

REGULAR MEETING

June 28, 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 28, 1999 at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Dennis Doyle, Wes Yuen, Cathy Stanton, and Forrest Soth. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Assistant Finance Director Shirley Baron-Kelly, Human Resources Director Sandra Miller, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Library Director Shirley George, Police Captain Wes Ervin, Traffic Engineer Randy Wooley, Associate Planner Margaret Middleton, Development Services Manager Irish Bunnell, Water/Wastewater Supervisor Leonard Apling and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Daniel Kearns, 610 SW Alder St., Suite 803, Portland, said he represented Equity Residential Properties and was there to comment on the Transportation Systems Plan, which was on the consent agenda. He explained that he wanted to comment on the Murray Scholls Town Center Plan, since his client owned property within that area and they had a specific transportation problem there.

Mayor Drake stated the he understood that Kearns' client was not on the record and asked if that was true (at the Planning Commission).

Kearns said he had not been able to confirm that they ever appeared, either in writing or orally. He displayed a map of the area, and indicated that his client's property was the Country Gables development. He explained that the TSP included an extension of Teal Road that cut between phases one and two of the development and would substantially interfere with any kind of comprehensive development of the two phases. He said Teal was a collector level street that would separate the two phases, and it would take out a large swath of land, in a multi-family development. He asked that they pull that element out of the proposal. He noted that the Council might think he was a "Johnny come lately," but he did have some suggestions that would deal with it and make the property easier to develop. He agreed that they needed some more north/south

connectors, but asked that they delay, or defer the issue, or pull it out. He said the Council could tell staff that they would entertain an amendment in the near future.

Mayor Drake said the Council wanted to be responsive and said he was sure Country Gables had more than enough notice, and had the opportunity earlier. He stated that he was concerned that this had come so late, and thought this would require Council to send it back to the Planning Commission (PC). He said he would have a problem doing that since this had gone through a long process and much work had been put into it.

Coun. Soth agreed that this was a substantive change and in his view, the Council on its own, could do what he was asking, but he thought anything like this should go back to PC. He said they had already done this once and remanded it back to PC on April 5, and it had taken this long to come back to the Council. He said as far as he knew they had heard nothing of this until that evening, so he felt it was too late to bring it up.

Kearns said he understood what Coun. Soth was saying, and asked if they would entertain an amendment if they came up with something that staff could work with.

Coun. Doyle said his understanding was that the TSP was a "plan," not carved in stone and he thought they could go through the normal process and suggest a change.

Kearns clarified that normally that would be right if this was just the text part, but this was a very specific part of it. He said he understood that the map would be adopted that evening.

Coun. Yuen said it was a Comprehensive Plan Amendment (CPA), and it updated and changed the Comprehensive Plan. He stated that, particularly with all the work that had already been done, he thought the appropriate procedure was for Council to approve it and then if he wanted to do this, he could come back and pay the fees and ask for another CPA.

Mayor Drake asked staff to respond to the comments. He noted that he was not deferring an answer to the staff, but wanted their response.

Irish Bunnell, Development Services Manager noted that Randy Wooley, Traffic Engineer and Margaret Middleton, Associate Planner, had been the staff who carried that project. He said he knew that no one representing this property ever participated in the process. He explained that the CPA would define the alignment of the road, and said he agreed with the Council comments regarding the long, thorough process this had been through, including the remand to PC. He said they needed to have it adopted so they could count on the whole package, and it would be a shame to hold up the whole thing for this one small part. He said there was a process to come back and amend if they chose to do that.

Coun. Stanton asked if their phase two had an application approved.

Kearns said they had not submitted an application, but had two pre-apps.

Coun. Stanton asked if this had been mentioned in the pre-apps.

Kearns said he was not present, but Ms. Middleton told him that the extension was at least telegraphed to someone in the organization.

Bunnell confirmed that the pre-app did contain that information.

Mayor Drake told Kearns that they all knew he was the messenger and suggested that the best way was to come back and see what could be done.

Coun. Brzezinski recalled that Kearns said that this came out of PC in May, but actually it first came out of PC in December and was amended in January and February. She suggested that he should not let his client say it was something that just came in May, it was out many months before that.

Kearns said he would just submit his letter and deliver the message back to his client.

COUNCIL ITEMS:

Coun. Stanton said in the paperwork that night, she did not get AB 99-199, the information about the Washington County HOME Consortium.

Mayor Drake stated that he wanted them to pull that from the agenda, because the negotiation process had not been completed.

Coun. Stanton said one of the questions she asked was not addressed. She said it was on AB 99-204 Consultant Award Geotechnical Services.

Mayor Drake said he did not see it in his material either. He noted that Coun. Doyle had asked a similar question, but not the same question.

Linda Adlard, Chief of Staff, said the answer was on her computer and apologized for not getting it to Coun. Stanton.

Coun. Stanton noted that the question was related to the budget line. She said in this case the amount budgeted of \$200,000, the expenditure was \$21,000, and a clue to her was that the \$200,000 was not budgeted for that line item. She said it would be helpful if, when a fund was depleted slowly, they could get an fund balance along the way.

Mayor Drake said he would talk to Patrick O'Claire, Finance Director, and get back to her.

Coun. Stanton clarified that she wanted to know how much had been used and how much was left, sometime along the way.

Adlard said she was currently in the process of developing a budget with Heery International, and that might be able to give them information on a monthly basis.

Coun. Stanton said if it could be done without too much trouble, paper or ink (and that included time and energy) she would appreciate it.

Mayor Drake noted that Coun. Stanton was meaning more than just the library project.

STAFF ITEMS:

There were none.

PRESENTATION:

Red Light Running Campaign

Adlard distributed a handout (in record), and said she would give them an update on how the grant funds were being utilized. She noted that the past week the Senate Transportation Committee passed both the Photo Radar bill and the Red Light Photo Radar bill out of committee also limited the number of cities on the latter bill. She speculated that they would have Beaverton and Portland, and noted that it would be voted on in the Senate on Thursday, and then it would go back to the House Judiciary, with the expectation that it will be approved. She commented that they would need new letters from Councilors in the light of them responding to citizens, they know what the citizens wanted and the legislature should move ahead.

Coun. Brzezinski asked if she remembered correctly that the House approved this bill when it was bigger.

Adlard said that was correct.

Coun. Brzezinski asked if her concern was that "the world" had been taken out of it, and it might have trouble.

Adlard explained that any time you go back for a second vote, they had an opportunity rethink their vote, and also had an opportunity to get feedback on their earlier vote. She said they would probably not get any more than two hits on a vote, any of them, so she did not know whether it would be positive or not. She recalled that the Photo Red Light Survey they did was very positive, and had very high percentages regarding safety. She noted that Beaverton citizens thought it should be statewide. She said if she felt Beaverton citizens were normal in the sense of how one would vote, she

hoped the House got very positive comments about it, but she did not know. She reminded them that she generated 600 letters in one week to legislators to get that vote. She said she was not sure where they were on it but she might need their help.

Coun. Stanton asked what were the chances in the Senate. She asked if there was the possibility of any of those Senators who did not like Beaverton, did not like anymore laws, etc.

Adlard said given how politics works, and how people trade votes, she believed that the City had enough votes to get it out of the Senate. She suggested that they should contact their Senators. She said Senator Hartung was positive, but Senators Qutub and Starr were questionable.

Coun. Doyle said when it got out of the Senate that week, if she could compile the results of the campaign, so they could appreciate the magnitude of the problem, he thought that would help. He reported that that going through the community, people thought it was a good idea here, even those who run red lights! He noted that the numbers he had heard from even the first day were unbelievable.

Adlard pointed out that in their packet, they had the majority of statistics they would need to speak about this campaign. She said she would be happy to give them a sheet to help. She noted they had relayed the information to legislatures, also.

Coun. Doyle said he understood that 55 tickets were issued the first day of the red light saturation patrols, and prior to that someone who was observing counted many offenders, before the patrols started.

Coun. Soth said when this went back to the House, would the Judiciary or Transportation Committee hold another hearing on the amendment.

Adlard said she hoped not, and hoped they would open it up for a work session, accept the amendment and send it out with a Do-Pass.

Coun. Soth suggested that some of the Councilors should attend the work session.

Adlard pointed out that the House Judiciary Committee members were very receptive to this, since most were attorneys and understood the issues.

Adlard introduced Scott Patterson, the Red Light Running Campaign Manager, and Jarred Clark, her Management Analyst. She said they had both worked hard on this campaign. She reviewed the materials in the packet they had distributed (in record).

Adlard reported that the City had received \$125,000 from the Federal Highway Administration, Chrysler Corporation and the National Trauma

Association. She noted the money was distributed through the Oregon Department of Transportation (ODOT), and the Council had approved matching funds. She pointed out the card with necessary numbers, and other materials in the packet, including some information that would be mailed to the citizens.

Adlard reported that the Beaverton Police Department (BPD) had targeted intersections with enforcement at six of those and 10 intersections where they would be putting up the signs "Red Means STOP in Beaverton." She said they had made announcements, and tried to get the information out, so anyone who did not know about it was not paying attention. She stated that they did not want people to say they were being trapped, so they were telling everyone that it would be done. She said they would be putting some signs up in the various neighborhoods and had asked for appropriate locations from each NAC. She explained that this was to help make people begin thinking about their driving habits before they get out of the neighborhood, onto the major streets around town. She reported that they were using this campaign because it had been tested successfully in the Edmonton, Canada area.

Adlard noted that included in the packet was a time line that would let them know what would be occurring and when, as they proceeded through the campaign. She said this was to make a safer community for all.

Coun. Stanton said she liked the post card and asked if they also came out of Canada.

Adlard responded that Patterson and Clark had developed that, and said there had been some radio public announcements, also.

Coun. Soth noted that, assuming they got the bill passed, the information they gathered in this campaign would be useful in the next two years when they have to go back to the legislature with a report.

Adlard reported that they had been applauded by ODOT for the program, and they had asked the City to apply for another grant the next year. She explained that they thought they could pay for some of the red light camera equipment out of the grant, but now ODOT has said that equipment could not be purchase out of that.

Coun. Doyle thanked them and said he supported this and was anxious to get the numbers and the results from the various target areas. He noted that he was especially interested in the numbers for a particular intersection where he had some concerns. He said he thought the program was terrific.

Coun. Brzezinski noted they were doing a follow up Davis and Hibbits survey at the end of August and then collecting data on violations and collisions in September. She asked if they had earlier data from those same months.

Adlard explained that it was not based on intersection survey, it was based on an opinion survey.

Coun. Brzezinski said that was what she understood, and wondered when it been done.

Adlard said she thought it was about the first of May, and they had not put it out publicly because they were going to use it at the legislature. She stated that it would be available later that week.

Coun. Brzezinski asked when the data on the red light running violations was collected.

Adlard reported that it had been collected over several years, and throughout the year, both by traffic engineers and police. She explained that one of the problems they had was that there were a couple of different ways to collect data, so they had data from both sources. She said they were trying to be consistent.

Coun. Brzezinski explained that she was concerned that there were seasonal variations, but maybe people run red lights equally over the 12 months, she did not know. She said she thought they should at least think about that and be sure they were comparing the same month over the period of years.

Adlard said that was a good point and said her guess was that there were seasonal variations.

Coun. Brzezinski pointed out that in September people might be more careful because of the awareness of the back-to-school time. She said they just needed to be careful to have data from prior years, so it would not be misleading and look like it was just from the red light campaign.

Adlard said they would try hard to make sure they had that.

Coun. Stanton said after the article appeared in the paper about the saturation patrols, several people stopped her and mentioned it. She said all but one were supportive, in fact some said for safety, it was the best thing the City had ever done.

Adlard noted that it was about \$170 for the citation.

Coun. Doyle asked, based on what was being done in other countries, at what point do people get the message, and behavior changes.

Adlard said the results were positive, and jurisdictions usually measured the reduction in accidents, collisions and fatalities. She said that was a hard number to use. She stated that every time a citizen was not reminded of certain things, that the tax dollars are spent well, that the City

is doing certain things, etc., they forget. She said she believed they had to continue to put the information out and allow people to digest it and think about it. She reported that within a short time there was about a 50% reduction in injury accidents.

Coun. Doyle noted that people were paying attention now that they had Photo Radar and slowing down, so he thought this would be the same.

Adlard said she was getting more creative excuses on Photo Radar, and said the latest and best was that a lady saw an ambulance in her mirror and it frightened her so she accelerated.

Coun. Doyle noted that he had noticed sight-blocking covers on license plates and thought that was illegal because he understood that they were supposed to be readable from a certain distance.

Adlard said she thought that could be illegal, and thought the police would be concerned with that.

Coun. Yuen commented that when they implemented the program, he would like the engineers to evaluate the traffic signals at the intersections to make sure they are working correctly before they start the program. He gave the example of the Walker/Murray intersection at night it was red for five (5) minutes and then only two (2) seconds green to go through, so there was no way a sane person would not run that light. He said he had experienced similar timings on other intersections, especially on weekends. He suggested that they make sure the signals were working correctly before they begin the program, so the citizens will not have a reason to complain.

Coun. Brzezinski agreed and said that they should be checked each week, to make sure they continue to work correctly. She agreed with Coun. Yuen regarding the problems at that intersection and some others.

Adlard explained that if the City got approval of Photo Red Light, there would be a long process to go through with vendors, traffic engineers, etc. to determine the appropriate intersections. She said once those were decided, on a daily basis the vendor would be out there checking the sensors and the equipment. She stated that she did not think there would be a problem with that. She asked the Councilors to call in and let staff know about the lights where there are problems.

Coun. Stanton wondered if, at Griffith and Farmington, which was a state road, would the City have to negotiate with the other jurisdiction to do this on such an intersection.

Adlard stated that would be necessary and noted that they do that with all signs, etc.

Coun. Stanton asked if the new right-turn lane on the frontage with Canyon, if they would be a no right turn sign.

Mayor Drake noted that the intersection had been changed for more than 90 days, and reported that a school official called and said that she thought she could turn after stopping, but was stopped by a traffic officer. He said it was a basic rule that you must stop at the red arrow and you do not turn. He explained that the reason in this case was that two lanes of traffic were coming across. He reported that he had passed the letter on and asked for a sign that said "No right turn on red."

Adlard noted that in the current *Your City Newsletter*, there was be an article from the traffic unit, explaining some of the unusual rules that people needed to be reminded of.

Coun. Doyle asked if they ever sat down with the County and talked about the issues with the signals on some of their streets. He noted that there were some problems with the turn lane lights.

Mayor Drake reported that they work closely with the County but they had a different philosophy on signaling than the City. He said one of the pleas was responded to at Brockman and Murray, where a protected left-turn light was installed.

Adlard suggested they think about addressing that with the Commissioners when they all meet together some time.

CONSENT AGENDA:

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

- 99-189 A Resolution Approving the Severe Weather Appendix as Hazard Specific Appendix 6 of The City's Emergency Response and Recovery Plan
- 99-190 A Resolution Approving the Mass Care Annex as Functional Annex F of The City's Emergency Response and Recovery Plan
- 99-191 A Resolution Approving the Recovery Annex as Functional Annex R of the City's Emergency Response and Recovery Plan
- 99-192 Boards and Commissions Appointment
- 99-193 Bid Award – Repair and Paint City Operations Facility
- 99-194 Bid Award – Service Body and Crane
- 99-195 Bid Award – Mini-Camera and Transporter Portable System
- 99-196 Bid Award – Street Overlay Project for Fiscal Year 1998/1999

- 99-197 Traffic Control Board Issue 382
- 99-198 Traffic Control Board Issue 406 and 407
- 99-199 Intergovernmental Agreement with Washington County HOME Consortium (Pulled for consideration at a later date.)
- 99-200 Approval of an Intergovernmental Agreement: the Washington County Inter-library Information Network (WILLnet) Agreement
- 99-201 Approval of an Intergovernmental Agreement: the Public Library Services Agreement
- 99-202 CPA 98020, CPA 98021, CPA 98022, TA 980008, and Proposed Amendments to the Beaverton Code and the Engineering Design Manual and Standard Drawings to Implement the Transportation System Plan
- 99-206 Lombard Gardens LID Street Design

Contract Review Board:

- 99-203 Renewal of the Janitorial Services Contract for City Facilities
- 99-204 Consultant Contract Award – Geotechnical Services During Construction of New City Library

Coun. Brzezinski complimented the staff on the emergency plan materials. She said they were very well done and easy to understand.

Coun. Stanton agreed.

Coun. Soth referred to AB 99-198 - #406, regarding parking restrictions, and said his question was related to the Fourth Street restrictions to the west of Washington, which had to do with any activities of the church that had no off-street parking. He noted that most churches schedule weddings and functions for the weekends, and he wondered if the church had been contacted and responded.

Randy Wooley, Traffic Engineer, said he did not work with that, because all the negotiations with neighbors were done by the Farmers' Market, and the Church did not raise any concerns.

Adlard stated that they had been assured by Farmers' Market that the Church had signed off on all of that, including weddings. She reported that the assurance came from Cal Hamreus, Church Board member. She noted that she had asked him since that time because they had a complaint on the corner, and the pastor did not seem to know the details of the Farmers' Market being there. She said she asked once again for

assurance that the Church had signed off on this and was OK with the activities for those times and was told, "Absolutely."

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

ORDINANCES:

Suspend Rules:

Coun. Soth MOVED, SECONDED by Coun. Yuen that the rules be suspended, and that the ordinance embodied in AB 99-205 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. Soth, Yuen, Stanton, Doyle and Brzezinski voting AYE, motion CARRIED unanimously. (5:0)

First Reading:

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

99-205 An Ordinance Expressing the City of Beaverton's Election to Receive Distribution of a Share of Certain Revenues of the State of Oregon for Fiscal year 1999-2000, Pursuant to ORS 221.760

OTHER BUSINESS:

Adlard reported that Planning Commission and Traffic Commission had both signed off on the parking issues for the Library. She noted they would also be bringing to the Council a proposal to purchase the CDBG houses so they had the area for parking, and they had a proposal on how to use that money to the benefit of the Community Center.

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. Coun. Yuen, Brzezinski, Doyle, Soth and Stanton voting AYE, the motion CARRIED unanimously (5:0)

Executive Session convened at in 7:33 p.m.

Executive Session adjourned at 7:55 p.m.

The regular meeting reconvened at 7: 55 p.m.

OTHER BUSINESS:

Mayor Drake noted that he had talked with them earlier in the day or left messages to tell them that Coun. Doyle had a suggestion that would help

them resolve the issue about the Aspen Woods appeal (the NAC appeal fee issue). He pointed out that they had allocated in the current year's budget, \$600 per NAC to cover appeal fees. He explained that Coun. Doyle had suggested that rather than have West Beaverton Appeal it, there were really two appeals and they could be joined by Central Beaverton or Highland NAC, as part of the appeal, and that would be the second NAC. He noted this would keep it within the intent of what Council had directed on the budget.

Coun. Brzezinski asked which fiscal year it would be out of.

Mayor Drake said they would appeal before Thursday (7/1) so it would be out of 1998-99.

Coun. Brzezinski asked if there had been any other NACs that used the funds.

Mayor Drake said there had not.

Coun. Brzezinski said then she assumed one of the other NACs would not mind giving up their funds.

Mayor Drake reported that he explained it to Roy Dancer, (who had been driving this), and was not giving him legal advice, but explained that the Council had allocated funds in the budget, and suggested this to him. He said Dancer had suggested the two candidates (Central Beaverton or Highland).

Coun. Brzezinski suggested that in the future, either they get another NAC to join them, or they should have to pay the extra fees up front. She explained that if at the end of the year there were funds left, they could be refunded the fees.

Mayor Drake agreed and noted the timing was easy on this one since there were only a few days left, but if they had heavy activity the first half of the year, they would not be able to be so generous.

Coun. Yuen noted that it was one thing for Dancer to say that there were some other NACs who could join them, but in order for it to happen, they would have to have a Board Meeting and Board Resolution to join in it. He noted that Dancer could not just say that Central Beaverton would join them.

Coun. Stanton stated that Central Beaverton would do it that way.

Coun. Yuen stated that she might be correct, but he did not want it to be that way.

Mayor Drake reported that Jack Franklin was going to do a phone poll of the Board, which was not unusual for the NACs to do, on key issues.

Coun. Yuen said in order to join on an appeal, it had to be more than the Chairman of NAC, who happened to be in favor of the action, calling a selected few people that he knew would support it in order to get the vote. He stated that it needed to be an official action of the Board, with minutes and a quorum.

Mayor Drake stated that he would not disagree with that. He reported that his understanding was that Franklin polled all the members, and under the new regulations Council had reviewed a while back and sent to Citizens for Community Involvement (CCI) for review, there was a requirement for some kind of notice and review process. He noted that in talking with Dancer that day, they had reviewed them again, and did not think they could meet timelines because of the requirement to post a notice and hold a hearing.

Coun. Soth noted that they had to get the appeal in by Wednesday, June 30, by 5 p.m., if they were going to use the funds from the 1998-99 fiscal year.

Pilliod clarified that the procedures for the waiver of appeal fees for NACs were generated in a memo and were not approved by Council. He said he had carefully crafted the rules as they were requested by Dancer and Franklin. He reported that he recognized when he was writing them that they would not likely be able to act and meet the deadline for filing an appeal. He noted that the City Ordinances did not have a uniform requirement for how NACs take formal action. He explained that their bylaws varied from one NAC to another, they were not uniform. He said they had been asked by the Neighborhood Office to examine a legal question as to whether or not notices and meetings of the NACs were subject to public records and meetings requirements of ORS. He reported that his preliminary assessment was that they were not, but to the extent that the NACs further were a formal element in the process of making decisions, where they and their recommendations became an element of each case, then they probably were. He explained that just as they would give notices of traffic control, and PC and BDR, etc., they would be subject to the same notice requirements. He said it was the tip of the iceberg if they happened to be a recommending body to the City Council for its actions. He reiterated that he was not convinced that they fell into that category. He clarified that the discussion raised the question of how they could act in a timely way to have standing by which they could appeal.

Mayor Drake reported that he had been informed that West Beaverton and Central Beaverton NACs had donated \$500 of their funds to the Make Our Park Whole Committee, and Highland had donated \$250.

Coun. Soth said he assumed the Neighborhood Office had copies of the bylaws from the various NACs. He noted that in response to what Coun. Yuen was talking about, it would be a good idea to look at those particular

NACs bylaws and see if they were required to meet to take formal action with the full board. He said he could see a situation arising where it could be challenged if a phone poll or not a board meeting.

Mayor Drake said he knew for a fact that the NAC boards of all three did approve the expenditures to make those donations to the Committee, and were on the record as supporting the efforts to retain the land for the park. He said there was strong implication with them donating their funds. He said whether it was an actual vote to appeal it, he thought West Beaverton did that in an open meeting. He reported that in Central Beaverton, Dancer said they conducted a phone poll.

Coun. Yuen said his concern was that they follow the laws of procedure, and assure the citizens that decisions made and funds expended were done in a proper and correct manner as was intended. He said no one wanted the processes superseded for any reason, regardless of what they thought about the issue.

Mayor Drake reiterated that Coun. Yuen was saying that he did not want activity by vigilante committee, and he fully understood that. He clarified that the reason he had called them, was that he did not feel he had the authority to extend the offer, and based on what they had said that evening, would they like the bylaws reviewed to see what was required, and a query made to see how it was done. He said he thought the Councilors were saying that if proper procedures were not followed, then it would not be covered. He asked if that was correct.

Coun. Doyle noted that it had been pointed out that one of the problems with the procedures was the timing, and it was a lesson for the NACs to know that in the future they should plan ahead and decide how to proceed in case a decision was made.

Coun. Brzezinski stated that she thought the bylaws should be reviewed to see if it was done properly. She said she would defer to Pilliod as to if the rules were not followed, whether the City could have a problem. She suggested they could appeal one portion of the order on Wednesday, June 30, and the other part on the Thursday, on July 1, so the fees would be taken from two different fiscal years.

Mayor Drake noted that he believed that Central did take a full board vote. He stated that if they took a full board vote, then he assumed that the Council did not have a problem with it being the second NAC.

Coun. Soth stated the second NAC would have to be directly related to the appeal.

Coun. Brzezinski recalled reading in the NAC minutes that several had agreed to put money towards the appeal, so she thought the intent was clear.

Coun. Stanton stated that intent did not take the place of a full board vote.

Pilliod said there were three different elements for them to appeal and they would look at each of the named appellants, both individuals and groups. He stated that to the extent the group had bylaws, they would try to get those, but it might involve contacts with the hierarchy and asking what they did to file the appeal. He said that if they find out that the board acted without authority, his preliminary response was that they would not be a party. He clarified that it would not prevent them from participating in an otherwise valid appeal.

Coun. Stanton said while the City would do all the legal things they had to do, she asked Mayor Drake if at any point in his conversation with Dancer, did he lead Dancer to believe that they could do this. She explained that she did not want to be so legally right that they were stinkers.

Mayor Drake said his conversation with Dancer was not specific to issues of the appeal.

Mayor Drake noted that if Polygon did not follow the law they would say, "Too bad," and that would be that. He pointed out that the NACs had known that this was coming for a long time. He reported that Dancer asked what the City was covering, and he told Dancer that he thought it was \$500. He said he also got Dancer a copy of the order, and CDD gave him copies of three or four appeals, as they would have done for any citizen requesting them. He noted that both Patrick O'Claire, Finance Director and Darleen Cogburn, City Recorder had reviewed the budgeted amounts for NAC appeal fees and both years they had budgets one \$600 appeal fee per NAC, for a total budget of \$8,400. He reminded them that Council had the authority to waive fees, and they indicated that they wanted to follow the letter of the law. He stated that a NAC had to act formally on things, and they did have some strong people in leadership. He said he did not give Dancer any information he did not already have, and noted that he and Franklin, and Chair and Vice-Chair of CCI had followed this for a long time, and knew there were NAC appeal fees in the budget. He said he would check tomorrow and find out if they followed their own processes, and if they did not, they were not talking about neophytes, they had written the book on citizen involvement. He said they had to follow the book on the rules, just the same as Polygon. He noted that nothing precluded them from writing the check themselves, then asking the NAC to take formal action, and then request a refund.

Coun. Yuen clarified that he had not been concerned with if the NACs had standing, he was concerned with following the procedures regarding the issue of the fees. He said he had not been concerned about the NACs having standing, but that could be the bigger issue. He stated that he appreciated Mayor Drake's perspective because he agreed with it 100%. He noted that one of the long standing issues he had, was that the City needed to apply to itself, the same rules, the same amount of

emphasis as it applies to others, they would lose credibility if they did not do that. He pointed out that government and enough credibility problems.

Mayor Drake said he carefully did not give Dancer legal advice, but guessed he made an assumption that the NAC had taken action. He explained that when he talked with Dancer that day and clarified that it was two appeals, then it was suggested that another NAC could apply for appeal funds. He said he thought when he talked to Dancer he said they took a phone poll. He stated that it was not uncommon to take a phone poll, since they do not all meet every month.

Coun. Stanton asked if it was the Make Our Park Whole that was filing the appeal, or was the NACs.

Mayor Drake said he thought it was at least the NACs, and possibly the Make Our Park Whole group.

Coun. Stanton noted that they were "inter-married."

Mayor Drake clarified that he understood what Council wanted was to find out if the NACs followed their own procedure, and if they did not they could pass the hat and get the appeals in by Friday.

Coun. Yuen clarified that he wanted to make sure they did not file the appeal if they did not have standing. He said whoever filed the appeal needed to follow the rules and processes.

Mayor Drake asked if what Coun. Yuen was saying was that if the NAC did not follow the procedures, then they did not have standing anyway.

Coun. Yuen clarified that Pilliod explained it very well as in order for the NAC to file the appeal they had to follow their official process, for the NAC to officially sanction the appeal.

Coun. Doyle asked if the Council could not call this up for review on their own.

Pilliod explained that they had to call up Hagggen's, since it was a Plan Amendment.

There was general discussion about the values, pros, cons, etc. of the Council calling up issues.

Coun. Soth said the appeal procedure provided for the Council to call things up, but they would have to go through the notice process again and stay within the 120 days framework. He said both Franklin and Dancer did testify at BDR, but he was not sure if they testified as individuals or as NAC representatives. He asked if the Make Our Park Whole was a political committee, and if so had they filed the required papers.

Mayor Drake asked if Coun. Soth was implying that to get the funds they have to be an organization.

Coun. Doyle said to file the appeal it had to be a person who had standing, and that was the issue.

Mayor Drake said the neighbors did not want to front the \$1000, they wanted the City to fund it out of the NAC appeal fund.

Coun. Brzezinski commented that on Coun. Soth's issue of if it was a PAC or not, seemed like a can of worms. She noted that the neighborhood group that brought up the issues regarding Hagggen's did not have this issue raised and it should not be at this time.

Coun. Yuen said he did not think they wanted to deal with that issue.

Mayor Drake clarified that he would find out if they followed the rules of their NACs, and if they didn't he would try hard to find that out so they could get the funds together in time to appeal.

Urban Services Boundary

Coun. Brzezinski noted that the *Valley Times* had an article about the Urban Services Boundary and wondered if that had been discussed by Council when she was not there.

Mayor Drake explained that it was reported incorrectly, and he had said he had talked to some of the Councilors

Coun. Soth noted that this was an outgrowth of the SB 122 procedures and it was plain that Hillsboro represented by their City Manager was not going to budge. He said everyone else was holding on the school district boundary and 65% of those who participated in the open houses said the school district should be the boundary line. He noted that the folks in Aloha did not want to be split, which 185th would do.

Coun. Stanton noted that the next Council meeting would be the last one before the Taste of Beaverton Parade and they were looking at the vehicle for Council to ride in.

Mayor Drake said they were still looking at the options, and would get back to them.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:30 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 3rd day of January, 2000.

Rob Drake, Mayor