



FINAL AGENDA

FORREST C. SOTH CITY COUNCIL CHAMBER
4755 SW GRIFFITH DRIVE
BEAVERTON, OR 97005

REGULAR MEETING
DECEMBER 5, 2005
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PRESENTATIONS:

- 05217 Presentation from the 2005-2006 Mayor's Youth Advisory Board
- 05218 Proposed 2006 Metro Nature in Neighborhoods Bond Measure

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of Regular Meeting of November 14 and Special Meeting of November 17, 2005.

- 05219 Liquor License: New Outlet - Chix 'A' Bob; Greater Privilege - King's Restaurant
- 05220 Authorize Intergovernmental Agreement with Washington County Cooperative Library Services

Contract Review Board:

- 05221 Bid Award - ASR (Aquifer Storage & Recovery) No. 4 Potable Water Pump Station

WORK SESSION:

- 05222 Design Review Text Implementation Update

ORDINANCES:

Second Reading:

05214 An Ordinance Amending the Beaverton Code by Adding New Provisions in Chapter Two Relating to the Inventory of Prisoner Personal Property (Ordinance No. 4377)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

AGENDA BILL

**Beaverton City Council ,
Beaverton, Oregon**

SUBJECT: Presentation from the 2005-2006 Mayor's Youth Advisory Board

FOR AGENDA OF: 12-05-05 **BILL NO:** 05217

Mayor's Approval:



DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 11-29-05

CLEARANCES:

PROCEEDING: Presentation

EXHIBITS: None

BUDGET IMPACT

EXPENDITURE REQUIRED\$0	AMOUNT BUDGETED\$0	APPROPRIATION REQUIRED \$0
----------------------------	-----------------------	-------------------------------

HISTORICAL PERSPECTIVE:

The City of Beaverton created the Mayor's Youth Advisory Board in 2000 with 24 students ranging from grades 9-12. MYAB's mission is to serve the common good of the community and provide a voice for youth in decisions and policies in the City of Beaverton. MYAB works to organize constructive community projects; strengthen relationships among youth and between youth and adults; provide positive activities involving youth; and to act as a resource for any City organization upon request. The 2005-2006 MYAB is made up of 26 students ranging from grades 9-12. MYAB members are students at Beaverton, Caitlin Gabel, Jesuit, School of Science and Technology, Southridge, Sunset, Valley Catholic, and Westview high schools.

INFORMATION FOR CONSIDERATION:

MYAB has prepared a presentation for the City Council highlighting their accomplishments from the past year and outlining new projects the Board is planning to pursue this upcoming year.

RECOMMENDED ACTION:

City Council to listen to the presentation from MYAB and provide feedback to the MYAB members regarding the direction of the Board and various projects and accomplishments MYAB has achieved.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Proposed 2006 Metro Nature In
Neighborhoods Bond Measure

FOR AGENDA OF: 12/05/05 **BILL NO:** 05218

Mayor's Approval: *Bob Drake*

DEPARTMENT OF ORIGIN: CDD *Jmg*

DATE SUBMITTED: 11/21/05

CLEARANCES: City Attorney *MB*

Planning Services *HB*

PROCEEDING: Presentation

EXHIBITS: Metro Letter to Mayor Drake Dated 08/17/05
Metro's 2006 Local Share Allocation
Formulas and Guidelines Discussion Draft
(Including Exhibit A and Exhibit B) Dated
08/17/05
Issue and Discussion Memo to TBNRCC

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
-----------------------------	------------------------	-------------------------------

HISTORICAL PERSPECTIVE:

In 1995 voters approved a Metro bond measure for open spaces, parks and streams. The bond measure's primary goal is to purchase natural areas, trails and greenways to be held for future use as parks, trails and fish and wildlife habitat. Metro is acquiring property in 14 regional natural areas and six regional trails and greenway corridors. In addition, a "local share" portion of the bond monies is funding more than 100 local park projects, located in almost every city, county and park district in the region. As of June 8, 2005, Metro has acquired more than 8,130 acres of land for regional natural areas and regional trails and greenways, in 261 separate property transactions. These properties protect nearly 74 miles of stream and river frontage. (These numbers include Metro's local share purchases.)

In an effort to continue the successes of the 1995 bond measure, Metro is preparing to place a bond measure on the Fall 2006 ballot. The 2006 bond measure will focus on the acquisition of natural areas and corridors to protect water quality and fish and wildlife habitat. The measure will include both Metro and local government acquisitions and projects designed to benefit clean water and protect existing and new natural areas for future generations.

INFORMATION FOR CONSIDERATION:

As presently conceived, the 2006 bond measure would have several components, including a Local Natural Area Legacy Fund, a Nature in Neighborhoods Capital Fund, and funds targeted at acquiring from willing sellers certain areas around the region deemed to be of significance. On December 5th staff will provide information on the status of discussions about the size and scope of the bond measure, as well as issues relating to distribution of funds to qualified local governments and the relationship of the bond measure to the Tualatin Basin Program.

RECOMMENDED ACTION:

Presentation.



METRO

August 17, 2005

Rob Drake
Mayor
City of Beaverton
PO Box 4755
Beaverton OR 97076-4755

Dear Mr. Drake:

This letter is written to seek some specific direction from the park providers, cities and two of the counties (Washington and Clackamas) of our region regarding the 2006 Metro Nature in Neighborhoods bond measure. As you know, the Metro Council intends to refer to the voters of the region in November 2006 a general obligation bond measure to purchase significant natural areas and fund related capital improvement projects. While the total amount of the bond has yet to be determined by the Council, the process for doing so will be similar to that followed in preparation for the May 1995 measure.

Metro Council will establish a Blue Ribbon committee of business and community leaders to provide recommendations on the content of the bond by November 2005. The Committee will be asked to advise the Council on the total amount of the bond, and some other critical elements of the bond package. Once the Committee completes its work in November, the Council will undertake a public review of the recommendations and make its final referral of the measure by March 1, 2006.

LOCAL SHARE COMPONENT

One element that is settled already is that the Metro Council is committed to again distributing a portion of the bond direct to local jurisdictions (the "local share"). Over the past 10 years, our elected officials and senior staff such as myself have been out talking to local government leaders (elected and staff), and one universal message we have received is that the "local share" under the 1995 bond measure worked, was well administrated by Metro, and led to great projects in your communities. So following the "if it isn't broke, don't fix it" philosophy, we hope and expect to repeat that success.

In fact the local share was so successful in protecting natural areas and building partnerships, Council has discussed *doubling* the local share portion of the 2006 bond measure by distributing local share dollars through two distinct programs – a new Nature in Neighborhoods Capital Fund and a Local Natural Area Legacy Fund (see attachment).

Nature in Neighborhoods Capital Fund

The Nature in Neighborhoods Capital Fund is an exciting new program proposal to fund neighborhood level enhancement and habitat protection projects initiated by a broad range of community partners, with public agencies and non-governmental community organizations all being eligible to receive Metro funds for eligible projects. Eligibility criteria are currently being developed and additional information on the program and its administration will be provided at a later date. The current thinking of Council is that the funds should be distributed annually over an 8-10 year period to better respond to developing opportunities.

Local Natural Area Legacy Fund

Very similarly to how the local share operated under the 1995 bond measure, funds will also be distributed directly to cities and local park providers in each of the three (3) counties on a pre-determined formula basis. Again, as we did in 1995, the starting point will be countywide totals based on the most recent assessed valuation (now 2004), as follows:

Clackamas County:	23.88%
Multnomah County:	43.69%
Washington County:	32.43%

Metro Council has directed staff to ask for an allocation among all cities and park providers within each county to be determined by consensus agreement among all jurisdictions and park providers within each county. Unlike in 1995 however, cities not currently providing park and recreation services will also be eligible to receive their proportionate share. Metro Council expects each county to frame the allocation process using a per capita basis. However, Metro Council is leaving jurisdictions the flexibility to bring considerations such as expected population shifts within their county into their allocations, so long as such considerations remain conceptually centered on a per capita approach (as opposed to relative property value). Park districts and the jurisdictions located within the districts will also have to agree and then direct Metro on the respective allocations for the park districts. These districts include:

- North Clackamas Park and Recreation District (NCPRD) (jurisdictions include Milwaukie, parts of Clackamas County)
- Tualatin Hills Park and Recreation District (THPRD) (jurisdictions include Beaverton, unincorporated parts of Washington County)

In contrast to the 1995 bond, Metro will not receive any allocation as a park provider. Metro received more than \$3.1 million under the 1995 measure as the park provider for unincorporated Multnomah County, so this change will effectively increase the amount of regional dollars made available to our local partners. Since the unincorporated portion of Multnomah County has so significantly decreased since 1995, the Metro Council desires the entire portion for Multnomah County be distributed exclusively within the cities of the county.

Local Share Component Letter
Page Three
August 17, 2005

No less than \$25 million will be distributed by Metro from the Local Natural Area Legacy Fund. This amount will be finalized as soon as possible after the Blue Ribbon committee submits its recommendations to the Metro Council.

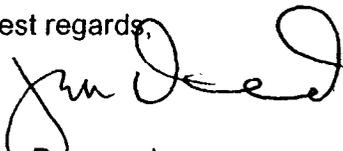
I am writing this letter to request that the cities, the two park districts, and Washington and Clackamas Counties, direct the Metro Council, in writing, on or before November 1, 2005, on how to distribute the Local Natural Area Legacy Funds (on a percentage basis) within each county in accordance with the foregoing parameters. If consensus cannot be reached by that time within any county, the Metro Council will adopt its own distribution formula for that county by November 30, 2005.

Also, I want to encourage you to begin identifying specific natural area, habitat restoration, trail, and capital improvement projects that will be eligible for funding under the Local Natural Area Legacy Fund and thus become part of the total bond package made known to the voters before the election. The attachment hereto lists the project criteria, which are virtually the same as under the 1995 measure. The Metro Council has added children's play equipment to the eligible list of capital improvements, as many of you have urged. The project list must be approved via resolution by your governing body through a public process (e.g. public hearing), and completed by March 1, 2006. We will send out a more detailed description on that process when the allocation issue is settled in November. Generally, however, that too will follow how it was handled in the 1995 measure.

I am very happy to announce this second opportunity for all of us to advance regional goals for nature areas and support your effective local work. The Metro Council remains committed to regional and local land acquisition and appropriate activities related to capital improvements. The Metro Council also remains committed to supporting good faith efforts in meeting requisite regional natural resource protection plans through the future disbursement of these funds.

Please do not hesitate to contact me to discuss the local share component in greater detail or if my staff can assist you in any way. I look forward to hearing from you and receiving your recommended allocations.

Best regards,



Jim Desmond
Director
Metro Parks and Greenspaces

Metro's 2006 Local Share

Allocation Formulas and Guidelines

Discussion Draft, August 17, 2005

The Metro Council proposes doubling the "local share" portion of the capital and acquisition funds raised through a proposed November 2006 bond measure. This will result in approximately \$50 million for local projects. The Metro Council proposes two programs for distributing these local share dollars -- the Local Natural Area Legacy Fund and the Nature in Neighborhoods Capital Fund.

Local Natural Area Legacy Fund

No less than \$25 million will be distributed directly to cities and local park providers, through a formula similar to the "local share" established under Metro's 1995 open spaces, parks and streams bond measure. Projects must meet Metro's criteria for protecting and enhancing water quality, natural areas and/or fish and wildlife habitat and/or providing improved access or public use and enjoyment of these natural areas. All land acquisitions must be consistent with Metro's "willing seller" policy.

Funds will be distributed according to a formula established in each of the three (3) counties, as described in Exhibit A. Cities and park districts not currently providing park and recreation services may be eligible to receive funds. Funds will be received under the following conditions:

1. Local jurisdictions and parks providers shall use these funds only for projects that meet the Local Natural Area Project Guidelines as set out in Exhibit B. Funds may not be used for operations and maintenance activities nor be used outside Metro's boundary unless Metro finds that such expenditures clearly benefit local residents.
2. Local park providers, cities and counties will receive Local Natural Area Legacy Funds through an intergovernmental agreement (IGA) with Metro.
3. Eligible local governments and special districts may form consortiums to combine their allocations for eligible purposes.

Nature in Neighborhoods Capital Fund

An additional \$25 million will be dedicated to local projects to be distributed by Metro based on criteria to be established by the Metro Council prior to the November 2006 election. See draft criteria Appendix C. Applicants for Nature in Neighborhoods Capital Funds may include local jurisdictions, public agencies, community groups, non-profits, neighborhood associations,

watershed councils and other non-government entities, with the expectation that all projects will have community partners, and a minimum of 1:1 matching funds. All land acquisitions must be consistent with Metro's "willing seller" policy.

Regional portion of bond funding

Metro may use the regional portion of funds for acquisition of lands that help protect water quality, benefit fish and wildlife, add on to existing publicly owned natural areas and provide for the public's future use and enjoyment of these areas. In addition, regional funding may be used for habitat restoration, development of public use facilities, regional trails and wildlife corridors. The regional funds are to be administered by Metro, including all regional property transaction and associated administrative costs, and for overall financial management of bond funds. Funds may not be used for operations and maintenance. All land acquisitions must be consistent with Metro's "willing seller" policy.

Metro and local agencies will maintain any lands acquired with bond funds as natural areas in perpetuity in accordance with established management plans. Where possible, deed restrictions will be included at the time of transfer of any property acquired with bond funds to require the use of these lands as natural areas in perpetuity.

EXHIBIT A

Local Natural Area Legacy Fund

Eligible recipients and allocation formula

Cities

Beaverton	Hillsboro	Sherwood
Cornelius	Johnson City	Tigard
Damascus	King City	Troutdale
Durham	Lake Oswego	Tualatin
Fairview	Maywood Park	West Linn
Forest Grove	Milwaukie	Wilsonville
Gladstone	Oregon City	Wood Village
Gresham	Portland	
Happy Valley	Rivergrove	

Park Districts

North Clackamas Parks and Recreation District

Tualatin Hills Parks and Recreation District

Counties

Clackamas County

Washington County

The Local Natural Area Legacy bond funds shall be apportioned among parks providers and cities in each county on the basis of countywide totals established using November 30, 2004 assessed valuation within the Metro boundary. Estimated countywide totals based on 2004 assessed valuation information are as follows:

Clackamas County: 23.88%
Multnomah County: 43.69%
Washington County: 32.43%

Formulas for allocating among cities, counties and parks providers within each county are to be determined at the discretion of each county, their cities and their parks providers, to be reached in each county by consensus with all jurisdictions and park providers. The distribution within each county shall be generally based upon per capita distribution to cities, with specific direction to account for park districts (THPRD, NCPRD) for allocating equitably. Counties and cities may take into account any areas likely to experience unusually high growth in the next 10 years such as Damascus, Villebois, Bethany, etc.

Two major changes are proposed that contrast with how local share funds were distributed under the 1995 bond measure:

1. In the 1995 bond measure, Metro received \$3,401,545 of local share funds due to its role as a "local" park provider in Multnomah County. It is proposed that Metro not receive any portion of the Local Natural Area Legacy Fund, leaving the entire allocation within Multnomah County for local cities and parks providers. Note that large sections of Multnomah County that were unincorporated in 1995 have since been annexed to various cities.
2. Cities without established park programs, such as Damascus and King City, may be eligible for a proportional per capita share of local share funds as allocated to their respective counties.

Cities and counties must direct Metro, in writing, how to distribute the Local Natural Area Legacy Funds on or before November 1, 2005. In the event that the cities and counties cannot reach consensus on how to direct Metro to distribute these funds, the Metro Council shall devise its own distribution formula and notify the cities and counties in writing of such formula no later than November 30, 2005.

EXHIBIT B

Local Natural Areas Legacy Fund Guidelines

In order to be eligible for Local Natural Areas Legacy Funds, projects or associated costs must meet the following criteria:

1. Eligible agency is a city or park provider as of November 6, 2006.
2. Funds must be expended on natural area related activities only, including:

Acquisition

- Fee Simple (or easement) for purchasing natural areas, wildlife and/or trail corridors identified in the Metropolitan Greenspaces Master Plan, Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002), the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map), and/or locally determined significant natural areas, wildlife and/or trail corridors.
- Out of pocket costs associated with property acquisition.

Capital Improvements

- Restoration or enhancement of fish and wildlife habitat.
 - Americans with Disabilities Act (ADA) requirements and/or improvements to existing natural area amenities providing universal access to the public.
 - Public use facilities such as roads, parking areas, trail heads, rest rooms, picnic tables, shelters, viewing blinds, water systems, camp sites, fishing piers, children's play equipment, and associated appurtenances including signs, fences, security lighting, and barbecues.
 - Environmental education facilities such as nature centers and interpretive displays.
 - Trail design, engineering and construction.
3. The Metro Council and the governing board of the local city or park provider shall approve an Intergovernmental Agreement (IGA). At a minimum, the IGA shall require:
 - That funds from Metro's bond measure shall not be used to replace dedicated local funding for a selected project

- That funds from Metro's bond measure will leverage other funding sources when possible
 - Signage at the project site in an appropriate location(s) to acknowledge Metro, the park provider, and other project partners for project funding.
4. A list of local share projects (with estimated costs) that has been approved by the governing board of each city or park provider shall be delivered to Metro no later than February 1, 2006.
 5. Local natural area sites that receive Metro bond measure funding will be maintained for their intended recreational, habitat, or trail activities. Any decision by a park provider or city to convey title (or grant real property rights to property) purchased with bond proceeds shall be made by vote of its duly elected or appointed governing body at a public meeting, in accord with that governing body's adopted public meeting procedures. Any proceeds from the sale of the property (or from the rights to the property) shall be used for the purpose set out in the approved local share Intergovernmental Agreement (IGA).
 6. Local Natural Area Legacy Funds should be used to the greatest extent possible to fund new projects and not to pay agency overhead or indirect costs. In no event shall the staff, overhead and indirect costs on any local share project exceed 10% of the cost of the project or the portion of the project paid for with local share funds (whichever is greater).



ISSUE: TBNRCC Involvement in the coordination of projects funded through the local share component of Metro's proposed 2006 Nature in the Neighborhoods bond measure.

Discussion: If the TBNRCC is to have a role in coordinating how local natural area legacy funds allocated to Washington County jurisdictions would be spent, there are three alternative approaches that have been identified by the Steering Committee:

Controlling: The TBNRCC would amend its formation agreement and enter into an IGA with Metro to be the recipient of the portion of the Local Natural Area Legacy Fund that is directed to qualified Washington County cities (those within Metro's jurisdiction), the county and THPRD. (Based on assessed value, the share to County Jurisdictions is estimated to be about 1/3 of the regional total.) Money received by the TBNRCC would be administered by Washington County. The TBNRCC would award money for projects from a previously selected list derived from the CWS Healthy Streams Plan to the interested local government(s) deemed most qualified to carry out the project, whether for acquisition or a capital improvement. Geographic equity would be a consideration in awarding project funding.

Approving: Applying Metro's "per capita" allocation principles, legacy funds would be distributed by Metro directly to cities, the county and THPRD. However, pursuant to a modified formation agreement, before funds could be committed to a project by a recipient local government, the TBNRCC would review and approve the project for consistency with the Tualatin Basin Program, including the CWS Healthy Streams Plan. The TBNRCC could not force a local government to spend its legacy funds on projects outside its jurisdiction, but a local government could be encouraged to do that.

Reviewing: As with the second alternative, legacy funds would be distributed by Metro directly to cities, the county and THPRD. Pursuant to a modified formation agreement, before funds could be committed to a natural resource acquisition or restoration project by a recipient local government, the TBNRCC would review the project for consistency with the Tualatin Basin Program and the Healthy Streams Plan and/or the Metro's Local Natural Areas Legacy Fund Guidelines, and suggest changes or opportunities for coordination or cost sharing with projects being considered by other recipient local governments. The TBNRCC's role would only be advisory.

The latter two alternatives would require resolution of the issue of how money for portions of the urban unincorporated area and Beaverton within THPRD would be distributed. If money is distributed on a per capita basis (it could also be distributed based on total assessed value), one option would be for it to go to Washington County based on its urban unincorporated area population and Beaverton based on its population. The County and the City could then pass the money on to THPRD. Another option would be for THPRD to be a direct recipient, and no money would go directly to Beaverton since almost all the City is within THPRD. Only a small amount of money would go to Washington County reflecting the population of the urban unincorporated area outside THPRD (e.g., parts of Bull Mountain and Cooper Mountain). A

third option would be for a fixed percentage (e.g., 50%) of the funds for the population within the overlapping areas to go to THPRD and the remaining percentage to go to Beaverton and Washington County.

Recommendation: If the TBNRCC chooses to assume a coordination role in projects funded through the Local Natural Area Legacy Funds Program, consider the alternative TBNRCC roles as described above and any others identified by the TBNRCC, then direct staff to further define those preferred for a final decision at the December meeting.

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
NOVEMBER 14, 2005

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, November 14, 2005, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Dennis Doyle, Fred Ruby and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Deputy Police Chief Chris Gibson and City Recorder Sue Nelson.

VISITOR COMMENT PERIOD:

Henry Kane, Beaverton, referred to the Metro Report concerning the proposed expansion of Highway 217. He said the report included the public comments received on the proposed improvements during the public comment period from September 22 to October 28, 2005. He said in the report Metro staff concluded that the public opposed the toll lane option; there wasn't any public support for the toll lanes. He said Highway 217 should be given regional priority for State and Federal construction funds.

COUNCIL ITEMS:

Coun. Stanton said on Wednesday, November 16, 2005, at 7:30 a.m., Community Action of Washington County would be hosting a free "People You Should Know" breakfast at the Kingstad Center. She said this was an opportunity to meet others in the community and learn more about Community Action. She invited everyone to attend.

Coun. Doyle said on Thursday, November 17, 2005, at the Moonstruck Café, the Westside Police Activities League (PAL) would be holding a wine and chocolate tasting event from 6:00 p.m. to 9:00 p.m. He said everyone was welcome and there was no charge; all proceeds would benefit the PAL program.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Bode MOVED, SECONDED by Coun. Doyle, that the Consent Agenda be approved as follows:

Minutes of the Regular Meeting of November 7, 2005

- 05211 Liquor License Application: Greater Privilege - Copper Monkey
- 05212 Compensation Approval and Transfer Resolution (Resolution No. 3841)
- 05213 A Resolution Approving Petitions for Annexation of Territory Within the City of Beaverton to the Tualatin Hills Park and Recreation District (Resolution No. 3842)

Coun. Stanton thanked staff for answering her questions. For the benefit of the public, she asked for an explanation of the annexation issue on the Consent Agenda, as the City was not annexing any property at this meeting.

City Attorney Alan Rappleyea said the Tualatin Hills Park and Recreation District was currently processing and sponsoring a number of voluntary annexations into the District; the owners of these properties wish to be annexed into the District. He said one of the statute requirements for District-sponsored annexation was to obtain the consent of the local city. He said Agenda Bill 05213 (Resolution No. 3842) was a formality to show the City agrees to the District's annexation of these properties.

Question called on the motion. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0) Coun. Stanton said she would not vote on the minutes of November 7, 2005, as she was not at the meeting.

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the rules be suspended, and that the ordinance embodied in Agenda Bill 05214, 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. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

Rappleyea read the following ordinances for the first time by title only:

- 05214 An Ordinance Amending the Beaverton Code by Adding New Provisions in Chapter Two Relating to the Inventory of Prisoner Personal Property (Ordinance No. 4377)

Second Reading:

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

- 05207 CPA 2005-0003/ZMA 2005-0002 WCCCA at Highway 217 and SW Park Way; An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map, for a Portion of a Parcel Located North of SW Park Way West of Highway 217 (Ordinance No. 4373)
- 05208 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for 23 Parcels Located South of Allen Boulevard, on the East Side of Hall Boulevard, West of Bruce Lane and North of Metz Street; CPA 2005-0004/ZMA 2005-0005 (Ordinance No. 4374)
- 05209 An Ordinance Amending Ordinance No. 4187 Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map, for Property Located at 9355 SW 166th Avenue; CPA 2005-0009/ZMA 2005-0008 (Ordinance No. 4375)
- 05210 An Ordinance Amending Chapter 9 of the Beaverton Code Relating to Neighborhood Association Committees (NACs) (Ordinance No. 4376)

Coun. Stanton MOVED, SECONDED by Coun. Ruby, that the ordinances embodied in Agenda Bills 05207, 05208, 05209 and 05210, now pass. Roll call vote. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

Coun. Stanton said she wanted to give her regards to the Police Department for the new ordinance relating to the inventory of prisoner personal property. She said she appreciated the thoughtfulness that went into drafting the ordinance to ensure that everyone was protected by this ordinance.

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 6:50 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
SPECIAL MEETING
NOVEMBER 17, 2005

CALL TO ORDER:

The Special Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Second Floor Conference Room at City Hall, 4755 SW Griffith Drive, Beaverton, Oregon, on Thursday, November 17, 2005, at 7:00 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Dennis Doyle and Fred Ruby. Coun. Cathy Stanton was excused. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Assistant Finance Director Shirley Baron Kelly, and Recording Secretary Joanne Harrington.

CONSENT AGENDA:

Coun. Bode MOVED, SECONDED by Coun. Ruby, that the Consent Agenda be approved as follows:

- 05215 Authorize Mayor to Sign Intergovernmental Agreement: Wilsonville to Beaverton Commuter Rail Project and Realignment of S.W. Lombard Avenue, Amendment No. 1.
- 05216 Authorize Extension of Intergovernmental Agreement with County and Tri-Met for Commuter Rail Stations.

Coun. Ruby asked if there was anything in the agreements that changed the time table for straightening Lombard Avenue.

City Attorney Alan Rappleyea replied there were no extraordinary changes, just a few minor revisions to funding to remove this from Federal funding and place it in the Major Street Transportation Improvement Program (MSTIP) funds.

Mayor Drake said originally the MSTIP3 approved the Lombard Avenue improvement from Broadway to Farmington and in the last decade the City notified the bank that the road would come through. He said the County, City and TriMet agreed to blend the two projects together for efficiency and cost savings. He said since MSTIP3 was approved, commuter rail has been approved and fully funded, so it made sense to blend the two projects together. He said the City needed to renegotiate part of the agreement as progress on the project had stopped about a year ago due to these funding issues. He said these revisions put the project back on track.

Question called on the motion. Couns. Arnold, Bode, Doyle and Ruby voting AYE, the MOTION CARRIED unanimously. (4:0)

PUBLIC HEARING:

05199 A Resolution Adopting a Supplemental Budget (#S-06-1) for the Fiscal Year Commencing July 1, 2005, and Making Appropriations Therefrom. (Resolution No. 3838)

Mayor Drake asked if anything had changed in the supplemental budget since the Budget Committee acted on it before this meeting.

Finance Director Patrick O'Claire said this public hearing was to consider Supplemental Budget #S-06-1, with the amendments approved by the Budget Committee at its meeting earlier this evening. He said the figures in the budget were the same figures presented to the Budget Committee in the original Supplemental Budget #S-06-1 and in the 14 amendments approved by the Budget Committee.

Mayor Drake opened the public hearing and asked for public comment.

There was no one present who wished to speak.

Mayor Drake closed the public hearing.

Coun. Doyle MOVED, SECONDED by Coun. Bode that Council approve Agenda Bill 05199, A Resolution Adopting a Supplemental Budget (#S-06-1) for the Fiscal Year Commencing July 1, 2005, and Making Appropriations Therefrom, including the 14 amendments approved by the Budget Committee. (Resolution No. 3838) Couns. Arnold, Bode, Doyle and Ruby voting AYE, the MOTION CARRIED unanimously. (4:0)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:08 p.m.

Joanne Harrington, Recording Secretary

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: LIQUOR LICENSE

FOR AGENDA OF: 12/05/05 **BILL NO:** 05219

NEW OUTLET

Chix 'A' Bob
10035 SW Nimbus

MAYOR'S APPROVAL: 

GREATER PRIVILEGE

King's Restaurant
12800 SW Canyon Road

DEPARTMENT OF ORIGIN: Police 

DATE SUBMITTED: 11/22/05

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$ 0	BUDGETED \$ 0	REQUIRED \$ 0

HISTORICAL PERSPECTIVE:

Background investigations have been completed and the Chief of Police finds that the applicants have met the standards and criteria as set forth in B.C. 5.02.240. The City has published in a newspaper of general circulation a notice specifying the liquor license applications.

INFORMATION FOR CONSIDERATION:

Haz Sook Kim is opening a new establishment and has made application for a Limited On-Premises Sales License under the trade name of Chix 'A' Bob. The establishment will serve sushi and sandwiches. It will operate six days a week, Monday through Thursday from 11:00 a.m. to 9:30 p.m., Friday and Saturday from 11:00 a.m. to 10:00 p.m. There will be no entertainment offered. A Limited On-Premises Sales license allows the sale of malt beverages, wine, and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

Pich Enterprise, LLC, has made application for Greater Privilege for its restaurant King's Restaurant. It is requesting to change from a Full On-Premises Sales License to an Off-Premises Sales License. The restaurant operates six days a week, serving dinner from 5:00 p.m. to 2:00 a.m. There is no entertainment offered. An Off-Premises Sales License allows the sale of malt beverages, wine, and cider to go in sealed containers.

RECOMMENDED ACTION:

The Chief of Police for the City of Beaverton recommends City Council approval of the OLCC license applications.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Authorize Intergovernmental Agreement
With Washington County Cooperative
Library Services

FOR AGENDA OF: 12/05/05 **BILL NO:** 05220

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Library *House*

DATE SUBMITTED: 11/21/05

CLEARANCES: City Attorney *[Signature]*

PROCEEDING: Consent Agenda

EXHIBITS: Intergovernmental Agreement
Washington County Cooperative
Library Services.

BUDGET IMPACT

EXPENDITURE REQUIRED \$/A	AMOUNT BUDGETED \$/A	APPROPRIATION REQUIRED \$/A
------------------------------	-------------------------	--------------------------------

HISTORICAL PERSPECTIVE:

The Beaverton City Library has been a member of Washington County Cooperative Library Services (WCCLS) since 1974. During the past year WCCLS has studied various governance structures so that it can maintain a high level of effectiveness and responsiveness to its member institutions and the user public. The result of the study is the recommendation to change the governance and structure.

INFORMATION FOR CONSIDERATION:

WCCLS will continue to be governed by the Washington County Board of Commissioners. A WCCLS Executive Board will be established to advise the Board of County Commissioners and the Cooperative Library Services Manager on matters pertaining to the funding of countywide library services, distribution of financial resources by WCCLS for the provision of countywide public library services, and long term governance and funding strategies. The WCCLS Executive Board shall replace the current Cooperative Library Advisory Board.

A WCCLS Policy Group will be established to provide technical and professional support and advice to the WCCLS Executive Board, to develop and implement policies and procedures for delivery of countywide public library services, and to advise the Cooperative Library Services Manager. The WCCLS Policy Group will replace the current Library Directors' Board.

RECOMMENDED ACTION:

City Council authorize the Mayor to sign the Intergovernmental Agreement with Washington County Cooperative Library Services.

INTERGOVERNMENTAL AGREEMENT
WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES

This Agreement is made by and between Washington County, a home rule subdivision of the State of Oregon hereinafter referred to as “County,” on behalf of Washington County Cooperative Library Services, hereinafter referred to as “WCCLS,” and the cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard, and Tualatin, and the Cedar Mill Community Library Association and the Garden Home Community Library Association, hereinafter referred to as “Contractor(s).”

WITNESSETH

WHEREAS, Washington County has approved funding for county-wide library services including non-fee access by County residents to public libraries operated by Contractors; and

WHEREAS, a Public Library Services Agreement exists to define the method for distribution of those funds and the rights and responsibilities of WCCLS and Contractors in the provision of county-wide library services; and

WHEREAS, the parties to this Agreement are either units of local government empowered by ORS 190.010 to enter into an intergovernmental agreement or are private non-profit agencies operating public libraries; and

WHEREAS, all parties are desirous of providing residents of Washington County with access to public library services and Contractors are capable of providing such access and services; and

WHEREAS the participating jurisdictions now desire to enter into another Agreement to provide, among other things, for an Executive Board and Policy Board among the participating jurisdictions and assigning responsibilities thereto in order to serve as advisors to the County regarding the provision of county-wide library service;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. DEFINITIONS

The following definitions shall be used in constructing the following phrases, terms and abbreviations in this Agreement:

- A. WCCLS (Washington County Cooperative Library Services) – An agency of county government which exists to coordinate, contract for or provide a full range of library and information services to all residents of the county.
- B. WCCLS Network – The consortium of public, academic, special and school libraries in Washington County, which exists to provide countywide library service.

- C. WILInet (Washington County Inter-Library Information Network) – An integrated, automated library system, including but not limited to WILI, which is comprised of the integrated library system software (online circulation, public access catalog, cataloging and acquisitions software), and other databases, Internet resources, central site hardware and telecommunications equipment.
- D. Qualified Borrowers – All Washington County residents, residents of counties with which Washington County has reciprocal borrowing agreements, and other paid card holders.
- E. West Slope Community Library - The public library that is a department of WCCLS and managed by the County. For purposes of funding, West Slope is treated as a Contractor, but is not a signatory to this Agreement.
- F. WCCLS Library Directors' Board – The executive body of the WCCLS Network; advisory to the Cooperative Library Advisory Board and the WCCLS Manager.
- G. Cooperative Library Advisory Board (CLAB) – The board appointed by the Washington County Board of County Commissioners to develop, review and recommend library service policies, representing Public Library Services Agreement Contractors and the West Slope Community Library. CLAB is advisory to the Board of County Commissioners and to the Cooperative Library Services Manager.

2. TERM OF AGREEMENT

This Agreement shall be in effect from January 1, 2006 and shall remain in effect perpetually thereafter, until such time as this Agreement is wholly or partially terminated pursuant to Section 9 herein.

3. GOVERNING BODY

WCCLS shall continue to be governed by the Washington County Board of County Commissioners. A WCCLS Executive Board, described below, shall be established to advise the Board of County Commissioners and the Cooperative Library Services Manager on matters pertaining to the funding for countywide library services, distribution of financial resources by WCCLS for the provision of countywide public library services, and long term governance and funding strategies.

The WCCLS Executive Board shall replace the current Cooperative Library Advisory Board. A WCCLS Policy Group, also described below, shall be established to provide technical and professional support and advice to the WCCLS Executive Board, to develop and implement policies and procedures for delivery of countywide public library services, and to advise the Cooperative Library Services Manager. The WCCLS Policy Group shall replace the current Library Directors' Board.

4. WCCLS EXECUTIVE BOARD

A. Membership

The Executive Board shall consist of twelve (12) voting Board Members (“Members”) representing the ten current Contracting library service providers, the West Slope Community Library, and Washington County. For the cities of Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard, and Tualatin, the Members shall be the chief administrative officers of those jurisdictions or their designees. For the City of Banks, the Cedar Mill Community Library Association and the Garden Home Community Library Association, the Members shall be representatives designated by the Contractors’ governing boards. For the West Slope Community Library, the Member shall be a representative of the community appointed by the Board of County Commissioners. The Washington County Administrator (or designee) shall represent countywide services. The Executive Board will meet as needed and will convene either prior to or immediately following the city/county managers’ meetings.

B. Non-Voting Members

The Chair and Vice-Chair of the WCCLS Policy Group shall serve as Members of the Executive Board in an ex-officio capacity.

C. Appointments to the WCCLS Executive Board

Except as otherwise specified herein, appointments for all Contractors and the County are continuous and Members shall serve at the pleasure of their appointing authorities. The West Slope Community Library representative shall be appointed by the Board of County Commissioners for a two year term, which can be renewed.

D. Responsibilities

The Executive Board shall advise the Board of County Commissioners, the County Administrator and the Cooperative Library Services Manager on issues pertaining to funding for countywide library services, the distribution of financial resources by WCCLS for direct public library services, and long-term governance and funding strategies. This includes but is not limited to the following matters:

1. Provide recommendations regarding contracts related to the provision of centrally provided support services when Board of County Commissioner approval is required,
2. Review Policy Group recommendations for central service plans and budget allocations, forward the Executive Board’s recommendations regarding the same to the County Administrator and the Board of County Commissioners for inclusion in WCCLS annual budget requests,
3. Review recommended allocation amounts and funding distribution formulas to be included in the Public Library Services Agreement; provide jurisdictional endorsements of such Agreements and recommend to the County Administrator and the Board of County Commissioners for approval,

4. Consider and recommend to the Cooperative Library Services Manager, the County Administrator and the Board of County Commissioners any changes regarding governance of Members or membership for WCCLS or the Executive Board,
5. Recommend long term funding strategies for countywide library service to the County and Board of County Commissioners,
6. Develop recommendations for the County and the Board of County Commissioners regarding supplemental funding strategies for countywide library services.

E. Schedule of Meetings

The Executive Board at its first organizational meeting or as soon thereafter as reasonable, shall adopt rules governing its procedures, and which shall include at a minimum: 1) time and place of regular meetings; 2) the method and manner of calling special meetings; 3) the method, term and manner of establishing committees or sub-committees; and 4) Executive Board by-laws and rules of procedure. The Executive Board shall meet as needed to adequately execute its duties and responsibilities. The first organizational meeting shall be a joint meeting with the WCCLS Policy Group and thereafter a joint meeting of the two boards shall be held annually. All meetings of the Executive Board and the WCCLS Policy Group shall be held in accordance with Oregon Public Meeting Laws, ORS 192.610 to 192.710.

F. Election of Officers

The Executive Board at its first organizational meeting or as soon thereafter as reasonable, shall elect a Chair and Vice Chair/Chair Elect. The term of the officers shall be for two years, with elections held at the Executive Board's annual meeting. The Chair, or the Vice Chair/Chair Elect in his/her absence, shall preside over all meetings of the Executive Board. The Cooperative Library Services Manager (or designee) shall serve as Clerk of the Board and be responsible for providing notices of meetings and keeping minutes, as required by Oregon Public Meeting Laws.

G. Quorum

A majority of the Members of the Executive Board shall constitute a quorum. All decisions of the Board, unless otherwise provided herein, shall require the presence of a quorum and a majority vote of those representatives in attendance. No recommendation regarding a formula for allocating county funds through the Public Library Services Agreement shall be forwarded to the Board of Commissioners unless it receives the votes of a majority of the Members of the Executive Board.

H. Voting

Each Member of the Executive Board shall have one vote. In the event that a Member is unable to attend a meeting in which a vote is scheduled to take place, the Member may appoint a designee to attend and vote in his/her place. Under circumstances when neither a Member nor his/her designee can attend, a Member may, prior to the meeting, submit his/her vote to the Chair on a specific issue under signature in writing or by email that clearly identifies the sender.

I. Adding or Subtracting Members

Members shall be added to the Executive Board, as needed, to represent new library service providers admitted to WCCLS through the Public Library Services Agreement (PLSA). Members shall be subtracted from the Executive Board at such time as a library service provider withdraws from membership in WCCLS and ceases to be a party to the PLSA, or when a city assumes management and fiscal responsibilities for operating a community library, or when two or more library service providers merge into one administrative entity. A library that changes its governance (EX: a city library becomes a community library, or a city or community library establishes a library district) retains its membership rights in WCCLS including membership on the Executive Board and authority to receive funds through the Public Library Services Agreement.

5. WCCLS POLICY GROUP

A. Membership

The WCCLS Policy Group (“Policy Group”) shall consist of twelve (12) voting Members representing the ten (10) current contracting library service providers, the West Slope Community Library, and a library that is a non-public library WILnet member (either Tuality Health Information Resource Center or the Oregon College of Art and Craft library). These twelve Members shall be the library directors or their designees. The Policy Group shall replace the current Library Directors’ Board.

B. Responsibilities

The Policy Group shall advise the WCCLS Executive Board and the Cooperative Library Services Manager on issues pertaining to the development and implementation of policies and procedures for delivery of public library services to all county residents, and to provide technical and professional support for the WCCLS Executive Board. This includes but is not limited to the following matters:

1. Develop, approve and implement shared policies and procedures for the delivery of direct public library services by member libraries,
2. Advise the Cooperative Library Services Manager on issues related to the provision of library services to special populations,
3. Advise the Cooperative Library Services Manager on operational considerations for contracts related to the provision of centrally provided support services,
4. Recommend annual service plans and review budget allocations for centrally provided support services and library services to special populations to the Cooperative Library Services Manager and the Executive Board,
5. Advise the Cooperative Library Services Manager and the Executive Board on the allocation of County resources for direct public library service delivery and the formula used to distribute such resources,
6. Provide technical and professional support for the Executive Board regarding governance of members and membership in WCCLS,

7. Encourage and provide a forum for positive and timely communication among library directors and staff to continuously evaluate and improve library services to county residents,
8. Develop recommendations for long term funding needs and strategies for the Executive Board,
9. Provide technical and professional support for the Executive Board regarding supplemental funding strategies for countywide library services,
10. Keep abreast of library trends and developments; evaluate and recommend service implementation changes as needed to the Cooperative Library Services Manager.

C. Schedule of Meetings

The Policy Group at its first organizational meeting or as soon thereafter as reasonable, shall adopt rules governing its procedures, and include at a minimum: 1) time and place of regular meetings; 2) method and manner of calling special meetings; 3) method of establishing committees or sub-committees; and 4) Policy Board by-laws and rules of procedure. The Policy Group shall meet monthly or as needed to execute its duties and responsibilities. The first organizational meeting shall be a joint meeting with the WCCLS Executive Board and thereafter a joint meeting of the two boards shall be held annually. All meetings of the Policy Group and the Executive Board shall be held in accordance with Oregon Public Meeting Laws, ORS 192.610 to 192.710.

D. Election of Officers

The Policy Group at its first organizational meeting or as soon thereafter as reasonable, shall elect a Chair and Vice Chair/Chair Elect. The term of the officers shall be for one year, with elections held at the Policy Group's annual meeting. The Chair, or the Vice Chair/Chair Elect in his/her absence, shall preside over all meetings of the Policy Group. The Cooperative Library Services Manager (or designee) shall serve as Clerk of the Board and be responsible for providing notices of meetings and keeping minutes, as required by Oregon Public Meeting Laws.

E. Quorum

A majority of the Members of the Policy Group shall constitute a quorum. All decisions of the Group, unless otherwise provided herein, shall require the presence of a quorum and a majority vote of those representatives in attendance. No recommendation regarding a formula for allocating county funds through the Public Library Services Agreement shall be forwarded to the Executive Board unless it receives the votes of a majority of the Members of the Policy Group.

F. Voting

Each voting Member of the Policy Group shall have one vote. Under circumstances when a Member cannot attend, he/she may, prior to the meeting, submit a vote to the Chair on a specific issue under signature in writing or by email that clearly identifies the sender.

G. Adding or subtracting members

Member representatives shall be added to the Policy Group, as needed, to represent new library service providers admitted to WCCLS through the Public Library Services Agreement. Member representatives shall be subtracted from the Policy Group at such time as a library service provider withdraws from membership in WCCLS and ceases to be a party to the PLSA, or when a city assumes management and fiscal responsibilities for operating a community library, or when two or more library service providers merge into one administrative entity. A library that changes its governance (EX: a city library becomes a community library, or a city or community library establishes a library district) retains its membership on the Policy Group.

6. AMENDMENTS

All changes, modifications, or amendments to this Agreement shall only be considered upon approval of three fourths (3/4) of the Member representatives of the Executive Board. Following a recommendation from the Executive Board, this Agreement may be changed, modified, or amended only in writing and upon approval of all of the parties to this Agreement.

7. SEVERABILITY

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of the Agreement.

8. INTERPRETATION

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of this Agreement.

9. TERMINATION

This Agreement may be terminated only pursuant to the following:

- A. This Agreement shall terminate as to any individual party upon that party ceasing to be a party to the Public Library Services Agreement (PLSA) dated 1/20/04.
- B. This Agreement shall terminate in its entirety, as to all parties, upon execution of a declaration signed by three-fourths (3/4) of all parties to this Agreement terminating its effectiveness.

10. COMPLIANCE WITH LAWS

Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services and activities provided under this Agreement.

11. LIABILITY AND INDEMNIFICATION

Notwithstanding that actions by some or all of the parties to this Agreement may be undertaken on behalf of the others, each party agrees to be responsible for the consequences of any wrongful acts of the party's employee as they affect any other party or a person not a party to this Agreement. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to indemnify the other parties and each of them, and hold each and all harmless from any and all claims, actions or suits arising out of a wrongful act of the first party's employee done in the course and scope of this Agreement.

12. NO BENEFITS

No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.

13. NOTICE

Any Contractor shall give immediate written notice to the County of any action or suit filed or any claim made against that party that may result in litigation and is directly related to this Agreement.

14. INSURANCE

Each party agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this agreement at levels necessary to protect against public body liability as specified in ORS 30.270. Contractors which are community libraries shall provide certification of insurance upon request.

15. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

16. CAPTIONS

Captions and headings used in this Agreement are for convenience only and shall not be construed or interpreted so as to enlarge or diminish the rights or obligations of the parties hereto.

FOR THE CONTRACTOR:

Signature

Title

Date

_____, CITY ATTORNEY
APPROVED AS TO FORM

FOR WASHINGTON COUNTY:

Signature

Title

Washington County

APPROVED AS TO FORM:

Sr. Assistant County Counsel

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

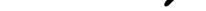
SUBJECT: Bid Award – ASR (Aquifer Storage & Recovery) No. 4 Potable Water Pump Station

FOR AGENDA OF: 12-05-05 **BILL NO:** 05221

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Engineering 

DATE SUBMITTED: 11-28-05

CLEARANCES: Finance 
 Purchasing 
 City Attorney 
 Water Division 

PROCEEDING: Contract Review Board
Consent Agenda

EXHIBITS: 1. Bid Summary
2. Letter Recommending Award
3. Agenda Bill No. 05140

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$1,277,047	BUDGETED \$1,000,000 *	REQUIRED \$299,105 **

* Source of funding is 505-75-3639, Water Construction Fund, Infrastructure Projects, ASR No. 4 Program. The current balance of this account is \$977, 942, due to other project expenditures to date during this fiscal year.

** An appropriation is required from Water Construction Fund Contingency. Staff recommends funding the appropriation using revenue bond proceeds to be available later in the fiscal year.

HISTORICAL PERSPECTIVE:

On March 18, 2002, Council approved Agenda Bill No. 02068 and awarded a contract to the consulting firm CH2M Hill, Incorporated (CH2M Hill), and its sub-consultant Groundwater Solutions, Incorporated, to provide hydrogeological and engineering design services related to Beaverton's groundwater Aquifer Storage and Recovery (ASR) program.

The contract scope includes hydrogeology services to prepare a final analysis to prove feasibility of ASR No. 4 well located in the Hanson subdivision near Hanson Road and SW 135th Avenue. The contract also includes a siting study, design, and construction engineering services to construct a well pump building, pumping station inside the building and site improvements.

The ASR No. 4 Potable Water Pump Station project consists of constructing a 1,250 square foot single-story water well pump house, site work, and landscaping. The pump house will contain pumping equipment, piping, specialized valves, electrical equipment, chlorination and fluoridation systems. To avoid any above-ground pump noise concerns raised by the neighborhood during the land use process, a submersible well pump and motor has been specified and will be installed deep below ground level inside the well. The building architecture and site appearance is carefully designed to blend-in with the surrounding neighborhood and new homes built in the Hanson subdivision.

In 2002, under the consultant contract approved in Agenda Bill No. 02068, hydrogeological consultants found that a new ASR well No. 4 was feasible within a horizontal distance of about 370 feet from ASR Nos. 1 and 2. However, the consultants recommended that a monitoring well be installed near the future well site (ASR No. 4) to conduct important water level measurement tests during recharge (storage) of the two existing ASR wells. In November 2001, a new 480-foot deep monitoring well was drilled by permission from the property owner adjacent to the Sorrento Water Works on the future street right-of-way in the proposed new Hanson subdivision. Data from the tests were used to verify results of the preliminary interference study, proving feasibility of a future ASR No. 4 production well.

In February 2002, final development plans and permits were approved by the City to construct a 9-lot subdivision on privately-owned 1.32-acre (former Woodworth) property that borders the east side of the City's Sorrento Water Works property (site of ASR Nos. 1 and 2). The ASR No. 4 pump station building will be constructed on two subdivision lots purchased by the City in December 2002 (Agenda Bill No. 02347). The site is zoned as single-family residential (R-5) – 5,000 square-foot lot sizes. Required land use permits for the project were issued by the City in July 2003. The City has owned nearby property on SW Hanson Road (west of the proposed ASR No. 4 project site) since 1946 and has operated a well and pumping facilities, and above-ground water storage reservoirs.

The new ASR No. 4 production well was drilled during the summer of 2003 and a pump test of the well capacity was performed in June 2004 by Geo-Tech Exploration, Incorporated of Tualatin, Oregon. The ASR No. 4 well is a 16-inch diameter well approximately 480 feet in depth. During the pump test, the capacity of the well was established at 3 million gallons per day, which substantially exceeded the earlier estimated capacity of 2 million gallons per day.

INFORMATION FOR CONSIDERATION:

Under traditional public contracting procedures for this project, the City would have published an invitation to bid and awarded a construction contract to the lowest responsive, responsible bidder. Based on a staff recommendation in Agenda Bill No. 05140 (attached), the use of mandatory prequalification of offerors was approved by Council, as allowed by Beaverton Purchasing Code and state law.

Using the alternate purchasing procedure of prequalification of offerors, a general contractor for the ASR No. 4 Water Pump Station Project was selected using a two-step selection procedure. First a Request for Qualifications (RFQ) was publicly issued, followed by an Invitation to Bid (ITB). The selection process first entails the issuance of the RFQ describing the required qualifications of the general contractor for the project. The Director of the Engineering Department appointed an internal Selection Committee. The Committee evaluated four Statements of Qualifications (SOQ) submitted in response to the RFQ based on the evaluation criteria stated in the RFQ. The Committee reviewed and ranked the respondents and approved all four of the construction firms having submitted SOQs. An invitation to bid was issued to the four qualified contractors on August 26, 2005.

Four bids were accepted and publicly opened using standard purchasing procedures at 2:00 p.m. on November 22, 2005, in the Finance Conference Room. A bid summary is attached. The four bids are grouped within an acceptable range. The two lowest bids are very close together (only \$1,653 apart) and indicate to staff that the lowest apparent bid is at market price for the work bid. Following the bid opening, staff reviewed the bids and associated documents submitted by the bidders. No irregularities were found. The apparent low bidder is Stellar J. Corporation of Woodland, Washington. Stellar J. Corporation was awarded a contract in June 2001 to construct

the City's ASR No. 2 Pump Station. Staff found the contractor's work on the earlier project of high quality with a reasonable number of change orders requested. Staff enthusiastically recommends that the Council, acting as Contract Review Board, award the bid to Stellar J. Corporation, of Woodland, Washington in the amount of \$1,277,047 as the lowest responsive bid submitted by the lowest responsible bidder. Attached is a letter from the project's design engineer with the firm CH2M Hill, recommending award of the contract to Stellar J. Corporation.

Although the apparent low bid is above the amount budgeted this fiscal year for the project, there are a number of mitigating circumstances. A total of \$1,000,000 was budgeted this fiscal year for the project based on a cost estimate prepared in February 2005. At that time the project was in the early stages of final engineering design by CH2M Hill. Just prior to submitting the estimated costs for the FY 05-06 budget, the scope of the project was modified. To accommodate a pumping system that would withdraw up to 3 million gallons of water per day (mgd) from ASR Well No. 4 rather than the originally projected capacity of 2 mgd, a larger pump was required. To reduce potential above-ground pump noise, a submersible pump and motor was selected in the final design process to allow the pump and motor to be installed inside the well almost 300 feet below ground surface. Also during the final design phase of the project, it was found that fluoridation of water being pumped out of the well is needed when native groundwater is pumped out following recovery of all stored ASR water. Addition of the fluoride feed system required a modest increase in the pump station building size. These various changes contributed to an increase in the cost of the project.

Other factors have played a part in the cost of the project in the last few months. According to a Stellar J. Corporation representative contacted by City staff, a combination of cost increases in fuel, steel, concrete and lumber have had the effect of raising bid prices, proportionally.

As of this date, a total of \$977, 942 is available in Account No. 505-75-3639, Water Construction Fund, Infrastructure Projects, ASR No. 4 Program to fund the project, due to on-going project expenditures prior to bidding. An appropriation of \$299,105 is needed to fund the project. A water revenue bond sale is scheduled to occur later in the fiscal year and may include the ASR No. 4 Pump Station. Staff recommends an appropriation from the Water Construction Fund Contingency as supplemented from revenue bond proceeds.

RECOMMENDED ACTION:

1. Council, acting as Contract Review Board, award the bid to Stellar J. Corporation, of Woodland, Washington in the amount of \$1,277,047 as the lowest responsive bid submitted by the lowest responsible bidder.
2. Funding of the project is from the recommended budget account and appropriation. Authorize the Finance Director to include an appropriation for the project in the next supplemental budget to be funded from water revenue bond proceeds.

BID SUMMARY
CITY OF BEAVERTON

TO: Mayor and City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

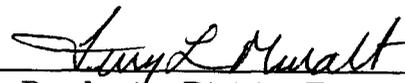
Bids were opened on November 22, 2005 at 2:00 PM in the FINANCE CONFERENCE ROOM

For: ASR NO. 4 PUMP STATION PROJECT

Witnessed by: Terry Muralt, David Winship and Brion Barnett

VENDOR NAME AND CITY, STATE	BID AMOUNT
STELLAR J CORPORATION WOODLAND, WASHINGTON	\$1,277,047.00
STETTLER SUPPLY SALEM, OREGON	\$1,278,700.00
SCHNEIDER EQUIPMENT ST. PAUL, OREGON	\$1,472,100.00
TEK CONSTRUCTION FERNDAL, WASHINGTON	\$1,455,481.25

The Purchasing process has been confirmed.

Signed: 
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 11-22-05

EXHIBIT 2



CH2MHILL

CH2M HILL
2020 SW Fourth Avenue
Third Floor
Portland, Oregon 97201
Tel 503.235.5000
Fax 503.736.2000

November 22, 2005

Mr. Brion Barnett, P.E.
Project Engineer, City of Beaverton
4755 SW Griffith Drive
PO Box 4755
Beaverton, OR 97076

Subject: **ASR No. 4 Pump Station Project**

Dear Mr. Barnett:

On Tuesday, November 22, 2005 at 2:00 p.m., four sealed bids for the above referenced project were opened and publicly read. The lowest bid was received from Stellar J. Corporation, Woodland, Washington, in the amount of \$1,277,047.00.

Based on our review of the bids, we recommend awarding the contract for the ASR No. 4 Pump Station Project to Stellar J. Corporation in the amount of \$1,277,047.00. We look forward to working with the City to complete this important project. If you have any questions, please don't hesitate to call me.

Sincerely,

CH2M HILL

A handwritten signature in black ink, appearing to read "D. Mustonen", written over the printed name and company name.

David Mustonen, P.E.
Project Manager

c: Dave Winship/Beaverton

AGENDA BILL

EXHIBIT 3

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Approve Mandatory Prequalification of Offerors

FOR AGENDA OF: 07-18-05 **BILL NO:** 05140

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Engineering *[Signature]*

DATE SUBMITTED: 07-12-05

CLEARANCES: City Attorney *[Signature]*
Finance *[Signature]*
Purchasing *[Signature]*
Water Division *[Signature]*

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
-----------------------------	------------------------	-------------------------------

HISTORICAL PERSPECTIVE:

The proposed ASR No. 4 Water Pump Station project consists of constructing a 1,250 square foot single-story water well pump house, site work, and landscaping. The pump house will contain pumping equipment, piping, specialized valves, electrical equipment, and chlorination and fluoridation systems. The building will be constructed on subdivision lots already owned by the City and the City already has land use approval for this use. The building architecture and site appearance is carefully designed to blend with the surrounding neighborhood.

The new ASR No. 4 production well was drilled during the summer of 2003 and a pump test of the well capacity was performed in June 2004 by Geo-Tech Exploration, Incorporated of Tualatin, Oregon. The ASR No. 4 well itself is a 16-inch diameter well approximately 480 feet in depth. During the pump test, the capacity of the well was established at 3 million gallons per day, which far exceeded the earlier estimated capacity of 2 million gallons per day.

To avoid any above-ground pump noise concerns raised by the neighborhood during the land use process, a submersible well pump and motor has been specified and will be installed deep below ground inside the well.

INFORMATION FOR CONSIDERATION:

Under traditional public contracting procedures, the City would publish an invitation to bid and award a construction contract to the lowest responsive, responsible bidder. Staff recommends in this case the use of mandatory prequalification of offerors as allowed by Beaverton Purchasing Code and state law. The Contract Review Board may approve mandatory prequalification requirement of offerors on prescribed forms. Prequalification standards are set out in Section 49-0220(C)(1-4) of the Purchasing

Code, which also provides for an appeal process and public hearing before the Council for any person who is deemed not prequalified. Staff will allow time for any such possible appeal in the timeline for prequalification of bidders and solicitation and award of competitive bids.

If the alternate purchasing procedure of prequalification of offerors is approved, a general contractor for the ASR No. 4 Water Pump Station Project would be selected using a two-step selection procedure. First a Request for Qualifications (RFQ) would be publicly issued, followed by an Invitation to Bid (ITB). More specifically, the selection process first entails the issuance of the RFQ describing the required qualifications of the general contractor for the project. The RFQ will be publicly advertised two weeks in advance of the deadline set for submitting a response to the RFQ. The content and publication of the advertisement will meet or exceed those standards applicable to usual solicitations for offers. The Director of the Engineering Department will appoint an internal Selection Committee. The Committee will evaluate the Statements of Qualifications (SOQ) submitted in response to the RFQ based on the evaluation criteria stated in the RFQ. The Committee may interview respondents, or references at its sole discretion. The Committee will review and rank the respondents and establish a group of best qualified potential contractors. Staff anticipates there will be 3-5 potential contractors resulting from the SOQ evaluation. Following review of SOQs, the best qualified contractors will be invited to bid on the project. The ITB will be extended only to the most qualified contractors identified by the RFQ process. Staff will provide the qualified contractors with necessary materials to permit them to prepare and submit a bid. The bids will be accepted and publicly opened using standard purchasing procedures. The overall process will be very similar to that used to award the Fluoride Feed Facility construction contract in December 2003.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, approve use of mandatory prequalification of offerors pursuant to Beaverton Purchasing Code, Chapter 49, Section 49-0220 for the ASR No. 4 Water Pump Station Project.

AGENDA BILL

11-23-05 10:45 AM

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Design Review Text Implementation Update **FOR AGENDA OF:** 12-05-05 **BILL NO:** 05222

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 11-28-05

CLEARANCES: City Attorney *[Signature]*
Dev. Serv. *[Signature]*

PROCEEDING: Work Session

EXHIBITS: Staff Memorandum dated 11/22/05
Exhibit A - DRCL Flow Chart
Exhibit B - DRCL Application Form

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
-----------------------------	------------------------	-------------------------------

HISTORICAL PERSPECTIVE:

On November 1, 2004, staff held a work session with the City Council to review proposed comprehensive revisions to the then existing Design Review text (TA 2003-0005). Staff promised to return to City Council in approximately one year's time to report on the implementation of the new Design Review text.

City Council's adoption of this comprehensive change to the Design Review standards was intended to achieve four major objectives.

1. Better customer service through more clear and objective design standards;
2. Increased certainty about requirements and responsibilities for applicants, decision-makers, community, and staff;
3. Maintain the community's aesthetic quality of life; and
4. Promotion of economic development through more efficient permitting procedures.

Staff find that the implementation of the new Design Review text is achieving each of these goals to some degree. Staff believe that more time is necessary to fully measure the impacts of the implementation of the new Design Review text. Staff propose to return to the City Council in another year's time to provide a more complete review of the new Design Review text.

INFORMATION FOR CONSIDERATION:

Attached staff memorandum.

RECOMMENDED ACTION:

Continue to monitor the process and schedule additional feedback interviews with staff and customers.



MEMORANDUM

"make it happen"

City of Beaverton

Community Development Department

To: Mayor Drake and City Council
From: Steven A. Sparks, AICP, Development Services Manager 
Date: November 22, 2005
Subject: *Design Review Implementation Update*

Background

The purpose of this work session is to provide a one year review of the successes and lessons learned in the implementation of the Design Review Code Update project (TA 2003-0005) which became effective January 1, 2005.

Implementation Success

One of the most significant successes as a result of the implementation of the new Design Review text is to simplify and shorten the land use application process.

There are numerous examples of how the new Design Review text has simplified the review process; however, it is probably the Design Review Compliance Letter (DRCL) that has met with the most resounding satisfaction by customers. The success of the DRCL comes in two forms. First, because of the change in thresholds contained in the new Design Review text, the DRCL encompasses a greater breath of development activity; therefore, many more types of relatively minor development activities can be processed with a ministerial process. Comparing the number of applications since the adoption of the new Design Review text with the previous fiscal year, there are approximately double the amount of DRCL's applications with a corresponding decrease in the number of Design Review 2 applications, with the total number of applications being approximately equal. Therefore, staff conclude that while development activity remains relatively constant, there is a shift from Design Review 2 applications to DRCL applications and the objective of simplifying process has been achieved in this case.

A second reason that the DRCL has such a high degree of customer satisfaction is the real reduction in processing time and application submittal complexity. DRCL's are often processed over the counter (Exhibit 1). In cases when an application can not be acted upon over the counter because technical issues must be reviewed, the average length of time to reach a decision is 14 days or less. In either case, the processing time has been significantly reduced from the previous 20 days.

Another simplification to the DRCL process has come from the staff development of a tear off application sheet that an applicant can review and simply check a box if their proposal meets the approval criteria (Exhibit 2) this contrasts with the old process which required applicants to write a unique narrative for each DRCL (aka Design Review 1) application. Staff have taken a deliberate approach to “let the plans talk” for demonstrating compliance with Design Standards. This approach does requires more staff time, but the scope of projects reviewed by the DRCL process does not make the additional workload unmanageable.

An example of a success with new Design Review 2 process is the Shops at Griffith Park which will be constructed this year adjacent to City Hall. This moderate sized but somewhat complex development was reviewed entirely under the new Design Review Code because it was less than 50,000 square feet and the proposed design was able to meet all of the design standards. Because the development was reviewed as a Design Review 2, rather than a Design Review 3 as required by the old Design Review code, no Neighborhood Review Meeting or Board of Design Review hearing were required. As a result the developer saved a minimum of five weeks. The developer and the City also both where able to enjoy greater certainty for both the process and the final product.

Moving the review of public transportation facilities from Design Review to its own unique application has been met with satisfaction from Oregon Department of Transportation, Washington County Land Use and Transportation, as well as the City Engineering staff. The recent review of the Oleson Road project demonstrates that efficient processing and meaningful public involvement are occurring through the new process.

Implementation - Lessons Learned

Several important lessons have been learned in the first year of implementing the new Design Review text.

The first lesson relates to communication between staff and applicants regarding the range of possibilities within the new Design Review text. Staff learned that in an eagerness to communicate a simpler process to applicants at pre-application conferences and at the planning counter, applicants were only hearing that their proposal can be processed as a Design Review 2 application when staff was communicating that a proposal could be processed as Design Review 2 only if it meets all of the design standards otherwise it would be processed as a Design Review 3 application. This experience has lead to some processing difficulties as applicants submitted Design Review 2 applications that did not meet all the design review standards. Applicants were understandable disappointed when informed that the application was incomplete and needed to be modified to meet the design review standards or resubmitted as a Design Review 3. This scenario has occurred

several times, which has lead staff to modify the information communicated at pre-application conferences. At the conferences, potential applicants are informed that a proposal is a Design Review 3 until sufficient detail is provided that demonstrates that all of the design standards are being met, and upon a determination that all of the design standards are being met staff will process the application as a Design Review 2. Staff also is offering a no-charge follow up pre-submittal meeting with applicants to review their proposals against all of the design standards to facilitate the smooth processing of all Design Review applications.

Another lesson learned is the need for greater flexibility when applying the new Design Review code to existing development, especially within the Regional Center-Old Town. One example in particular demonstrates this need. In the Regional Center-Old Town, a property owner proposed the modification of an existing structure including a small expansion of roughly 200 square feet. Based on literal reading of the code, a Design Review 3 would have been required to process the proposal. The Design Review 3 was required because the current thresholds for a DRCL did not address additions or expansions of existing development and because the proposed modification did not meet the design review standards thus the proposal could not be processed as a Design Review 2. Staff are currently processing a text amendment that provides an exemption to additions and modifications to existing development in the Regional Center-Old Town which is scheduled for hearing in January by the Planning Commission.

Staff does not have a significant amount of feedback or observation to relate to the Council regarding the processing of Design Review 3 applications. Since the adoption of the new Design Review text there have been 8 Design Review 3 applications. All of these applications have been elements of projects that did not meet a particular design standard. In all cases the Board of Design Review or the Planning Commission have approved the applications applying the design guidelines as opposed to the design standards used in the Design Review 2 process.

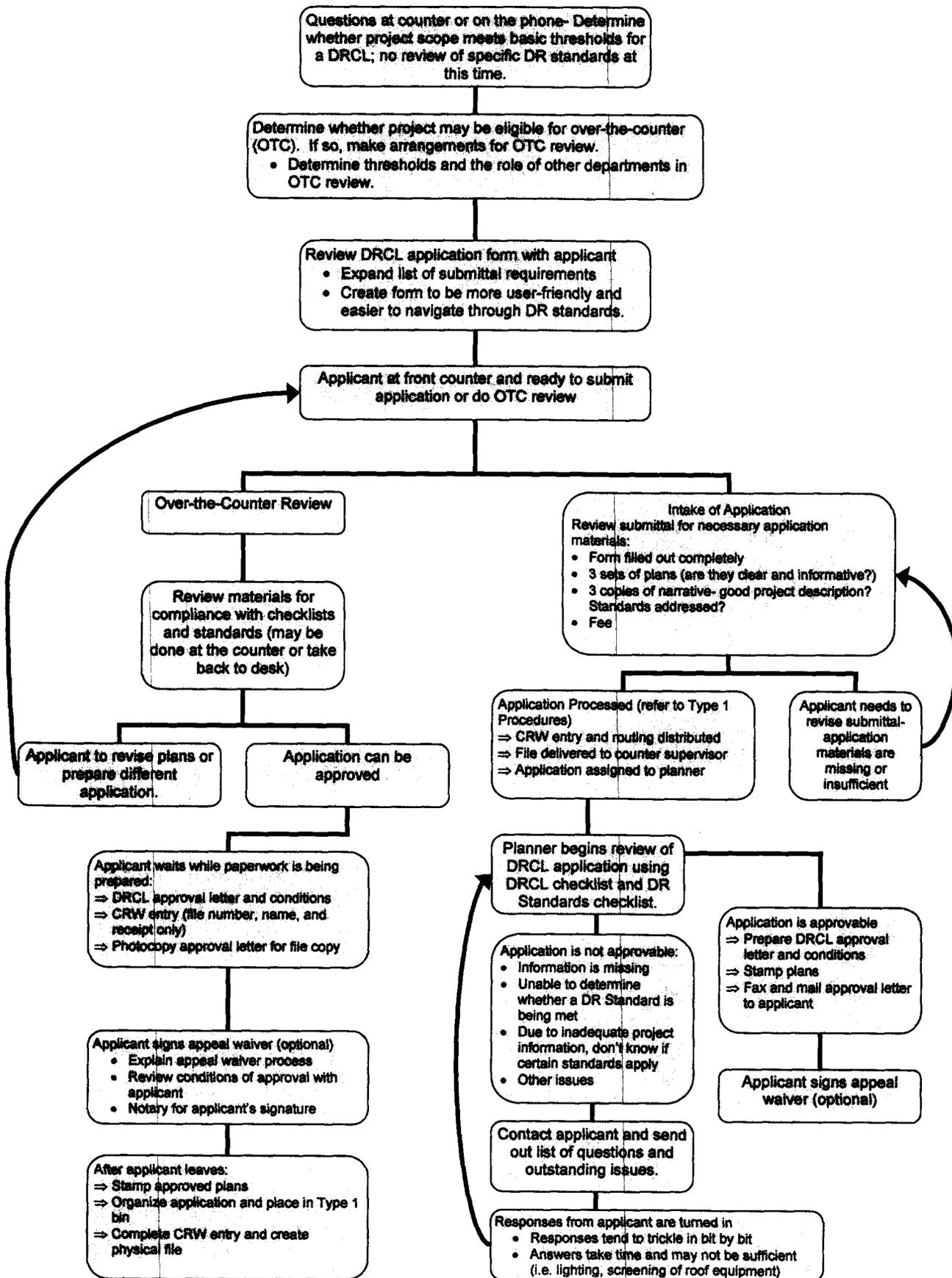
Conclusions:

Staff conclude that after one year of implementation the new Design Review text, the four original objectives are being achieved.

Staff also conclude that a learning curve continues for both staff and our customers in implementing the new Design Review text to varying situations. Staff have found that the new Design Review text is requiring more staff resources to communicate expectations and processes as well as more time to review applications because there are more clearly defined design expectations to consider.

THIS PAGE LEFT BLANK INTENTIONALLY

DESIGN REVIEW COMPLIANCE LETTER PROCESS



THIS PAGE LEFT BLANK INTENTIONALLY



CITY OF BEAVERTON
 Community Development Department
 Development Services Division
 4755 SW Griffith Drive
 PO Box 4755
 Beaverton, OR. 97076
 Tel: (503) 526-2420
 Fax: (503) 526-3720
www.beavertonoregon.gov

OFFICE USE ONLY

DESIGN REVIEW COMPLIANCE LETTER

FILE #: _____

FILE NAME: _____

FEE PAID: _____ CHECK/CASH: _____

<p>A. PROPERTY OWNER(S): _____</p> <p>ADDRESS: _____</p> <p>_____</p>	<p>E-MAIL: _____</p> <p>PHONE: _____</p> <p>FAX: _____</p>
<p>B. APPLICANT: _____</p> <p>ADDRESS: _____</p> <p>_____</p>	<p>E-MAIL: _____</p> <p>PHONE: _____</p> <p>FAX: _____</p>
<p>C. SITE ADDRESS: _____</p> <p>_____</p>	<p>ZONING DISTRICT: _____</p> <p>MAP & TAX LOT #: _____</p>

- D. SUBMIT THREE (3) SETS OF PLANS, GRAPHICS, AND WRITTEN STATEMENT (AS APPLICABLE) WHICH CLEARLY SHOWS HOW THE PROPOSAL MEETS:**
- THE USE AND SITE DEVELOPMENT STANDARDS OF CHAPTER 20 OF THE DEVELOPMENT CODE; AND
 - THE STANDARDS OF CHAPTER 60 OF THE DEVELOPMENT CODE, AS APPLICABLE.

E. APPROVAL CRITERIA- PLEASE PLACE A CHECK MARK NEXT TO EACH APPROVAL CRITERION MET BY THIS PROPOSAL:

- 1. The proposal satisfies the threshold requirements for a Design Compliance Review Letter.
- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
- 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
- 4. The proposal meets all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
- 5. The proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).
- 6. If applicable, the proposed addition to an existing building, and only that portion of the building containing the proposed addition, complies with the applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) as they apply to the following:
 - a. Building articulation and variety.
 - b. Roof forms.
 - c. Building materials.
 - d. Perimeter/foundation landscaping requirements.
 - e. Screening roof-mounted equipment requirements.
 - f. Screening loading areas, solid waste facilities and similar improvements.
 - g. Lighting requirements.
- 7. The proposal complies with all applicable provisions in Chapter 60 (Special Regulations).
- 8. The proposal does not modify any conditions of approval of a previously approved Type 2 or Type 3 application.
- 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

I, as property owner or authorized agent, hereby attest that the subject proposal meets each of the above approval criteria for a Type 1 Design Review Compliance Letter.

 Print Name

 Signature (Original Signature Required)

 Date

EXHIBIT 5/11/2005

B

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending the Beaverton Code by Adding New Provisions in Chapter Two Relating to the Inventory of Prisoner Personal Property

12/05/05
FOR AGENDA OF: ~~11-14-05~~ **BILL NO:** 05214

Mayor's Approval: 

DEPARTMENT OF ORIGIN: City Attorney 

DATE SUBMITTED: 11-07-05

CLEARANCES: Police 

PROCEEDING: ~~First Reading~~
Second Reading & Passage

EXHIBITS: Ordinance (Pg. 1)
Ordinance with comments (Pg. 7)

BUDGET IMPACT

EXPENDITURE REQUIRED \$0.00	AMOUNT BUDGETED \$0.00	APPROPRIATION REQUIRED \$0.00
--------------------------------	---------------------------	----------------------------------

HISTORICAL PERSPECTIVE:

The City Code does not at present contain written authority to safeguard prisoners, as well as the city, from dangerous situations which may occur when persons in custody possess dangerous or valuable items within the confines of the police department. It is an important area of concern. Within the past two years, approximately, a pipe bomb was discovered in the police department when the bomb squad came to pick up a bin of regular fireworks. In another instance, an arrested person had a backpack and when someone came to pick it up out of police evidence, knives were discovered. An inventory ordinance, drafted in compliance with the State and Federal Constitutions, will address situations like these at the outset of a custodial setting and reduce risk of injury or loss.

INFORMATION FOR CONSIDERATION:

Oregon law provides that the governing body of a city may approve an inventory ordinance which complies with three requirements. The inventory must be authorized by the politically accountable body. Second, the ordinance must create a systematic approach and involve no discretion by an officer conducting a search. Finally, the ordinance must be reasonable in relation to its purpose. We believe the proposed ordinance meets these criteria.

A copy of the ordinance is attached with explanatory notes embedded in the text. These are printed in italics.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

**AN ORDINANCE AMENDING THE BEAVERTON CODE
BY ADDING NEW PROVISIONS IN CHAPTER TWO
RELATING TO THE INVENTORY OF PRISONER
PERSONAL PROPERTY, B.C. 2.08.010 THROUGH 02.08.055.**

WHEREAS, Oregon law provides that a local government governing body may protect law enforcement agencies and persons in custody by creating an official inventory process; and

WHEREAS, The City Council observes that the findings and policies listed below support an inventory of prisoner personal property; now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. The Beaverton Code is amended by adding a new heading and section to be numbered and to read as follows:

“INVENTORY OF PRISONER PERSONAL PROPERTY.

2.08.010 Legislative findings. The City Council observes, among other reasons, that the findings and policies listed below support an inventory of prisoner personal property

A. Beaverton Police Officers are often the first persons in contact with suspects who are taken into custody, bringing such persons physically into the police station.

B. Bringing a prisoner into the police department premises is a vehicle for introducing valuable pieces of property or, alternatively, dangerous property found on a person, into the police department premises.

C. Police officers currently face the risk that suspects in custody may bear or carry dangerous items such as syringes, weapons, objects which could be used as a weapon, or toxic or flammable substances, on their persons or otherwise accessible. An inventory separates a person from dangerous items.

D. An inventory of valuable and dangerous items provides mutual protection, accountability and safeguards when such items are brought into the police department;

2.08.015 Definitions. For the purpose of this ordinance, the following mean:

Attached property – Personal property such as jewelry and other decorative personal objects, for example charms, pins, rings, lockets, watches, necklaces, body piercing jewelry, brooches and similar items, but not including wallets or other containers, to which all of the following apply:

A. The item appears reasonably securely fastened to or about the person's body or an article of clothing by way of friction fit, or by clasps, latches, post and cap, pin back, chain or other recognizable fastening device; and

B. The item need not be removed in order to remove or inspect clothing or other items to effectuate the ends of this ordinance.

Closed container – A container the contents of which are not exposed to view. Includes, but is not limited to, a wallet, backpack, bedroll, fanny pack, purse, suitcase, or food or drink canister.

Container – An item designed to hold other things, or an item which is used or may be used to actually hold other things. The term includes both open and closed containers. Some types of containers may be located within other containers.

Dangerous personal property - Any item of personal property that under the circumstances in which it is possessed is readily capable of causing physical injury, or providing a means of escape, including, but not limited to weapons and toxic, flammable or explosive substances.

Officer – A police officer employed by the City of Beaverton or acting on behalf of the City of Beaverton.

Open container – A container that is unsecured or incompletely secured such that the container's contents are exposed to view, generally including but not limited to, a sack, bag or folder.

Personal property - Every kind of property except land, tenements and fixtures.

Pocket – An external or internal enclosure located on or within an item of clothing or other piece of property, in which items may be located or stored.

Prisoner – A person under lawful custodial arrest or detention, including, but not limited to, a person taken into custody for violation of law or upon a

mental health hold pursuant to ORS Chapter 426, including ORS 426.228; a person taken into custody for treatment of intoxication pursuant to ORS Chapter 430, including ORS 430.399; and a person taken into protective custody pursuant to ORS Chapter 419B, including ORS 419B.150. The term does not include a person issued a criminal citation and released under authority of ORS 133.055 to ORS 133.076 unless the citation and release occurs upon premises of the Beaverton Police Station.

Torso - The trunk of the body; the body exclusive of the head, arms and legs.

Treatment facility - Includes outpatient facilities, inpatient facilities and such other facilities as the Oregon Department of Human Services determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the Oregon Department of Human Services.

Valuable personal property - Any cash, check, money order or other financial instrument, in any amount; any earring, necklace, non-prescription eyeglasses, ring, watch, bracelet or other similar item of jewelry, regardless of the item's apparent value; and any other item of personal property that the person examining the item reasonably believes has a fair market value of \$500 or more. Attached property is not valuable personal property.

2.08.020 **Purpose**. The inspection and inventory of prisoner property pursuant to this ordinance is intended to:

- A. Protect a prisoner's property while in custody of the city;
- B. Protect the city, its employees and agents against claims or disputes over lost, stolen or damaged property; and
- C. Protect prisoners, city employees and others in the area of a prisoner or a prisoner's property from potential danger.
- D. This ordinance is not intended to diminish any law enforcement activities presently authorized under law.

2.08.025 **Duty to inspect prisoner property**. An officer shall inspect the personal property of every prisoner as provided in this ordinance.

2.08.030 **Timing of inspection**. The inspection of a prisoner's property pursuant to this ordinance shall occur after the prisoner is within the police station and prior to the prisoner being released or transported to another law enforcement agency, correctional facility, or treatment facility. If exigent

circumstances reasonably require that the inspection be delayed, the inspection shall occur as soon as practicable after the exigency has passed.

2.08.035 Manner of inspection. The inspection of prisoner property shall occur in the following manner:

A. Unless otherwise authorized by law, the officer shall not remove the prisoner's blouse, skirt, dress, shirt, pants and/or underwear (including, but not limited to, underpants, T-shirt, bra, slip, nylons and/or pantyhose); provided, however, that if the prisoner is wearing more than one blouse, skirt, dress, shirt or pair of pants, the officer shall remove the outer blouse, skirt, dress, shirt or pair of pants, but shall not remove the blouse, skirt, dress, shirt or pair of pants worn closest to the flesh of the prisoner's torso. Unless otherwise authorized by law, if a prisoner is wearing an article of clothing not described in this subsection, the officer shall not remove the article of clothing if it is worn next to the skin of the prisoner's torso.

B. The officer shall remove:

1. the prisoner's footwear, including the prisoner's socks;
2. the prisoner's headgear, including the prisoner's hat, cap, or helmet; and
3. the prisoner's coat, jacket, vest or other clothing not described in subsection A of this section that is found on or in possession of the prisoner.

C. The officer shall remove the prisoner's accessories (including, but not limited to, any purses, backpacks, wallets, briefcases or fanny packs) that are found on or in possession of the prisoner. The officer shall not remove attached property.

D. The officer shall inspect the waistband and empty the pockets of the clothing worn by the prisoner. The officer shall perform an external patting of the clothing remaining upon the prisoner. An officer of the same sex, if reasonably available, shall visually inspect under the clothing covering the prisoner's side and front abdominal area and back lumbar area above the prisoner's waist.

E. The officer shall empty the pockets of clothing removed from the prisoner's body.

F. Except for attached property, the officer shall remove all items of personal property from the prisoner's removed and remaining clothing.

G. The officer shall remove from and inspect all items of personal property within any open container found on or in possession of the prisoner.

H. Closed containers found on or in the possession of a prisoner shall be opened and objects therein shall be scrutinized and may be removed to accommodate the inspection.

I. The prisoner's footwear, including socks, may be returned to the prisoner after inspection, provided such return does not create an unreasonable risk of harm to the health or safety of the prisoner, the officer, or any other person, or the property of any of them, or the property of the city of Beaverton.

2.08.040 Identification and Safekeeping of Property. As soon as is reasonably possible after the completion of an inspection of prisoner property, an officer shall:

A. Segregate the valuable and dangerous property, but not attached property, identified during the inspection, from the prisoner's other possessions.

B. Make a written list of all valuable and dangerous personal property found on or in the possession of the prisoner. The list shall not include attached property.

C. Note the disposition of each piece of valuable or dangerous personal property, but not attached property, discovered during the inspection by recording who takes or keeps physical custody of each item so discovered.

D. Take reasonable steps to safeguard personal property removed from the prisoner.

2.08.045 Return of Property upon Release or Transfer Personal property kept safe under this ordinance, and not retained upon other grounds, shall be returned in accordance with the following provisions.

A. When the prisoner is released from law enforcement custody, kept property shall be released to the person forthwith, or as soon as practicable after the inventory document is drafted.

B. If a prisoner is transferred to the custody of another law enforcement agency, the kept property and a copy of the inventory may be transferred to the other agency or retained by the city, whichever course appears most expedient under the circumstances.

C. If a prisoner is transported to a hospital or other care facility for treatment of a mental or physical condition, or to a facility such as a detoxification center, the kept property and a copy of the inventory may be transferred to a person at the facility in a position of responsibility over the prisoner, or retained by the city, whichever course appears most expedient under the circumstances.

D If a prisoner is released from Beaverton custody, but the officer reasonably believes the safety of the officer, the prisoner, or a third party is at risk if kept property is returned to the prisoner, the return shall be consistent with current policies, procedures or practices.

E This Ordinance shall not apply when persons are arrested, cited, and released at the scene of a crime. However, any property removed from a person during a stop, arrest or other detention, and which is not seized, should be timely returned to the person in conjunction with release.

F. Property which, for whatever reason, is not returned by operation of the subsections above shall remain with the Police Department for no fewer than 90 days, during which time any policies, procedures or practices currently in effect for property shall be followed.

2.08.050 Distribution of Property Receipts. The City shall maintain the original record of property and its disposition. A copy of such record shall be distributed as follows:

A. To the prisoner or included with prisoner's property.

B. To any person taken into custody to whom the officer must tender a copy pursuant to ORS 133.455.

2.08.055 Adoption of Administrative Policies or Procedures. The Beaverton Police department may adopt administrative procedures, rules or regulations, or establish forms to carry out this ordinance. “

First reading this 14th day of November, 2005.

Passed by the Council this _____ day of _____, 2005.

Approved by the Mayor this _____ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor