



FINAL AGENDA

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

REGULAR MEETING
MARCH 28, 2005
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PROCLAMATIONS:

Community Development Week: March 27 - April 2, 2005

PRESENTATIONS:

- 05051 Presentation of Shields and Swearing In of Three Officers to the Beaverton Police Department
- 05052 Presentation of Life Saving Commendation Plaque to Beaverton Police Department Sergeant and Officers

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

- Minutes of Joint Meeting of March 1 and Regular Meeting of March 7, 2005
 - 05053 Liquor License Application: Greater Privilege - Kingstad Center; Change of Ownership - Walker Road Chevron; New Outlet - Santa Fe Mexican Restaurant
 - 05054 Adopt Resolution Amending the Building Division Administrative Rules (Resolution No. 3811)
 - 05055 Authorize Mayor to Sign IGA with Washington County for Mosquito Abatement
- Contract Review Board:
- 05056 Award of Bid for Erickson Storm Drain and Sanitary Sewer Improvement, CIP (Capital Improvement Project) Project No. 8001D and Lombard Storm Drain Improvements

05057 Bid Award - Cedar Hills Boulevard Phase 3 Overlay Project

ORDINANCES:

First and Second Reading and Adoption:

05058 An Ordinance Relating to the Building Code, Amending Beaverton Code Sections 8.02.015(E), 8.02.030, 8.02.040, 8.05.020; Repealing a Portion of Beaverton Code Sections 8.02.015(A) and (B); Repealing Beaverton Code Sections 8.02.025 and 8.02.110; and Declaring an Emergency (Ordinance No. 4344)

First Reading:

05059 An Ordinance Relating to the Fire Code, Repealing Beaverton Code Sections 8.01.010, 8.01.033, 8.01.038, 8.01.043, and 8.01.900. (Ordinance No. 4345)

05060 An Ordinance Amending Beaverton Code Section 6.02.215 to Allow Use of Muffled Exhaust Braking on Emergency Vehicles (Ordinance No. 4346)

Second Reading:

05049 An Ordinance Annexing Several Parcels Located Generally in the Southern Portion of Beaverton to the City of Beaverton: ANX 2005-0001 (Ordinance No. 4342)

05050 TA 2004-0010 Utility Undergrounding Section 60.65 Amendment (Ordinance No. 4343)

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.

PROCLAMATION

OFFICE OF THE MAYOR CITY OF BEAVERTON



WHEREAS,

the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program has operated since 1975 to provide local governments with the resources required to meet the needs of person of low- and moderate-income, and CDBG funds are used by thousands of neighborhood-based, non-profit organizations throughout the nation to address pressing neighborhood and human service needs; and

WHEREAS,

the Community Development Block Grant program has had a significant impact in assisting low- and moderate-income individuals and families with home repair, fire and life safety, public and community services, and public facilities construction; and

WHEREAS,

Beaverton, Oregon, and other local governments have clearly demonstrated the capacity to administer and customize the CDBG program to identify, prioritize and resolve pressing local problems; and

NOW, THEREFORE,

I, ROB DRAKE, MAYOR, City of Beaverton, Oregon, do hereby proclaim the week of **March 27 - April 2, 2005**, as:

COMMUNITY DEVELOPMENT WEEK

in Beaverton, Oregon, and urge all citizens to join us in recognizing the Community Development Block Grant program and the important role it plays in our community.




Rob Drake
Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

10-23-05 11:14

SUBJECT: Presentation of Shields and Swearing In of
Three Officers to the Beaverton Police
Department

FOR AGENDA OF: 03/28/05 **BILL NO:** 05051

MAYOR'S APPROVAL:



DEPARTMENT OF ORIGIN:

Police 

DATE SUBMITTED:

02/22/05

PRESENTATION: Presentation

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$ 0	AMOUNT BUDGETED \$ 0	APPROPRIATION REQUIRED \$ 0
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HISTORICAL PERSPECTIVE:

The Beaverton Police Department is in the process of filling three officer positions that are vacant as a result of attrition. As part of the hiring process, these individuals are sworn in before the City Council during a brief ceremony.

INFORMATION FOR CONSIDERATION:

The department is pleased to swear in Robert Wolfe, Kevin Killian, and Caroline Bunte.

RECOMMENDED ACTION:

City Council offer their support to the new officers through a presentation made during the City Council meeting.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Presentation of Life Saving Commendation
Plaque to Beaverton Police Department
Sergeant and Officers

FOR AGENDA OF: 03/28/05 **BILL NO:** 05052

MAYOR'S APPROVAL:



DEPARTMENT OF ORIGIN: Police

DATE SUBMITTED: 03/15/05

PRESENTATION: Presentation

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$ 0	AMOUNT BUDGETED \$ 0	APPROPRIATION REQUIRED \$ 0
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HISTORICAL PERSPECTIVE:

On March 5, 2005, Sergeant Darren Fletchall and Officers Mandi Nicholson and Jeremy Shaw conducted a welfare check of an 83 year old female who had not been seen for almost a week. Once inside the residence, they found the woman had fallen and appeared to have been down for several days. After showing faint signs of life, Sergeant Fletchall and Officer Shaw began to administer CPR until Tualatin Valley Fire and Rescue personnel arrived.

INFORMATION FOR CONSIDERATION:

Tualatin Valley Fire and Rescue would like to present a plaque to Sergeant Fletchall and Officers Nicholson and Shaw commending their life saving efforts on March 5, 2005.

RECOMMENDED ACTION:

City Council support the presentation of these plaques.

BEAVERTON CITY COUNCIL AND
TUALATIN VALLEY WATER DISTRICT
JOINT MEETING MINUTES
March 1, 2005

DRAFT

CALL TO ORDER:

The Joint Meeting of the Beaverton City Council and the Tualatin Valley Water District was called to order by Mayor Rob Drake and TVWD Board President Jim Doane in the Tualatin Valley Water District Board Room at 6:35 p.m.

INTRODUCTIONS:

Present from the City were Mayor Rob Drake, Chief of Staff Linda Adlard, City Councilors Catherine Arnold and Dennis Doyle. City staff present were Assistant City Attorney Bill Scheiderich, Engineering Director Tom Ramisch, City Utilities Engineer David Winship, Finance Director Patrick O'Claire, City Recorder Sue Nelson and retired City Councilor Forrest Soth. Councilors Fred Ruby, Cathy Stanton, and Betty Bode were excused.

Present from TVF&R were: Board President Jim Doane, General Manager Greg DiLoreto, Debbie Erickson, Brenda Lennox, Dale Fishback, Clark Balfour, Todd Heidgerken, Richard Burke, Gordon Martin, Lisa Melyan, and Patty Rupp.

PRESENTATIONS:

Greg DiLoreto, General Manager, "Issues Facing Tualatin Valley Water District"

David Winship, Utilities Engineer, "1998/1999 Water Year"

There was general discussion following the presentations.

ADJOURNMENT: The meeting was adjourned at 7:20 p.m.

Sue Nelson, City Recorder

APPROVAL: Approved this _____ day of March, 2005

Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
MARCH 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, March 7, 2005, at 6:34 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, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop, Principal Planner Hal Bergsma, Budget Coordinator Joanne Harrington, Senior Accountant J.J. Schulz and Deputy City Recorder Catherine Jansen.

PROCLAMATION:

Mayor Drake proclaimed Sunday, March 20, 2005, Iranian New Year Celebration Day.

PRESENTATIONS:

05043 Presentation of the Distinguished Budget Presentation Award and Certificate of Recognition for Budget Preparation to Joanne Harrington for the City's FY 2004-05 Annual Budget Document

05044 Presentation of the Certificate of Achievement for Excellence in Financial Reporting and the Award of Financial Reporting Achievement to J. J. Schulz for the City's FY 2002-03 Comprehensive Annual Financial Report

Finance Director Patrick O'Claire said the Distinguished Budget Presentation Award and the Certificate of Achievement for Excellent in Financial Reporting were presented by the Government Finance Officers Association of the United States and Canada (GFOA). He said these were the two highest awards a municipality could receive for its budget presentation and annual financial report. He said Budget Coordinator Joanne Harrington was responsible for coordinating the budget and Senior Accountant J.J. Schulz was responsible for preparing the City's annual financial report. He said the City, Harrington and Schultz were being recognized by the GFOA for excellence in the field of Financial Reporting.

O'Claire presented the Award of Financial Reporting Achievement to J.J. Schulz for the City's Fiscal Year 2002-03 Comprehensive Annual Financial Report. He then presented the Certificate of Recognition for Budget Preparation to Joanne Harrington for the City's Fiscal Year 2004-05 Annual Budget Document. He commended Schulz and Harrington stating they were exemplary employees; two of the many fine employees in the Finance Department.

O'Claire presented the plaques for the Distinguished Budget Presentation Award and the Certificate of Achievement for Financial Reporting to Mayor Drake; stating they would be displayed in the Finance Department.

Coun. Stanton thanked the entire Finance Department staff for their diligence and excellent work.

VISITOR COMMENT PERIOD:

There were none.

COUNCIL ITEMS:

Coun. Doyle thanked the Councilors who attended the Tualatin Hills Parks and Recreation District's 50th Anniversary Celebration. He said it was an excellent celebration; he congratulated the Park District for 50 years of great service.

Coun. Doyle congratulated the Southridge Girls' Basketball Team for winning the State title. He wished the Westview and Jesuit Boys' Basketball Teams good luck as they had made it to the final eight in ratings.

Coun. Stanton said in the last two months the New Friends of the Library and the Library Foundation Board contributed over \$19,000 in cash to the Library. She said these funds were designated for the DVD's and Books on CD collections, at the request of the Friends and the Board. She said she appreciated the contributions these groups made and that they specified where they would like the funds used.

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 Meetings of February 14 and February 28, 2005

05045 Liquor License Application: Greater Privilege - Broadway Wines; New Outlet - Mio Sushi

05046 Traffic Commission Issues No. TC 569 - 572

05047 Transfer of Road Jurisdiction from Washington County to the City of Beaverton (SW Corby Drive, SW Shilo Lane, SW 117th Avenue) (Resolution No. 3810)

Coun. Stanton said she had a correction to the city council minutes for February 14 and she would abstain from voting on the minutes of February 28, 2005, as she was not at that meeting.

Coun. Bode said she would abstain from voting on the minutes of February 28, 2005, as she was not at that meeting.

Coun. Stanton said she appreciated the decision of the Traffic Commission to not put a signal light at Ridgecrest and Hall Boulevard (Traffic Commission Issue 569). She said the Commission decided this was not an appropriate use of City funds or an appropriate place for a signal, and installing a signal light at that location would delay the 125th Avenue Extension project. She thanked the Commission for that decision and said she wanted to see the 125th extension built in her lifetime.

Question called on the motion. Couns. Arnold, Bode, Doyle, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0) Couns. Bode and Stanton abstained from voting on the February 28, 2005 minutes.

PUBLIC HEARING:

05048 A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located Generally in the Southern Portion of Beaverton to the City of Beaverton: ANX 2005-0001

Community Development Director Joe Grillo read a prepared statement defining the process to be followed for this hearing. He said the City had received two requests that the record be kept open. He said staff was recommending that the record be kept open for seven days, until Monday, March 14, 2005, at 5:00 p.m. He said staff would submit a staff report responding to the written comments that were received; the report would be available by Monday, March 21, 2005, by 5:00 p.m.

Principal Planner Hal Bergsma said this was the third phase of island annexations Council directed staff to initiate. He said Council initiated this annexation through Resolution No. 3802 and it was processed through the City's island annexation policy. He said Notice of the Hearing was provided in compliance with the Metro Code and ORS. He said Notice of the Hearing was sent to property owners in each area, as well as the County's Citizen Participation Organization and the Citizens Neighborhood Committee for each area. He said the hearing notice and the staff report were also posted on the City's Web site.

Bergsma said this application was consistent with the intergovernmental agreement between the City and Washington County, signed December 22, 2004, that set the Interim Urban Services Area for the City. He said under the provisions of that agreement, the City would not annex areas outside of the Interim Urban Services Area without County consent and the County would not oppose annexation within the Interim Urban Services Area.

Bergsma concluded it was staff's recommendation that Council conduct the public hearing, followed by the first reading of the ordinance for this annexation application.

Coun. Ruby said one of the areas being considered was the condominium area adjacent to the Redtail Golf Course. He asked the status of the golf course. He said he thought a sewage access issue caused the transfer of the golf course from Portland to Beaverton, but he was not sure where that situation was left.

Bergsma said the annexation of the Redtail Golf Course began when the course needed to connect to the City's storm drain system on Scholl's Ferry Road. He said the parties agreed to a delayed annexation which was effective on June 30, 2004.

Coun. Bode asked Bergsma to explain the Washington County 2000 Policy and what planning went into forming the policy.

Bergsma said the Washington County 2000 Policy was adopted by the County Commissioners in 1986 and updated in 1994. He said this policy states the County wants to get out of the business of providing municipal services and that responsibility should be taken over by cities and special districts. He said as an interim measure, the County established the Enhanced Sheriff's Patrol District and the Urban Road Maintenance District, with the understanding that these were interim providers and as areas were annexed they would come out of those Districts. He said that was the case for the annexations being considered at this hearing.

Mayor Drake opened the public hearing.

Steven Fitzgerald, Brightfield Village Condominiums, said his neighborhood was regulated by a Condominium Association with private streets; they do not receive City street services. He asked what benefit they would get from annexing to the City. He said he had nothing against the City taking over Brightfield and he hoped he would get better police coverage than what Washington County has provided.

Coun. Bode asked Fitzgerald if he had ever heard of the Washington County 2000 Plan.

Fitzgerald replied he was aware of that plan.

Susan Gysel, West Slope Raleigh Hills, said she felt the residents did not have a choice in this annexation and it was a not a democratic process. She said citizens needed to have a vote on their own fate. She said the unincorporated residents were being demonized by propaganda which insinuated they consumed services for which they do not pay. She said this was creating enmity and asked that the City keep its promise to only accept requested annexations.

Mayor Drake said he spoke earlier with Gysel and he noted her property was not being considered at this hearing.

Gysel replied it was not, but said it was in the ten-year plan. She said she was speaking in solidarity for those people being annexed against their will.

Scott Russell, 155th Avenue/Scholls Ferry Road, said he represented his family who has owned land since the mid 1960's. He said they were opposed to this annexation and did not need or use City services at this time. He said he was told his property would not be annexed until it was developed.

Richard Carson, SW 155th Avenue, said he had lived in the area since August and he would not have purchased the property if he had known of the annexation plans. He said there weren't any advantages for him to belong to the City and the cost for City services was higher than what he currently pays. He said he did not receive notification of the annexations and if regulations required 45 days notification prior to the hearing, the City was not in compliance. He said most of the land being annexed in this area was covered with trees and would end up being cleared if annexed. He said he opposed the annexation.

Coun. Stanton referred to Carson's comments concerning public noticing and asked staff if notices were sent in a timely and legal fashion.

City Attorney Alan Rappleyea said the notice was sent in a timely and legal fashion. He said the requirements were that notices be sent 45 days prior to the date of decision, and the date of decision would be in two weeks (March 28, 2005).

David Weitzer, SW Scholls Ferry Road, said he owned property for 25 years. He said he believed it was less efficient for the County to provide these urban services; however, his taxes would increase between \$500 and \$800 annually if annexed. He said he had a bamboo and herb farm on the land; it was a small family-run business. He said the City was densely populated and suggested the City could use the productivity of high density in order to lower taxes. He said the high cost was one of the biggest difficulties the residents had with the annexation. He asked that the City carefully review the cost effectiveness of its service administration and its expenditures, to determine why the cost increase is so high.

Robert Aylwin, Brightfield Village Condominiums, asked that the record be kept open for seven days. He said he did not understand how the citizens of Bull Mountain were able to vote on their annexation to Tigard, and those in Beaverton were not. He said Hall Boulevard was owned by the State of Oregon, not the County as stated in the staff report. He listed the urban services in the staff report and said none of these service providers would change for his parcel if annexed. He said the only change would be in police coverage and at \$2.72/\$1000 he felt the cost was outrageous. He said there were side deals made with companies for tax abatements, discounts and deferred status and they were not given such benefits. He said County Chair Tom Bryan made the statement that the cost of services needs to be sorted out. He asked that the City wait until the County 2000 Plan is updated and the legislature acts on the bills being presented.

Coun. Stanton asked Weitzer how his land was zoned and if had a farm deferral.

Weitzer said he believed the zoning was R9 and he did not have a farm deferral. He said he had not followed up on getting information for a farm deferral.

Mayor Drake asked Grillo if staff had sent a correction clarifying that Hall Boulevard was owned by the State and that there weren't any side deals approved by the City Council regarding any of this year's or December's annexations.

Grillo confirmed a memo was sent stating Hall Boulevard was owned by the State and he was unaware of any side deals regarding any of these annexations.

Mayor Drake asked if the area where Aylwin lived was included in the Enhanced Sheriff's Patrol, the Urban Road Maintenance and the County's Lighting Districts.

Grillo replied the area was in the Enhanced Sheriff's Patrol and Urban Road Maintenance Districts, and would be removed from those districts if annexed. He said he was not certain if that area was in the Lighting District.

Kathryn Sayles, SW Kemmer, Aloha, said the Council supported the residents of the unincorporated area a year ago when the Tualatin Hills Park & Recreation District tried to incorporate them and she was bewildered by the Council's turn about now. She said the Council had a bond with these residents not to force annexation. She asked that the City not go any further as it was ruining its reputation with distorted information. She said studies would show there wouldn't be any benefits to the people being annexed.

Henry Kane, Beaverton, said he filed two motions; one to keep the record open seven days after the hearing and the other to ensure that when new material was submitted to the City that he receive it immediately instead of 24 hours later. He said he could not find that the County was providing any urban services to these islands. He said the Tualatin Valley Water District, the Tualatin Hills Park & Recreation District and Tualatin Valley Fire & Rescue District were not operated by the County. He said the City had not obeyed the Metro Code and had not allowed the citizens the right to vote on this issue.

Mayor Drake noted James Lyons, Brightfield Circle, submitted a testimony card in opposition to the annexation.

Osborn Blanchard, Brightfield Village Condominiums, said one of the areas being annexed was not an island. He said in the years he lived in Brightfield he had never seen Beaverton Police patrol their area. He said they would not be getting anything in return for the annexation except higher taxes. He said if he had wanted City services he would have moved to Beaverton. He said commercial entities were receiving special benefits for annexation. He asked that the City wait until the 2000 Plan is validated and the Legislature acts on the bills currently pending.

John Thomas, Raleigh Park, said his neighborhood was not affected by this annexation but he shared many of the concerns voiced earlier. He said these neighborhoods had all municipal services provided by districts. He said there were only two services where the City could questionably provide better service; police and roads. He said he and his neighbors were happy with the Enhanced Sheriff's Patrol District. He said it might make sense for the County to get out of the road business if all the roads were maintained by the State or a municipality. He said traffic in Beaverton was an increasing problem and in the last ten years it had become intolerable. He said he avoided downtown Beaverton because of the traffic. He said he questioned if he wanted to trust his neighborhood and

its roads to the governmental body in charge of the roads in Beaverton. He said he had low confidence his neighborhood would be well served by the City.

Mayor Drake explained to Thomas that Beaverton-Hillsdale Highway and Canyon Road were State roads and most of the major arterials in the area belong to the State or the County. He said whether one lived in the City or County there was not enough money to maintain these roads. He said the County has grown without the requisite funds needed to maintain these services. He said the City could not set the tone for State highways because they were funded by everyone in the State. He said probably the roads Thomas referred to were roads the City does not maintain or fund.

Joe Willis, attorney, Schwabe, Williamson & Wyatt, representing NIKE, expressed concern that the City was moving forward with more annexations. He said from what he read and heard from persons speaking on behalf of the City, he thought there was a commitment that the annexation process was going to be put on hold for the near term.

Mayor Drake said he personally talked with Willis's representatives and the City has represented all along that it had a series of annexations it would conclude and once they were concluded the City would stop and call a timeout. He said there was NIKE staff at the Citizen Participation Organization (CPO) meeting in January when he explained that once the City had finished the announced annexations, the City would stop and have a three-way conversation with people from the unincorporated areas, the County and the City. He said the City was being consistent with that process.

Willis asked what commitment NIKE had from the City that the annexations in the near term would stop.

Mayor Drake said the City had made its statements. He said once the City finished this annexation and the Cornell Oaks properties, the City will have completed its work for the short term. He said the City called for a County-wide discussion and for the County to update County 2000 Plan.

Coun. Stanton said an agreement was signed with Cornell Oaks ten years ago and it was annexed as scheduled per a development timeline. She said that timeline was concluded. She said Cornell Oaks was not part of the package the Council considered in November, 2004, and neither was NIKE.

Willis said having read the newspapers he was surprised to see the annexations continuing.

Mayor Drake repeated the City was proceeding with the annexations it announced and the Cornell Oaks annexation which was deferred for ten years; it would then call for a timeout. He said the City was being consistent with what was announced.

Steve Munch, Raleigh Park, said six years ago SW Laurelwood, Birchwood and 87th Avenue were annexed into the City, in a "stealth" annexation. He said the neighborhood was not notified of it. He said the residents circulated a petition and when they had 50% of the residents' signatures the petition went to the City and it was approved. He said that split the Raleigh Park neighborhood in half. He said this was prompted because the County wanted to put in a road in that area and the residents fought the County because

they feared it would be a thoroughfare. He said the result of that annexation was that the City put in speed bumps, which slowed the fire response, and photo radar. He said this had not preserved or enhanced their sense of community, and it had not ensured a safe and healthy community. He said many people were cut off by these artificial islands. He said he and others in the neighborhood opposed this annexation and felt annexation should only occur when it is requested.

Coun. Stanton told Munch that over ten years ago she was at a meeting at the County when residents from the Laurelwood and Birchwood neighborhoods were trying to get the County to do a study because of cut through traffic between Canyon Road and Beaverton-Hillsdale Highway. She said the citizens eventually went to the City for relief because the County would not help them. She said those residents circulated annexation petitions and got signatures from the residents, so speed bumps could be installed on that street to slow the traffic. She said they also asked for the photo radar to slow the traffic. She said that was how the City became involved and the annexations between Laurelwood and Birchwood were citizen driven.

Munch said he agreed with Coun. Stanton but they did not want to be annexed.

Don Peterson, SW Davis Road, said he and his wife were objecting to the annexation on economic terms. He said they could not see improvements in service if they were annexed and yet their property taxes would increase. He said his services were adequate as they currently exist, including police coverage. He said he owned a sizeable piece of property and their zoning benefits would be diminished if annexed to the City.

Mayor Drake told Peterson that under an agreement with the County, when a property is annexed the City is required to give the property the same zoning they had in the County, or as close to it as possible if an identical zone is not available. He referred Peterson to Joe Grillo to determine the current zoning on his property and what the zoning would be under the City.

David Williams, SW 155th Avenue, said he used to be one of those islands and they had to deal with a County who would not pave a major road or provide any services. He said they annexed to the City and now the road was paved and he had utilities. He thanked the City and said while the County would not help, the City stepped in and took care of things quickly. He thanked the City for helping and improving 155th Avenue. He said his current neighbors did not live there when there were pot holes two feet deep and it was risky to use the road.

There was no further testimony.

Mayor Drake closed the public hearing.

Coun. Ruby said in relation to the annexation issues, he wanted to speak on the role of the Council and the leadership role of the Mayor's Office. He said in November the Mayor made a good case to the Council that a more aggressive policy on island annexation was justified to frame and normalize the boundaries of Beaverton. He said the Mayor made a case that this issue had been discussed between the County, the City

and other agencies for a long time, though no one wanted to take action. He said island annexation was forced annexation and the Council takes it very seriously.

Coun. Ruby said from his perspective, in determining how the island annexations were carried out and which properties were targeted for island annexation, it was his role to defer to the Mayor's leadership because the Council does not have the ability to evaluate all the properties to determine the best properties to carry out that policy. He said he deferred to the Mayor and staff to decide how the island annexations should be determined. He said for those areas that were not islands, further action and legislative scrutiny will be required to determine how that would be carried out. He said manipulating elections, as proposed by the Park District, was not the best way to handle annexations. He said in some measure the more limited forced annexations, were more accountable and honest with the voters.

Coun. Bode said the City's purpose was to make the City's boundaries more logical and there was a rationale to how the parcels were selected. She said the State Legislature adopted State statutes that defined how properties would be annexed. She said the County stated in its long-term plan that it wanted the cities to take in these unincorporated areas because the County did not want to provide urban services. She said the City looked at its contractual and working relationships as a city within a county; and it looked at the legislation and the County goals to determine what should be done. She said throughout the State, counties and cities were looking at the annexation issue and realigning themselves. She said in order for a community to grow there has to be a little stretch. She said she found it frustrating to see misinformation in the printed media, though it does make people want more information which is available on the City's Web site. She stressed this involved the State, the County and the City; it was the whole continuum of how Oregon is changing. She added this was long-term planning to determine what communities will look like in the future. She said amongst all the cities, Beaverton took a step forward and acknowledged this was the plan and readjustments were needed. She said the City stepped up to the plate because the legislation was in place, the County's goal was in place and someone needed to start.

Coun. Stanton said she supported Coun. Bode's comments. She referred to a comment Sayles had made and explained any seated Council could not bind a future Council. She said she was part of the Council that had previously said there wouldn't be forced annexations. She said this was not about forcing annexations and the City was not taking over communities. She said she was most comfortable with this annexation package, of all the ones done since the policy was issued last November, because this was about aligning and straightening the City boundaries. She said normalizing the City boundary was a big pro to her for annexation. She said this was the most responsible annexation package as these areas were completely surrounded by Beaverton and there weren't any road annexations involved. She said she would definitely support this annexation.

Coun. Arnold said annexation was not a new issue and it has always been a difficult issue. She spoke about other areas in the country that had experienced problems with unincorporated island areas. She said cities in the east suffered from the donut syndrome, where the urban areas incorporated into cities that surrounded the central city and then the central city did not have a tax base to maintain its infrastructure and services, so the inner city crumbled. She said in 1993 Oregon passed SB 122 to direct

cities and counties to define what made sense for providing urban services. She said now, in 2005, these things were defined and this should not be a big surprise to anyone as it has been around for a long time. She said she hoped the Legislature would review what had been done since 1993. She said she was glad there were going to be discussions on the long-term annexation plans. She said she understood how those opposing the annexation felt it was unfair; however, these islands were entirely surrounded by Beaverton and sooner or later those areas would be part of the City. She said it made sense that these areas be part of the City.

Coun. Doyle said he had made it clear to the many people with whom he has come in contact, that for any additional action to occur there would have to be a community and county-wide discussion to determine where the communities want to go. He said the County has been talking about this for a very long time and City finally took the initiative and an agreement was finalized with a possible ten-year plan, which showed possible annexations in the long-term. He said as long as he is able to vote, this would be done jointly. He said he understood some people were unhappy about this, but he also served the 80,000 citizens in Beaverton. He said this would proceed as a community from this point forward.

ORDINANCES:

Suspend Rules:

Coun. Doyle MOVED, SECONDED by Coun. Bode, that the rules be suspended, and that the ordinances embodied in Agenda Bills 05049 and 05050, 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, and that regarding Agenda Bill 05049, the record will be kept open for seven days until March 14, 2005 at 5:00 p.m. 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:

05049 An Ordinance Annexing Several Parcels Located Generally in the Southern Portion of Beaverton to the City of Beaverton: ANX 2005-0001 (Ordinance No. 4342)

05050 TA 2004-0010 Utility Undergrounding Section 60.65 Amendment (Ordinance No. 4343)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 8:12 p.m.

Catherine Jansen, Deputy City Recorder

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

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: Adopt Resolution Amending the Building
Division Administrative Rules

FOR AGENDA OF: 3-28-05 **BILL NO:** 05054

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 3-4-05

CLEARANCES: City Attorney 

PROCEEDING: Consent

EXHIBITS: Resolution
Administrative Rules - Exhibit A

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

As authorized by Beaverton Code 8.02.020, the City Building Official has adopted rules of procedure for the administration of the building code. These rules are known as the Building Division Administrative Rules (Administrative Rules) and among other items include regulations for permit expiration, stop work orders, and assessing an investigation fee for working without a permit required by the City Building Code. From time to time, the City Building Official finds it necessary to modify the Administrative Rules to keep current changes in state-adopted Building Codes and Building Division procedural needs.

INFORMATION FOR CONSIDERATION:

The City Building Official has drafted proposed amendments to the Administrative Rules (attached as Exhibit A) to update references to new State Building Codes and modifications to permit expiration procedures. In order to provide validity as to purpose and intent of the Administrative Rules, the City Building Official recommends the Council approve the attached resolution adopting the amended Administrative Rules.

RECOMMENDED ACTION:

Council to adopt the attached resolution amending the Building Code Administrative Rules.

RESOLUTION NO. 3811

A RESOLUTION AMENDING THE BUILDING CODE ADMINISTRATIVE RULES

WHEREAS, as authorized by BC 8.02.020, the City Building Official may adopt amendments to the City Building Code Administrative Rules from time to time as needed in order to efficiently administer the Building Code and will bring such amendments before the City Council for ratification; and

WHEREAS, the Building Code Administrative Rules, Section 103, references an outdated State Building Code; and

WHEREAS, the Building Code Administrative Rules, Section 301.4, needs clarification for the process of expiring a permit; and

WHEREAS, the amended Building Code Administrative Rules, Section 103, references current State Codes and clarifies the process for expiring a permit; and

WHEREAS, the City Council desires to approve the amended Building Code Administrative Rules; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAVERTON, OREGON:

Section 1. The Council hereby approves the Building Code Administrative Rules attached as Exhibit A to this Resolution. The Building Code Administrative Rules shall be effective on April 1, 2005 as to all permits filed on or after that date.

Section 2. This resolution shall take affect on April 1, 2005.

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

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

Ayes: _____

Nays: _____

ATTEST:

APPROVED:

SUE NELSON, CITY RECORDER

ROB DRAKE, MAYOR

Administrative Rules – City of Beaverton Building Division

SECTION 101 TITLE, PURPOSE, AND SCOPE

101.1 Authority. These administrative rules are adopted under authority of City of Beaverton Ordinance 3978 and shall apply to all applications for building permits received on after the effective date of that Ordinance and as to all work performed on buildings and building service equipment subject to the Codes adopted by that Ordinance on and after that effective date.

101.2 Purpose. The purpose of this code is to establish uniform performance standards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

SECTION 102 APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT

102.1 General. Buildings and service equipment subject to additions, alterations or repairs shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

102.2 Additions, Alterations, or Repairs.

(A.) Additions, alterations or repairs to a building or service equipment do not require that the existing building or equipment comply with all requirements of current technical codes if the addition, alteration or repair conforms to that required for a new building or service equipment; provided further, that the addition, alteration or repair:

- (1) Shall not cause the existing building or service equipment to violate the provisions of the technical codes, nor cause the existing building or service equipment to become structurally unsafe or overloaded, or exceed rated capacity, or not allow for adequate egress in compliance with the Building Code or obstruct existing exits, or create a fire hazard, reduce required fire resistance, create a health hazard or otherwise create conditions dangerous to human life; and
- (2) If involving a change in use or occupancy, not cause the building to exceed the height, number of stories and area permitted for new buildings; and,
- (3) Shall not cause an existing building not in compliance with the current Building Code to be more hazardous to fire or life safety or sanitation than before the addition or alteration.

(B.) Alteration of existing structural elements, or addition of new structural elements not required by the Building Code in effect at the time of original construction and intended to increase the lateral-force-resisting strength or stiffness of an existing structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

- (1) The capacity of existing structural elements required to resist forces is not reduced, and
- (2) Lateral loading to required existing structural elements is not increased beyond capacity; and

- (3) New or relocated non-structural elements are detailed and connected to existing or new structural elements as required by these regulations, and
- (4) The alteration or addition does not create an unsafe condition as described in Section 102.2A, above.

(C.) Alterations or repairs to an existing building or structure which are non-structural and do not adversely affect a structural member or a part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the Building Official. Installation or replacement of glass shall be as required for new installations.

(D.) Minor additions, alterations and repairs to existing service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the Building Official, if they do not cause the existing service equipment to become unsafe, unsanitary, or over-loaded.

102.3 Existing Installations. Building service equipment lawfully in existence at the time of the adoption of the technical codes may be used, maintained or repaired according to the original design if the equipment does not present a hazard to life, health or property.

102.4 Existing Occupancy. Buildings in existence at the time of the adoption of Ordinance 3978 may be used or occupied if the use or occupancy conforms to the Building Code in effect at the time of occupancy and provided that continued use is not dangerous to life, health, or safety. A change in the use or occupancy of an existing building or structure shall comply with the provisions of the Building Code.

SECTION 103 DEFINITIONS

For the purpose of these rules the following words and phrases shall mean:

ADDITION is an extension or increase in floor area or height of a building or structure.

ALTER or **ALTERATION** is a change or modification in construction or building service equipment.

APPROVED as to materials, types of construction, equipment and systems, means approval by the Building Official based on objective criteria.

BUILDING CODE is the Structural Specialty Code, as adopted by BC 8.02.015(A).

BUILDING, EXISTING is a building erected, or one for which a legal building permit has been issued, prior to the adoption of this code.

BUILDING SERVICE EQUIPMENT refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire fighting and transportation facilities essential to the occupancy of the building or structure for its designated use.

DANGEROUS BUILDING CODE is that adopted by BC 8.02.015(F).

ELECTRICAL CODE is that adopted by BC 8.02.015(D).

LISTED and **LISTING** are terms referring to equipment and materials which are shown in a list published by an approved testing agency, qualified and equipped for experimental testing and maintaining an adequate periodic inspection of current productions and which listing states that the material or equipment complies with accepted national standards which are approved, or standards which have been evaluated for conformity with approved standards.

MECHANICAL CODE is that adopted by BC 8.02.015(B).

~~**ONE AND TWO FAMILY DWELLING RESIDENTIAL SPECIALTY CODE**~~ is that adopted by BC 8.02.015(E).

PLUMBING CODE is that adopted by BC 8.02.015(C).

STRUCTURAL OBSERVATION means the visual observations of the structural system, including but not limited to the elements and connections at significant construction stages and the completed structure, for general conformance to the approved plans and specifications. Structural observation is not a substitute for the inspections required by Sections 108 and 1701 of the Building Code.

TECHNICAL CODES refers to those defined in BC 8.02.015 (A through G).

~~**U.B.C. REFERENCE STANDARDS**~~ are those published in Volume 3 of the Uniform listed in the Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

VALUATION or **VALUE**, as applied to a building and its building service equipment, shall be the estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

SECTION 104 CONFLICTING PROVISIONS

(A.) In case of conflict between provisions of this code, the technical codes and other codes or laws, the most restrictive shall govern.

(B.) In case of conflict between provisions of the technical codes, those provisions providing the greater safety to life shall govern.

(C.) In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

(D.) Where in a specific case different sections of the technical codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern.

(E.) In case of conflict between specific and general requirements, the specific shall govern.

(F.) In case of conflict between provisions of these administrative rules and provisions of a technical code adopted within the City, the technical code shall prevail.

(G.) In case of conflict between these rules and the City Code or state statute, the statutes or the Code, in that order, shall govern.

SECTION 105 ALTERNATE MATERIALS, METHODS OF DESIGN, AND METHODS OF CONSTRUCTION

The provisions of the technical codes are not intended to prevent the use of any alternate material, a method of design or method of construction not specifically prescribed therein provided that the alternate has been approved and its use authorized by the Building Official. The Building Official may approve an alternate if the proposed design complies with the intent of the technical codes and the material, method or work offered is, for the purpose intended at least the equivalent of that prescribed in the technical codes in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The Building Official may require a showing of proof to substantiate claims made regarding use of an alternate. The Building Official shall keep a record of the process used to approve an alternate as a City business record.

SECTION 106 MODIFICATIONS

If the Building Official finds that unique circumstances present practical difficulties to implementing specific provisions of the technical codes, the Building Official may grant modifications that conform with the intent and purpose of the technical code and do not lessen health, life safety and fire safety requirements or any degree of structural integrity. The Building Official shall keep the record of any action granting modification(s) as a City business record.

SECTION 107 TESTS

Whenever there is insufficient evidence of compliance with the provisions of the technical codes or evidence that materials or construction do not conform to code requirements, the Building Official may require tests, by an approved agency, to show compliance at the expense of the permittee. Test methods shall be as specified by the technical codes or by other recognized test standards. If accepted test methods are unavailable the Building Official shall determine the appropriate test. The Building Official shall keep reports of such test as a City business record.

107.1 Testing of Systems. All plumbing systems shall be tested and approved as required by the Plumbing Code and these rules.

107.2 Observation. Testing of plumbing systems shall be conducted in the presence of the Building Official.

107.3 Water Piping. Each completed section and the entire hot and cold water supply system, it shall be tested and proved watertight to not less than the intended working pressure. Potable water shall be used for such tests. A fifty (50) pound per square inch (344.5 kPa) air pressure may be substituted for the water tests. In either method of test, the piping shall withstand the test without leaking for a period of not less than fifteen (15) continuous minutes.

107.4 Test Waived.

A. No test or inspection shall be required of a plumbing system or fixture(s) set up for display only with no connection to a water or drainage system.

B. In cases where it would be impractical to provide water or air tests, or for minor installations and repairs, the Building Official in his/her discretion may make such other form of inspection as deemed advisable to assure the work is performed in accordance with these rules and with the Plumbing Specialty Code.

107.5 Tightness. Joints and connections in the plumbing system shall be gas-tight and watertight for the pressures required by the test.

SECTION 201 AUTHORITY

Enforcement of the codes adopted by Ordinance 3978 shall be by the Building Official. The terms “administrative authority,” “responsible official,” “chief inspector,” “code enforcement officer,” or other similar designation used in these rules or in any of the technical codes, shall mean the City Building Official.

SECTION 202 POWERS AND DUTIES OF BUILDING OFFICIAL

202.1 General. The Building Official may interpret these rules and the technical codes in conformity with their general intent and purpose.

202.2 Deputies. The Building Official may delegate some or all of the duties entrusted to him or her under the City Code and these rules to technical officers and inspectors employed or under contract to the City.

202.3 Right of Entry. When necessary to enforce the provisions of the City Code or these rules and when the Building Official has reasonable cause to believe that there exists a condition in violation of the City Code which presents a risk of bodily injury or property damage, the Building Official may enter private premises at reasonable times to inspect for such violation, provided that if such building or premises is occupied at the time of entry, the Building Official or deputy shall first show credentials to the occupant and request entry. If the premises are unoccupied, the Building Official first shall make a reasonable effort to locate the owner or other person in control of the premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by City Code and state law to secure entry.

202.4 Stop Work Orders. The Building Official may order work done in violation of the codes adopted by Ordinance 3978 or these rules to stop by notice in writing served on persons engaged in the work. A stop work order shall remain in effect until removed by subsequent order of the Building Official. A person who fails or refuses to obey a Stop Work order commits a violation of City Code.

202.5 Use and Occupancy Violations. The Building Official may order the use or occupancy of a building or structure or building service equipment in violation of City Code to discontinue by written notice served on any person in control of premises where the violation exists. A person who fails or refuses to obey such an order commits a violation of City Code.

SECTION 301 PLANS AND PERMITS

301.1 Issuance.

(A.) An application for a building permit including plans, specifications, computations and other data included with the application may be reviewed by other City departments and by the Fire Marshall for compliance with other City, state, and federal laws. The Building Official shall issue a permit only after receipt of payment of the prescribed application fees and on finding that the work described in an application and the plans, specifications and other data submitted therewith conform to the requirements of the technical codes and these rules. Issuance of a building permit does not signify compliance with other City, state or federal laws reviewed by other City departments or the Fire Marshall, and the Building Official may withhold issuance of a building permit for work known to the Building Official not to comply with other relevant local, state and federal laws. When plans are required as part of an application for a permit, the Building Official shall endorse in writing or stamp the plans and specifications on which the permit relies, "APPROVED." "APPROVED" plans and specifications shall not be changed, modified or altered without authorization from the Building Official, and all work regulated by Ordinance 3978 and these rules shall conform to the plans marked "APPROVED."

(B.) The Building Official may issue a permit for the construction of part of a building, structure or building service equipment before the plans and specifications for the entirety have been approved, provided that the applicant submits adequate information and detailed statements complying with all pertinent requirements of the technical codes. The holder of a partial permit may proceed at its own risk without any right to rely on an assumption that the permit for the entire building, structure or equipment will be granted.

301.2 Suspension or Revocation. A permit issued in error or on the basis of incorrect information supplied that would allow building activity in violation of Ordinance 3978 or these rules is voidable by the Building Official and the Official may, by written notice, suspend or revoke all or part of any such permit so issued. Suspension or revocation of all or part of a building permit constitutes an order to stop work on the activity authorized by the permit.

301.3 Retention of Plans. The City shall retain one set of approved plans, specifications and computations according to the State Archivist's retention schedule except for one and two family dwelling projects, for which the items submitted shall be retained for a period not less than one year after completion of the work authorized. One set of approved plans, specifications, and

computations shall be returned to the applicant to be kept on site at all times during which the work on a site under the permit is in progress. A permit application and all items submitted therewith shall constitute a public record under Oregon law. The City will make a good faith attempt to prevent disclosure as a public record of any matters submitted, other than the application itself, of that the applicant in writing denotes as a "trade secret."

301.4 Expiration.

(A.) A permit issued under provision of Ordinance 3978 shall expire and have no further legal force and effect if the work authorized by the permit is not commenced within 180 days from date of issuance or if the work authorized by such permit is suspended or abandoned for 180 days or longer anytime after the work is commenced. The work may not resume unless a new application is submitted and a new permit is obtained. The fee for a permit to resume work that was suspended or abandoned under an earlier permit shall be one-half the amount otherwise required for a new permit for such work if the plans and specifications for the work are unchanged and if the application is received within one year from the date of suspension or abandonment. The date of suspension or abandonment shall be deemed to run from the date of the last inspection recorded by the Building Official; or where no inspections have been recorded, the date of issuance of the permit; or the date on which the applicant notified the Building Official in writing that the work has suspended or been abandoned, whichever is earliest. For the purposes of this section, an inspection shall mean a normal and customary milestone inspection that would be necessary and typical for a particular type of permit, as determined by the Building Official.

(B.) The Building Official may, on written request of a person holding an unexpired permit, extend the time for which the permit remains valid on a showing satisfactory to the Building Official for reasons beyond the permittee's control for failure to commence work within the time allowed. No permit shall be extended for more than 180 days at a time and no permit extended more than twice.

301.5 Expiration of Plan Review. An application for a building permit shall be deemed to expire and be of no further legal effect if the applicant does not obtain the permit within 180 days after the application is approved or within 180 days after the date that the Building Official informs the applicant the application is incomplete or incorrect, whichever is later. Plans and other data submitted for review may be retrieved by the applicant and if not retrieved may be destroyed by the Building Official. The Building Official may, on written request of a person who has filed an unexpired application, extend the time for which the application remains valid on a showing satisfactory to the Building official of reasons beyond the persons' control for its failure to obtain a permit within the time required. No application shall be extended more than twice.

301.6 Penalty Fee for Work Without a Permit. Work that is commenced without the permit(s) required by Ordinance 3978 or these rules shall stop on order of the Building Official and may not resume without submission of an application and issuance of a permit for such work. The fee for the application shall be the permit fee otherwise required for such an application, and in addition, an investigation fee (penalty) in an amount equal to the permit fee shall be required. Payment of such fee shall be in addition to and not in lieu of any other remedy

available to the City for the commencement of work without the required permit(s), unless the Building Official determines it was not reasonably possible to obtain a permit before commencing the work, or the Council reduces the penalty on appeal after conducting a public hearing on the matter in accordance with Section 301.7 of these rules. Payment of the penalty shall not relieve or excuse a person from the forfeitures imposed for violation of BC 8.01.010-.100 and/or conformance with Code requirements. Payment of the penalty shall not foreclose any other enforcement provisions.

301.7 Appeal Authorized.

(A.) Any person aggrieved by the action, decision or interpretation of the Building Official pertaining to the provisions in Section 301.6 of these administrative rules may appeal to the Council by filing the following with the City Recorder:

(1) A written notice of appeal specifying the basis of the appeal; specific legal and factual basis for appeal; the specific reasons why the appellant contends that the Building Official's action, decision, or interpretation is incorrect or is not in conformance with the applicable requirements; and specific facts showing the appellant has a substantial interest in the action, decision, or interpretation and that the Council's decision will have a practical effect on the appellant, and

(2) An appeal filing fee, unless the appeal is filed by or on behalf of the Mayor or another public agency or is waived by motion and order of the Council.

(B.) The written notice of appeal and filing fee shall be filed within ten calendar days from the date of written notice of the Building Official's action assessing the penalty or payment of the penalty, whichever is earlier. Failure to file an appeal within the time allowed by these administrative rules and according to the requirements set forth in this section is jurisdictional. In such cases, the Building Official's decision shall be deemed the City's final decision on the matter.

(C.) If the penalty is appealed and the Council rules in favor of the appellant, the Council may refund all, part, or none of the appeal filing fee to the appellant. If the Council approves a refund, the City shall refund any monies due the appellant within 30 calendar days after the Council approves the Final Order.

(D.) If an appellant pays a penalty before the appeal is heard by the Council, and the appeal is granted by the Council, the City shall refund any monies due the appellant within 30 calendar days after the Council approves the Final Order

(E) If after an appeal is filed in accordance with subsections (A) and (B) of this section, and after conducting a hearing the Council rules in the appellant's favor, the Council may waive or reduce the penalty on a showing of just cause. In doing so, the Council may base its decision on any of the following considerations:

(1) The past conduct of the appellant when doing business in the City, including the appellant's familiarity with City permit processes and the number of past violations by the appellant, if any.

(2) The efforts of any person in charge of the site where the work was done to prevent the work from being started without a permit or to mitigate the adverse impacts of the work.

(3) The actual results of any actions taken by any person in charge of the site to prevent the work from being done or mitigate the adverse impacts of the work.

(4) The cost to the City for investigating and correcting, or attempting to correct, any adverse impacts of the violation, the cost to the City of investigating the work in violation of BC

8.02.120, including bringing an enforcement proceeding, and the cost to the City for processing the appeal.

(5) The level of cooperation shown by the appellant when informed the work was unpermitted and issued a Stop Work Order by the City, including the appellant's responsiveness, mitigation of any adverse impacts, willingness to follow the City's procedures, and actual performance in doing so.

(6) Any economic advantage(s) or relief from a penalty or penalties that the appellant enjoyed by performing the unpermitted work.

(7) Any benefit(s) enjoyed by the public as a result of the appellant's performing the unpermitted work, such as recycling of demolition materials.

(8) The severity of the violation, including the type(s) and extent(s) of the unpermitted, work and the resulting adverse impacts of the unpermitted work.

(9) Other extenuating circumstances.

(F.) If the penalty is appealed, and the Council rules in the appellant's favor, the Council may reduce the penalty amount to less than the "investigation fee" by applying either of the following alternative remedies, individually or in combination:

(1) Application of the remedies and fines for a Class 1 Civil Infraction pursuant to BC 8.02.120.

(2) Reduction of the investigation fee amount in consideration of the extenuating circumstances determined by the City Council under subsection (E) of this section.

(G.) If the Council decides to reduce the penalty, the Council may set the amount to correspond to the estimated cost of the component(s) of work begun without a permit.

(1) The estimated cost of each component of work begun without a permit shall be provided by the applicant, prepared by a registered professional civil or structural engineer or architect licensed by the state of Oregon, and shall be in a form satisfactory to the Building Official.

(2) If an appellant has not yet provided the City an itemized cost estimate for all work requiring a permit issued under this ordinance at the time of the violation, the appellant shall be given 30 calendar days from the date of the City's written notification of the violation to the appellant to provide an itemized cost estimate for all such work, in the quantities required to complete the project.

(3) If the appellant fails to provide an acceptable cost estimate within the allotted time, the Building Official may prepare the cost estimate upon which the reduced penalty amount is to be based.

(4) If the Building Official prepares the cost estimate used to establish the penalty amount, the City may increase the penalty amount to recover the cost of the staff time required to prepare the estimate.

301. 8 Fee Refunds and Waivers.

(A.) The Building Official may authorize refunding of:

(1) Any fee not authorized by City Ordinance or Resolution or these rules;

(2) The fee paid for a permit under which no work is commenced, subject to the limitation of subsection B of this section; and,

(3) The plan review fees, if the application for which the plans are submitted is withdrawn before plan review commences, subject to the limits of subsection D of this section. No fee shall be refunded except on written request by the applicant and received by the Building Official no

later than 180 days after payment. Requests for waiver or refunding of all other permit fees shall be made to the City Council.

(B) The City shall retain, for repayment of the costs of administration, 20% of any fee to be refunded or \$100, whichever is less.

301. 9 Inspection Requests. The Building Official may order work under a permit to stop for any period of time for which the permit holder fails or refuses to provide City inspectors with access to the site of the work done under the permit and expose the work for inspection. The permit holder at their initiative shall request all necessary and desired inspections and shall provide all equipment deemed necessary by the Building Official for the City to accomplish an inspection. The permit holder, at their expense, shall remove and replace any work or material required for the City to accomplish an inspection and required as the result of an inspection.

301. 10 Reinspections. A permit holder who requests an inspection of work that is not prepared for inspection, including work requiring correction after a previous inspection, shall pay an inspection fee to compensate the City's costs to respond to the request notwithstanding that the City could not perform the requested (re-)inspection. Reinspection fees may be assessed when the inspection record card or the permit holder's copy of approved plans is not available on the work site, when access to the work is not available, when the City's inspector is on site for a requested inspection, or when the work deviates from the approved plans. The permit holder may request reinspection of the work in writing on a form furnished by the City accompanied by payment of the reinspection fee in accordance with BC 8.020.040.

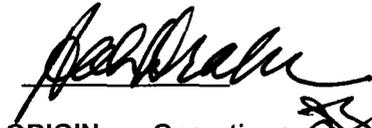
These rules have been authorized by the Beaverton City Council as part of Ordinance 3978 adopting the Building Code, enacted on March 31, 1997. Revised by as part of Agenda Bill 03108 dated May 5, 2003.

AGENDA BILL

**B averton City Council
B averton, Oregon**

SUBJECT: Authorize Mayor to Sign IGA with Washington County for Mosquito Abatement

FOR AGENDA OF: 03-28-05 **BILL NO:** 05055

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Operations 

DATE SUBMITTED: 03-17-05

CLEARANCES:

City Attorney 

PROCEEDING: CONSENT AGENDA

EXHIBITS: IGA, Attachment A

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
N/A	N/A	N/A

HISTORICAL PERSPECTIVE:

In 1999, the first outbreak of West Nile Fever occurred in the Eastern U.S. West Nile Fever is caused by the West Nile Virus, which is carried and spread by multiple species of mosquitoes. In each subsequent year since 1999, the virus has steadily moved across the Country, primarily as a result of the migration of infected mosquitoes that bite birds and humans. The first two human cases of West Nile Fever in Oregon were identified in Eastern and Southern Oregon in late Summer 2004. Several bird deaths and equine infections in Oregon were also attributed to the West Nile Virus in 2004. It is expected that the West Nile Virus will reach the Willamette Valley this Summer as infected mosquitoes and birds migrate into the area.

INFORMATION FOR CONSIDERATION:

City staff began full preparations to mitigate the West Nile Virus by developing mosquito control strategies in 2002. Beginning in 2002 and in each subsequent year, significant mosquito breeding sites were identified and monitored, all of the sumped catch basins in the City were routinely cleaned and treated with larvicide agents as necessary to eliminate habitat and reduce the population of adult mosquitoes. Due to the greater health risks posed by the virus to certain at-risk groups, Washington County Health has now proposed an IGA to coordinate mosquito abatement efforts throughout the County and to provide a mosquito growth inhibiting chemical for installation in all sumped catch basins in the City. This chemical, methoprene has been used by City staff since 2002 to help control the mosquito population. The state of Oregon has approved the use of methoprene by City staff for mosquito control.

RECOMMENDED ACTION:

Authorize the Mayor to sign the IGA.

INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, and the City of Beaverton.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: 03/15/05, or upon final signature, whichever is later.

The expiration date is: 12/31/05 which shall be automatically renewed until 12/31/06; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) To the extent applicable, the provisions of ORS 279.312, 279.313, 279.314, 279.316, 279.320 and 279.334 are incorporated by this reference as though fully set forth.
- 5) Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other.
- 6) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 7) This Agreement may be terminated, with or without cause and at any time, by a party by providing 180 days (30 if not otherwise marked) days written notice of intent to the other party(s).
- 8) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 9) 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 hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
- 10) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

- 11) 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.
- 12) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
- 13) This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor.
- 14) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

Jurisdiction

Signature

Date

Printed Name

Title

Address: _____

WASHINGTON COUNTY:

Signature

Date

Printed Name

Title

Address:

Mail Stop # _____
Hillsboro, OR _____

ATTACHMENT A

Statement of Work /Schedule/Payment Terms

County's Responsibilities:

1. The County shall coordinate efforts to meet the goals of the State Health Service's West Nile Virus (WNV) response plan.
2. The County shall coordinate public education related to matters of public health and human behavior throughout Washington County.
3. The County shall work with state and local health, veterinarian, agricultural, and wildlife organizations to survey and track human, equine, and avian cases of WNV. The County shall alert those subject to this Intergovernmental Agreement of confirmed cases.
4. The County shall employ an entomologist to design/develop sampling program, train City staff on sampling process, process mosquito larva, and collect and process adult samples.
5. The County shall provide larvicide product to the City to treat publicly owned sumped catch basins under city control.
6. The County will keep a database of all treated sumped catch basin sites based on reporting provided by cities.
7. The County shall develop a complaint log, train appropriate staff and partners, maintain a database mapping complaints and surveillance findings.

CITY RESPONSIBILITIES

1. The City shall utilize and distribute public education materials provided by the County and Clean Water Services, in order to maintain a consistent regional communication strategy.
2. The City shall report mosquito complaints to the County.
3. The City shall work with the County entomologist to design/develop and conduct a regional water sampling regime that will include representative catch basins, storm water facilities, and natural wetlands throughout areas within their boundaries throughout the mosquito season (March through October).
4. The City shall deliver water/larva samples to the County entomologist for processing and tracking.
5. The City shall actively educate neighborhood associations, community participation organizations, and other citizen groups, and encourage private property source reduction efforts and other personal behaviors that will reduce risk of exposure.
6. The City shall maintain catch basins and storm water facilities to limit the presence of standing water and decaying organic debris (particularly dead cattails and grass clippings).
7. The City shall treat all publicly owned sumped catch basins with larvicide between May 1, 2005 and June 30, 2005. The City will provide the County with weekly reports of work completed. The weekly report will include the GPS coordinates of all treated sumped catch basins.
8. The City shall install habitat features as appropriate to promote amphibian, bird, and predatory insect (dragonfly) populations that feed on mosquito larva.

ATTACHMENT A

Statement of Work /Schedule/Payment Terms

9. The City will implement other mosquito control tasks based on public health risk as determined by the County.

Unless otherwise specified herein, the parties agree that there will be no monetary compensation paid to the other, that each shall bear their own costs and that reasonable and beneficial consideration exists to support this agreement.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

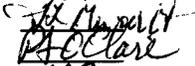
SUBJECT: Award of Bid for Erickson Storm Drain and Sanitary Sewer Improvement, CIP (Capital Improvement Project) Project No. 8001D and Lombard Storm Drain Improvements

FOR AGENDA OF: 3-28-05 **BILL NO:** 05056

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Engineering 

DATE SUBMITTED: 3-15-05

CLEARANCES: Purchasing 
Finance 
City Attorney 
Capital Proj. 

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS: 1. Map
2. Bid Summary

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$192,425 *	BUDGETED \$170,000	REQUIRED \$ 0
\$192,424 **	\$160,000	\$ 0
<u>\$183,475 ***</u>	<u>\$ 0</u>	<u>\$63,540</u>
\$568,324	\$330,000	\$63,540

Funding is from the following account numbers:

* 502-75-3811 (\$192,425) Sewer Fund, Sewer Collection System. Additional \$22,425 available from the savings of other 3811 projects.

** 513-75-3915 (\$192,424) Storm Drain Fund, Misc. Conveyances (SDC) Project. Additional \$32,424 available from the savings of other 3915 projects.

*** 513-75-3950 (\$183,475) Storm Drain Fund, Maintenance & Replacement Program. Additional \$119,935 available from the savings of other 3950 projects. An additional appropriation of \$63,540 is requested from the Storm Fund dedicated contingency, 513-85-0734-994.

HISTORICAL PERSPECTIVE:

The storm drainage system in this area of CIP Project No. 8001D was identified in the 1999 Central Interceptor Study addendum as being capacity deficient. The storm drainage system in Lombard/Allen area was identified as being deteriorated by City Operations maintenance staff and the 2004 Beaverton Eastside Drainage Study by Tetra Tech/KCM identified the same as capacity deficient. The sanitary sewer element of CIP Project No. 8001D was discovered to be capacity deficient and subject to periodic surcharging in the 2002 Sanitary Sewer Master Plan Update and confirmed through routine maintenance and inspection. In June of 2004, Council authorized KPFF Engineering via Agenda Bill 04126 to complete the design and construction plans. In Agenda Bill 04126, the Lombard storm drain was identified to be constructed by the City Operations Department Construction Section but upon further evaluation of the site and work backlog, City Engineering and Operations staff determined that it would be better to award this work to a public works contractor. An oversight by Engineering Department staff is the reason the Lombard storm drain project was not included in the FY 2004/05 Capital Improvements Plan.

This project consists of approximately 1,850 lineal feet of storm drain pipe, 915 lineal feet of sanitary sewer pipe, 127 lineal feet of water pipe, and related appurtenances such as manholes, catch basins and valves.

INFORMATION FOR CONSIDERATION:

The invitation for bid was advertised in the *Daily Journal of Commerce* on February 8, 2005. A mandatory pre-bid meeting was held on February 22, 2005. Twelve (12) contractors or subcontractors attended the meeting. Five (5) bids were received and opened on March 8, 2005 at 2:00 p.m. in the Finance Conference Room. K & R Plumbing Construction Incorporated of Clackamas, Oregon submitted the lowest responsible and responsive bid in the amount of \$568,323.70.

K & R Plumbing Construction Incorporated submitted the required bid documents listed in Section 00120 of the bid document, such as the bidder responsibility form and the tentative construction schedule. Staff reviewed the qualifications of K & R Plumbing Construction Incorporated and investigated their performance with previous customers. K & R Plumbing also was the contractor for the Westside Interceptor Project No. 4 and performed the work to the satisfaction of the City of Beaverton. Staff has found that the proposal submitted by K & R Plumbing Construction Incorporated is responsive to the invitation for bid and that K & R Plumbing Construction Incorporated is a responsible bidder in accordance with the City's Purchasing Policies.

Assuming City Council approval of the bid award, Notice to Proceed (NTP) would be issued to the Contractor on or about April 15, 2005. The contract requires substantial completion within seventy-five (75) days of the NTP. This means the project's estimated substantial completion date would be June 30, 2005.

RECOMMENDED ACTION:

1. Council, acting as Contract Review Board, award a contract for the Erickson/Lombard Storm Drain and Sanitary Sewer Improvement Project No. 8001D to K & R Plumbing Construction Incorporated of Clackamas, Oregon in an amount not to exceed \$568,324 and in a form approved by the City Attorney.
2. Council direct the Finance Director to include a \$63,540 appropriation from the Storm Contingency Fund to 513-75-3950 in the next supplemental budget.

EXHIBIT 1

ERICKSON PROJECT SITE

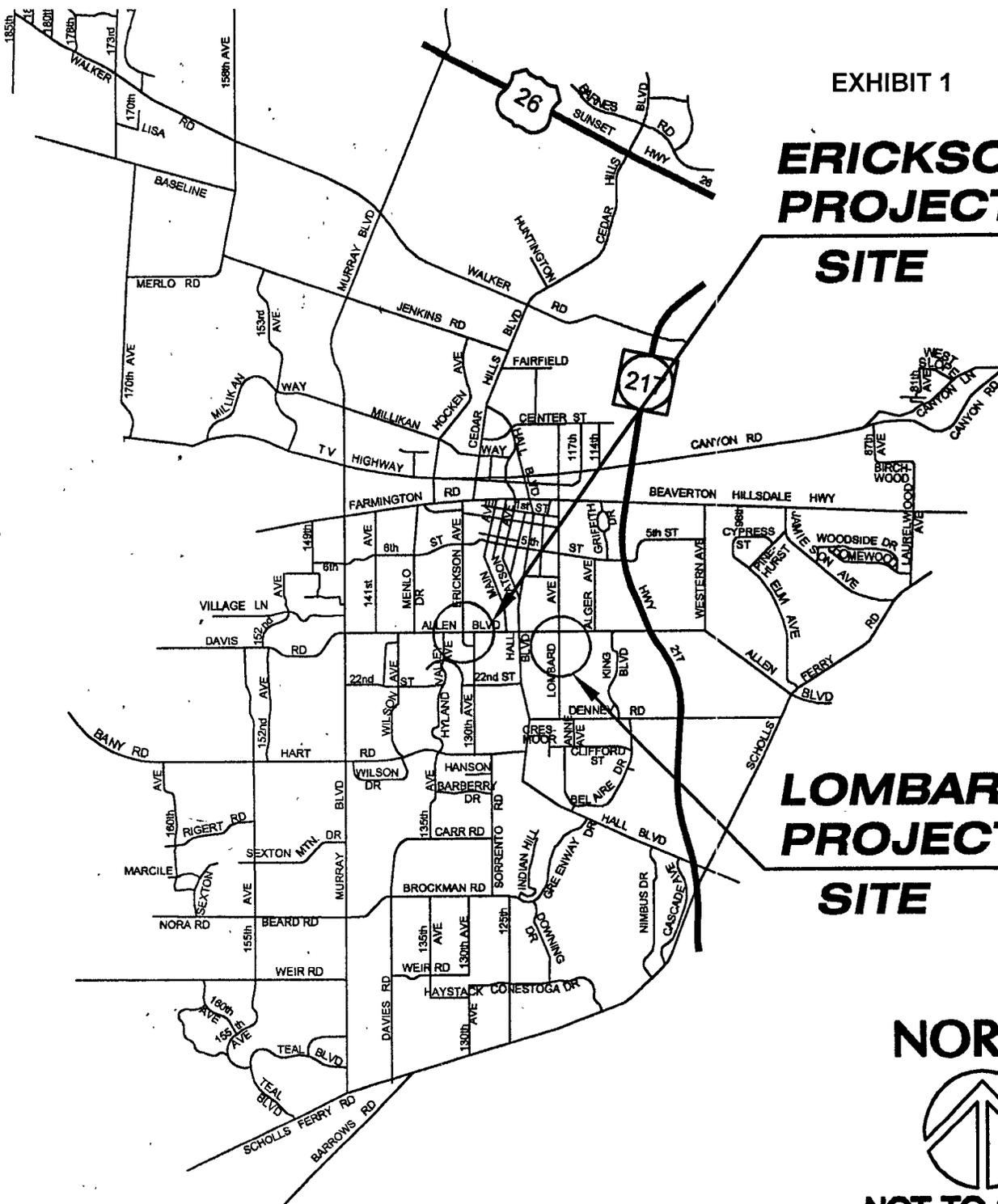
LOMBARD PROJECT SITE

NORTH



NOT TO SCALE

LOCATION MAP



CITY OF BEAVERTON

ENGINEERING DEPARTMENT
CAPITAL PROJECTS DIVISION

P.O. BOX 4755
BEAVERTON, OR 97076

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BID SUMMARY

CITY OF BEAVERTON

TO: Mayor & City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

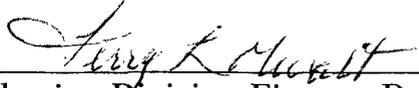
Bids were opened on MARCH 8TH, 2005 at 2:00PM in the **FINANCE CONFERENCE ROOM**

For: SW ERICKSON AV & SW LOMBARD AV - STORM DRAIN & SANITARY SEWER IMPROV PROJ FY 2004-05

Witnessed by: BEN SHAW

VENDOR NAME AND CITY, STATE	BID AMOUNT
LANDIS & LANDIS - Portland, OR	\$688,053.00
K & R PLUMBING CONSTRUCTION - Clackamas, OR	\$568,323.70
DUNN CONSTRUCTION - Portland, OR	\$674,658.00
CANBY EXCAVATING - Canby, OR	\$988,456.15
EMERY & SONS - Stayton, OR	\$584,749.00

The Purchasing process has been confirmed.

Signed: 
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 3-8-05

EXHIBIT 2

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Bid Award – Cedar Hills Boulevard
Phase 3 Overlay Project

FOR AGENDA OF: 3-28-05 **BILL NO:** 05057

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Engineering *[Signature]*

DATE SUBMITTED: 3-15-05

CLEARANCES: Purchasing *[Signature]*
Finance *[Signature]*
City Attorney *[Signature]*
Capital Proj. *[Signature]*

PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: 1. CIP Project Data Sheet/Map
2. Bid Summary

BUDGET IMPACT

EXPENDITURE REQUIRED \$238,805 *	AMOUNT BUDGETED \$280,000 *	APPROPRIATION REQUIRED \$0
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* The project is included in the FY 2004-05 adopted budget in the Street Overlay account (101-85-0732-422). Since the project will begin in FY 2005-06, the project funding will be carried forward and included in the FY 2005-06 proposed budget.

HISTORICAL PERSPECTIVE:

The Cedar Hills Boulevard Phase 3 Overlay Project is included in the FY 2004-05 Capital Improvements Plan (CIP) as part of the FY 2004-05 Street Rehabilitation Program.

The purpose of the overlay project on Cedar Hills Boulevard is to rehabilitate existing asphalt concrete pavement. Cedar Hills Boulevard is the arterial street in most need of repair.



CEDAR HILLS BLVD NORTH OF MILLIKAN WY LOOKING SOUTH

INFORMATION FOR CONSIDERATION:

The invitation for bid was advertised in the *Daily Journal of Commerce* on February 7, 2005. A non-mandatory pre-bid meeting was held on February 15, 2005. Five contractors attended the meeting. Four (4) bids were received and opened on March 1, 2005 at 2:00 p.m. in the Finance Department Conference Room (Exhibit 2). Baker Rock Resources of Beaverton, Oregon, submitted the lowest responsive bid in the amount of \$238,804.99. The overall bid amount is \$34,908 or 13% lower than the Engineer's Estimate of \$273,713.

Over the past several years, the performance of Baker Rock Resources has been superior. Baker Rock Resources performed the asphalt concrete paving for the Hart Road (155th Avenue to Murray Boulevard) Project in 2004, the Cedar Hills Boulevard Phase 1 Project in 2003, and the Cedar Hills Boulevard Phase 2 Project in 2004. In summary, staff finds Baker Rock Resources has satisfied the bid requirements to construct street improvements in a built-up, urban environment.

Assuming City Council approval of the bid award, a Notice to Proceed (NTP) would be issued to the contractor on or about August 1, 2005 after the completion of the Cedar Hills Boulevard Utility Improvements Phase 3 Project. The project contract requires substantial completion within 30 days of the NTP. The estimated substantial completion date for the overlay project is August 31, 2005.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, award the contract to Baker Rock Resources in an amount not to exceed \$238,805, and in a form approved by the City Attorney, as the lowest responsive and responsible bid received for the Cedar Hills Boulevard Overlay Phase 3 Project and appropriate the project after July 1, 2005 from the proposed FY 2005-06 budget.

Project Data

Project Number: 5013C
Project Name: Cedar Hills Blvd Overlay, Phase 3
Project Description: Pavement overlay on Cedar Hills Blvd from Beaverton Creek to Farmington Rd.

Map:



Project Justification: Provide asphalt concrete overlay on streets requiring rehabilitation as specified by the City's Pavement Management System.

Project Status: Advertised on 2-7-05. Non mandatory pre-bid held on 2-15-05. Bids opened on 3-1-05. Council award scheduled for 3-28-05. Estimated start date is 8-1-05. Estimated completion date is 8-31-05.

Estimated Date of Completion: 08/31/2005
Estimated Project Cost: \$280,000
First Year Budgeted: FY04/05

Funding Data:

<u>Project No.</u>	<u>Fund No.</u>	<u>Fund Name</u>	<u>Amount</u>	<u>FY</u>
5013C	101	Street Fund	\$280,000	FY2004/05
<u>Total for FY:</u>			\$280,000	

BID SUMMARY

CITY OF BEAVERTON

TO: Mayor & City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

Bids were opened on MARCH 01, 2005 at 2:00 PM in the FINANCE CONFERENCE ROOM

For: SW CEDAR HILLS BLVD OVERLAY BRVTN CREEK TO FARMINGTON RD PRFO FY 2004-05

Witnessed by: JIM BRINK

VENDOR NAME AND CITY, STATE	BID AMOUNT
EAGLE ELSNER - Tigard, OR	\$287,338.00
MORSE BROTHERS - Sherwood, OR	\$296,936.50
BRIX - Tualatin, OR	\$280,497.75
BAKER ROCK - Beaverton, OR	\$238,804.99

The Purchasing process has been confirmed.

Signed: *Tracy L. McCall*
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 3/1/05

EXHIBIT 2

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Relating to the Building Code, Amending Beaverton Code Sections 8.02.015 (E), 8.02.030, 8.02.040, 8.05.020; Repealing a Portion of Beaverton Code Sections 8.02.015 (A) and (B); Repealing Beaverton Code Sections 8.02.025 and 8.02.110; and Declaring an Emergency

FOR AGENDA OF: 3-28-05 **BILL NO:** 05058

Mayor's Approval: *Del Duane*

DEPARTMENT OF ORIGIN: CDD ^{BR} *Jung*

DATE SUBMITTED: 3-4-05

CLEARANCES: City Attorney *AK*

PROCEEDING: First Reading

EXHIBITS: Ordinance
Current Code Language with
Proposed Changes (Information
Only)

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Beaverton Code (BC) Sections 8.02.015 (A) and (B) adopt amendments to the State Building and Mechanical Codes. BC Section 8.02.015 (E) adopts the State One and Two Family Dwelling Code. BC Section 8.02.025 adopts regulations for Agricultural Buildings. BC Sections 8.02.030, 8.02.040, and 8.05.020 reference the State One and Two-Family Dwelling Code. BC 8.02.110 adopts an amendment to the State Building Code for Fire Extinguishing Systems.

INFORMATION FOR CONSIDERATION:

As required by ORS 455.010 through 455.895, ORS 447.020, and ORS 479.020, the City has adopted the State Building Code. The State Building Code is amended and/or new editions are adopted from time to time. Recent adoption of a new State Building Code has caused some of the Beaverton Code to become outdated.

BC Sections 8.02.030, 8.02.040, and 8.05.020 reference an outdated State One and Two-Family Dwelling Code and should be amended to reference the current Oregon Residential Specialty Code. BC Section 8.02.015 (E) adopts an outdated One and Two-Family Specialty Code and should be amended to adopt the current Oregon Residential Specialty Code.

BC Section 8.02.015(A) adopts an Appendix Chapter 9, Division III – Alternative Group R, Division 1, Fire Sprinkler requirements (Apartment Fire Sprinklers) that are no longer contained in the Structural Specialty Code and should be repealed (authority for local adoption of these regulations are now found in the Residential Specialty Code and proposed for adoption as noted below). BC Section 8.02.015 (B) adopts Appendix B, Chapter 14, Hazardous Process Piping that no longer exists in the Mechanical Specialty Code and should be repealed (these regulations are now located in the Fire Code). BC Section 8.02.025 adopts Appendix 3, Division II, Agricultural Building regulations that are specifically included in the Structural Specialty Code, no longer necessary to be contained in the BC, and should be repealed.

The State recently adopted new State Structural Specialty and Residential Specialty Codes. The authority for local jurisdictions to adopt apartment fire sprinkler regulations, formerly found in the Structural Specialty Code, has been removed and is now found in the Residential Specialty Code. In order to continue to require automatic fire sprinkler systems to be installed in new apartment buildings, Appendix N, Section 109.3, Alternate Fire Sprinkler Requirements must be adopted as part of Beaverton Code Section 8.02.015 (E). Adoption of this appendix will continue to require the installation of an automatic fire sprinkler system in all new apartment buildings over one story in height or containing more than 16 units.

BC Section 8.02.110 adopts Appendix Chapter 9, Fire Extinguishing Systems that no longer exists in the Structural Specialty Code and should be repealed.

The immediate effective date is intended to allow quick implementation of practices now in common use elsewhere in the area.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4344

AN ORDINANCE RELATING TO THE BUILDING CODE AMENDING BEAVERTON CODE SECTIONS 8.02.015 (E), 8.02.030, 8.02.040, 8.05.020; REPEALING A PORTION OF BEAVERTON CODE SECTIONS 8.02.015 (A) AND (B); REPEALING BEAVERTON CODE SECTIONS 8.02.025 AND 8.02.110; AND DECLARING AN EMERGENCY

- WHEREAS,** The City's Building Code (BC) must be compatible with the State's Specialty Codes, including the State Structural Specialty Code and the Residential Specialty Codes; and
- WHEREAS,** The State Specialty Codes will be amended on April 1, 2005; and
- WHEREAS,** The City's Building Code was last amended in 2001 and now is in need of minor changes to eliminate regulatory redundancies and to better comply with the State Specialty Codes; and
- WHEREAS,** Changes in the recently adopted State Specialty Codes changed the specific Specialty Code for adopting requirements for automatic fire sprinkler systems be installed in newly constructed apartment buildings; and
- WHEREAS,** The City's Building Code has previously adopted requirements for automatic fire sprinkler systems to be installed in all newly constructed apartment buildings; and
- WHEREAS,** The City's Pool Enclosure Ordinance contains references to a superseded edition of the State One and Two Family Dwelling Specialty Code, now, therefore:

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** BC 8.02.025 and 8.02.110 are repealed.
- Section 2.** BC 8.02.015(A), (B) and (E) are amended to read as follows:
- 8.02.015 State Codes. The following State Specialty Codes are adopted as part of the Beaverton Code except as otherwise provided in this ordinance:
- A. State of Oregon Structural Specialty Code, as adopted by ORS 455.010 through 455.895, OAR 918-460-010 through OAR 918-460-015 ("Structural Specialty Code");
 - B. State of Oregon Mechanical Specialty Code, as adopted by ORS 455.020, OAR 918-440-010 through OAR 918-440-040 ("Mechanical Specialty Code");
 - E. State of Oregon Residential Specialty Code, as adopted by ORS 455.610, OAR 918-480-000 through OAR 918-480-010 including Appendix N Section 109.3 - Alternate Fire Sprinkler Requirements ("Residential Specialty Code");
- Section 3.** BC 8.02.030 is amended to read as follows:

8.02.030 Board of Construction Appeals. For application in this City, the sections pertaining to appeals in the State Mechanical Specialty Code, Plumbing Specialty Code, Structural Specialty Code and Residential Specialty Code are replaced with the following:

"The Board of Construction Appeals provided for in BC 2.03.030-042 shall determine the suitability of alternate materials and methods of construction and provide for reasonable interpretations of the provisions and standards applicable to the Building Code and related activities."

The Board of Construction Appeals shall have no authority to interpret the administrative rules authorized by this ordinance nor to waive requirements of the State Specialty Codes or City Building Code. [BC 8.02.030, amended by Ordinance No. 3978, 3/31/97; Ordinance No. 4167, 6-11-01]

Section 4. BC 8.02.040 is amended to read as follows:

8.02.040 Fees. The fees for inspections, plan reviews, and appeals referenced in the State Structural Specialty Code, Residential Specialty Code, Mechanical Specialty Code, Plumbing Specialty Code, and Electrical Specialty Code shall be set by council resolution.

Section 5. BC 8.05.020 is amended to read as follows:

8.05.020 Application. The provisions of this ordinance shall apply to all special pools and swimming pools except swimming facilities regulated under ORS 448.005 to 448.100 and the State Structural Specialty Code and the Residential Specialty Code. [BC 8.05.020, amended by Ordinance No. 3978, 3/31/97; Ordinance No. 4167, 6/11/01]

Section 6. Emergency Clause. The Council finds that immediate adoption of building and specialty codes consistent with those in force elsewhere in the state is necessary to the public's safety and welfare. The Council declares an emergency to exist, and this Ordinance shall take effect immediately on its passage.

First reading this ___ day of _____, 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

Beaverton Code

8.02.015 State Codes. The following State Specialty Codes are adopted as part of the Beaverton Code except as otherwise provided in this ordinance:

A. State of Oregon Structural Specialty Code, as adopted by ORS 455.010 through 455.895, OAR 918-460-010 through OAR 918-460-015 ~~including Appendix Chapter 9, Division III - Alternative Group R, Division 1, Fire Sprinkler Requirements~~ ("Structural Specialty Code");

B. State of Oregon Mechanical Specialty Code, as adopted by ORS 455.020, OAR 918-440-010 through OAR 918-440-040 ~~including Appendix B, Chapter 14 of the Uniform Mechanical Code by the International Conference of Building Officials, 1994 Edition, for Hazardous Process Piping~~ ("Mechanical Specialty Code");

C. State of Oregon Plumbing Specialty Code, as adopted by ORS 447.020(2), OAR 918-750-010 ("Plumbing Specialty Code");

D. State of Oregon Electrical Specialty Code, as adopted by ORS 479.525, OAR 918-305-0100 and delegated to the City by ORS 455.153 ("Electrical Specialty Code");

E. State of Oregon Residential One and Two Family Dwelling Specialty Code, as adopted by ORS 455.610, OAR 918-480-000 through OAR 918-480-010 ~~including Appendix N Section AN109.4.2 Group R-2 Occupancies (Alternate Apartment Fire Sprinkler Requirements)~~ ("Residential One and Two Family Specialty Code");

F. Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, by the International Conference of Building Officials ("Dangerous Buildings Code").

G. State of Oregon Regulations for mobile or manufactured dwelling parks, temporary parks, manufactured dwelling installation support and tie down requirements, and park or camp requirements as adopted by OAR 918-500-000 through OAR 918-500-050, OAR 918-520-001 through OAR 918-520-002, OAR 918-650-000 through OAR 918-650-085. [BC 8.02.015, amended by Ordinance No. 3657, 3/20/89; Ordinance No. 3680, 6/12/89; Ordinance No. 3756, 10/15/90; Ordinance No. 3768, 2/11/91; Ordinance No. 3848, 8/16/93; Ordinance No. 3978, 3/31/97; Ordinance No. 4115, 8/7/00]

~~8.02.025 Agricultural Buildings. Appendix 3, Division II of the State Building Code shall apply to all agricultural buildings and related activities within the City as authorized by ORS 455.315. [BC 8.02.025, amended by Ordinance No. 3978, 3/31/97]~~

8.02.030 Board of Construction Appeals. For application in this City, the sections pertaining to appeals in the State Mechanical Specialty Code, Plumbing Specialty Code, Structural Specialty Code and ~~Residential One and Two Family Dwelling Specialty Code~~ are replaced with the following:

"The Board of Construction Appeals provided for in BC 2.03.030-.042 shall determine the suitability of alternate materials and methods of construction and provide for reasonable interpretations of the provisions and standards applicable to the Building Code and related activities."

The Board of Construction Appeals shall have no authority to interpret the administrative rules authorized by this ordinance nor to waive requirements of the State Specialty Codes or City Building Code. [BC 8.02.030, amended by Ordinance No.

3978, 3/31/97; Ordinance No. 4167, 6-11-01]

8.02.040 Fees. The fees for inspections, plan reviews and appeals referenced in the State Structural Specialty Code, Residential ~~One and Two Family Dwelling~~ Specialty Code, Mechanical Specialty Code, Plumbing Specialty Code and Electrical Specialty Code shall be set by council resolution. [BC 8.02.040, amended by Ordinance No. 3680, 6/12/89; Ordinance No. 3756, 10/15/90; Ordinance No. 3978, 3/31/97; Ordinance No. 4167, 6/11/01]

~~8.02.110 Fire Extinguishing Systems. Appendix Chapter 9 of the Oregon Structural Specialty Code is hereby accepted and shall be in force and effect as part of the Beaverton Code. [BC 8.02.110, amended by Ordinance No. 3680, 6/12/89; Ordinance No. 3978, 3/31/97]~~

8.05.020 Application. The provisions of this ordinance shall apply to all special pools and swimming pools, except swimming facilities regulated under ORS 448.005 - .100 and the State Structural Specialty Code and the Residential ~~One and Two Family Dwelling~~ Specialty Code. [BC 8.05.020, amended by Ordinance No. 3978, 3/31/97; Ordinance No. 4167, 6/11/01]

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Relating to the Fire Code,
Repealing Beaverton Code Sections
8.01.010, 8.01.033, 8.01.038, 8.01.043, and
8.01.900

FOR AGENDA OF: 3-28-05 **BILL NO:** 05059

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD ^{BCR} 

DATE SUBMITTED: 3-7-05

CLEARANCES: City Attorney 

PROCEEDING: First Reading

EXHIBITS: Ordinance
Current Code Language with
Proposed Changes (Information
Only)

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Beaverton Code (BC) Section 8.01.010 provides definitions for use in enforcing the City's Fire Code, BC Section 8.01.033 references regulations in the Fire Code for storage of flammable and combustible liquids, BC Section 8.01.038 prohibits the storage of explosive materials within the City, BC Section 8.01.043 regulates storage of Liquefied Petroleum (LP) and Natural Gas, and BC Section 8.01.900 assesses penalties for violations of the Fire Code.

INFORMATION FOR CONSIDERATION:

BC Sections 8.01.010, 8.01.033, 8.01.038, 8.01.043, and 8.01.900 provide definitions, regulations, and penalties for a City Fire Code that no longer is necessary and, therefore, should be repealed. Fire Code regulations are enforced through the Fire Prevention Code of the Tualatin Valley Fire and Rescue District (TVF&R) as authorized by Council Resolution 3800. The Fire Prevention Code provides current and up-to-date regulations for the storage and use of flammable and combustible liquids, explosive materials, and flammable gas for the purpose of maintaining the health, safety, and welfare of the public. The Fire Prevention Code contains penalties for violations of these regulations.

Repealing the referenced code sections will promote greater overall consistency with the TVF&R Ordinances and statewide law. The TVF&R has reviewed these proposed changes and has no objection to them.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4345

AN ORDINANCE RELATING TO THE FIRE CODE, REPEALING BEAVERTON CODE SECTIONS 8.01.010, 8.01.033, 8.01.038, 8.01.043, AND 8.01.900

WHEREAS, The City's Fire Code as referenced in BC Sections 8.01.010 through 8.01.900 has been replaced by the Fire Prevention Code of the Tualatin Valley Fire and Rescue District as authorized by Council Resolution 3800; and

WHEREAS, The City's Fire Code contains outdated and unnecessary regulations; and

WHEREAS, The Fire Prevention Code of the Tualatin Valley Fire and Rescue District provides current and up-to-date regulations for protecting the health, safety, and welfare of the public from fire, explosion, and hazardous materials, now, therefore:

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC Sections 8.01.010, 8.01.033, 8.01.038, 8.01.043, and 8.01.900 are repealed.

First reading this ___ day of _____, 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

Beaverton Code

CHAPTER EIGHT

BUILDING

FIRE CODE

~~8.01.010 Definitions. As used in BC 8.01.010-.090 the following mean:~~

~~Board of Appeals - The Board of Construction Appeals provided for in BC 2.03.030-.042.~~

~~Building Code or City Building Code - BC 8.02.005-.130 as now enacted or hereafter amended.~~

~~Chief, Chief of the Fire Department or Fire Chief - The chief of the fire department or the fire chief's designee notwithstanding the definition in Article 9, section 9.105 of the Uniform Fire Code.~~

~~Chief of the Bureau of Fire Prevention - Fire Marshal.~~

~~Corporation Counsel - City Attorney.~~

~~Jurisdiction - City of Beaverton.~~

~~Structural Specialty Code - Shall be given the same meaning as it has in BC 8.02.015.~~

~~8.01.033 Limits of Districts for Storage of Flammable, Combustible Liquids. The district referred to in Uniform Fire Code Section 79.501 is the entire city except for areas zoned Industrial Park (IP) and Residential Agricultural (RA). The location and types of such facilities shall be subject to~~

1998 S-1

Beaverton Code

~~prior review and approval by the Fire Chief. [BC 8.01.033 added by Ordinance No. 3839(3), 2/8/93]~~

~~8.01.038 Limits of Districts for Storage of Explosives and Blasting Agents. The storage of explosives and blasting agents is prohibited within the entire boundaries of the city. [BC 8.01.038, added by Ordinance No. 3839(4), 2/8/93]~~

~~8.01.043 Limits of Districts for Storage of LP or Natural Gas. The district referred to in Uniform Fire Code Section 82.104(b) is the entire city except for areas zoned Industrial Park (IP). The location and types of such facilities shall be subject to prior review and approval by the Fire Chief. [BC 8.01.043, added by Ordinance No. 3839(5), 2/8/93]~~

~~8.01.900 Penalties.~~

~~A. A person who violates a provision of this ordinance or who violates or fails to comply with an order made hereunder, or who builds in violation of a detailed statement of specifications or plans submitted and approved hereunder, or a certificate or permit issued hereunder and from which no appeal has been taken, or who fails to comply with an order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction within the time fixed, shall severally for each violation and noncompliance be guilty of a Class 1 Civil Infraction, to be processed in accordance with the procedures contained in BC 2.10.010-.050. The imposition of one penalty for an infraction shall not excuse the infraction or permit it to continue. In addition, each day the infraction continues constitutes a separate violation.~~

~~B. A person described in subsection A of this section shall be required to correct or remedy a violation or defect within a reasonable time in addition to liability under BC 2.10.010-.050.~~

~~C. The application of the above penalty shall not prevent the enforced removal of prohibited conditions pursuant to BC 5.05.010-.260; and, in addition to other remedies, if the mayor so directs, the city attorney may file an action to alleviate a violation of this ordinance. [BC 8.01.010-.140, amended and renumbered by Ordinance No. 3343, 11/8/83; and BC 8.01.090 renumbered to 8.01.900 by Ordinance No. 3839(23), 2/8/93]~~

AGENDA BILL

B averton City Council
Beaverton, Or gon

SUBJECT: An Ordinance Amending Beaverton Code Section 6.02.215 To Allow Use Of Muffled Exhaust Braking On Emergency Vehicles.

FOR AGENDA OF: 03-28-05 **BILL NO:** 05060

Mayor's Approval: 

DEPARTMENT OF ORIGIN: City Attorney's *WS*

DATE SUBMITTED: 03-09-05

CLEARANCES: None

PROCEEDING: First Reading.

EXHIBITS: Ordinance

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

In response to a citizen complaint to the Mayor's Office at the City of Beaverton, Tualatin Valley Fire & Rescue (TVF&R) recently completed a District wide review of compression braking and noise ordinances pertaining to them. The review finds that secondary braking devices are important auxiliary systems that are "best practice" for the trucking industry as well as the fire service, as the average gross vehicle weight for a fully equipped engine at Tualatin Valley Fire & Rescue is at or above 21 tons. The United States Environmental Protection Agency requires that all heavy-duty trucks, including fire apparatus, emit no more than 80 dB(A) at fifty (50) feet while operating, and that figure includes their compression braking systems. As demonstrated in the review, TVF&R fire apparatus using muffled compression brakes met that standard and emitted less noise than commonly used gas powered lawn mowers or leaf blowers.

INFORMATION FOR CONSIDERATION:

The State of Oregon prohibits the use of unmuffled compression braking systems. All TVF&R apparatus come from the manufacturer meeting noise emission standards from the EPA and are muffled compression braking systems. This Ordinance, requested by TVF&R, amends Section 6.02.215 of the City's vehicle code so as to allow use of "jake brakes" by emergency services employees in the course and scope of their work.

RECOMMENDED ACTION:

First Reading.

ORDINANCE NO. 4346

AN ORDINANCE AMENDING BEAVERTON CODE SECTION 6.02.215
TO ALLOW USE OF MUFFLED EXHAUST BRAKING
ON EMERGENCY VEHICLES

WHEREAS, Tualatin Valley Fire and Rescue (TVF&R) recently completed a District wide review of compression braking; and

WHEREAS, TVF&R fire apparatus using muffled compression brakes met noise emission standards from the Environmental Protection Agency (EPA); and

WHEREAS, This Ordinance amends Beaverton Code Section 6.02.215 so as to allow use of "jake brakes" by emergency services employees in the course and scope of their work;

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Beaverton Code 6.02.215 is amended to read as follows, with the new text underlined:

No person shall use a compression braking system in conjunction with the operation of a motor vehicle, except for a person operating an emergency services vehicle (a fire engine or similar apparatus) equipped with a muffled exhaust braking system or except to avoid imminent danger to person or property. Compression braking systems, commonly found on trucks and busses and referred to as "Jake" brakes, convert an internal combustion engine into an air compressor for the purpose of slowing or stopping a vehicle with the use of wheel brakes.

First reading this ___ day of _____, 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

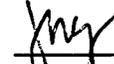
AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Annexing Several Parcels
Located Generally in the Southern Portion
of Beaverton to the City of Beaverton:
Annexation 2005-0001

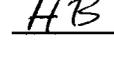
3/28/05
FOR AGENDA OF: ~~3/07/05~~ **BILL NO:** 05049

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 2/22/05

CLEARANCES: City Attorney 

Planning Services 

PROCEEDING: ~~First Reading~~
Second Reading and Passage

EXHIBITS: Ordinance
Exhibits A-1, A-2 and A-3 - Maps
Exhibit B - Legal Description
Exhibit C - Staff Report Dated 2/18/05

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This request is to annex approximately 89 acres in several islands in the southern portion of Beaverton to the City of Beaverton. This is what is commonly referred to as an island annexation and may proceed without the consent of the property owners or residents after the City Council holds a public hearing. It is being processed under ORS 222.750 and Metro Code Chapter 3.09.

INFORMATION FOR CONSIDERATION:

This ordinance and the staff report address the criteria for annexation in Metro Code Chapter 3.09.

Beaverton Code Section 9.06.035A provides the City Council the option of adding property to an appropriate Neighborhood Association Committee (NAC) area at the time of annexation. The two areas north of Hall Blvd. and east of Scholls Ferry Road (shown on Map A-3) are not currently within a NAC. The Neighborhood Office recommends these two areas be added to the Denney-Whitford NAC.

Tualatin Valley Water District (TVWD) provides water service to some of the areas proposed for annexation. ORS 222.520 allows cities to assume water service responsibilities when annexing less than an entire district. The City entered into an intergovernmental agreement with TVWD in 2002. In compliance with that agreement the staff proposes withdrawing the following parcels from the District: parcels identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000, 01200, 02800, 02900 and 03000; and tax map 1S129CB as lot 00700.

Staff recommends that the City Council adopt an ordinance annexing the referenced property, effective 30 days after Council approval and the Mayor's signature on this ordinance or the date the ordinance is filed with the Secretary of State, whichever is later.

RECOMMENDED ACTION:

~~First Reading~~

Second Reading and Passage.

ORDINANCE NO. 4342

AN ORDINANCE ANNEXING SEVERAL PARCELS LOCATED
GENERALLY IN THE SOUTHERN PORTION OF BEAVERTON
TO THE CITY OF BEAVERTON: ANNEXATION 2005-0001

- WHEREAS,** This annexation was initiated under authority of ORS 222.750, whereby the City may annex territory that is not within the City but that is surrounded by the corporate boundaries of the City, or by the corporate boundaries of the City and a stream, with or without the consent of property owners or residents; and
- WHEREAS,** The properties are in Beaverton's Assumed Urban Services Area and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area."; and
- WHEREAS,** Council Resolution No. 3785 sets forth annexation policies for the City and this action implements those policies; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** The properties shown on Exhibits A-1, A-2 and A-3 and more particularly described in Exhibit B are hereby annexed to the City of Beaverton, effective 30 days after Council approval and signature by the Mayor or the date the ordinance is filed with the Secretary of State, whichever is later.
- Section 2.** The Council accepts the staff report, dated February 18, 2005, attached hereto as Exhibit C, and finds that:
- a. This annexation is consistent with provisions in the agreement between the City and the Tualatin Valley Water District adopted pursuant to ORS 195.065 that are directly applicable to this annexation; and
 - b. This annexation is consistent with the City-Agency agreement between the City and Clean Water Services in that partial responsibility for sanitary and storm sewer facilities within the area annexed will transfer to the City subsequent to this annexation.
- Section 3.** The Council finds this annexation will promote and not interfere with the timely, orderly, and economic provision of public facilities and services, in that:
- a. The properties will be withdrawn from the Washington County Urban Road Maintenance District and the Washington County Enhanced Sheriff Patrol District ; and
 - b. The properties that lie within the Washington County Street Lighting District #1, if any, will be withdrawn from the district; and
 - c. The City having annexed into the Tualatin Valley Fire and Rescue District in 1995, the properties to be annexed by this Ordinance shall remain within that district; and
 - d. The properties identified on tax map 1S120BA as lots 01000, 01200, 01400, 01500 and 01700; tax map 1S120BD as tax lots 00100 and 00200; tax map 1S123BC as lots 00100 and 00200; tax map 1S123BD as lots 00800, 01000,

01200, 02800, 02900 and 03000; and tax map 1S129CB as lot 00700 will be withdrawn from the Tualatin Valley Water District.

- Section 4.** The Council finds that this annexation complies with all other applicable criteria set out in Metro Code Chapter 3.09 as demonstrated in the staff report attached as Exhibit C.
- Section 5.** The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five working days of adoption.
- Section 6.** The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.

First Reading March 7, 2005
Date

Second Reading and Passed _____
Date

ATTEST:

APPROVED:

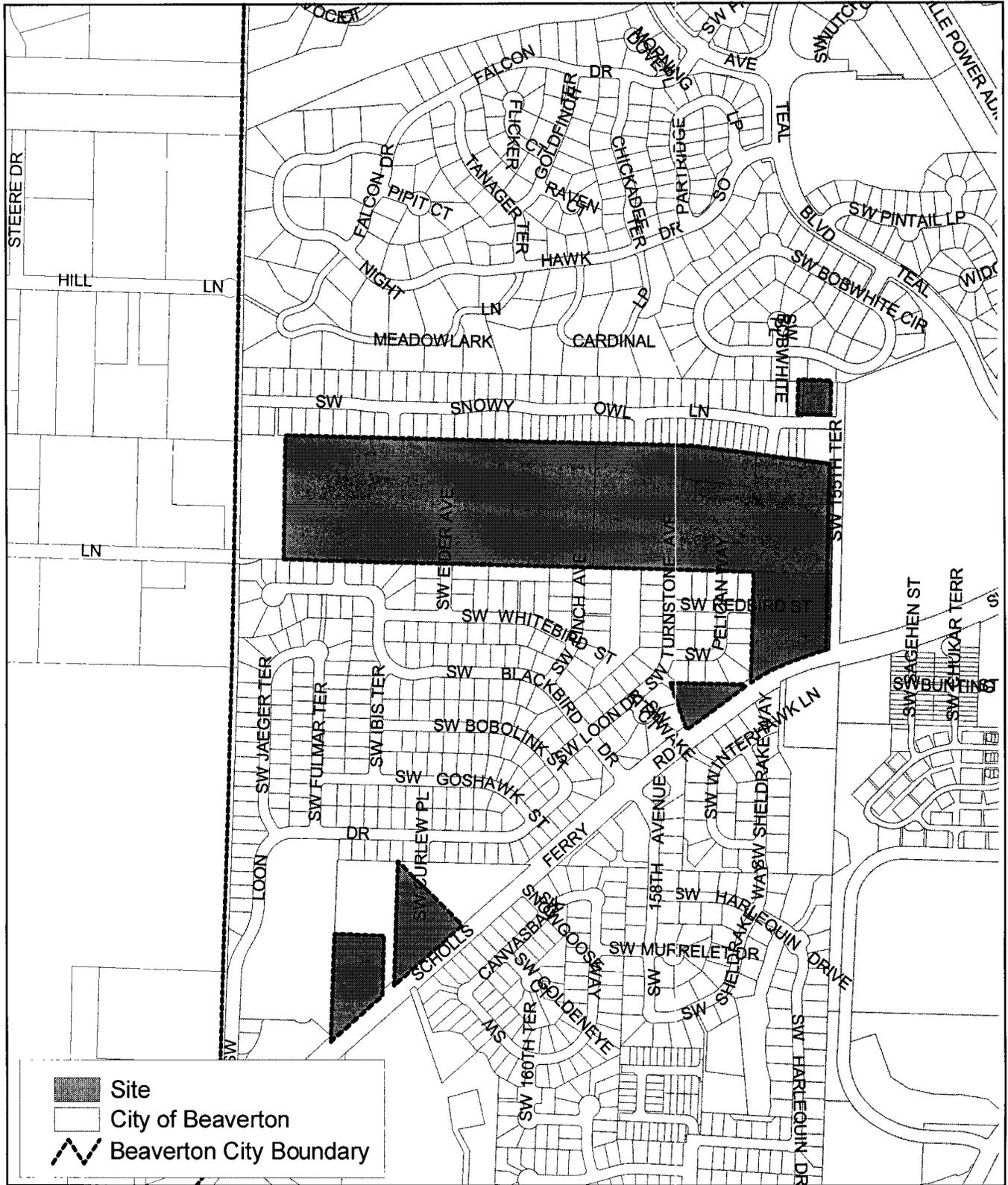
SUE NELSON, City Recorder

ROB DRAKE, Mayor

Date

Date

VICINITY MAP ORD. NO. 4342 EXHIBIT "A-2"



South Beaverton Island Annexations
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Services Division

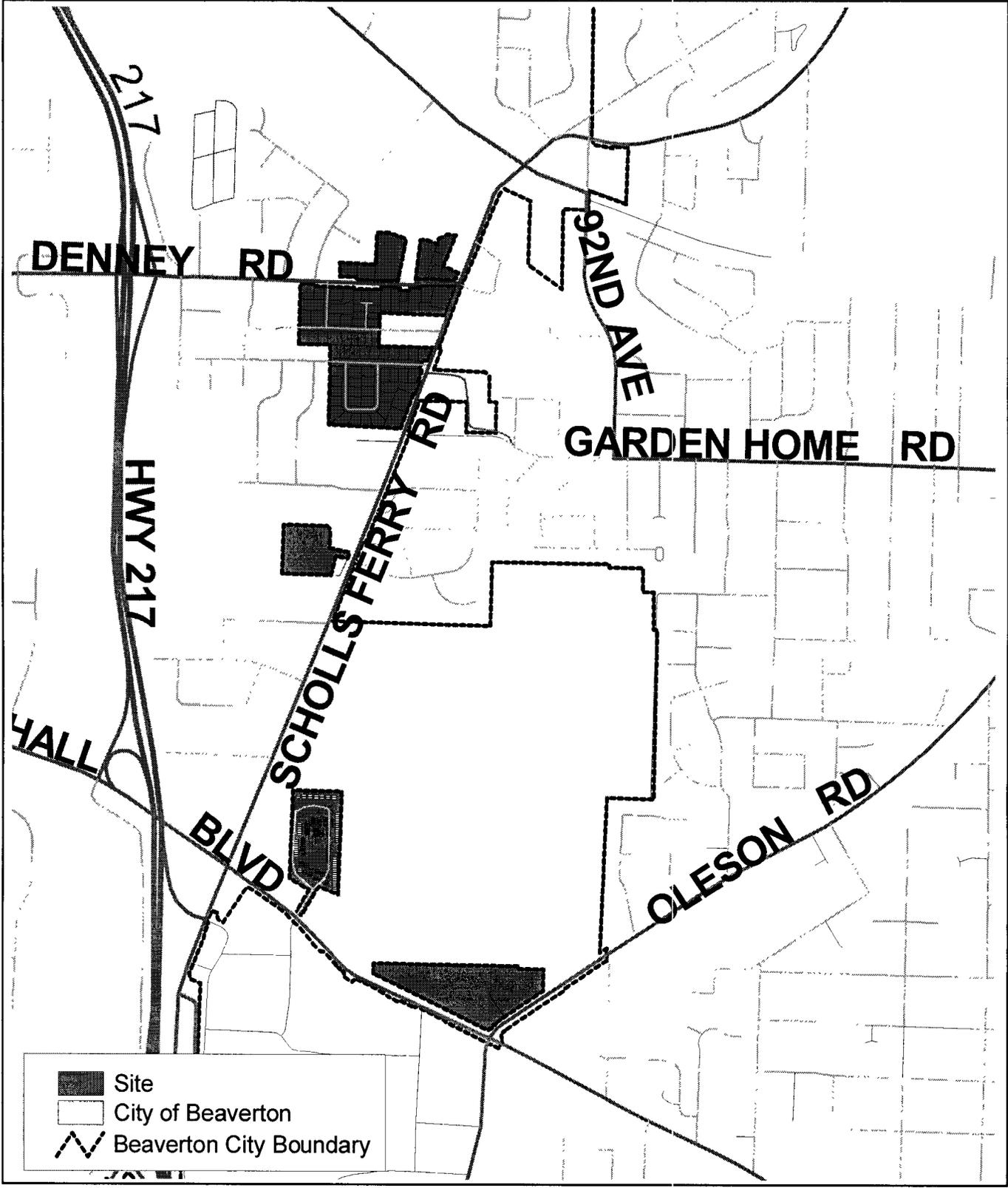
01/18/05
 Map # Various
 ANX 2005-0001



VICINITY MAP

ORDINANCE
NO. 4342

MAP "A-3"



CITY OF BEAVERTON

South Beaverton Island Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/18/05

Map #
Various

N



ANX 2005-0001

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: TA2004-0010 Utility Undergrounding
Section 60.65 Amendment

3/28/05
FOR AGENDA OF: ~~03-07-05~~ **BILL NO:** 05050

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD



DATE SUBMITTED: 02-22-05

CLEARANCES: City Attorney
Devel. Serv.



PROCEEDING: ~~First Reading~~
Second Reading and Passage

- EXHIBITS:**
1. Ordinance
 2. Land Use Order No. 1780
 3. Draft PC Minutes Dated 02-09-05
 4. Staff Report Dated 02-02-05

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

On February 9, 2005, the Planning Commission held a public hearing to consider TA2004-0010 (Utility Undergrounding Section 60.65 Amendment) that proposes to amend Section 60.65 and Section 40.95 of the Beaverton Development Code. Following the close of the public hearing on February 9, 2005, the Planning Commission voted 5-0 (Barnard and Bliss absent) to recommend partial approval of the proposed Utility Undergrounding Text Amendment, as memorialized in Land Use Order No. 1780. Specifically, the Commission recommends approval of the proposed amendment to Section 60.65 (Utility Undergrounding) attached to the draft Ordinance and recommends denial of the proposed modification to Section 40.95 (Variance).

After signing and mailing Land Use Order No. 1780, staff discovered an erroneous finding had been made in the Land Use Order. Specifically, the Order states that the Washington County electorate approved MSTIP 1, 2, and 3 projects prior to the City of Beaverton Development Code requirement for undergrounding existing overhead utilities. In fact, the electorate approved the MSTIP 1, 2, and 3 work program while the overhead utility undergrounding requirement was a Code requirement. Although the utility undergrounding was required by the City's Development Code, it does not affect the fact that the MSTIP 1, 2, and 3 proposals did not include the public funding for utility undergrounding in these projects. MSTIP 1, 2, and 3 projects did not include overhead utility undergrounding because all Washington County jurisdictions agreed not to include utility undergrounding in the MSTIP projects.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1780, the draft Planning Commission meeting minutes, and staff report.

RECOMMENDED ACTION:

Staff recommend the City Council approve the recommendation of the Planning Commission for TA2004-0010 (Utility Undergrounding Section 60.65 Amendment) as set forth in Land Use Order No. 1780. Staff further recommend the Council conduct a First Reading of the attached ordinance.

Second Reading and Passage.

Agenda Bill No: 05050

ORDINANCE NO. 4343

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, SECTION 60.65.15.1
TA2004-0010 (UTILITY UNDERGROUNDING SECTION 60.65 AMENDMENT)

WHEREAS, the purpose of the Utility Undergrounding Section 60.65 Amendment is to amend a section of the Beaverton Development Code currently effective through Ordinance 4332 to provide an exemption of voter approved Washington County MSTIP 1, 2, and 3 funded road improvements from undergrounding overhead utilities as currently required by the Development Code; and

WHEREAS, pursuant to 50.50.1 of the Development Code, the Beaverton Development Services Division on February 2, 2005, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on February 9, 2005; and

WHEREAS, on February 9, 2005, the Planning Commission conducted a public hearing for TA2004-0010 (Utility Undergrounding Section 60.65 Amendment) at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt a portion of the proposed amendment to the Development code as summarized in Planning Commission Land Use Order No. 1780; and

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA2004-0010 (Utility Undergrounding Section 60.65 Amendment) following the issuance of the Planning Commission Land Use Order No. 1780; and

WHEREAS, the City Council adopts as to criteria, facts, and findings, described in Land Use Order No. 1780 dated February 17, 2005, the Planning Commission record, and the Council's Agenda Bill dated February 22, 2005, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4332, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this 7th day of March, 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

Section 1: The Development Code, Ordinance No. 2050, Chapter 60 – Special Requirements, Section 60.65.15.1., will be amended to read as follows:

60.65.15.

1. At the option of the applicant and subject to rules promulgated by the Oregon Public Utility Commission (PUC), this requirement does not apply to surface mounted transformers, surface mounted connection boxes and meter cabinets, which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, ~~and~~ that portion of a project where undergrounding will require boring under a collector or arterial roadway, and voter approved MSTIP 1, 2, and 3 funded roadway projects.
