

REGULAR MEETING  
August 2, 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, August 02, 1999 at 5:54 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Coun. Yuen was excused. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard and City Recorder Darleen Cogburn.

EXECUTIVE SESSSION:

Coun. Soth MOVED, SECONDED by Coun. Doyle 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. All Councilors present voting AYE, the motion CARRIED unanimously (4:0)

The executive session convened at 5:55 p.m.

The regular meeting reconvened at 6:50 p.m.

Also present at the regular meeting were Community Development Director Joe Grillo, Engineering Department Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Library Director Shirley George, Police Captain Wes Ervin, Assistant Finance Director Shirley Baron-Kelly, City Utilities Engineer David Winship, Development Services Manager Irish Bunnell, Project Engineer Jim Duggan, City Engineer Terry Waldele, Associate Planner Veronica Smith, and Project Engineer Joel Howie.

CITIZEN COMMUNICATION:

Mayor Drake noted that there were several people present who were interested in the Murray Ridge Development and since that item was not

on the agenda, he asked Joe Grillo, Community Development Director, to give a brief update for those interested persons.

Grillo addressed Council with an update of the Murray Ridge Development. He said staff had met with the developer's manager, his consultant CNF Consulting, and Mike Robinson, the developer's Attorney. He reported that they discussed a number of issues, none of which were conclusively resolved. He said Robinson had taken the opportunity (on behalf of his client) to express how and in what manner the City should issue site development permits. He said he would not go into the background other than to indicate that the Washington County Hearings Officer approved the extension of the land use on April 15, and it was final. He said combined with the Council's action in terms of the annexation, the property officially came into the City on April 15.

Grillo reported that on July 21, 1999, a permit was inadvertently granted to the Developer from Washington County and that permit had since been revoked by the County. He noted that on July 23, the City directed the developer's contractor to stop work on the site and submit appropriate materials to the City to obtain a site construction permit consistent with the approved land use decision. He outlined the steps that would be taken to assure the project would be meeting the correct conditions and reported on required steps and developer responsibilities. He noted another outstanding issue before the Land Use Board of Appeals (LUBA) was the final resolution of the LUBA appeal dealing with the Council's March, 1999 annexation action. He said the City had filed a respondent's brief and was waiting for a hearing date for oral argument.

Mayor Drake asked who the City contact would be for neighbors with questions.

Grillo said Bill Roth was the Planner and would be the contact.

Mayor Drake pointed out that any work that would be done on the property, or any change from what was approved by the County, would have to go through a land use notification process and people within 500 feet would be notified.

Grillo reported there was no indication the developer would not follow the outlined plan.

Coun. Soth asked if the project was being developed according to the plan submitted to the County but under the City's inspection and permit process.

Grillo said that was correct.

Coun. Soth said, per the stop work order and pending the submission to the City of the plans for review, was there any work going on currently, or

was the site development permit (which was approved by the County) allowed to go forward.

Grillo said the site development permit from the County had been revoked.

Coun. Soth clarified that no work could proceed until the City of Beaverton had given a site development plan.

Grillo said the developer had submitted construction plans to the various concerned agencies. He said unless there was an extensive amount of conflict the City would normally give the developer a limited site development permit and a complete one would not be issued until the redlined issues were solved.

Grillo explained that a redlined issue meant each department or agency with some vested interest would review the plans and make comments, essentially by taking a red pen and writing comments on the plans confirming if the plans had been done according to the City's regulations.

Mayor Drake noted that the developer had faxed information regarding orange construction fencing, to the City.

Grillo said that as part of the City's process, in the initial grading and tree removal, if there were trees to be saved they would be fenced off. He explained that staff had encouraged the developer to put the fence up early, even though they were still reviewing the plans. He said this would be a clear indication to staff and the people concerned to see what had been cut so far and if it was consistent with the plans submitted.

Coun. Brzezinski asked if more trees had been cut than should have been in the two days the permit was inadvertently issued and when the stop order occurred.

Grillo replied that he did not know, but once the fencing was up they would go out and review it. He said that normally tree removal would occur within the Right of Way (ROW) and utility corridors, and after that any additional tree removal would occur as part of a unit being built. He said he had indicated to the residents and the developer that the City would seek some replanting of trees to compensate for those that should not have been taken down.

Coun. Stanton referred to a letter from Jeff Stiling (in record) that mentioned work to improve the intersection at Scholls Ferry and 155<sup>th</sup> Terrace. She asked if the work he was talking about was to be done before the work on the site.

Grillo clarified that within the court imposed conditions, a condition was added that they needed to obtain Engineering Division approval of plans for reconstruction of SW 155<sup>th</sup> Terrace access to Old Scholls Ferry Rd. He continued to read from the condition and said it was imposed under

condition 2.B, which needed to occur before final approval and subdivision plat recordation. He explained that the Engineering department should receive plans that they could approve for the reconstruction prior to the recordation. He noted that the City only got to approve final plats, but that would not preclude them from doing some preliminary work. He said they did not have to do the intersection improvement at that time.

Martin Kagan, 15810 SW Cardinal Loop, read from his letter (in the record), where he asked for the Mayor and Council's help. He asked if the developer would be allowed to continue and would he be granted opportunities to do as he pleased. He asked what actions would be taken to control the situation. He read that it was his right to expect responsible organizations and persons to protect vested interests that he was granted as a resident of Murray Hill. He requested the City provide every measure necessary to bring the matter to a satisfactory resolution between the various parties. He said he would like to know what specific steps would be taken and who would be responsible for the development. He commented he was concerned about the permit being inadvertently issued, and wanted to know who was responsible and why, and what was going to be done about that situation.

Mayor Drake pointed out that Grillo explained that Washington County had issued the permit and after the City was notified, staff informed the County that they had made a mistake. He said he thought Grillo had made that clear. He suggested that Kagan deal with Bill Roth, Senior Planner, who had walked through some of the property. He explained it was difficult to control another agency, but when the City got Kagan's calls, they did stop the work.

Kagan noted that he understood that and the writ of mandamus specified a code of conduct that he was obliged to conform to. He said as individuals, sub committees and concerned residents, they had tried everything including contacting lawyers to try to defend the situation without success. He said he believed it to be the City's direct responsibility, and the City had used the word *substantial* and he based his entire representation on it.

Mayor Drake asked about the word *substantial* and what it applied to.

Kagan explained the difference between *substantial conformity* and *reasonable conformity*, and the wording of *substantial* was selectively utilized for utilities and it was an issue that the residents had. He asked why the contract was worded in such a way to make the City of Beaverton only a utility provider.

Mayor Drake stated that they were plowing old ground and were using Code language and Council could not argue Code that evening. He said he thought they had heard Kagan's and also Stiling's issues and their concerns a week ago and had addressed those concerns at that time. He

specified the City had numerous conversations with the developer and the development would fall under the City's Development Code.

Kagan said the Development Code used the word substantial, and read from the code. He said he had the tree survey, and it seemed that what was said and what was done were two different issues.

Cam Henderson, 16360 SW Nighthawk Dr. noted that Jeff Stiling had submitted a letter (in record). He said Stiling had asked him to make a statement concerning some of the trees that were cut down that weren't noted on the permit, and requested the City hold the developer responsible to the maximum fines in replanting, so it would minimize the impact on his house. He asked his neighbors in the audience to raise their hands.

Coun. Soth noted that the street and utility corridors were two different things and if the utility ran along the back, that might be another situation.

Henderson said they were not sure where the utilities were going, and hoped the City would help them figure that out.

Coun. Soth said Grillo had indicated that staff would help with that.

Henderson said they knew the development would occur and they hoped it would be done under the City's Codes.

Grillo said they had a set of plans that had been submitted, were being reviewed by other agencies, and were being routed but were not final. He reported that a substantial amount of the utilities were not in the streets, and homeowners would not be happy with the pipes laid where there were trees. He suggested they could call and arrange a meeting to review the plans.

Mayor Drake suggested that Kagan had been the contact since day one and suggested that he organize the neighbors to see the plan.

Coun. Brzezinski noted those were not the final plans, and asked if something did not meet Code, would it have to be changed. She asked if it met Code would it have to be approved.

Grillo explained that the City had engineering standards for water, streets, storm drainage, etc. and there might be some ability to move lines, but there was some obligation on the developers part to hook up where they could to the City systems. He said there might not be much latitude with that and from what he had seen, some of the utilities would have to go on the back of lots where they tied in with the City system.

Spencer Marrow, 11314 SW Meadowlark, specified he needed to know that the homeowners knew exactly where the utilities were going. He noted that he and the neighbors were attending the meeting that night to protest the blatant destruction of trees that had occurred. He stated that

the builder knew he was not to remove any trees, but after the permit was issued, he clear-cut the area. He reported that the developer cut trees where no utilities were located and it was a malicious act against those who had been against the development. He said that luckily the City stopped the developer from clear-cutting before they reached his property. He declared that the developer removed trees with malicious forethought and wanted Council to be aware that the builder had no intention of following any of the rules unless the City closely monitored his activities. He said they knew the development would be built and if the current developer didn't build there, someone else would and suggested Council visit the property. He said the developer should be heavily fined, because what he had done could not be fixed.

Coun. Stanton asked who would issue a fine.

Grillo said he was not sure who could fine the developer in terms of the County's accountability inside of the City.

Coun. Stanton said she was looking for responsibility and noted it was a monetary fine.

Mayor Drake said the monetary fine was the value of the trees removed.

Coun. Stanton asked Grillo to find out and let her know.

Grillo said they would determine on a factual basis, which trees should have been cut and which trees should not have been cut. He explained that if a development was in the unincorporated area of Washington County, and a developer was in violation, the County could withhold any future land use approvals on that development and on any other application the developer might file until the problem was corrected. He pointed out that the particular development in question that evening was no longer in the unincorporated area of the County. He explained he did not know what the County would do with this development.

Coun. Stanton noted that she realized the development was in the County and would go in as part of the City of Beaverton. She asked who would be ultimately responsible for overseeing the development and the tree preservation plan.

Mayor Drake commented that everyone wanted those answers.

Marrow concluded by saying there were no more trees to be saved.

#### COUNCIL ITEMS:

Coun. Stanton reminded the attendees that the following evening was "National Night Out" in Griffith Park.

Wes Ervin, City of Beaverton Police Captain, said there would be many activities and fun for the whole family.

Coun. Brzezinski announced that she had forgotten to declare something at the 7/19 meeting, and said she had listened to the tape of the first part of the meeting of July 12, prior to the meeting of 7/19 and had heard all of the testimony.

STAFF ITEMS:

There were none.

PRESENTATION:

99-230 Commuter Rail Presentation

Kathy Lehtola addressed Council and said she was Assistant Director of Land Use and Transportation for Washington County. She reviewed her computer-assisted presentation and described the route of the proposed commuter rail project. She pointed out the potential station locations and talked about the various areas the route would cover and noted there were areas where stops were desired, but finding property for parking and stations was a problem. She described some of the locations along the proposed route that had potential for stations. She reported that they had a workshop with various entities including the Chamber and business leaders, who essentially said if they could find something at the transit station, it would be great.

Coun. Soth noted she had indicated a parking site that was a school site on the original map.

Lehtola said it was a school, but it would likely be for sale in the future. She noted that it was not Wilsonville's preferred site.

Coun. Soth noted he served on the Washington Square Regional Task Force and said one of the projections for interconnectivity was a means for a pedestrian overpass on Hwy. 217 to Washington Square. He asked why the proposal was stopping at Beaverton instead of going to Hillsboro.

Lehtola explained that there were a lot of possible extensions of this and there were branch lines, and noted that the ones on the East Side were underutilized. She said people would like to go to Salem and a variety of other places and some of those were not out of the question in the future. She noted those were all exciting possibilities but they felt they needed to do a small piece and be successful first and then move on. She said there was potential to add in a number of directions.

Coun. Stanton said she was not on the Washington Square Regional Town Center Task Force, but it was her neighborhood and she was concerned that people would be walking on Scholls Ferry.

Lehtola noted that there was bus service on Scholls Ferry.

Bob Post, Vice President of BRW, Inc., a national transportation-consulting firm, noted that commuter rail was new in this area, but it existed in a number of other cities and explained that it was the introduction of passenger service on existing rail service. He said the type of vehicles varied and what was considered on the summary were vehicles called Diesel Multiple Units, similar to Light Rail Vehicles, but they did not require overhead lines.

Post displayed a map of the suggested route through Beaverton. He said currently the northern one-third of the track alignment was owned by Union Pacific Railroad and the State of Oregon owned the land on the southern two-thirds. He noted the rail itself was owned by the Portland Western Railroad, which operated the service on the entire alignment. He said the study, was a follow-up to a study in 1997, and the purpose was to examine it in more detail, including costs, and implementation. He explained the earlier study was called a "fatal flaw assessment" and investigated any legal or regulatory impediments. He noted it would only be used during peak hours and there would have to be negotiations with the railroads to operate other properties. He reported there was nothing to indicate they could not do this.

Post said they looked at 20-minute and 30-minute service and settled on a 30-minute service with a top speed of 60 MPH. He noted the average speed from end to end was 34-37 MPH and travel time from Wilsonville to Beaverton would be 25 minutes.

Post said they assessed the line and generally (by railroad standards) it was in good shape, but there needed to be some improvements. He reviewed those improvements and noted BRW had identified the crossings and the modifications or improvements that would need to be addressed.

Post reported the capital costs were the vehicles, which were fairly expensive but would last 25 years or more. He noted another major cost was tracking or upgrading the tracks and the signage and signals. He reviewed some of the other expenses.

Post noted the train corridor would connect the two Regional Centers of Beaverton and Washington Square with three areas designated as Town Centers: Tigard, Tualatin, and Wilsonville.

Post reviewed the benefits of the project and said it would be less expensive than widening Hwy. 217, and less than building more Light Rail Transit. He said it would not carry the same number of riders because it was just a peak hour operation but it would take trips directly off of the highway system. He noted there were issues in each jurisdiction such as traffic impact, station locations, etc., and other things to be addressed and

he reviewed the advantages and disadvantages (In record). He outlined the next steps that would be taken regarding the project, and said they would be going through a feasibility study and the public process.

Coun. Stanton asked for clarification regarding the Meeting Notes from 7/26/99 on a station on Wilson and Hall St.

Post corrected Wilson to Watson St.

Coun. Soth asked about diesel options and the Light Rail Diesel car.

Post said the basic difference was whether or not they met the federal rail road requirements and they would not approve the lightweight ones. He noted they would have to stop all the freight operations during the time of the commuter rail trips.

Coun. Soth referred to page 83 of the study and asked about the maintenance facility and if there was an option to contract with Tri-Met and use their maintenance facility at the Merlo station.

Post reported that the facility was used mainly for storage and for minor maintenance and cleaning. He said contractors would do major maintenance.

Coun. Soth said minor maintenance should fit in with Tri-Met's maintenance work at Merlo.

Coun. Doyle asked when the next phase of the study would be completed.

Post said the question was how long it would take to get a Federal grant and then they would move ahead, but they could not do that until they got funding.

Mayor Drake noted the region had allocated \$1 million and asked what that money was for.

Post said it was for that next phase, and some of the funds would be used for negotiations with the railroad and other similar activities.

Coun. Soth commented they were fortunate to be dealing with Union Pacific instead of Southern Pacific.

#### CONSENT AGENDA:

Mayor Drake reported Coun. Stanton would like AB 99-232 pulled for separate consideration.

Coun. Soth MOVED, SECONDED by Coun. Doyle that the consent agenda with AB 99-232 pulled for separate consideration, be approved as follows:

- 99-231 Liquor License – Change of Ownership: New Seoul Garden
- 99-232 City Council Findings And Order Granting The Appeal And Reversing The Board of Design Review Decision Contained in BDR Orders BDR 99022/1210 and TPP 99002/1211, Aspen Woods (Pulled for separate consideration.)
- 99-233 1999 Omnibus Text Amendment
- 99-234 CUP 99006 Hearthstone Retirement Center
- 99-235 VAR 99007 Trend Building
- 99-236 VAR 99008 Trend Building
- 99-237 VAR 99-00011 Southridge High School; Sign 1: Message Board on SW 125<sup>th</sup> Avenue
- 99-238 VAR 99-00013 Southridge High School; Sign 3
- 99-239 VAR 99-00014 Southridge High School; Sign 4
- 99-240 VAR 99-00015 Southridge High School; Sign 5
- 99-241 Bid Award – South Central Utility Improvements, Phase 1

Contract Review Board:

- 99-242 Waiver of Sealed Bid – D.A.R.E. School Supplies
- 99-243 Contract Change Order – Removal of Contaminated Soil from the Library Project Site

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

Separate Consideration:

- 99-232 City Council Findings And Order Granting The Appeal And Reversing The Board of Design Review Decision Contained in BDR Orders BDR 99022/1210 and TPP 99002/1211, Aspen Woods

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that AB 99-232 now pass with the proposed revisions.

Coun. Stanton referred to page 3 on the order of proposed revisions, point 9A and asked for clarification.

Mark Pilliod, City Attorney, said the line that read "subordinate environmental management resource group..." the moniker EMRG: was simply used as a substitute in 9A.

Coun. Soth said he would support the motion, only because it was a reflection of the Council's action. He noted he currently disagreed, but still believed as a Council action it was appropriate to approve, in order to obtain whatever further action anyone desired.

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

RECESS: Mayor Drake called for a brief recess at 8:10 p.m.

RECONVENED:

The regular meeting reconvened at 8:25 p.m.

WORK SESSION:

99-244 Metro Title 3/USA Joint Implementation Recommendation

Mayor Drake announced the Metro Title 3/USA Joint Implementation Recommendation would be carried over to the Council meeting of 8/16/99.

PUBLIC HEARING:

99-245 Recommendations on the Preliminary Design of the 125<sup>th</sup> Avenue Extension (North/South Arterial) Project

Tom Ramisch, Engineering Director said Joel Howie, Project Engineer, would give a brief overview of the recommendations for 125<sup>th</sup>, and noted that there were a number of people present who participated in the set of recommendations as part of the project. He said Trudy Rippe, the Public Involvement Consultant, was also available that evening to answer questions.

Joel Howie, Project Engineer, said he would discuss the major recommendation from the Project Advisory Committee (PAC) staff recommendations and the recommended construction phasing of the 125<sup>th</sup> extension.

Howie reported that the PAC recommendations were made from an extensive public involvement process and the community had ample opportunity to comment. He said the PAC was careful to consider the public input and the resulting recommendations reflected that public input. He referred to the maps and indicated on them the various

recommendations for the project. He noted where there would be traffic signals and other traffic control methods as well as raised medians and other traffic barriers. He explained that the vertical profile was a five-foot cut throughout the entire alignment and the third recommendation was some side street connections. He displayed a drawing of the cross-section of the proposed street.

Coun. Stanton asked for the total ROW.

Howie said ROW averaged 120 feet and the street section would be 64 feet. He noted that the yellow line indicated the existing ROW, and the red line indicated the sound walls. He stated that the final recommendation from staff was turning Green Lane into a cul-de-sac. He explained the project would be completed in three phases.

Mayor Drake noted they received a petition that day from people on Tarpan way, about the sound wall and asked for clarification on where that was.

Howie indicated the approximate location on the map.

Mayor Drake noted he had received a letter from Lena Derr, on Crestmore regarding a park with drainage problems, and wondered if the wetland enhancement on the area by Green Lane would take care of those drainage projects.

Howie said that was included in the Capital Improvement Project (CIP) 3158 for future years and it would be addressed. He noted that was included in the agenda bill.

Coun. Soth noted that he had mentioned the right-in/right-out at Crestmore and he wondered how many left turns the traffic figures showed southbound on Hall out of Crestmore currently.

Howie said there were five vehicles during peak hours and noted that it was dangerous as it currently existed.

Coun. Soth asked if the proposed cul-de-sac on Green Lane was a traffic safety issue on Hall.

Howie said it was more a concern for cut-through traffic.

Coun. Stanton asked who prepared the notice for this item.

Howie said he did parts of the notice.

Coun. Stanton said this was a notice regarding the design, and they were doing more that night.

Mayor Drake stated that he thought Coun. Stanton's main concern was the project in general and normally with the CIP process the Neighborhood

Associations (NACs) would be invited to give suggestions for projects. He noted that after hearing her concerns expressed at the Committee for Citizen Involvement (CCI) the past week, he was not concerned about the amount of time allowed in advance for the public input on the project.

Coun. Stanton said it was a process question.

Coun. Soth recalled that a few years earlier Davis Road was proposed and put ahead of this project for good reason, because Davis Road was a County/City project under MSTIP, the City funds would come back and be devoted to 125<sup>th</sup>. He noted that no mention of this was given in the staff report and it was in the neighborhood of \$3-4 million.

Ramisich said he was not aware of the money coming back.

Mayor Drake explained that Coun. Soth was correct that the intent was to "jump-start" Davis Road, but over time there had been cost over-runs on other projects and the Council had approved other projects. He said those had pretty well taken up the money.

Coun. Soth said that bothered him, because the Council had not been informed that the funds were coming out of what he called 125<sup>th</sup> money.

Mayor Drake said he did not think they had been misled, but it was a matter of other priorities that had come up and money was devoted to those things.

Coun. Soth said it might have been an oversight that they were not told, but he felt they needed more information.

Mayor Drake noted that the Finance Director was on vacation and could not give them more detail at that time.

Mayor Drake asked if Trudy Rippe needed to participate that evening.

Consensus was Rippe did not need to participate at that time.

Mayor Drake opened the Public Hearing.

Christopher Redmond, 7470 SW Alpine Dr., said he would be saying some things that were in opposition to some neighbors and noted that he lived on Alpine Drive just off of Crestmore. He said there were some strong emotions on either side of the fence in his neighborhood. He read his outline (in record).

Mayor Drake noted that Redmond had gone well past his allotted time and asked him to stop and get information back to Council in writing.

Coun. Soth asked if Redmond thought the "T" intersection proposed at Hall Blvd. was unsafe and improperly placed.

Redmond said he thought it was unsafe and improperly placed because it did not take into consideration the wetland habitat that already existed there.

Coun. Soth pointed out that one of the reasons that alignment was put there was to minimize the impact on the wetland. He said that if they chose Green Lane the impact would be worse.

Redmond said he would like to see those reports.

Don Warner, 10290 Tarpan Dr., noted he attended some of the NAC meetings and the issue he had raised had been given a shove off and the question was if the sound wall was specified by any criteria. He asked what was the difference with 125<sup>th</sup> further down the road. He noted that when they moved into the neighborhood, there was no recreation center and no high school, and if the project was worthy and warranted a sound wall, how could they not do it for the others in the area. He said the City's goal of planning its infrastructure negatively impacted the ability to maintain livability. He emphasized the Council consider those on Tarpan Drive as well.

Coun. Soth asked him if he lived south of the Brockman, and did Tarpan Dr. intersect with Brockman.

Warner said it was a horseshoe shape and all the properties backed up onto 125<sup>th</sup>. He noted the sound level coming from 125<sup>th</sup> was already very high.

Mayor Drake asked Howie or Rippe to comment on why they did not consider sound walls further down.

Howie explained that the noise study was done under certain regulations and guidelines and under those guidelines they looked at future improvements, not past improvements, which was why they did not look at other areas. He said if they had to look at other areas, they would be retrofitting much of the rest of the City.

Mayor Drake asked how much input staff got from the neighborhood and how much was that input considered.

Trudy Rippe said she was a public involvement specialist and had been working on the project from the beginning. She reported that she had received comments from folks down to the south on 125<sup>th</sup> and had discussed it at PAC meetings with the noise consultant who had done the study. She reported that he kept referring back to the Federal Highway Administration (FHWA) and Oregon Department of Transportation (ODOT) standards that had been followed. She commented that it was an unfortunate situation that happened along freeways as well, and there

were many reasons they had excessive decibels, but they could not go back and retrofit since it was so costly.

Mayor Drake asked if they had done any sound testing in that area.

Howie reported that no sound testing had been done there.

Coun. Soth noted that Rippe spoke of the Federal Highway Administration (FHWA), and asked if he understood correctly that within their regulations and guidelines they addressed various projects, but did they not allow them to address impacts that they might have in other areas.

Howie said that was correct.

Coun. Soth clarified that there was constraint against doing that by the regulations.

Coun. Stanton interjected that they were only constrained by the dollars.

Mayor Drake asked Coun. Soth to finish.

Howie explained that they used the FHWA guidelines with the potential of getting Federal funds for the project.

Coun. Soth reiterated that those guidelines constrained them from doing that because of the guidelines on Federal funding, and asked if that was correct.

Howie said it was correct.

Coun. Stanton asked if there were any CMAQ funds that could be tapped for 125<sup>th</sup>.

Mayor Drake explained that CMAQ was for cutting emissions and was for Light Rail Transit.

Coun. Stanton said the study area was way too small, and she wondered why the team was constrained by the FHWA guidelines. She said she thought using those guidelines did not constrain them from doing something else.

Howie clarified that they were constrained because there were no other guidelines to direct them.

Coun. Stanton asked why that constrained him.

Mayor Drake clarified that they could not have used Federal money to do any of the construction area.

Coun. Stanton stated that the point was they were only constrained because they chose to be. She asked if this would not be a good use of traffic mitigation funds.

Mayor Drake clarified that what Coun. Stanton was talking about was in the new tax base. He explained that those funds were to be used for traffic calming and not to be used for cutting noise.

Howie added that during the process they were required to follow guidelines. He noted those were the guidelines that were followed by the County, and ODOT and that was why they followed them as well.

Coun. Stanton stated they had chosen to constrain themselves, but they could always go beyond in terms of meeting needs.

Mayor Drake said a year ago, they said that if they chose to do it, they would have to use local funds, and he thought that Coun. Stanton's thought was if the County went for a MSTIP 4, the City could ask the County to include it based on the fact that County money could not be used for the sound walls that didn't meet the federal requirements. He noted all Howie was saying was they had to meet either County or federal guidelines. He pointed out that at one point the whole project was \$3-4 million and now it was a \$10-12 million project.

Coun. Doyle commented if the Council chose to mitigate they could do so, and if they looked at the numbers it would bring substantially more traffic, and he would certainly be willing to listen.

John Messman, 8170 SW Sorrento Rd., suggested they zoom out and look at the impact of traffic by the high school, look at the density of housing, and think about the impacts on existing road structure, they would see that the road system was overloaded. He said if they looked at the way it was laid out, Sorrento was a straight road and traffic tended to speed up on it. He said he saw this 125<sup>th</sup> project as a way to reduce some of the traffic flow. He noted that in general they needed more outlets to 125<sup>th</sup>, to improve flow and provide access to Sorrento Road and feed the high school. He concluded by saying Council needed to look at the overall traffic flow and impacts.

Coun. Soth asked if he was in favor of making a through connection through Stillwell, from Sorrento into 125<sup>th</sup>, taking the barricade out that now existed.

Messman said that was correct and he would like a traffic signal at Sorrento and Brockman.

Coun. Soth noted one of the proposed ideas was to lower the speed hump between 125<sup>th</sup> and Sorrento.

Bob Tenner, 7695 SW Wilson Ave., said he was speaking in favor of the 125<sup>th</sup> extension and said it was vital. He commented that the project covered three NAC areas (Highland, Greenway, and South Beaverton), and he was speaking as an individual that evening. He said Highland NAC had been in support in the past but had not taken a position. He said there had been an improvement since one of the workshops, noting that there were left and right turns at 125<sup>th</sup> and Hall, and from the Highland NAC standpoint they thought it must be moved ahead, with traffic bumper to bumper during rush hour. He said with Southridge High School and the Tualatin Hills Park and Recreation District Recreation Center, there would be nothing but cut-through traffic. He asked Council to protect the neighborhoods as well as livability and if the funds were not available, at least put it in the plans.

Coun. Stanton noted that Crestmore was in the Vose NAC.

Greg Nelson, 8181 SW Sorrento Rd., said some of his concerns were safety and children on the street. He said the intersection on Sorrento and Brockman was very dangerous, and suggested that the time had come to get some traffic relief in that area.

Eric Johansen, 8675 SW Cortez Ct., said he was representing himself that night and no matter what the position was, the one fact they had to keep in mind was the project had been part of the CIP since before the surrounding neighborhood was developed. He noted there had been many land use actions including schools, etc. that had been done with the understanding that 125<sup>th</sup> would be done. He said with 125<sup>th</sup> the old saying 'when all was said and done a lot more was said than done,' held true. He said he thought it was time for Council to light a fire under itself and fund the project and find the money, maybe not in one or two years but at least get started.

Coun. Stanton said that was a good example of the land use actions

Coun. Soth asked, from Johansen's perspective, did he think the Stillwell extension from the west connecting with 125<sup>th</sup> should be done.

Johansen said he came into the process thinking it should be done, but understood why the committee did not recommend it, so now he understood the reasons and supported the committee recommendations.

Coun. Soth said as one who was on the Planning Commission (PC) when that entire area was being proposed, he thought Stillwell should go through and require dedication of ROW. He asked if Johansen had any objection of the Barberry and Green Lane connection.

Johansen said he did not.

Dan Maks, 14080 SW Steeplechase Ct., complimented the City on the process and noted that for a couple of members of the PAC this had been

their first experience of involvement with the City. He reported that he had walked in with one idea and changed his mind. He said they knew about the volume of cars on the various streets, and other issues, but what they had not mentioned was the impact it had on all the neighborhoods. He noted one of the reasons they had traffic problems in Beaverton was because they did not have adequate collectors and arterials. He described a variety of ways people circled through the neighborhoods to get around some of the traffic issues. He commented that by not going forward they were condemning those neighborhoods to more cut-through problems. He urged the Council to go forward.

Coun. Doyle said he mentioned the way people used a variety of streets to cut-through to avoid traffic and wondered if this would not just cause more cut-through traffic.

Maks said it would not cause more cut-through traffic because drivers would not take the left on Brockman since the wait was too long to turn left onto Sorrento.

Coun. Doyle and Maks discussed a traffic situation in the area where they both lived and described the various options.

Coun. Doyle inquired what the feel was for the impact of folks to take this as a cut-through to Hwy. 217.

Maks asked if he meant north or south.

Coun. Doyle replied either north or south.

Maks said that if it was south the amount of people who used Greenway was the same.

Coun. Stanton pointed out that Greenway was supposed to be a collector and would be dead-ended when the 125<sup>th</sup> extension went through.

Jim Persey, 12345 SW Davies Road said he chaired the Greenway NAC, and had provided information for them. He stated that he thought this design was as good as they could ever get and noted there had been three open houses so people had a chance to see it. He noted they had discussed sound walls in 1992, and were told they could not have them, so they had come a long way. He stated that the notice was unfair and if the notice had mentioned the whole process instead of just the design more people would have come. He said if they build the road the people would come and it would increase traffic.

Mayor Drake clarified that the intersection of Brockman and 125<sup>th</sup> was all they were talking about, not the extension itself.

Persey commented that intersection would get worse.

Mayor Drake closed the public hearing.

Coun. Soth noted that concerns had been brought up about the area of 125<sup>th</sup> south of Brockman/Greenway, which would require an entirely new study and that was not included in the public involvement process for this portion of 125<sup>th</sup>. He said it would require more staff time, or hiring a new consultant to look at that area and the issue of ROW, for sound walls or any other kind of mitigation that would occur. He said the cost and how that would be funded would have to be considered and he did not want to diminish their concerns, but much would have to be done to address that. He suggested the Community Development Department could take a quick look and make some projections until it could be looked at in more depth.

Mayor Drake suggested Council take whatever action they were going to take and then come back on a separate action with an estimate of the costs of a sound analysis.

Coun. Soth noted that this was something he had been looking forward to for 27 years.

Coun. Soth MOVED, SECONDED by Coun. Stanton, approval of AB 99-245 following the recommended action of numbers 1, 2, and 3 on page 3 of the staff report.

Coun. Brzezinski commented to staff that it was pointed out that if they went with the recommended design, it would take a couple of Comprehensive Plan changes and a variance because it went against the Transportation Plan. She wondered if those changes would not be brought to Council until it was actually time to build. She explained that she was surprised that was not part of the item that night.

Howie explained that it would be addressed when it went through the land use process which was why they looked at the future amendments that would be approved in ordinance form.

Coun. Soth stated that they would not see dirt flying in the next couple of weeks and what they were doing that night did not provide what he would call construction costs, but it would get the preliminary things out of the way. He explained that meant the two parcels of land, and phase one, the Greenway/Brockman intersection, and some issues related to water quality and storm drainage. He said when the money became available, they would be able to go ahead with the construction contract and at least do a good portion of it. He noted that it still might have to be done in several pieces. He commented that he was pleased with this and knew it was one of Coun. Stanton's favorite projects even before she became a Councilor. He said this would relieve the congestion..

Coun. Stanton said she would support the motion, and noted that she lived on Rebecca Lane, parallel to 125<sup>th</sup>. She mentioned that Chris Redmond,

an earlier speaker, had commented about losing access off Crestmore. She noted that in upper Greenway they only had two access ways and they were losing 50% access with Oxbow and getting it back with the Stillwell connection. She said this was holding faith with the past, since it had been on the plans since 1972. She stated that she hoped they could go forward, and also look at the funding mechanisms for phase three. She emphasized they needed to explore the funding that might be out there.

Coun. Doyle referred to the first phase and said the plan to fund it was coming from budgets from the next two years and asked if there were other planned projects that would now not be funded. He asked about the TIF funds.

Tom Ramisch, Engineering Director, said there were no funded projects that would be affected.

Coun. Doyle pointed out that there would be ample opportunity for public involvement in the future.

Mayor Drake asked for consensus of Council to direct staff to get some cost evaluation on the sound walls.

Council agreed.

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

#### ORDINANCES:

First Reading:

Suspend Rules:

Soth MOVED, SECONDED by Coun. Brzezinski that the rules be suspended, and that the ordinance embodied in ABs 99-246, 99-247, 99-248, and 99-249 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Brzezinski, Soth, Stanton and Doyle voting AYE, the motion CARRIED unanimously (4:0)

Mark Pilliod read the following ordinances by title only:

- |        |   |
|--------|---|
| 99-246 | An Ordinance Amending Ordinance No. 2050, the Zoning Map to Rezone Selected Parcels To the New Multiple Use Town Center Zoning Districts and The Urban Medium Residential Density (R4) Zoning District, For Property Known as the Murray Scholls Town Center; RZ 980021 |
| 99-247 | An Ordinance Amending Ordinance No. 1800, The Comprehensive Plan by Amending the Comprehensive Plan Text to Add Provisions Establishing   |

a New Mixed Use Comprehensive Plan Designation Called Town Center, CPA 98023

99-248 An Ordinance Amending Ordinance No. 1800, The Comprehensive Plan Map, by Redesignating Selected Parcels Known as The Murray Scholls Town Center From Industrial, Urban Medium Residential Density, Urban Standard Residential Density, and Commercial Designations to Urban Medium Residential Density and Town Center Comprehensive Plan Designations; CPA 98024

99-249 An Ordinance Amending Ordinance No. 2050, the Development Code, by Adding Provisions Establishing Three New Multiple Use Zoning Districts in Addition to Other Related Modifications to Existing Text (Town Center); TA 980009

Second Reading and Passage:

99-227 An Ordinance Relating to Vehicles and Traffic, Amending Beaverton Code Chapter Six

99-228 An Ordinance Amending Ordinance No. 1800, the Comprehensive Plan Map and Ordinance No. 2050, the Zoning Map, to Designate the Property Referred to as the Carlyle Group Annexation; CPA 98027 and RZ 980026 (Carlyle Group)

Coun. Soth MOVED, SECONDED by Coun. Doyle that the ordinances embodied in ABs 99-227 and 99-228 now pass. Roll call vote: Couns. Soth, Stanton, Brzezinski and Doyle voting AYE, motion CARRIED unanimously (4:0)

OTHER BUSINESS:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the City Attorney continue with property negotiations as discussed in Executive Session.

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

Coun. Stanton explained that the time frame in the current appeal process did not allow the NACs to have meetings between when the Aspen Woods decision was made and the ten days to do the appeal. She requested Council waive the appeal fees because the West Beaverton and Central Beaverton NACs would have had the appeal fees for Aspen Woods if there would have been time, instead of the appeals which came from two individuals.

Council Stanton MOVED, SECONDED by Coun. Brzezinski to refund the appeal fees for the Aspen Woods Appeal.

Coun. Soth questioned if the NACs were going to fund the appeal fees through their allocations why would they not refund the appealants through those funds.

Coun. Stanton said she was not sure they had the funds and if their by-laws allowed them to refund money to individuals. She said last fall when Council reviewed the appeal process for the NACs to get one or two appeals free per year, it was based on a time frame that allowed them to have more than ten days between when the decision was made and the appeal had to be filed.

Mayor Drake said CCI did approve the bylaws for the 10 days for appeals and in discussion with Roy Dancer and Jack Franklin, they had indicated it did not allow them enough time and now they did not support it as written. He said Council had the authority to waive the fees if they so decided and both NACs had taken action since the 10-day appeal period ran out and both did support the appeal.

Coun. Brzezinski commented that it was an issue of timing, and asked if the appeals had been filed by the NACS, would there have been a way for it to come out of the 1998-99 budget allocation. She asked if the fees were waived currently would it come from the 1999-00 budget.

Mayor Drake said they had the authority to waive it anyway.

Coun. Stanton she was not suggesting they take it out of the NAC budgets; she just wanted them to waive the fees and return the money to the individuals.

Mayor Drake clarified that they could not take money from the past year because the books were closed.

Coun. Brzezinski explained that she wondered if this was the NAC's fee waiver for 1998-99 or 1999-2000.

Mayor Drake said technically it would have to be the current year's, but if Council intended to cover it last year, they still had the authority to do so.

Coun. Brzezinski said she would not have had the opportunity to do it last year, because it would have happened before the end of the budget year.

Coun. Stanton said to do all of that they would need letters from the NACs involved requesting something because they could not get the refunds since they did not write the checks. She suggested they could refund the money and take it out of their separate accounts.

Linda Adlard, Chief of Staff, suggested that since they were talking about one appeal fee per NAC in the budget, and their experience was that they had not used those dollars in the past year so it seemed like they had plenty of money in the fund to go ahead and take that return of dollars to those

individuals out of the NAC accounts, if that was their wish. She explained if that account ran short at the end of the budget year because every NAC had an appeal, then Council could decide to add some additional dollars to that fund. She stated she didn't think it would be an issue at that time.

Coun. Stanton said her motion was that while the money could come out of that pot, she did not want it to be out of the specific NACs' allotment. She explained that she did not think they had the authority to decide how a specific NAC spent their appeal money. She stated that her motion was that the fees be waived.

Adlard explained the only appropriate way, given the way the accounts were set up in the NACs, was if a NAC wanted to have an appeal and have the money come back to them, then it needed to go against them. She said she felt if Council did not want to do that, it would be inconsistent with the way the fund was set up.

Coun. Stanton asked if that meant that the two NACs would have to submit letters.

Mayor Drake explained that they knew based on the NAC's minutes that they supported the appeal. He explained the action they wanted to take was to return the money, but allocate the money from the two individual NACs that the appellants represented.

Coun. Stanton withdrew her motion.

Coun. Soth MOVED, SECONDED by Brzezinski that the Council refund the fees to the appellants from the Aspen Woods Appeal and deduct the two separate fees from the Central Beaverton and West Beaverton NAC accounts.

Coun. Doyle said he would support the motion, and felt comfortable if they got a letter or information from each NAC so they could at least come close to following the process.

Mayor Drake said he could give them copies of the minutes.

Coun. Soth explained that he thought this action supported the procedure the Council had established.

Coun. Stanton said she would not support the motion, because she did not hear the NACs say "give us the money." She said she was not comfortable making decisions for people in other NACs.

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

Pilliod noted there was a confidential memo regarding litigation he would hand out to Council.

Adlard reported the Photo Red Light enforcement was being done on a daily basis, and noted that it was a \$170 citation to run a red light in Beaverton.

Adlard noted the new library site was being prepared. She explained that the foundation had been dug to a depth of 23 feet and would house an auditorium and the new electrical and HVAC systems.

Adlard announced that day was the first day to run the Municipal Court in a paperless environment. She said it would save the citizens between \$100,000 and \$250,000 each year that the court was active.

Coun. Brzezinski asked about the groundbreaking ceremony at the library.

Adlard said it was after the fact, but they needed to do it when it would be an easier time for NAC members and citizens to participate.

Coun. Soth said the last word he had was the groundbreaking would be August 23, 1999.

Adlard said that had been changed to the third or fourth weekend in September, and the date would be announced.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 10:03 p.m.

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Darleen Cogburn, City Recorder

APPROVAL:

Approved this 15<sup>th</sup> day of November, 1999.

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Rob Drake, Mayor