



BEAVERTON CITY COUNCIL
REGULAR MEETING
FEBRUARY 7, 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, February 7, 2005, at 6:40 p.m.

ROLL CALL:

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

VISITOR COMMENT PERIOD:

Nancy Kramis, Beaverton, expressed appreciation to staff and said she supported Agenda Bill 05021, the Contract Award for Engineering Services for Small Drainage Projects and On-Call Services. She said this contract covered needed drainage improvements for her residential area on SW Canyon Lane. She said she lived in that area for 20 years and had a river running through her yard when it rained due to runoff from other properties. She described how they tried to deal with the runoff over the years. She thanked City Engineer Mark Boguslawski for his interest in their situation and for adding this project to the design contract. She said she and her neighbors supported this design contract and were eager to have this project built.

Mayor Drake said he had met Ms. Kramis during the West Slope Neighborhood annexation process. He said since that time he had heard from her and others in that neighborhood that they were pleased with City services.

Ms. Kramis said she testified against the annexation originally. She said at that time they were also involved with Tri-Met, Multnomah County, ODOT, Portland and Beaverton concerning an overpass that was going to be removed off of Highway 26 and rerouted through her old neighborhood. She said this was unacceptable as it was a dangerous situation. She said she was very appreciative of Mayor Drake's efforts concerning the speed hills that were installed with much more stringent conditions than what Multnomah County required. She said they were appreciative of the efforts of the City to enhance that neighborhood and to act as the liaison between them and the Oregon Department of Transportation (ODOT).

COUNCIL ITEMS:

Coun. Stanton said the Beaverton Arts Commission's GALA Reception for Showcase was well attended and the artwork was excellent. She said a Library staff member was one of the artists whose work was on display at the Showcase. She said the artwork would be displayed at the Library for the next two weeks.

Coun. Stanton distributed a copy of the presentation the Library's Volunteer Coordinator June Bass made to the Library Board last month. She said the high points of the presentation were: the Library utilized 350 volunteers annually; and over 14,000 hours were put in by volunteers that equaled 6.74 FTEs and \$240,000 annual savings. She encouraged citizens to volunteer at their local Library.

Coun. Doyle said Showcase was excellent this year. He said this Sunday, February 13, 2005, from 2:00 p.m. to 4:00 p.m. at the Library, the Beaverton Arts Commission and the Westside Cultural Alliance would be holding an arts reception and discussion. He said a featured artist, one of the Showcase judges, would be the speaker. He encouraged interested citizens to attend.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

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

Minutes of Regular Meeting of January 24, 2005

05018 Boards and Commissions Appointments to Board of Construction Appeals – Bob Burns and Stephen Winstead

05019 Authorize Mayor to Sign Amendment 1 to Intergovernmental Agreement (IGA) with TriMet for Rose Biggi Avenue Grade Crossing

05020 Authorize Mayor to Sign Intergovernmental Agreement (IGA) with the Oregon Department of Transportation for Rose Biggi Avenue (Millikan Way to Crescent Street)

Contract Review Board:

05021 Consultant Contract Award – 2005 Engineering Services for Small Drainage Improvement Projects and On-Call Services

Question called on the motion. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

PUBLIC HEARINGS:

Agenda Bill 05022 - Contract Review Board:

05022 A Resolution Approving Findings for Exemptions of Certain Classes of Public Contracts from Competitive Bidding or Competitive Proposal Requirements (Resolution No. 3804)

Finance Director Patrick O'Claire introduced Assistant City Attorney Bill Kirby and City Purchasing Agent Terry Muralt.

O'Claire said this issue involved adopting exemptions from competitive solicitation. He said Legislature in its last session significantly changed the ORS that promulgate the guidelines for public procurement. He said the changes were made to make the ORS clearer. He said the new statutes made the City's current Purchasing Manual ineffective, which meant the Council needed to readopt the Purchasing Manual and the exemptions. He said this public hearing was to readopt the exemptions previously adopted by Council in 2003 and 2004. He said the exact same exemptions were being adopted; there was one major change which was a general exemption for competitive solicitation for purchases up to \$50,000. He said the City's current policy was set at \$25,000 as the threshold before a formal competitive solicitation was required. He said the majority of other local agencies had increased to the \$50,000-or-higher threshold. He said the Purchasing Manual would come before Council at the next meeting.

Coun. Stanton said she was comfortable with going to the \$50,000 threshold. She asked if there were any substantive changes other than the \$50,000 threshold amount.

O'Claire said there were two minor changes. He said the exemption for contract amendments was expanded into three separate categories. He said two exemptions were added to note a preference for recycled material and to allow contracting with the Federal government.

Mayor Drake opened the public hearing

There was no one who wished to testify on this issue.

Mayor Drake closed the public hearing.

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that Council acting as Contract Review Board approve Agenda Bill 05022, A Resolution Approving Findings for Exemptions of Certain Classes of Public Contracts from Competitive Bidding or Competitive Proposal Requirements. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

The Public Hearings for the four following annexation issues (Agenda Bills 05023, 05024, 05025 and 05026) were held simultaneously.

05023 A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located in the Vicinity of the Elmonica and Merlo Light Rail Stations to the City of Beaverton: Annexation 2004-0016

- 05024 A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located in the Vicinity of the Sunset Hwy/Cornell Road Area to the City of Beaverton: Annexation 2004-0017
- 05025 A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located in the Vicinity of the Millikan Way Light Rail Station Area to the City of Beaverton: Annexation 2004-0018
- 05026 A Public Hearing to Receive Public Input Regarding the Annexation of Four Parcels Located in the West Slope Neighborhood to the City of Beaverton: Annexation 2004-0019

Community Development Director Joe Grillo read a prepared statement defining the process that needed to be followed for this hearing (in the record)

Principal Planner Hal Bergsma said the Council directed initiation of these annexation applications by adopting Resolution No. 3794. He reviewed the City's island annexation policy (in the record). He said ordinances approving these four annexation applications were on the Council Agenda for first reading at this meeting; the second reading and Council approval were scheduled for Monday, February 28, 2005. He reviewed the notifications for these annexations (in the record). He showed the properties being considered for annexation that were displayed on a wall map (in the record).

Bergsma said the City's implementation of island annexation policies generated a great deal of controversy and opposition. He said the common theme from those who opposed annexation was that present service levels were adequate and it was unclear what additional or higher quality services the City could offer in exchange for higher property taxes. He said some services would remain the same after annexation. He said services that would change included police protection, local road maintenance, street light maintenance, sewer line maintenance for lines under 24 inches in diameter, storm water facilities, garbage hauler franchise, development review, building permitting/inspection, comprehensive planning, neighborhood traffic management, code enforcement, Citizen Participation Organization (CPO) support, and political representation becomes the responsibility of the Mayor and City Council in addition to the Board of County Commissioners.

Bergsma said a change in these services would mean a change in the quality of service. He said the City took pride in delivering high quality service to its citizens. He said the City provided 1.5 patrol officers per 1,000 population verses 1.0 officers in the urban unincorporated area provided by the Sheriff's Enhanced Service Patrol District. He said the City had regular maintenance programs for its streets, street lights, sewer and storm drainage facilities. He said garbage service was provided at lower rates and yard debris recycling was provided weekly rather than bi-weekly in the unincorporated area. He said the City had three code enforcement officers for a population of 80,000 verses two code enforcement officers for unincorporated Washington County with a population of 180,000. He said the City's Neighborhood Program established small geographic areas that are represented by a Neighborhood Association Committee, to allow citizen input on City issues. He said the County's structure relied on one large Citizen Participation Group to represent large community areas such as Cedar Hills and Bethany areas. He

said the City's development fees and permits were lower than the County's because the City subsidizes its development review program with General Fund revenues. Bergsma said there was a cost for the difference in service levels. He said that partially explained why the net difference between property tax rates in urban unincorporated areas around the City versus rates in the City, was \$2.72 per \$1,000 assessed valuation. He said other reasons for the difference were that many higher-value properties were located in the County's Enhanced Patrol District and the Urban Rural Maintenance District, contributing to the tax base of those districts rather than the City's tax base. He said several operational facilities for the Beaverton School District, the Tualatin Hills Park and Recreation District, and the Tualatin Valley Water District were located on industrial property in the City which reduced potential tax revenues from the City's industrial areas. He said there was also the issue of City tax payers subsidizing tax payers in the urban unincorporated areas when City police officers respond to emergencies in the unincorporated areas; or by allowing free use of the City Library by all County residents when only City tax payers paid the cost of the bonds used to build the Library. He said the opponents of annexation stated that the quality of the services provided by the City did not differ significantly from the service they now receive and was not sufficient to justify higher taxes.

Bergsma concluded by stating the Council should determine what is in the best long-term interest of its businesses and citizens. He reviewed the reasons the Council adopted the policy on island annexations (to minimize confusion about boundaries, to improve service provision, to control development/redevelopment of properties that will eventually be in the City boundaries, to complete neighborhoods and to increase the City's tax base). He said staff recommendation was that Council conduct the combined public hearings, followed by the first reading of the ordinances for the annexation applications before Council.

Coun. Ruby referred to the wall map and asked for clarification that not all the large areas in purple were islands; tonight the Council was only considering those areas that were surrounded by existing Beaverton boundaries.

Bergsma replied that was correct. He said some of the large areas in purple were islands, such as Cedar Hills, but the Council had not directed initiating annexation of these areas. He said Mayor Drake publicly stated he had no intention of initiating annexation of large areas for at least a year. He said the City wanted to work with the County to determine whether to annex the areas and what would be the best way to proceed.

Coun. Ruby confirmed with Bergsma that if the City ever decided to annex any areas that were not islands, it would have to consider an alternate method of annexation.

Coun. Stanton said the City also provided street sweeping which was a service she liked. She said she thought in the next year the City would work with the County to "do the math" on the cost of services provided by Washington County and those provided by the City of Beaverton, to come up with accurate information.

Mayor Drake said the intent was to balance some of the press reports and to give the County the opportunity to update its County 2000 Plan and then provide time for discussion and public input on that updated Plan.

Domomic Biggi, Beaverton, said he was testifying regarding annexation of his property on the corner of Millikan and Shannon. He said his family was not completely opposed to being annexed into the City. He said the annexation would raise the property taxes \$7,500 annually. He said the building on that lot was 70,000 square feet and was half-leased. He said if the annexation was approved, they would need to raise the rents and the market was not good right now. He asked that the Council consider this and allow them to come peacefully into the City.

Mark Perniconi, Vancouver, WA, said he represented the CE John Company, the owner of Lots 7 and 8 of Tektronix Business Park at Hocken and Millikan. He said past annexations were successful but in evaluating the Millikan Station Annexation it appeared to be a piecemeal attempt. He said if they were annexed at this time, while the larger Tektronix Campus next to them was not, they would be put at a significant competitive disadvantage. He said they would not object to the annexation if the whole area was brought in at the same time. He said as a company they supported Beaverton's annexation policy and felt it made a lot of sense. He asked that the City not put undue pressure on its two largest employers.

Barbara Block, Vice President Administrative Services, Tektronix, Beaverton, introduced herself and John Kaye, Manager of Real Estate and Facilities. Ms. Block read the letter she sent to Council regarding proposed Annexation 2004-0018, Millikan Way Station Area (in the record). She said they were concerned that: annexation without the owner's consent was unfair; they were satisfied with the service level and cost of service from the County; and annexation would raise the property taxes. She asked that the City reconsider its policy and work with local businesses.

Bob Frisbie, Facilities Director, Maxim Integrated Products, Beaverton, said they were located at the corner of SW Jenkins and Murray. He asked that the Council not follow through on its policy of annexing those who do not want to be annexed to the City. He said their top concern was that it would raise their property taxes \$237,000 annually. He said they had an excellent and close working relationship with Washington County. He asked that the City work with the property owners.

Mayor Drake asked Mr. Frisbie if he understood they were not being annexed tonight.

Frisbie replied he understood but they were under the same exemption as Tektronix and concerned for the future.

George Kringelhede, Aloha, said he owned property on Baseline and this annexation was a mystery to him. He said he already paid taxes for services which were satisfactory. He said the utilities were also satisfactory. He asked how annexation would improve his services. He said he was adamantly opposed to being annexed.

Henry Kane, Beaverton, read from his January 10, 2005, letter (page 22 of his February 6, 2005 letter) "Island annexations have been upheld and determined not to violate Constitutional rights in Rivergate Residents Assn. v. PMALGBC, 70 OR Appeal 205...". He said he filed a letter dated February 3, 2005 with the City (in the record). He asked that the record be kept open for seven days.

Joe Voboril, Portland, said he was representing Costco regarding Annexation 2004-0016, Elmonica and Merlo Light Rail Stations. He said the City never explained to Costco what was happening on this issue and the only contact Costco received was the notice of the hearing. He questioned why Costco was being annexed when other larger areas were not. He said this attempt at "cherry picking" high-value properties in the unincorporated areas was legally flawed and bad public policy. He asked that the City stop the process and work with the property owner to educate them. He said the long-term consequences of disgruntled citizens would outweigh any short-term gains in tax revenue.

John N. Neilsen, Aloha, said he was speaking on behalf of his father, Kaare M. Nielson who owned property at 640 SW 173rd Avenue, Annexation 2004-0016. He said his father owned this property for 30 years and operates a small family business from there. He said they learned of the annexation from a sign posted on their lawn. He said he did not recall receiving a letter from the City. He said he did not want to be annexed to the City and felt it would be better to let this happen in the long-term future.

Bill Bugbee, Beaverton, said he was a resident of Cooper Mountain. He said he was not a targeted property for annexation at this hearing; however, he was concerned for the future. He said annexation would increase their property taxes and there would also be additional cost for having to connect to the sanitary sewer system. He said the people in his area were opposed to annexation. He said this policy would have to be solved by the Legislature and he encouraged everyone affected by this issue to contact their legislator and try to amend ORS 195 which is the governing policy for forced annexation.

Janiece Staton, Beaverton, said she was a property owner and resident of the El Monica Meadows housing development. She said she found no compelling reason for the annexation. She said she did not vote for anyone on the Council, but she now had to appeal to them because of taxation issues. She said this was "taxation without representation." She said she did not understand why properties across the street were not being annexed. She said she was adamantly opposed to the annexation and it was not necessary.

Coun. Stanton said "taxation without representation" was a phrase used because colonists were being taxed and had no representation. She said in this case taxation would not start until the next cycle and residents would be represented as of the date they were annexed. She said it was not the case that residents outside of the City were already being taxed by the City.

Coun. Ruby asked Bergsma if Cooper Mountain would be an island annexation.

Bergsma replied Cooper Mountain was not an island area. He showed where Cooper Mountain was located on the wall map. He said the island annexation method could not be used in that area.

Coun. Ruby said for areas that were not islands, if the City wished to annex them sometime in the future there would have to be an election; or statutory action which at this time was largely discredited. He said there was need for reform in Salem. He stressed they were only discussing annexing island areas.

Julia Brim-Edwards, Beaverton, Director of State and Public Affairs, NIKE, said NIKE's campus was not affected by the annexations being considered at this meeting, but there was an indirect effect. She said NIKE was a major employer, a home-grown company with over 5,000 employees, and had made significant contributions to the community. She said the City's change in annexation policy raised issues related to trust and the long-term business climate in the region. She said certainty was highly desirable for a business to make long-term plans for the future. She said regarding annexation, this certainty could be provided if the City reaffirmed the right of property owners to consent to annexation. She said this guarantee could be provided at the State and local level. She said NIKE had immediate issues that were raised by the City's action which could not wait for an annexation study. She said the City was annexing a street tonight that was adjacent to their property and they may want to submit additional testimony.

Robert Aylwin, Tigard, asked that the record be kept open. He said he lived in an area that was being considered for annexation next month. He said under ORS 195 the City and County should have consulted with the area CPO prior to initiating the interim services agreement and that was not done. He said to change the City's annexation policy, caused people to lose credibility in their public officials and representatives. He said the road by his neighborhood was owned by ODOT and the City did not maintain it. He said this street annexation was done to deny them the right to vote on this issue.

Sheriff Rob Gordon, Washington County, said the Beaverton Police Department was a fine organization and any neighborhood would be well served by them. He said he was not speaking for or against any annexations being considered. He urged the Council to be cautious in using statistics. He said the staff reports said the quality of police service would improve with annexation. He said the numbers were accurate but that was a quality not a quantity issue. He said in the past there were statements to Council and in staff reports that Beaverton Police Department provided service to these island areas. He said he and his staff looked at these islands and could not find the data to support that statement. He said at a previous annexation hearing it was said 65% to 70% of the police calls were taken by Beaverton Police. He said they found that out of 634 calls, there were three that were taken by Beaverton Police and those were errors in dispatching. He said this was not about one agency being a better provider than the other. He asked that people be cautious in what they said, because it negatively impacts both the Sheriff's Office and the Beaverton Police Department.

Peter Stiven, Beaverton, Portfolio Manager, OPUS Northwest Management, said he represented Bold, LLC, the owners of the Cornell West Office Building on NW Bethany Boulevard (Annexation 2004-0017). He said he submitted a letter to Council dated February 4, 2005, (in the record). He said they questioned the authority of the City, under ORS 222.750, to include non-City streets to create an island area. He said any consideration of annexation by the City was premature until the County 2000 Plan was updated and a permanent Urban Service Area Agreement has been established between Washington County and the City. He said there were no current service deficiencies for their property and annexation did not offer any substantial improvement in the service level. He said the market for office rentals along Sunset Highway was extremely difficult with high vacancy rates. He said the tax implications for these properties were significant for the property owner as well as the tenants.

Scott Brown, Wells Real Estate Funds, said they owned a property adjacent to the NIKE headquarters on the west side. He distributed a letter to Council which delineated his Company's objections to the annexation (in the record). He summarized the objections noted in his letter. He asked how it was fair that a few commercial properties were forcibly annexed, while other neighboring properties were not and instead would be studied. He said there was no justification for the City to annex this property. He asked that the City not proceed at this time and that it treat all properties alike.

No one else wished to testify.

Mayor Drake closed the public hearing.

RECESS:

Mayor Drake called for a brief recess at 8:15 p.m.

RECONVENE:

Mayor Drake reconvened the meeting at 8:30 p.m.

Mayor Drake said the public testimony portion of the hearing was closed. He asked if there were any questions of City staff. There were none.

ORDINANCES:

First Reading:

Mayor Drake said Agenda Bill 05029 regarding Millikan Way, would be considered separately at the request of Coun. Bode.

Coun. Bode MOVED, SECONDED by Coun. Stanton that the rules be suspended and the ordinances embodied in Agenda Bills 05027, 05028 and 05030, 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, with the record to be held open for seven days. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

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

- 05027 An Ordinance Annexing Several Parcels Located in the Vicinity of the Elmonica and Merlo Light Rail Stations to the City of Beaverton: Annexation 2004-0016 (Ordinance No. 4338)
- 05028 An Ordinance Annexing Several Parcels Located in the Vicinity of the Sunset Highway and NW Cornell Road to the City of Beaverton: Annexation 2004-0017 (Ordinance No. 4339)
- 05030 An Ordinance Annexing Four Parcels Located in the West Slope Neighborhood to the City of Beaverton: Annexation 2004-0019 (Ordinance No. 4341)

Coun. Doyle MOVED, SECONDED by Coun. Ruby that the rules be suspended and the ordinance embodied in Agenda Bills 05029, 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, with the record to be held open for seven days. Couns. Arnold, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0:1) Coun. Bode said she abstained because she was the Manager of the Virginia Garcia Healthcare Clinic and has a business relationship with CE John Company.

City Attorney Alan Rappleyea read the following ordinance for the first time by title only:

05029 An Ordinance Annexing Several Parcels Located in the Vicinity of the Millikan Way Light Rail Station Area to the City of Beaverton: Annexation 2004-0018 (Ordinance No. 4340)

ACTION ITEM:

05031 Amicus Participation at the Court of Appeals in the City of Hillsboro's Appeal of Metro's Title 4 Decision.

Coun. Stanton MOVED, SECONDED by Coun. Bode that Council approve Agenda Bill 05031 Amicus Participation at the Court of Appeals in the City of Hillsboro's Appeal of Metro's Title 4 Decision. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ADJOURNMENT


There being no further business to come before the Council at this time, the meeting was adjourned at 8:40 p.m.

Deputy City Recorder


Sue Nelson, City Recorder

APPROVAL:

Approved this 14th day of February, 2005.



Rob Drake, Mayor