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 June 21, 1999 at 6:42 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Coun. Wes Yuen was excused. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Human Resources Director Sandra Miller, Community Development Director Joe Grillo, Operations/Maintenance Director Steve Baker, Library Director Shirley George, Police Chief David Bishop, Engineering Department Director Tom Ramisch, Development Services Director Irish Bunnell, Fire Battalion Chief Jim Mooney, Project Engineer Jerry Williams, Associate Planner Richard Reynolds, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Henry Kane, 12077 SW Camden Lane, Beaverton, 97208, said he had sent many letters to the City to address the issue of the speeding ticket that he had received. He noted that someone wrote a letter to the editor accusing him of violating the law. He said his position was that since there was no order authorizing the erection of the sign, the statutory requirement stated the sign, and anything like a conviction connected with it was null and void. He explained that the law said that this flasher must be set up at the beginning of the zone and it was somewhere about 300 feet inside the zone. He stated that the statute also stated that notice should be given for people who would be entering the zone, which included motorists entering from Menlo and Wilson. He added that he had received communication from people who were concerned that these convictions would increase their insurance rates. He stated that he felt all the convictions should be set aside and refunds made.

Kane stated, regarding AB 99-186, that it was for legal assistance for *The Round* at Beaverton Central. He said if he understood correctly, the City had agreed to buy back the three or six acres of property at *The Round* for \$1 million, and the problem was that there were approximately \$5 million in liens. He said the property was subject to the liens and also Article 11 Section 9 of the Oregon Constitution that stated that the City

could not give away public money to a private developer, because the City was undertaking a liability of about \$5 million less maybe \$1 million that might or might not be applied to the liens, which was in direct violation of the Constitution. He stated that the Council had a very expensive law firm and if they made an error they would have a very expensive legal malpractice claim against them; the City should not be buying back property that had liens that run with the land.

COUNCIL ITEMS:

Coun. Soth stated that, as the Council representative on the Washington Square Regional Center Task Force, he hoped they would wrap it up by the middle of July, and it should be formally ready for the Metro 2040 Plan. He said there had been good discussions and some very innovative ideas out of the process. He announced that on June 22 there would be a meeting of SB 122 Oversight Committee and hoped the work of the Citizen Involvement Advisory Committee would come to fruition in terms of getting an idea of where the ultimate boundary would be for urban services for the Cities of Hillsboro and Beaverton.

STAFF ITEMS:

Linda Adlard, Chief of Staff, reported that on June 22 the Senate Transportation Committee would be having a work session on the Red Light Enforcement Bill. She stated she would be there to answer any questions and that it would probably become city specific rather than general. She noted that on Monday, June 28, they would begin tearing down the old City Hall, and making way for the new library. She said they would swing a sledgehammer at 3:30 p.m. at the corner of Fifth and Hall, and invited Council members and any citizens to attend.

CONSENT AGENDA:

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

Minutes of the regular meetings of March 15 and April 5, 1999

- 99-181 A Resolution Declaring a Nuisance of Noxious Vegetation, on Property at 7460 SW 163rd Pl., Beaverton, OR 97007 (Tax Lot # 1S1 20 CB 8600) and Ordering its Abatement
- 99-182 CPA 99007 Tree Inventory Map
- 99-183 CPA 99008 Tree Inventory Supporting Documents
- 99-184 Bid Award – Library Building Construction Contract

Contract Review Board:

- 99-185 Change Order to Kurahashi & Associates Engineering Contract for the Beaverton Central Henry/Esplanade Project
- 99-186 Contract Change Order – Legal Assistance For The Round At Beaverton Central and Transfer Resolution
- 99-187 Contract Award – Municipal Utility Billing Software System Purchase Installation, Conversion and Training

Coun. Brzezinski had questions on the March 15 minutes, and asked City Recorder Darleen Cogburn to clarify some issues related to Mr. Rhee, on page four, and page six, where a “they” needed to be clarified for future reference.

Coun. Doyle stated, regarding AB 99-187, he was glad to see from the Budget Committee discussion that credit card charges would be available. He asked Finance Director Patrick O’Claire if that was accurate.

O’Claire responded that there would need to be some reprogramming but it would happen.

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

PUBLIC HEARING:

- 99-188 Lombard Gardens LID Street Design

Mayor Drake pointed out that the issue was discussed in-depth at earlier meetings and asked if there were any questions at this point.

Coun. Soth expressed his concern regarding the Fire District letter regarding the design of the streets and their ability to navigate those streets. He asked if the issue had been resolved.

Mayor Drake asked if he had received the District’s latest letter.

Coun. Soth said he had, but it was not quite as explicit as he would have liked, and he wanted to be reassured that the Fire Department was able to navigate those streets.

Jim Mooney, Battalion Chief with Tualatin Valley Fire & Rescue and the District’s liaison to the City, said the simple answer was “Yes,” they could navigate that area.

Coun. Soth said that was what he needed to hear.

Coun. Stanton asked for affirmation that this action was to approve the street design and not about the funding issues.

Mayor Drake said that was correct, and noted that there was assured funding at this point.

Mayor Drake opened the public hearing.

Pam Chase, 11855 SW 11th Street., Beaverton, said she did not know what the design was, and said she was surprised that more neighbors were not present. She stated that she had heard the frustrations of many of her neighbors, that they had written letters and they did not feel that anyone was listening.

Mayor Drake asked Chase if she had attended any meetings during the past 18 months.

Chase said she had just read things that had come in and talked with the neighbors. She stated that she did not understand or agree with putting sidewalks on 11th Street. She pointed out that there was no new construction there and there were many old houses and big trees. She stated that she had a large tree at the edge of her driveway that she understood would have to be cut down. She commented that it was her understanding that the sidewalks would cost about \$2,000, and if she had \$2,000, she would have her roof fixed; that was a bigger priority than a sidewalk. She stated that she believed that it was safer now than it would be with sidewalks. She said she did not understand where the Beaverton improvement project came from and did not understand the purpose of the process.

Mayor Drake clarified that the project came from the fact that a number of the neighbors had complained about drainage issues.

Chase said she remembered it getting started and at the time there were neighbors who said the City would fix it in three years and would pay for it entirely if they waited for three years. She said the City could fix the drainage the problems, repave the roads if they must, but they did not need to widen the road and cut down trees and make it less livable and less attractive by sticking in the sidewalks. She stated that there was not a great amount of foot traffic.

Coun. Stanton asked for her house number.

Chase stated it was 11185 SW 11th Street.

Coun. Stanton said that it did not appear that her tree would be removed.

Chase said she had many trees, the great big 50-year-old tree at the end of her driveway was not shown, and she already had utility poles in her yard.

Coun. Soth explained that, regarding the utility poles she mentioned, it was his understanding that the utility poles had to be in the public right-of-way (ROW).

Chase said they were right next to her property and it was her understanding that they would widen the road and move them even closer in. She questioned why it would be widened to 28 feet, when she didn't think Lombard was even that wide.

Mayor Drake explained that 28 feet was the standard urban design. He reminded her that the Fire Department was concerned that it wasn't wide enough with cars on both sides to get a rig down it, and their preference was that it would be even wider.

Jerry Williams, Project Engineer, said Lombard Street was 36 feet wide, curb to curb, and he thought the ROW was 60 feet wide. He reported that the existing ROW on 11th, 12th, and 13th Streets was 40 feet which was the proposed ROW to build the street.

Mayor Drake asked Chase how long she had lived there.

Chase stated she had had her house for six years.

Mayor Drake said the ROW was in place when she bought her house and explained that when a street was developed there was a ROW for future improvements. He clarified that in the case of her street, the City was putting in curb-tight sidewalks even though the Code required planter strips along the street. He said based on neighborhood input, the City was not putting in planter strips the whole length of the roadway so property owners could preserve more of their front yards.

Chase asked if the City would be encroaching on her property.

Mayor Drake stated that anywhere the City would encroach on her property, (not a ROW), the City would pay for it.

Williams clarified that the work was planned within the public ROW, and they promised they would not acquire more ROW. He said they recognized that a number of the houses had less than 20 feet of set back and realized that frontage was very important to every one of the property owners. He said on 11th Street, the back of the sidewalk was planned to be 2.5 feet from the ROW; it would be inside the ROW 2.5 feet.

Mayor Drake explained that when the house was purchased there was a 40-foot ROW strip in there that was already in place. He agreed that they had a nice street, but what had happened over the years was that trees had grown in the ROW. He noted that people had planted shrubs and trees and it might look like the City was taking people's property, but it was more a matter where plants had been placed in the public ROW.

Chase said she thought the tree would be inside her property boundaries.

Mayor Drake said that before the contractor started work, they would send the owners a contact name and phone number so they would have someone to contact if they thought something was not right.

Chase said her "Dr. Suess tree" needed to stay. She said she did not understand how the LID fee worked. She asked if it was due immediately, or would it be added to her taxes.

Mayor Drake said the large majority of the neighbors voted in favor of the design and LID and asked Williams to explain the expected process.

Williams said 11th Street was planned for next year, and 12th and 13th Streets would follow in the summer. He said after 11th Street was completed and the total costs were known, then in about January of 2001, the City would levy assessments. He stated the staff believed the estimated assessments they began the project with would still be within that ballpark range of the original estimates and they currently did not expect them to increase. He said without his journal he could not tell Chase the price for her parcel but he could get that to her later.

Mayor Drake asked O'Claire to explained the payment options individually to Chase, aside from the meeting.

Chase asked if the matter had already been decided.

Mayor Drake said the majority of the neighbors had voted for it to be done, and the issue for consideration that evening was the actual design, since this was a reduced width of street for the neighborhood. He stated that it was a unique design that actually was reduced from what would normally be put in a new sub-division. He explained that if it was in his neighborhood, it would be much wider and noted that the point in the different size was to respect her neighborhood; it had been designed to try and keep the integrity of the neighborhood. He noted that when her home was built there were no City standards in place that required storm drains. He explained that now the City had such standards and that was the main reason for the current difficulty, it could not handle the water the area had been getting, especially the last few years. He pointed out that the water had to go somewhere and it was usually in someone's crawl space, or dip in elevation from the front to back yard.

Coun. Brzezinski noted that she had heard Chase say that some of the neighbors had said if they would wait the City would pay for all of it, but it would take three years. She clarified that the City was paying by far the bulk of the money, but was taking money from three different fiscal years to pay for it all; the fiscal year that was ending, the next fiscal year and the fiscal year that would start in 2000. She the City was putting in \$750,000 and the neighbors voted to pay the difference, with the required percentage of support to have it happen.

Chase said the majority voted for what she understood was drainage, and she did not think there was a majority for sidewalks.

Mayor Drake explained that came with urban design, and the idea behind it was that when you start working on the street, (and they had to address the streets), they would also require sidewalks.

Chase asked if she could keep her chickens.

Mayor Drake responded that as far as he was concerned that she could keep them, within reason.

No one else wished to testify.

The public hearing was closed.

Coun. Doyle MOVED, SECONDED by Coun. Soth, to approve AB 99-188 Lombard Gardens LID Street Design.

Coun. Stanton recalled that this all started because a gentleman in the neighborhood came to the City with flooding problems. She remarked that this whole process had been very good, and wished that all citizens that came with a need could work through a process that would solve the problem. She was sorry that Chase was not real comfortable with it but she felt that it would do a tremendous amount for her neighborhood and property values and all sorts of things and would eventually work out for her. She suggested that the process that had been used should be shared with the League of Oregon Cities and the National League of Cities as a model for others. She commended Jerry Williams, Project Engineer for his work and said staff did a fine job and came up with the best project.

Mayor Drake also thanked Williams, and noted that the process had gone so well because Williams had worked so well with the neighborhood.

Coun. Soth echoed the compliments to Williams and the staff. He pointed out that the most important thing was the neighbors came in with a problem, and what needed to be done to correct the problem was explained to them. He said the neighbors used their good judgment, realizing the facts of the situation, and looked at ways to solve the problem and be sure their concerns were satisfied. He noted that this project was in one of the CDBG census areas and therefore qualified for that type of funding.

Coun. Doyle said he agreed with those comments.

Mark Pilliod, City Attorney, pointed out that since this item was before the Council under the Development Code as a public hearing item, the Council Rules required that after the Council acted upon this issue, staff would return with the final written order, for Council's final action.

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

RECESS: Mayor Drake called for a recess at 7:20 p.m.

RECONVENED:

The regular meeting was reconvened at 7:25 p.m.

EXECUTIVE SESSION:

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that Council move into executive session in accordance with ORS 192.660 (1) (h), to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others. Couns. Soth, Brzezinski, Doyle and Stanton voting AYE, the motion CARRIED unanimous. (4:0)

Executive Session convened at 7:25 p.m.

Executive Session adjourned at 8:15 p.m.

The regular meeting reconvened at 8:15 p.m.

OTHER BUSINESS:

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that the Council authorize the attorney to continue to negotiate as discussed in executive session, having to do with municipal court (former municipal judge). Couns. Brzezinski, Soth and Doyle voting AYE, Coun. Stanton abstained, the motion CARRIED. (3:0:1)

Coun. Soth MOVED, SECONDED by Coun. Doyle to authorize the Attorney and Chief of Staff to continue negotiations regarding the *Round* as discussed in executive session. Couns. Brzezinski, Soth, Stanton, Doyle voting AYE, the motion CARRIED unanimously (4:0).

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:17 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 15th day of November, 1999

Rob Drake, Mayor