

REGULAR MEETING

October 25, 1999

CALL TO ORDER:

A regular meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Council Chambers, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, October 25, 1999, at 7:00 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Evelyn Brzezinski, Dennis Doyle, and Forrest Soth. Coun. Cathy Stanton was excused. Also present were City Attorney Mark Pilliod, Finance Director Patrick O'Claire, Human Resources Director Sandra Miller, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Library Director Shirley George, Police Captain Wes Ervin and Deputy City Recorder Sue Nelson.

CITIZEN COMMUNICATION:

Clifford Kargus, 3056 NW 160th Court, Beaverton, said he wanted to discuss his water line, which was served by Tualatin Valley Water District (TVWD).

Mayor Drake noted that Kargus had been working with City Utilities Engineer, David Winship, regarding his problems.

Kargus said he wanted to display the water quality and stated that he felt it needed to be cleaned up. He displayed samples of his water, and said there were bacteria and algae in the water, dirt in the lines, and the copper piping was filthy. He reported that most of the neighborhood did not have the problem, just the neighbor next door to him, who was on the same water line. He showed a towel with a water stain that came from the water in the bathtub and sink, displayed samples of ice cube water with brown colored sediment, and also displayed a rag stained with brown chemicals that came out of his pipe. He said TVWD had not helped with the problem and said they did not have the money. He noted that his house was nine years old and he was the first resident. He asked the Council if they would like contaminated water coming out of their homes.

Greg DiLoreto, General Manager of Tualatin District Water District, said he was concerned with the water quality in Kargus' house, and reported that TVWD had been involved with Kargus for over a year and the staff was

making weekly visits to his home. He said they had installed a water quality sampling station on the service line, they had analyzed the lines, and the water had met or exceeded safe drinking water standards. He said the water came from the Bull Run System and at that time of year they might see some color in the water. He explained that when the pipeline was installed Kargus would be changed over to the Joint Water Commission water, which was a filtered source. He said TVWD was flushing the line in front of the Kargus house, and they had suggested that Kargus install a filter. He noted that TVWD had not received calls from other neighbors concerning the water problems. He stated that there wasn't anything more TVWD could do, for it appeared to be an internal problem within the Kargus home.

Coun. Brzezinski asked when Kargus would be switched over to the Joint Water Commission water.

DiLoreto replied it would be in the spring.

Coun. Brzezinski asked what the cost would be for a filter.

DiLoreto replied a filter was about \$2,000.

Coun. Doyle asked if samples were taken in any part of the Kargus house.

Mayor Drake asked DiLoreto if he tapped into the line, where would the dirt be coming from.

DiLoreto replied that it was a puzzle and he did not have an answer.

Coun. Soth asked if it was possible there was a crack in the internal line, which would allow dirt to seep into the system. He said the only way to check that would be to shut off everything and see if the meter was going around.

DiLoreto explained that when the pressure was positive it would prevent that from occurring. He said if the Council would like more information he would have the water quality specialist come back or prepare a report.

Mayor Drake said he asked Winship to explore the Kargus issue and Winship was as baffled as TVWD.

Coun. Yuen said he was sympathetic to Kargus. He said he was on the TVWD line near Baseline and he was very concerned. He said he appreciated what had been done to correct the situation, and was curious about what type of water samples were taken ahead of, or at the meter.

DiLoreto said the staff had taken samples in the house and outside at the water line. He said staff indicated the water samples were clear.

Mayor Drake told Kargus that he was baffled, and didn't know what the City could do to help.

Kargus displayed a sample of water that came out before the test station, and said he had five weeks of water like that. He said he drained his hot water heater to try and clean it. He reported that TVWD put a test station in front of his house, took a sample of the water, and took the bottle back to the lab. He stated that he had installed a water filter (\$500), but the lines were so filthy the water did not clear. He said he had to put CLR in the filter and run it through the lines. He noted that CLR was poison so he had to buy drinking water.

Coun. Brzezinski asked if the water problem started all of a sudden.

Kargus noted that that he took care of his elderly mother for two years and in her bathroom, brown dirty water came out of the sink. He said he called TVWD and they said the copper galvanized pipe was the problem. He said he had the problem a year later so he replaced his water heater and when he did that, he cut the old one in half and it was a mess. He said after that it cleared up for awhile. He said in the fall of the year it was worse, but this year it had been bad all year around. He said TVWD said it was coming from the hot water. He said they finally put a test station in front of his house.

Mayor Drake said he would have the staff monitor the problem.

Coun. Yuen asked Kargus to let them know the status, for he was concerned about the outcome. He asked Kargus to send the Council a letter.

Kargus said he wanted to know where it was coming from, even if that meant tearing up the yard or the street.

Coun. Yuen said he heard the response from TVWD and the City, but noted that the Council was not involved in the day to day operation, and he was hopeful it would be solved.

Mayor Drake pointed out that the situation was unique. He said TVWD had done everything the City would do and he didn't know the answer.

Coun. Yuen stated that now that the issue had been raised, he trusted it would be solved; he would like to know the outcome.

COUNCIL ITEMS:

There were no Council items.

STAFF ITEMS:

Mark Pilliod, City Attorney, reported that since the Council closed the public hearing on Magnolia Green on September 27, 1999, the City had received four communications from Henry Kane (October 19, 52 pages, October 20, 16 pages, October 25, 6 pages and October 25, 8 pages). He said, with the exception of the one distributed to the Council at the current meeting, he had instructed the City Recorder not to distribute the packages of material from Kane to the City Council. He reported that it was improper for the City to receive further communication without reopening the record, reopening the hearing, and giving the applicant an opportunity to rebut. He explained that it was impossible to redact items that were objectionable and new material from items that were not new. He said the record was closed on September 27, 1999, and it would be improper for the City to receive any new material. He noted that concerning the item that was distributed that evening, he thought it was in the same classification as the three previous communications since it urged the City Council not to adopt the final order. He said the communication received that night from Kane referenced that the Council was acting in response to a threatened litigation. He clarified that the Council was the only elected body entitled to make a decision. He said, assuming for the sake of Kane's argument, that some threat (even an invalid threat) of some lawsuit or claim against individual Councilors had been received, then the Council as a group had the obligation to vote the matter. He said it was his advice that the items should not become part of the record, the ones that were not distributed as well as the one distributed that night.

CONSENT AGENDA:

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

- 99-326 Reauthorization to Purchase Library Computer Equipment for the Second Phase of the New WILInet Library System and Transfer Resolution
- 99-327 City Council Findings and Order Granting Design Review Approval for Magnolia Green; BDR 99056 (APP 99-00014)
- 99-328 1999 Omnibus Text Amendment #2
- 99-329 CPA 99-00016/RZ 99-00009 Baseline Avenue Tuffli Property Comprehensive Plan Amendment and Rezone
- 99-330 CPA 99-00011/RZ 99-00007 Home Depot/Public Comprehensive Plan Map Amendment and Rezone
- 99-331 CPA 99-00004/RZ 99-00004 Tri-Met R.O.W. Comprehensive Plan Map Amendment and Rezone
- 99-332 Waiver of Storm Drain Connection Fees for the Lombard Gardens Local Improvement District

Contract Review Board:

99-333 Consultant Contract Award – Engineering and Construction Phase Services for the Westside Interceptor Storm Drain Project No. 4 (Cherry Hill Stormwater Detention Pipe) and Carrollon Condominium Storm Drain Project

99-334 Consultant Contract Award – Public Involvement for Hart Road Project

Coun. Doyle asked, referring to AB99-332, if the same consideration would be given to the citizens on 11th Street.

Tom Ramisch, Engineering Director, replied that they would do the same in that area.

Coun. Yuen commented he was not threatened in any way concerning Magnolia Green. He said the findings in the Final order were well done.

Pilliod noted that it was a collective effort.

Coun. Brzezinski said she received no threat of litigation.

Coun. Doyle asked, regarding AB99-334, if the expenditure level was typical for that size of project.

Ramisch replied that is was significant and typical. He said the comparable figure for Davis Road was higher, and noted that there currently was not an expectation that it would go higher.

Mayor Drake pointed out that Hart Road was a very visible project with neighborhood NAC's, and reported that the neighborhood had been invited to share any issues and assist staff with any issues they might have missed.

Coun. Doyle thanked Kane for worrying about the lack of a defense. He said he had not been approached or threatened.

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

ORDINANCES:
Suspend Rules:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the rules be suspended, and that the ordinances embodied in AB 99-335 and AB 99-336 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Yuen, Brzezinski, Doyle and Soth voting AYE, the motion CARRIED, unanimously. (4:0)

First Reading:

99-335 An Ordinance Annexing 8.9 Acres of Land Lying Generally Outside of the Existing City Limits to the City of Beaverton; ANX99-00008, (CE John)

99-336 An Ordinance Annexing 0.02 Acres of Land Lying Generally Outside of the Existing City Limits to the City of Beaverton; ANX 99-00006, (Edgewood Downs)

Mark Pilliod, City Attorney, read the following ordinances for the second time by title only:

Second Reading and Passage:

99-322 An Ordinance Amending Ordinance No. 2050, the Development Code, By Cleaning Up Awkward Phrasing, Correcting Grammatical and Syntax Errors and Codifying Previous Planning Director Interpretations and City Council Actions; TA 990001 (1999 Omnibus)

99-323 An Ordinance Amending Ordinance No. 1800, the Comprehensive Plan Map and Ordinance No 2050, The Zoning Map, to Reassign the County R-6 Designation to City Urban Standard Residential Comprehensive Plan Map Designation and City R-5 Zoning District for 28 Acres of Property and Granting Flexible Setbacks; CPA 98003, RZ 980004 and FS 9900012 (Satterberg West/Deer Creek)

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that the ordinances embodied in AB 99-322 and AB 99-323 now pass. Roll call vote. Couns. Yuen, Brzezinski, Doyle, and Soth voting AYE, the motion CARRIED unanimously. (4:0)

RECESS: The regular session was recessed at 7:40 p.m.

EXECUTIVE SESSION:

Coun. Soth MOVED, SECONDED by Coun. Yuen 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.

The executive session reconvened at 7:40 p.m.

The executive session adjourned at 8:15 p.m.

RECONVENED:

The regular session reconvened at 8:16 p.m.

Coun. Soth MOVED, SECONDED by Coun. Yuen, to authorize the City Attorney to offer a personal service contract to Mr. Calzaretta for legal services in the amount not to exceed \$3,000. Couns. Soth, Yuen, Doyle and Brzezinski voting AYE, motion CARRIED unanimously. (4:0)

Coun. Soth MOVED, SECONDED by Coun. Doyle, to settle the case discussed in executive session. Couns. Soth, Brzezinski, Yuen, and Doyle voting AYE, motion CARRIED unanimously (4:0).

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:20 p.m.

Sue Nelson, Deputy City Recorder

APPROVAL:

Approved this 3rd day of January, 2000

Rob Drake, Mayor