

REGULAR MEETING
November 8, 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, November 8, 1999 at 6:43 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Evelyn Brzezinski, Dennis Doyle, Forrest Soth, and Cathy Stanton. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Human Resources Director Sandra Miller, Community Development Director Joe Grillo, Operations/Maintenance Director Steve Baker, Police Chief David Bishop, Library Director Shirley George, Engineering Department Director Tom Ramisch, City Utilities Engineer David Winship, Assistant City Attorney Bill Kirby, Redevelopment Project Manager John Engel, Risk Manager Jeff Shapiro, Economic Development Manager Janet Young, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Mayor Drake announced there were two off-the-agenda items that evening. He said he had invited (at their request) potentially two groups, the applicant and a group interested in an appeal of the Magnolia Green project that the Council originally heard on October 4, 1999.

Dick Schouten, 6105 SW 148th Ave., addressed Council and said he was the Attorney representing Roy Dancer and Marv Doty and the Make our Park Whole Committee. He noted they had asked the City for an agreement for a Stay of Action (Stay) for a Land Use Board of Appeals (LUBA) appeal (concerning Magnolia Green) that they would file in the near future. He noted that what they wanted to discuss that evening were four issues in an effort to diffuse the situation. He said the discussion that evening would answer the central question of Fred Gast's letter (in record). He noted the first issue was a question of procedural due process. He said they felt they deserved if not equal time to Polygon, then adequate time to lay out their whole case. He explained they were not convinced the storm system was as advertised and they were concerned about the grading and the large volumes of fill at Magnolia Green and concluded in paraphrase "what is good for the goose is good for the gander." He explained that when Polygon lost on the Aspen

Woods Development they allowed a stay to mediate Aspen Woods. He said that decision was made and the group he represented was not part of that decision, but now that they had lost, they were asking the City for the same treatment. He explained that ultimately they felt they had some real concerns and issues that could be mediated with the City. He said they would file the LUBA appeal, but were concerned with the amount of rhetoric and passion that had sprung out of the Aspen Woods and the Magnolia Green cases. He commented that they were concerned about negotiations taking place in respect to Aspen woods. He noted that Marv Doty could answer any engineering questions Council might have that evening and asked for Council approval for a Stay of the appeal.

Marv Doty, 7350 SW Wilson Ave., said they were only citizens from their neighborhoods and had a great deal of concern about three points of engineering criteria on the Magnolia Green proposal. He said the first point was the magnitude of grading and excavation and the sequence of the timing for that work to be done, and the stabilization of the soil prior to any weather conditions. He pointed out that they were concerned about potential runoff from that area. He noted there were approximately eight acres of impervious area and what they had figured and from Polygon, the amount of water potential from a 25-year event would be substantial. He said he assumed Council knew what a cubic foot per second amounted to in gallons of water and when they looked at a 24-hour period over the site there would be a great volume of water, possibly in excess of a million gallons. He noted the difficulty was it would be directed to four concise points and then into the wetlands, and currently the water in its natural state was spread out in a gradual manner over the wetlands. He said there had been no field test results exhibited by the applicant and all they had seen were mathematical assumptions. He suggested there needed to be further investigation into the quality and the amount of water that the system could handle. He referred to the grading and the extent of the unstable soil deposited over the area. He suggested there needed to be a definitive plan for how that was going to be handled or the contamination potential and pollutants in a storm water condition would be excessive. He concluded by saying those were some of the reasons he thought a Stay should be awarded and noted they would like to look into to it further.

Mayor Drake offered Fred Gast the opportunity to talk and gave him the option of using the letter of November 8, 1999, which he had presented to Council (in record) as sufficient testimony.

Fred Gast, Polygon Northwest Company, 2700 NE Andresen, Suite D-22, Vancouver, WA, designated representative for Polygon, said the letter was sufficient.

Coun. Doyle referred to Schouten's comment about what was "good for the goose and good for the gander," and said he hoped that did not mean that when they asked the developer to let them work on the issues for Aspen Woods that Schouten agreed with that.

Schouten emphasized that he agreed.

Coun. Soth said Doty's comments on run-off and erosion control were legitimate concerns but had been addressed under a site development permit, not design review and explained what those permits entailed. He said he did not think, at that point, the Council was technically qualified to rule on those and they should be taken up at the appropriate level. He stated that he objected to Aspen Woods and Magnolia Green being treated as twins, and noted that they were two different situations and should be treated as such. He noted if they desired to proceed with an appeal to LUBA, that would need to be done in the proper fashion. He said the only connection was that the mediation in Aspen Woods was amenable all parties. He said the letter from Gast said he was not interested in mediation (regarding Magnolia Green) and mediation required participation by all parties.

Schouten responded by saying that when they filed the LUBA appeal the only parties involved would be the City and his group. He said the City had responded to them as petitioners, which was precisely the case on August 20, 1999, when the only two parties involved were Polygon as the petitioner and the City as the respondent. He said they were not asked if that was OK and currently the City could make the decision without relying on an affirmation from Polygon.

Coun. Brzezinski stated that to her it was like comparing apples and oranges. She pointed out that in the Aspen Woods proposal the developer lost at City Council and the Council said there were things about the development they could not approve. She noted that the developer asked if he could try and work it out, and since the Council had said "No" (to the original development), they felt it was to the City's benefit to allow the developer to see if they could come up with something they could agree with. She noted that in this situation Council voted 4 to 0 in favor of the Magnolia Green Development proceeding. She said the reason they would be in favor of the Aspen Woods Stay was they were not pleased with the original proposal, but in the Magnolia Green proposal they agreed it was an acceptable development. She explained that it was not the same situation, so Schouten's statement "what's good for the goose is good for the gander" really wasn't a good analogy, since Council had not turned down Magnolia Green.

Schouten said that in both cases they had a situation where a potential petitioner to LUBA was not happy with the City Council decision. He emphasized if Council was willing to reconsider their vote on that case (Aspen Woods), because of serious concerns and questions, then it was precisely the case with the Magnolia Green proposal since they had some serious concerns. He asked Council to allow them to discuss their concerns rather than to go into a fast track situation with a LUBA appeal. He said, in both cases, it could be very destructive to the procedures that were taking place.

Gast thanked Council for the opportunity for discussion and pointed out that Magnolia Green did not just 'pop up' and become an approved project. He explained it had to go through a series of different events to get its approval. He stated they went through the Facilities Review process, which looked at their proposals for storm and grading operations, and staff unanimously approved the project. He said it then went through the Board of Design Review process and was unanimously approved, and through Council's process with unanimous approval. He said the process took several hours of public testimony and a neighborhood meeting and extensions from Polygon to discuss concerns with the public at-large. He noted that the proposal was unanimous at every stage and they had met or exceeded all of the standards, and City staff concluded that Polygon had the finest water quality facilities within a residential project in the Tualatin River Basin. He pointed out that they had 45 minutes for their presentation to Council and 20 minutes in rebuttal but the hearing lasted five hours.

Gast reviewed four key issues: excavation, timing, runoff, and the water quality system. He explained that excavation and embankment (the grading operation) was less than what they would find in a single-family neighborhood in this area. He noted that regarding timing, they would voluntarily not do grading until late spring of next year because they felt it was the proper thing to do with the site due to its sensitivity to Beaverton Creek. He reiterated the project met and exceeded all of the standards for runoff and they had field-tested the water quality system. He concluded by saying those were the comments he had and felt that the letter cleared up any question about Polygon's position on any mediation. He stated this was not the Aspen Woods, but the Magnolia Green project.

Coun. Soth reaffirmed that through Gast's letter it appeared he was not interested in the Stay by LUBA or the mediation.

Gast said in regard to Magnolia Green that was correct.

Mayor Drake said he had informally talked with Tualatin Hills Park and Recreation District (THRPD) who were potential funders for acquisition of the property where the developer would like the Aspen Woods development located. He stated that he met with Polygon and THPRD attempting to find some common ground and it was a very fruitful conversation. He said THPRD would be trying to filter down a proposal by Polygon to purchase some or all of that property. He said since the agreed upon Stay at LUBA, he was the appropriate person to pull the sides together and the sides had been talking in a productive way. He stated that potentially something could happen that would be of benefit to the public and that some or all of the land where the Aspen Woods development was proposed could end up in the hands of the public.

Mayor Drake asked what Council wanted to do about the Stay.

Coun. Brzezinski asked if the reason they were being asked to approve the Stay was because they were the people who were technically being

appealed. She asked if, for the Stay to have any possibility of success, wouldn't some entity (THPRD or Make Our Park Whole Committee) on one side and Polygon on the other side have to agree to talk to each other.

Mark Pilliod, City Attorney explained that in order to request a Stay, the parties to an appeal must agree to the request (then LUBA would automatically grant the Stay), and at the point in which a petitioner (in this case the individuals who were mentioned that night) would file their petition for review. He noted that, assuming the City agreed, they would immediately file a Request for a Stay, so there would be no opportunity for an intervener (such as Polygon, the developer) to intervene and register their objection to the Stay, and LUBA would in that case grant the Stay. He reiterated that the Stay could be granted in spite of Polygon's unwillingness to the Stay. He forecast the next question would be about mediation.

Coun. Brzezinski remarked she did not mean from a legal point of view, but wondered if anything would come of the Stay.

Pilliod said it depended on the parties at the point in time as the petition was filed and whoever intervened and their willingness to enter into negotiations. He noted the Mayor had described the negotiations thus far despite the fact that in the Aspen Woods case there were a couple of intervenors that opposed Polygon's development in Aspen Woods, and they were not involved in mediation at that point. He said there were discussions taking place between the developer and the THPRD (the real party in interest) over the potential acquisition of the Aspen Woods site.

Coun. Brzezinski said she understood that he was an attorney and it was his job, but he was making it too difficult. She said the point was in Aspen Woods the Council did not agree with what Polygon wanted, but they came to the City and said they wanted to work it out. She noted that there had been a split vote and it was to the City's benefit to see if it could be worked out. She pointed out that it seemed to her that, if the Council agreed to it, but Polygon would not agree to mediation, it would be difficult for anything good to come of a Stay.

Pilliod said it was not a legal question, but if one side wanted to bargain and the other did not, there was not much to come from that.

Coun. Doyle asked if an agreement to negotiate further had to come after an appeal was filed.

Pilliod said it could be reached at any time, it did not have to be before or after an appeal.

Mayor Drake reiterated that even if they didn't agree to a Stay and there was no appeal Polygon did not have to develop and they could decide to negotiate away their interest in Magnolia Green or just not develop it. He

said that in this case they appeared to have every intention of developing Magnolia and a Stay would simply stall it.

Pilliod pointed out that, as detailed both by the Mayor and Gast, it appeared that negotiations had occurred with THPRD over the acquisition of the Aspen Woods site, and at that point there was no appeal on Magnolia Green.

Coun. Soth asked if there was no appeal on Magnolia Green because of the Stay on Aspen Woods. He asked Pilliod if he had misunderstood him.

Pilliod said that he had misunderstood.

Coun. Soth then clarified that in the Aspen Woods situation at that point, while an appeal had been filed it was under Stay pending the outcome of some of the negotiations in process. He noted that in the case of Magnolia Green, at that point a Notice of Intent to Appeal had been filed (or would be), and while he thought Schouten was correct in that the adversarial portion of the appeal would be between those appellants and the City. He continued that because Polygon was the party caught in the middle, he assumed that Polygon would have an interveners status. He stated that his point was that using the Community Dispute Resolution Process as a model, the two parties most concerned should get together with that mediator and ask how to work things out. He said that in that case both parties would have to agree that could be a possibility. He specified that without Polygon at the mediation table then they were talking about mediation between two parties and leaving out the party with the most at stake. He concluded that for that reason he would not accede to any request to mediation unless Polygon was at the table.

Coun. Brzezinski asked if Council needed to respond.

Mayor Drake said Council needed to respond because a request had been made.

Coun. Brzezinski said she would not support the City signing this because to her it was exactly the same as any party who disagreed with any vote of the Council that went in a way opposite of what they wanted. She said the way to appeal that was to go to LUBA, and to her this was a very different situation than the Aspen Woods appeal where Council was trying to accomplish something different. She encouraged taking the case to LUBA and if they saw it differently then she would be willing to review the way LUBA viewed it.

Mayor Drake said that it appeared Council chose not to be part of the mediation.

PRESENTATIONS:

Community Action

Jerralynn Ness, 1001 SW Baseline, Hillsboro, said she was the Executive Director of the Community Action Organization and thanked Council for allowing their presentation. She said the purpose that evening was to bring Council up to date on the shelter project and to request additional support. She introduced Shelter Coordinator Rebecca Ambrose, Volunteer member of the County Shelter Partnership Council Sydney Sherwood, and Council Chair Pat Biggs.

Ness thanked Council and said there were many people who made the shelter possible and even though they had gone through a rocky road the past year, the shelter could not have happened without the commitment of the partners who came together with support. She thanked the City for the \$10,000 appropriation for the shelter that year and for their willingness to "hang in there." She explained the shelter's support process and goals and noted they had revised the budget to \$202,000, to bring on an additional staff person and still pay the bills. She noted that the black folder she had distributed (in record) had information on the budget and the Shelter Partnership Council program. She requested more funding, and said she realized this was outside of the normal process. She concluded by saying this was a much needed community program and if their partners continued the support it would be successful.

Rebecca Ambrose, 11130 SW Greenburg Rd. Tigard, said she was the Shelter Coordinator and since they opened on September 13, 1999, they had served 31 residents, of which 16 were under the age of 15 years. She said that in the two months the shelter had been open they had 225 volunteers step forward to donate their time to the project. She noted the volunteers were critical to the success of the shelter because they were operating on a bare-bones budget, and related a story from one of the shelter residents about how valuable the shelter was.

Sydney Sherwood, 10305 SW 85th Ave., Tigard, said she was on the Shelter Partnership Council and was heading up fundraising for the shelter. She described various fundraising projects.

Coun. Brzezinski explained that there was a difference between Community Action and the Shelter Partnership Council. She noted that the Council was the East Washington County Shelter Partnership, which was the community group that had formed to support the shelter, and contracted with Community Action to operate the shelter for one year, while they got organized with non-profit status and developed a funding plan.

Ness clarified that the Shelter Partnership Council was not formally contracting with Community Action but they had a contract with the County.

Pat Biggs, 14250 SW 88th Ave., Tigard, said she was the Shelter Partnership Council Chair and this was part of a group that looked at the Rite Center and realized they were in deep trouble. She said the group had evolved into a stable and politically smart group who had been very

active in the community. She explained they mainly represented Tigard and Tualatin, but needed people from Beaverton and the Sherwood area to join.

Biggs explained that "homeless" meant that where they parked their car the night before was the community they were from. She said homelessness was not a church problem or a government problem, but it was a community problem. She said these were people who had time to think about where they wanted to go and what they wanted to do with their lives. She explained that most of them were working, but they could not solve immediate problems because their lives were in such a shambles. She commented that someone needed to provide shelter, food and stability for the children. She noted that they needed help with funding and volunteers to create an East Washington County model.

Coun. Soth noted that in reviewing the budget statement he needed clarification.

Ness noted a grant from a subcontract with Community Action and named homeless assistance money from the State.

Coun. Soth questioned if it was Community Action Agency money funneled into the program as part of the contract.

Ness said that was correct.

Coun. Soth asked if the Community Development Block Grant (CDBG) funds were part of the County funds.

Ness said that was a one-time out-of-cycle funding.

Mayor Drake said they were talking about a \$5,000 one-time donation.

Ness reported that they had approximately \$27,000 to raise that year.

Biggs said that the City of Tigard had doubled their commitment to \$15,000.

Coun. Brzezinski said she was concerned since this fundraising was out-of-cycle. She said she now understood that the model for running the shelter was very dependent on volunteers and they were doing a good job of getting volunteers. She noted that the volunteers were uncomfortable with being there without a staff person, and they needed a fourth staff person in order to have staff present to support volunteers.

Coun. Stanton said her family volunteered to stay there one night and said it was very important to have a staff person there who know what the processes were. She said she would have volunteered again sooner if there had been a staff person.

Ness noted that at the Hillsboro shelter there were 8-9 staff people.

Mayor Drake clarified that this was now year-around and 24-hours a day.

Ness said under the Community Action Organization they were able to connect people to the services they needed.

Coun. Soth asked if they coordinated with Care-to-Share.

Ness said they did, especially with the heating assistance needs.

Coun. Doyle informed the audience that the Rite Center facility was paid for and there was no mortgage involved.

Coun. Doyle said he had no problem supporting the amount requested or more.

Mayor Drake acknowledged they had traditionally allocated this kind of expenditure from the State Revenue Sharing.

Patrick O'Claire, Finance Director, said the State Revenue Sharing had over \$1 million dollars and Council could authorize the Mayor to sign a transfer resolution, or they could have him to add it to the supplemental budget.

Coun. Soth asked how immediate their financial need was.

Ness said they were fine for the moment but they were looking at the budget for the current fiscal year.

Coun. Doyle said he had been on the Social Services Funding Committee and was aware of the work the Rite Center did. He commented that he would not have a problem if the City matched the current contribution of \$10,000.

Coun. Stanton noted that if they took out the County's donation, the City's initial contribution was 13%, and she thought there were at least that many people from Beaverton that used the Good Neighbor Center. She agreed with an equal match in funding.

Coun. Yuen said he served on the board of a non-profit community development organization and was very much aware of the difficulty of doing private fundraising. He commented that he would support a worthy cause with government assistance. He said he had been on the County funding board and was very supportive of what they were asking for. He said he agreed with Coun. Doyle and there was no reason not to match what they had already given.

Coun. Soth commented that it said to him that the kinds of clients in the east County were for the most part invisible to the general population and until or unless you had been in a similar situation it could be very misleading. He noted that he wholeheartedly supported matching the

\$10,000 from State Revenue Sharing. He said the church he attended had a year-around food closet and the clients were up about 20%, and that was true all over the County.

Mayor Drake said it sounded like Council was in agreement and that it should be added to the supplemental budget hearing in two weeks.

Ness thanked Mayor Drake and the Council.

Beaverton Float Committee

Mayor Drake introduced Marcy and Steve Speer and remarked on their great work in the community. He said they were the backbone of Beaverton's float that appeared in the Rose Festival and the Good Neighbors Parades each year, and they devoted many hours to produce a great float for the community.

Marcy Speer said that they received the Mayor's Award for best animation in the Rose Festival Parade in 1999. She presented the award ribbon and plaque.

Mayor Drake said they would display that it in the case in the lobby of City Hall.

Ms. Speer said they also won an award for best community float in the Festival Parade that year and presented the ribbon and plaque to the City.

Coun. Doyle asked how many years they had taken home awards.

Ms. Speer said it had been eight years in a row.

The Speers presented certificates of appreciation for each person who helped sponsor the float. She noted that the City of Beaverton provided substantial support.

Mayor Drake said the City appreciated their continual effort and it headlined Beaverton in the region and promoted community pride.

Ms. Speer said they had a good time and enjoyed it.

Mayor Drake pointed out that the Speers had been a mainstay for the whole program.

Coun. Doyle commented that the float was incredible, and asked about how people could volunteer to support the float committee.

Ms. Speer said they could be reached at 643-3220 or through the Neighborhood Office.

Coun. Doyle said it was fun to work on the float and encouraged people to volunteer. He mentioned they could also help out with a cash donation.

Ms. Speer said the overall theme for next year was "Let's Celebrate" and said they would like some help with ideas.

Coun. Stanton said in years past her kids would come with her to work on the float, and it was a wonderful activity, even her teenage son enjoyed working on it.

The Speers thanked Mayor Drake and the Council.

99-351 Recognition of Awards Received by the City's Emergency Manager and Emergency Management Program

Mayor Drake noted that they had many outstanding employees at the City of Beaverton and they were there that night to honor Mike Mumaw, the City Emergency Manager. He described Mumaw as "as star among us" and noted the office of Consolidated Emergency Management was a great joint effort among the agencies of Washington County to provide emergency services to citizens. He praised them for their great work.

Scott Porter, Manager for the Consolidated Emergency Management Office named Mumaw as the recipient of three awards presented at the State Oregon Emergency Management Association's State Conference in August.

Scott described the most prestigious award presented to Mumaw as the Emergency Manager of the Year for the State of Oregon in the category of Urban Emergency Manager. He explained several things Mumaw had done to receive that award including preparing (with City Staff and others) for any kind of problem that might arise at the Nike World Master's Games. He said Mumaw's example became the standard throughout the country for similar types of events. He noted that Mumaw had also done a number of things on the state and national level that contributed to his recognition as Emergency Manager of the Year. He said he knew the Council was very aware of the things Mumaw had done to develop their Emergency Management Plan, the Emergency Operations Center and the Y2K plan.

Scott went on to explain that Mumaw had received an award for work on a document entitled Emergency Management 101. He noted it pertained to the education of City employees to find out what their role was in the organization and team for emergency management. He reported it was going to be developed for use regionally and commented that it was very well done.

Scott said another award that Mumaw shared with the others at the Office of Consolidated Emergency Management was an award for innovation. He said they prepared a series of 24 monthly flyers that had been put

together as a single document and distributed throughout the County. He noted that Mumaw was the instigator of the project and did many of the flyers as well as the final completed copy.

Scott noted that both documents had been recognized as exemplary documents nationally. He complimented Mumaw on being an outstanding contributor to the team in the Office of Consolidated Emergency Management.

Coun. Stanton thanked Scott for his presentation and noted that she especially appreciated the employee orientation handbook, which she thought was the cornerstone to the whole Emergency Plan. She thanked Mumaw for his work.

Coun. Brzezinski said she wanted Scott to know that any time a portion of the Emergency Plan came to the Council for review she was always struck by the clarity of the writing. She commented that Mumaw had a unique talent and she was glad that he was being recognized.

Coun. Soth concurred with what had been said and had always appreciated that the more they could avoid trade or industry jargon the more the average person could understand the important information. He said he thought Mumaw had done a wonderful job of clarification. He said on the few occasions when the Emergency Plan was used, it had worked out just as projected and planned. He thanked Mumaw for his work.

Scott noted that a number of things that Mumaw had brought to the City had been manifested in the Y2K plan.

Mayor Drake thanked Mumaw for the work he had done, and noted that it was hidden work. He pointed out that the City could have an emergency incident and citizens would certainly value and appreciate that the City had an emergency plan and was prepared to handle the crisis. He said Mumaw's efforts to keep the Council and staff prepared and informed was outstanding.

Coun. Doyle added his thanks and agreed with Coun. Brzezinski comments on the clarity of Mumaw's writing. He added that Mumaw had brought recognition to the City of Beaverton through his hard work.

Scott thanked the Mayor and Council in that they made the Emergency Management profession more visible. He commented that he appreciated their support.

RECESS:

Mayor Drake called a recess at 8:00 p.m.

RECONVENED:

The meeting reconvened at 8:09 p.m.

CONSENT AGENDA:

Mayor Drake noted that AB99-359 was pulled for separate consideration.

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

- 99-352 Bid Award - Concrete Grinding Machine
- 99-353 Prince "Expedited" Annexation (ANX 9900009)
- 99-354 16705 SW Hart Road "Expedited" Annexation (ANX 9900010)
- 99-355 Authorize the Mayor to Enter Into An Intergovernmental Agreement With Washington County for HOME 1999 Program Year (PY) Funding
- 99-356 Council Authorization to Terminate Washington County – Beaverton IGA for 2040 Planning
- 99-357 Establish New Classification in Police Department and Revise Police Records Supervisor Salary Grade

Contract Review Board:

- 99-358 Waiver of Sealed Bidding – Purchase of 15 Traffic Signal Controllers From the City of Portland Price Agreement
- 99-359 Authorization to Solicit Proposals for Business Process Re-Engineering for Development Services and Building Inspection Services (Pulled for separate consideration.)
- 99-361 Emergency Bid Award – Internal Repair of Sanitary Sewer Crossing of Beaverton Creek at Cedar Hills Boulevard

Coun. Stanton noted that the only issue on the consent agenda that the public might be interested was the issue of canceling the agreement with the County for planning, AB 99-356.

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

Separate Consideration:

- 99-359 Authorization to Solicit Proposals for Business Process Re-Engineering for Development Services and Building Inspection Services

Coun. Yuen said his concern was that during the Budget Committee hearings Council had authorized \$20,000 for an operational audit, which would be appropriate for either one of the departments. He explained

that he had a problem authorizing the expenditure until they had been audited, because they did not even know what needed to be fixed. He stated that his preference was to look at the departments and then come back to Council with a report, and from there move forward to request proposals for re-engineering rather than authorizing it before knowing what they had.

Coun. Stanton said she did not disagree with that, but was not as concerned about moving the process through. She explained that under the steps of the Scope of Services, she felt comfortable if they had a 7a and 7b where at that point the recommendations would come to the City Council as a work session for review. She said that way they could have the audit happen and the recommendations come forward. She reiterated that she would be comfortable with that safeguard.

Mayor Drake commented that he thought that would be a good addition and it made sense. He said their intention was to come back to Council with an update before proceeding.

Coun. Yuen stated that he was more comfortable with that. He explained he was uncomfortable with authorizing an expenditure of \$100,000 and assuming that there was something wrong. He noted that he was not comfortable giving a blanket authorization to fix something they did not know was broken.

Coun. Soth said he assumed this would entail a review of the operational audit they did several years ago, on that department, which resulted in some recommendations that were implemented. He noted that since that time there had been a number of changes both in technological advances as well as additional functions of the entire department. He said he had a hunch, based upon the last one where \$20,000 was not enough to cover the full operational audit, it would either result in a selective type operational audit, or would result in a rather skimpy type, rather than a full in-depth audit. He said he did not have a problem with the proposal, but thought they were looking at more than \$20,000 for that particular function.

O'Claire said there would be no problem issuing a request for payment in a two-phase process where they would come in with an overall audit of the organizational structure and come back with some recommendations. He said the second part of the scope would be to bring forward those recommendations in a process that would implement specific tasks or improvements to processes. He noted the second phase would be additionally awarded upon a presentation to the City Council.

Coun. Stanton said she heard the Mayor use the word "update," and she wanted more than an update. She stated that she wanted Council to review the recommendations and make decisions on the steps or phases. She explained that would meet her needs for making sure that what happened went forward with deliberation from the Council.

Coun. Doyle said he supported the agenda bill as modified by the Council, and had assumed it would be similar to when the Court system was re-engineered. He said the folks in the departments worked hard and it was very important to make their work more efficient.

Coun. Brzezinski said she would support approving the item, but to her it did not seem to follow the spirit of a Council directed activity. She asked Mayor Drake to consider putting money for similar things in a different budget other than Council's budget in planning for the next year.

Mayor Drake responded that he would be glad to do that and it was Council's choice in the budget process.

Coun. Soth gave a brief history and said this had begun as a Council project with the Council deciding each year which department should be audited through the operational process.

Coun. Brzezinski explained that she thought it was the responsibility of the Mayor to make these types of decisions and if this was going to continue for all of the departments, then she would like the dollars built into some budget other than Council's.

Coun. Stanton stated that she liked it in the Council budget because it didn't get hidden anywhere else and they could decide on it.

Coun. Brzezinski said she only wanted Council to think about it in terms of budget preparation.

Coun. Yuen reiterated his support for the revised agenda bill since Coun. Stanton was so careful to say that it had to come back to Council for review and authorization. He questioned if this process provided for an adequate review or audit of the two departments or would they go from audit to re-engineering.

Coun. Soth reported that at the time this was set up, \$20,000 was adequate, but since that time the costs had increased considerably and so had the size of the departments.

O'Claire said that Coun. Soth was correct that \$20,000 was adequate six years ago, and noted that it was an operational audit done in conjunction with a financial audit done by the City's auditor at that time. He noted that the realm they were in now was much different from a financial audit. He explained that this was an operational audit with a lot more disciplines and they were looking for a broad-based selection of responses to the proposal. He also recommended the proposal be broken into two segments (Scope A and Scope B) with prices for each. He noted they would probably award only Scope A with Scope B being awarded at a later date with Council's recommendations.

Mayor Drake suggested they bring it back next week with the revisions.

The Council agreed.

ACTION:

99-360 Y2K Preparedness Presentation and Resolution

Mayor Drake said he brought this forward to remind the Council that the City staff had worked hard to put together the plan for any contingency related to Y2K computer change on New Years Eve. He clarified that Patrick O'Claire headed the team that had headed the Y2K preparedness, with Mike Mumaw and Bill Kirby also on the team.

O'Claire said he was the Y2K Coordinator and Bill Kirby, City Attorney, and Mike Mumaw, Emergency Manager represented the core group that Mayor Drake formed in January of 1999, to address the City's Y2K preparedness. He reported that the beginning of the preparation began in January of 1996, and they had been very proactive to reprogram all of the City's mainframe computer applications to be Y2K compliant. He noted that had been achieved on January 30 of 1996 in conjunction with the fiscal year rollover. He reported that in addition, the Y2K committee was looking at the other services the City provided such as water, sewer, police, and the transportation system

O'Claire said that under Mayor Drake's direction they had the departments take inventory of systems that were not Y2K compliant. He remarked that they assessed and analyzed the systems and through the assessment they developed a risk analysis. He specified five services critical to the City's operation including Police, water, sewer, and business and financial services. He said in preparing for that type of mitigation they also participated in a region-wide County assessment of the County's ability to respond to Y2K. He noted that Mike Mumaw had been a major player in the County's efforts to determine what was the predicted scenario for the Y2K rollover year Countywide, and in addressing the resources available. He pointed out that the Y2K Action Plan was included in the agenda packet material. He noted they planned to implement the plan on December 31 and stated that the City felt it was well prepared for Y2K.

Coun. Stanton said she had candles and jugs of water, but on the sewer issue, did they have assurances from United Sewerage Agency that she could flush her toilet for all of the year 2000.

O'Claire said USA had assured them that they were in compliance and Y2K ready.

Coun. Doyle humorously said if he did not get invited to the New Year's Eve "party" it was O.K. He said he thought the report they put together was very well done and it seemed like everything that the City had was ready.

O'Claire reiterated that the City was Y2K ready and they were prepared to respond to system problems, and as a precaution had police services as part of the Incident Action Command.

Coun. Doyle commented that the Allen Ave./217 interchange was not Y2K ready because of how old the signals were and the language code. He asked if the Oregon Department of Transportation (ODOT) had replaced the signals at that time.

O'Claire said it had not happened at that time, but ODOT said they would have it by November 31, 1999 and if not, they had a manual way to go around the system.

Coun. Doyle asked if the traffic signals the County was responsible for were set to go.

O'Claire said they were all ready to go.

Coun. Soth reported that the Joint Water Commissions Systems were all Y2K compliant and would all be in good working order. He also reported that the 9-1-1 System, which he chaired, was compliant at each level. He noted that any worries they might have about emergency services should be minimal because they had been assured that everything had been checked out and was ready. He commented that it was a great interlocking relationship with many different agencies involved.

Coun. Stanton said that the Emergency Management report was well done, and noted that there was no one from the Mayor's office on the list.

Mayor Drake said he had invited the Chief of Staff and the Department Heads to join him on December 31, in the Emergency Operations Center more to assure the citizens that their City Government was there and available, rather than alarm them.

Coun. Yuen asked about the fax machines, and said they were frequently not Y2K compliant. He said his main concern was about the date time stamp. He questioned if the date time stamp on the fax had any legal merit, because the date and time could be different than when the fax was actually received.

Mark Pilliod, City Attorney, said in most cases a fax showing a date could be challenged and more recently the laws had allowed for filing of certain documents in administrative agencies and in courts. He said generally speaking the date on the fax could be challenged and a person could try to show that the particular machine that printed the date was not Y2K compliant or in some other way defective.

Coun. Yuen clarified that his question was the opposite way around and that the date would say that it was Monday, but it actually arrived on Tuesday, so someone could challenge that it was not distributed

appropriately in a timely manner. He said to protect the integrity of the process he wondered if hand stamping a fax was legally good enough.

Pilliod explained that if it was legal and permissible to file an official document via fax, (which in most cases it was not) then there could be a dispute about which was correct: the date on the fax machine, or the date stamped on the document by clerical staff. He said he supposed that the governing body would have to decide which was the most credible evidence of the date it was filed.

Coun. Yuen suggested that they make sure that the fax machines in the Mayor's and Attorney's office were Y2K compliant.

Coun. Brzezinski noted that what came on the fax depended on the information the sender had input into his fax machine.

Coun. Yuen said he thought it depended on the machine.

Coun. Brzezinski said she had received faxes that were dated in 1996.

Coun. Stanton noted that the first day of the New Year would be on a Saturday and any fax machine with a problem could be fixed on the following Monday.

O'Claire said they would put this on the list of test criteria.

O'Claire questioned if Council wanted to discuss Agenda Bill 99-360. He noted the resolution attached to the agenda bill relating to Council's awareness of the City's Y2K compliance efforts.

Coun. Doyle MOVED SECONDED by Coun. Soth that Agenda Bill 99-360 now pass. Question called on the motion. Couns. Soth, Doyle, Yuen, Brzezinski, and Stanton voting AYE, motion CARRIED unanimously (5:0)

ORDINANCES:

Second Reading and Passage:

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

- 99-347 An Ordinance Annexing 1.98 Acres of land Lying Generally Outside of the Existing City Limits to the City of Beaverton; ANX 99-00007 (Hendrickson)
- 99-348 An Ordinance Amending Chapter 9 of the Beaverton City Code Relating to Community Development (1999 Omnibus #2)
- 99-349 An Ordinance Amending Ordinance No. 2050, the Development Code, to Bring the City of Beaverton into Compliance with Metro Code Chapter 3.07, Titles 2,4, and 8 Requirements, and Modify Other Sections of the Development Code for Clarity (1999 Omnibus #2)

99-320 An Ordinance Amending Ordinance No. 2050, the Development Code, by Adding New Provisions for Regional Center Zoning Districts and Modifying the Existing Town Center Commercial Zoning Text to Assure Internal Consistency throughout the Code; TA 980005 (Appeal)

99-321 An Ordinance Amending Ordinance No. 2050, the Zoning Map, from Town Center (TC) to Regional Center – Transit Oriented (RC-TO), Regional Center – East (RC-E) and Regional Center – Old Town (RC-OT), RZ 980015

Coun. Soth MOVED, SECONDED by Coun. Doyle that the ordinances embodied in AB 99-347, 99-348, 99-349, 99-320 and 99-321 now pass. Roll call vote. Couns. Soth, Doyle, Yuen, Brzezinski, and Stanton voting AYE, the motion CARRIED unanimously. (5:0)

OTHER BUSINESS:

Coun. Soth MOVED, SECONDED by Coun. Doyle that the City Attorney be authorized to extend the contract in conjunction with the County in the use of outside counsel representing the City in the federal court case in connection with the solid waste hauling company.

Pilliod said there was another issue that that needed to be discussed in executive session.

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

COUNCIL ITEMS:

Coun. Soth commented that the cleanup day was a good event and it was amazing with the cleanup in the spring and curbside pickup, they still got all kinds of things. He said it seemed like there were many drop-boxes going out. He complimented Kevin Kelly, Reprographics Supervisor, Julie Makarowsky, Support Specialist, and Megan Callahan, Neighborhood Program Manager, for their excellent efforts coordinating the event and all the volunteers.

Coun. Soth asked Shirley George when they would have the New Library groundbreaking ceremony.

Shirley George, Library Director, said they would not have a groundbreaking ceremony, since they were already at work and progress was being made. She said they could soon start thinking about a ceremony to open the Library on Labor Day of 2000.

Coun. Soth asked what they had to do to get an on-site tour.

Mayor Drake suggested that Linda Adlard, Chief of Staff could arrange a tour.

Coun. Stanton said for anyone who did not make it to the Beaverton Arts Commission Showcase at the Beaverton Mall they really missed out. She invited everyone to the Showcase event planned for next year.

STAFF ITEMS:

Linda Adlard noted that the credit for the volunteers at the Cleanup, should go to the Neighborhood Associations and the Citizens for Community Involvement who coordinated the volunteers.

Adlard introduced Janet Young, the City's new Economic Development Manager and said Young was very accomplished in the position and had some great ideas.

Adlard said she would be staying to chair the neighborhood meeting for the library's park expansion. She said Pilliod would be taking the minutes of the Executive Session.

EXECUTIVE SESSION:

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

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:58 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this _____ day of _____, 1999

Rob Drake, Mayor