

REGULAR MEETING  
February 7, 2000

CALL TO ORDER:

A regular meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth Council Chambers, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, February 7, 2000, at 6:33 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Wes Yuen, Dennis Doyle, and Forrest Soth. Couns. Evelyn Brzezinski and Cathy Stanton were excused. Also present were City Attorney Mark Pilliod, Chief of Staff Linda Adlard, Human Resources Director Sandra Miller, Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Steve Baker, Police Captain Stan Newland, Library Director Shirley George, City Transportation Engineer Randy Wooley, Associate Planner Colin Cooper, Development Services Manager Irish Bunnell, Project Engineer Jonathan Flecker, and City Recorder Darleen Cogburn.

CITIZEN COMMUNICATION:

Edward Lipp, 3225 NW Ashland Drive, addressed Council regarding AB 00-29, An Ordinance Relating to Firearms and Amending Chapter Five of the Beaverton Code by Adding a New Section, BC 5.08.240 Unlawful Carrying of a Loaded Firearm. He read his letter (in record) and reported that he had attended the 17<sup>th</sup> Citizens Academy. He complimented the Council on the fine police force in Beaverton. He reviewed his reasons for opposing the ordinance and said it would restrict self-defense rights for individuals.

Mayor Drake explained that Lipp could still carry his concealed weapon providing he had a concealed weapons license and that he could carry a weapon without a concealed weapons permit as long as it was unloaded and visible.

Lipp declared it was another whittling away of the law, which provided the right to arm yourself. He said there had been a test of this law when two people came into the Mayor's Office with guns and threatened the Mayor's staff, and the prosecutor could not get a conviction.

Mayor Drake noted that issue could not be discussed because it had been adjudicated and there was a possibility of litigation.

Lipp said people got scared when they saw people with guns. He suggested if Council wanted to find out what it was like to be around a lot of people with guns they should visit the Tri-county Gun Club in Sherwood. He explained everyone there was carrying loaded guns and shooting them and there were no murders, rapes or robberies and generally no problems. He said no one would be comfortable with everyone walking around with guns but suggested that if there were 2,000 reserve police officers, such as teachers, and people that worked and lived in Beaverton, that it would be a way to try to improve the environment.

Mayor Drake asked Lipp if he was advocating arming more people.

Lipp stated that was correct and said he thought it was ridiculous to not let the Police Reserves carry their guns 24-hours a day.

Mayor Drake reminded Lipp that they were not Reservists 24-hours a day.

Lipp said he was talking about individuals taking responsibility for the security of the community. He commented that people had the attitude that the police should handle all problems and he felt that was not right.

Mayor Drake said he had trouble with Lipp's argument since he (Lipp) could legally be armed at that moment. He clarified that all the ordinance was doing was saying that if someone was going to have a weapon without a concealed weapons permit, they could not have it loaded in public.

Lipp stated that he was not carrying a concealed weapon in City Hall that evening. He pointed out that a person had to have Oregon residency for six months before being allowed a concealed weapon permit.

Mayor Drake noted that was not something the City controlled.

Coun. Soth asked Lipp what the first six words were of the Second Amendment.

Lipp responded by saying: "A well-regulated militia...."

Coun. Soth asked if Lipp belonged to the National Guard or any other organization.

Lipp said he did not and stated that those organizations were not the militia. He noted that the militia could be described as the people and were not the federally controlled organizations.

Discussion ensued between Coun. Soth and Lipp concerning a statement Lipp made about self-defense being a fundamental human right and Coun. Soth advised Lipp to read the history of the Federalist Papers.

Mayor Drake said other than City Hall Lipp could carry a weapon.

Lipp replied there was a list of places where a weapon could not be carried. He expressed his concern about being able to keep current on where a weapon could be carried.

#### COUNCIL ITEMS:

Coun. Doyle noted that there was information on a series of Metro open houses on the table in the back of the room, and noted that the one nearest would be held at the THPRD Nature Park on February 10 from 5:30 p.m. to 8:30 p.m. He urged interested parties to attend the meeting.

#### STAFF ITEMS:

There were none.

#### PROCLAMATION:

Keep Cavities Out Month

#### CONSENT AGENDA:

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

Minutes of the regular meetings of December 6, 1999, January 3, and January 10, 2000

- 00-32 Liquor License: Change of Ownership – Copacabana and Taqueria
- 00-33 Liquor License: New Outlet – Studio Eleven Café
- 00-34 Liquor License: Change of Ownership – Uptown Market
- 00-35 Liquor License Renewals: Annual Renewals
- 00-36 Authorization to Purchase the Faulkner Property for Future Community Center Parking Lot Expansion
- 00-37 Boards and Commissions Appointment
- 00-38 Traffic Control Board Issues 425-430
- 00-39 VAR 99-00019 Mendenhall Townhomes

- 00-40           VAR 99-00022 Crescent Hill Apartments
- 00-41           TA 99-00003, Proposed Amendments to the Development Code to Codify Traffic Impact Analysis Report Requirements
- 00-42           Transfer of Road Jurisdiction from Washington County to the City of Beaverton
- 00-43           Cemetery Use Text Amendment
- 00-44           Bid Award – Reading of City’s Water Meters

Contract Review Board:

- 00-45           Bid Award - Purchase Equipment Trailer and Transfer Resolution
- 00-46           Selection of Primary Vendors for Computer Units and Replacement Parts

Coun. Doyle abstained from voting on the minutes of January 10, 2000 since he was not at that meeting.

Coun. Yuen abstained from the minutes of December 6, 1999 because he was not at the meeting and noted that he had corrections on the minutes of January 3, 2000, which he would pass on to the City Recorder.

**Question called on the motion. Couns. Yuen, Doyle, and Soth voting AYE, the motion CARRIED unanimously. (3:0) (Coun. Doyle abstained from the minutes of 1/10/00, and Coun. Yuen abstained from the minutes of 12/6/99.)**

PUBLIC HEARING:

- 00-47           SV 98-00001 First Baptist Street Vacation
- Colin Cooper, Associate Planner, described AB 00-47 a proposal for a request for a street vacation of 673 feet of an unimproved public right-of-way (ROW) and noted that the applicant owned property on either side of the ROW. He reported that the Planning Commission (PC) held two public hearings, one on June 9, 1999 at which time the PC asked the applicant to go back to the drawing board and suggest some alternative alignments, to study the possible connection between SW Bonnie Brae Street and SW Erickson Avenue. He stated that said that at the second public hearing on January 19, 2000, the PC adopted a recommendation to the City Council for approval of the vacation with three conditions. He said two of those conditions were substantial insofar as they requested the applicant to dedicate a 170 feet by 50 feet ROW at the southwest corner of the Church property. (He noted a typographical error on the agenda bill and verbally corrected it to read 170 feet by 50 feet.) He said the second condition was a requirement to dedicate a pedestrian

easement to allow access from SW Erickson to a gate on the north property line of the Church, to Shiffler Park. He noted this would preserve public access, and the Church was happy to both things. He reported that there was no public testimony in opposition to the street vacation at either public hearing.

Coun. Soth noted that Cooper mentioned "dedication of an easement," which were two terms that were mutually exclusive. He explained that you could request the Church to grant a temporary or permanent easement, and in this case he assumed it would be a permanent easement, rather than a dedication of the ROW.

Cooper explained that this would provide for a pedestrian access easement because the Transportation Staff had specifically not conditioned a particular corridor. He noted that in essence they would just be granting the access, so as the Church grew and expanded and their sidewalk configurations changed, they would remain in compliance without having to re-survey. He stated that Coun. Soth was correct that it would be a permanent easement.

Mayor Drake opened the public hearing.

Spencer Vail, 4505 NE 21<sup>st</sup>, Portland, said he was a planning consultant and had worked with the Church on the street vacation process and the accompanying conditional use request.

Scott Miller, said he was with Stein Engineering and his organization did the traffic study for the Church.

Vail said he and Miller concurred with the findings and conclusions of staff and the PC. He said he could do a presentation for them if they desired, and could also answer questions.

Coun. Soth recalled that he was chair of the PC in 1980, when the Church expansion was first proposed and the Church did not own the property on the north side at that time, and there was a question of the street alignment and right of way, then also. He noted that was very similar to what they heard that (at the current meeting) evening and the decision then was not to grant the vacation because the Church did not own the property on the north side.

Vail stated that the Church recalled that meeting also, and over a period of time they had acquired the property and now owned the property on both sides of the street. He explained that since it did not serve anyone other than the Church this was the best solution for all concerned. He noted that circulation and connectivity could still exist on the property.

Coun. Soth asked if the Church currently owned the previously privately owned property on the north side of the ROW.

Vail said they owned all property on both sides of the street ROW. He pointed out that street vacation petitions required the signatures of all the abutting property owners, and the Church owned both sides of the street. He noted that they were only dealing with the property on the west as being another adjacent parcel.

Mayor Drake closed the public hearing.

**Coun. Doyle MOVED, SECONDED by Coun. Yuen, to approve SV 98-00001 First Baptist Street Vacation as outlined in AB 00-47, with the conditions as discussed.**

Coun. Doyle thanked the applicants for agreeing to the two conditions.

**Question called on the motion. Coun. Doyle, Yuen and Soth voting AYE, motion CARRIED unanimously (3:0)**

00-28

Appeal Hearing on Traffic Control Board Issue 411 Regarding the Striping of Bike Lanes on SW 5<sup>th</sup> Street Between Maple Avenue and Lombard Avenue and Associated Parking Restrictions (continued from 1/24/00)

Randy Wooley, City Transportation Engineer, said they had provided the information requested at an earlier public hearing, (memo in record) and there was no new information on the rent subsidy issue. He reported that since Council thought the parking should remain, staff recommended that they delete the bike lanes for that block.

Mayor Drake asked Wooley to comment on the potential expansion of 5<sup>th</sup> Street, east of Lombard.

Wooley said they would need a minimum of 47 feet in the area of the left-turn lane to provide for both the parking and the turn lane. He estimated widening the street to provide that would cost approximately \$60,000, assuming it was done in the summer of 2000, concurrent with some overlay work that was proposed in that area.

Coun. Soth questioned if widening the area to 47 feet would further increase the disparity between the width east of Lombard and the street width to the west.

Wooley explained that it would increase the difference, but if they widened it on the north side, it would align the lanes better because there would be no parking to the west. He noted that because of the jog in the alignment of the curbs it would actually help in aligning the lanes.

Coun. Soth noted that they also said that widening it to 47 feet would require removing existing trees and reduce the width of the sidewalk. He asked if the tree wells and the light standards reduced the use of the sidewalks.

Wooley replied that if tree wells needed to be put back in a reduced sidewalk then the measurement would be reduced down to the minimum of providing the Americans with Disabilities Act (ADA) standards.

Coun. Soth noted that the trees added to the streetscape and provided shade in the summer.

Mayor Drake opened the public hearing for new information.

Peggy Hennessy, PO Box 86100, Portland, said she was the attorney in support of the appellant, and they supported the three-foot expansion, which appeared to address all the concerns that were mentioned in the staff report. She noted that the nationwide survey was talking consistently about a ten-foot minimum and if the lanes could be just ten feet wide, that would satisfy the people that Jonathan Flecker, the Project Engineer spoke with on his survey. She commented that hopefully it would satisfy the people that needed parking and still provide for the connectivity of the bike lanes. She reiterated that they would support that if at all possible.

Boyd Osgood, 12825 SW 20<sup>th</sup> Court, a member of the B.I.K.E. Task Force, commented that he would hate to see yet another one block or two block interruption of the continuous bike path system and if anything could be done, he asked that they, "please do it." He said there were many situations in Beaverton where there was a block missing and listed some locations. He commented that it was frustrating.

Mayor Drake asked Finance Director Patrick O'Claire if the Council were to support one of the options, would he recommend that the funds be derived from the Street Fund.

O'Claire said there could possibly be two sources available, the Street Fund and possibly the TIF Fund (Traffic Impact Fee), if TIF was allowable for the bike lane improvement project.

Coun. Soth asked O'Claire, in the event that was the decision, was there any provision with any funds available for bike lanes, for that to be a portion of the expense.

O'Claire explained that Coun. Soth was referring to the issue that the City contributed 1% of the gas tax revenues for bike lanes, but they had overspent those funds in the bike lane program, so the funding was not currently available in the 1% bike lane improvements.

Coun. Soth asked if there was any money available from the Federal or State specifically for bike lanes.

O'Claire said there was money from the State for specific projects such as a Greenway project and another one crossing Hall Boulevard, but not for this. He suggested staff could apply for grant funds for this project.

Mayor Drake clarified that those funds were project specific and were allocated by the Joint Policy Advisory Committee on Transportation (JPACT) through the regional programs. He noted that other than the minimum 1% the State required, the City had exceeded that with matching funds and other programs.

Coun. Doyle clarified that he preferred to grant the appeal, instruct staff to develop plans to widen the street so both parking and bike lanes would be accommodated.

**Coun. Soth MOVED, SECONDED by Coun. Doyle, to grant the appeal contingent upon widening 5<sup>th</sup> Street to 47 feet for a distance of about 240 feet east of Lombard, including the taper portion of the Street, with the funds to be derived from the Street Fund or TIF Funds, according to the Finance Director, to be included in the next Supplemental Budget.**

Mark Pilliod, City Attorney, pointed out that the ordinance under which the City was operating required them to return with a final order, so he clarified that this direction in the motion was to prepare a final order consistent with the tentatively announced oral decision.

Coun. Soth said that was the intent of the motion.

Coun. Doyle commented that it had been a long and good process and once again, when people got involved they usually understood both sides much better. He noted that they had managed to maintain the goals of both sides, and would provide connectivity for bike folks, as well as consideration for the neighbors who needed the parking. He asked if they should clarify in the wording of the motion that the work would be done this summer.

Mayor Drake stated that the intent would be to do the work this summer, and noted that staff was nodding their agreement. He said he thought staff would describe this as a relatively simple project.

Coun. Doyle said if they needed to, they should amend the motion to do it this year. He said this would accomplish something good for everyone.

Coun. Soth said this was a good example of how requirements changed from time to time, and was a good example of how difficult it was to impose new regulations on existing situations and structures. He commented that if the dwelling units had been built under current regulations there would be no parking problems because off-street parking would have been required. He noted that had the present structural requirements on roadways been in existence when the lower

portion of Hall Boulevard had been built there would have been bike lanes. He commented there were many others areas in the City where similar situations existed. He said what they had done this time was come to a decision that benefited all the players and put their "antenna up" for the future. He explained that they would look at similar situations in the future where existing areas had no room to grow, and ask if they would incur the additional cost or was there another way to address it. He commented that it was only through communication that it could be addressed and there would be some tough decisions in the future.

Coun. Yuen asked if Coun. Soth would accept a friendly amendment to his motion that was "to grant the appeal contingent upon...", and explained that he thought what they really wanted to do was "grant the appeal, and direct staff to..."

Coun. Soth agreed and Coun. Doyle agreed as seconder.

Coun. Yuen said he would like to see as part of the motion for staff to be directed to carry forward in the planning for this street, the modification of parking restrictions for large vehicles as in the memo from Randy Wooley. He asked Coun. Soth to accept this recommendation as an amendment to the motion.

Coun. Soth clarified that Coun. Yuen was speaking about the six-foot height restriction on the west-end. He stated that could be added as part of the motion.

Coun. Yuen explained that this would go through the Planning Commission (PC) process and he wanted to make sure the PC understood that the Council wanted to see it carried forward or carried back to Council in the process.

Mayor Drake asked if it would be helpful if Wooley had a recommendation about how far back the restriction should be.

Coun. Yuen said his interest was that staff examine the issue of restricting large vehicles. He said he wanted it part of the process.

Coun. Soth asked Coun. Yuen if he was proposing that as part of the motion, or a separate motion because it applied in areas other than this specific location.

Coun. Yuen said he would rather see it as being in this particular location so that way it would apply on 5<sup>th</sup> Street in front of the apartments.

Coun. Soth asked if staff should look at other areas where it would be applicable.

Mayor Drake suggested that the Traffic Commission review other areas where it might be appropriate.

Couns. Soth and Yuen agreed that would be satisfactory.

Coun. Yuen noted that Coun. Soth mentioned that the trends of land use seemed to move from time to time in different directions, and now the trend seemed to go towards a less automobile friendly environment. He pointed out that were discussing the process of removing on-street parking and Metro wanted them to reduce off-street parking, so he was concerned that they were heading into situations that would not work. He stated that the felt this was a difficult decision for them to make that evening, but in many ways they had come to a politically correct solution where they shaved a little off of everything, so everyone go a little of what they wanted. He expressed his concern that in the end, no one would be very happy with the way it would work. He said maybe this was the way politics worked, and the Council was fortunate that they did not get a lot of those things. He commented that he hoped they did not have people injured because the roads would be narrower than expected. He said he would support the motion because it had the best chance of giving everyone a solution that would work for them. He reiterated his concern about both issues, the need for the parking and for the bike lane.

Mayor Drake repeated the motion: **to grant the appeal, and direct staff to widen 5<sup>th</sup> Street to 47 feet wide for about 240 feet east of Lombard, to a taper, and direct the Finance Director to recommend funding from the Street Fund or TIF Fund, and on the west end of 5<sup>th</sup> Street meeting at Lombard, to limit the height of vehicles to no more than six (6) feet, and the Traffic Division Staff to determine the length in which to limit the height of vehicles.**

**Question called on the motion. Couns. Doyle, Soth and Yuen voting AYE, motion CARRIED unanimously (3:0)**

Coun. Soth urged staff to investigate more columnar trees that would take less room because he was concerned with the tree wells and the intrusion on the remaining sidewalk.

ORDINANCES:

Second Reading and Passage:

Mark Pilliod, City Attorney read the following ordinances:

- |       |  |
|-------|--|
| 00-29 | An Ordinance Relating to Firearms and Amending Chapter Five of the Beaverton Code by Adding a New Section, BC 5.08.240 Unlawful Carrying of a Loaded Firearm |
| 00-30 | An Ordinance Relating to Alarms and Amending Chapter Seven of the Beaverton Code   |
| 00-31 | An Ordinance Relating to Code Services and Amending Chapter Two of the Beaverton Code  |

**Coun. Soth MOVED, SECONDED by Coun. Doyle that the ordinances embodied in AB 00-29, AB 00-30 and AB 00-31 now pass. Roll call vote. Couns. Doyle, Yuen and Soth voting AYE, motion CARRIED unanimously (3:0)**

OTHER BUSINESS:

**Coun. Doyle MOVED, SECONDED by Coun. Soth to grant fee waiver as outlined in the memo to Mayor Drake from Bill Saltman dated February 3, 2000 for Emmert Six-Plex. (in record). Couns. Doyle, Yuen and Soth voting AYE, motion CARRIED unanimously (3:0)**

EXECUTIVE SESSION:

An executive session was not necessary.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 7:25 p.m.

\_\_\_\_\_  
Darleen Cogburn, City Recorder

APPROVAL:

Approved this 10<sup>th</sup> day of April, 2000

\_\_\_\_\_  
Rob Drake, Mayor