

**MINUTES
CITY OF FAIRVIEW
CITY COUNCIL**

March 18, 2020

Council Members

Brian Cooper, Mayor
Cathi Forsythe
Mike Weatherby *(By Phone)*
Keith Kudrna
Balwant Bhullar *(Go To Meeting)*
Darren Riordan
Council Position 5 – Vacant

Staff

Nolan Young, City Administrator
Allan Berry, Public Works Director
Devree Leymaster, City Recorder

COUNCIL MEETING (7:00 PM)

1. CALL TO ORDER

ROLL CALL
PLEDGE OF ALLEGIANCE

2. CONSENT AGENDA

- a. Minutes of February 19, 2020
- b. Authorize City Administrator to Enter into a Contract for the Halsey Sewer Rehabilitation Project: Resolution 9-2020
- c. Appoint a Citizen Member to the Budget Committee: Resolution 5-2020
- d. Approve Parks & Recreation Advisory Committee Chair and Vice Chair to Serve a Third Term: Motion

Councilor Kudrna moved to approve the consent agenda and Councilor Riordan seconded. The motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

3. CITY ADMINISTRATOR REPORT

City Administrator Young reported due to social distancing measures, public comment was removed from the agenda. Citizens were encouraged to provide comments in writing. At the dais is a statement received from Phillip Martindale. This is entered into the record as Exhibit A.

CA Young inquired if Council would support staff preparing a development incentive program extension for another year for the NE Halsey & NE 223rd property. Reasons for the extension include the flood plain issue, intersection design, PGE utility easement, and Fairview Creek running through the front of development. The city will benefit from these issues being resolved and coordinating with the development. He proposed bringing a formal request to extend to June 30, 2021 for Council consideration.

Mayor Cooper expressed concern that the extension requests will continue if don't set requirements. Councilor Riordan concurred; need to include benchmarks. CA Young replied staff will draft the extension to include benchmarks and until the above four items are resolved or June 30, 2021.

Council asked about the status of other developments under the development incentive program. Director Berry replied he believes there are two that have submitted permits but they have yet to be issued.

4. PUBLIC HEARING

- a. Amend the City of Fairview Zoning Map from Corridor Commercial to General Industrial for Certain Properties Located on NE Sandy Blvd. and NE 230th Ave.: Ordinance 2-2020
- b. Amend the City of Fairview Comprehensive Plan Map from Commercial to General Industrial for Certain Properties Located on NE Sandy Blvd. and NE 230th Ave.: Ordinance 3-2020

CR Leymaster read the second reading of Ordinance 2-2020 and 3-2020 by title. Mayor Cooper cited the Hearing Statement for both ordinances. Staff had no new information to present. The applicant was not present.

Mayor Cooper asked if any person would like to speak in favor of, opposition to, or neutrally about the application. Hearing no requests, Mayor Cooper closed the public hearing.

Councilor Kudrna moved to adopt Ordinance 2-2020 and Council President Weatherby seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Kudrna moved to adopt Ordinance 3-2020 and Councilor Riordan seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

5. COUNCIL BUSINESS

- a. Ratify Declaration of State of Emergency: Motion

Councilor Kudrna moved to ratify the Declaration of State of Emergency and Councilor Riordan seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

Pursuant to the emergency declaration, Councilor Kudrna moved to suspend the regular meeting rules under the City Code and City Council rules, including rules related to telephonic participation during the declared emergency and Councilor Riordan seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

- b. Appoint Members to the Economic Development Advisory Committee: Resolution 10-2020

Councilor Forsythe moved to adopt Resolution 10-2020 appointing Wendy Lawton to section 1 and Raymond Epperly to section 2. Councilor Kudrna seconded.

AYES: 6
NOES: 0
ABSTAINED: 0

c. Review & Adopt Council Work Plan for Fiscal Year 2020-21: Resolution 8-2020

CA Young explained the proposed Council Work Plan is based on the feedback from Council during the February 22, 2020 goal setting session. He inquired if Council had any additions, amendments, or questions. There were none.

Councilor Kudrna moved to adopt Resolution 10-2020 and Councilor Forsythe seconded. Motion passed unanimously.

AYES: 6

NOES: 0

ABSTAINED: 0

d. Discussion Airbnb's (Vacation Rentals)

CA Young explained this discussion item was placed on the agenda due to a recent incident. He noted the property owner is being cooperative and is no longer using the residence as a short term rental. For procedure and documentation the City did send a letter clarifying the violation.

Council President Weatherby commented we need to learn from this incident and take proactive steps to ensure it does not happen again. He proposed code enforcement review the online apps to see if there are short term rentals in Fairview. Councilor Forsythe suggested drafting enforceable criteria on a long range scale; have to prevent from happening again.

Mayor Cooper remarked the code language is vague. He sees the problem more with non-owner occupied rentals. Airbnb's do contribute to hotel tax. He would like to see a larger public discussion for the role of vacation rentals in Fairview. Schedule a joint meeting with Planning Commission invite the public, Airbnb owners, etc.

Councilor Riordan agreed the code should be reviewed as well as how it is enforced. He asked what the current practice is. Director Berry replied the current code does not allow short term rentals. When a complaint is received, staff researches it, and sends a notice that it is not allowed. If not complied with will then follow the process through to court. He noted monitoring websites could be challenging.

Councilor Forsythe recommended looking at other cities and comparable codes. Council President Weatherby inquired about licensing. CA Young answered they are supposed to register with the State. CR Leymaster commented a Fairview business licenses doesn't apply because they are not allowed per the code to operate in Fairview. If they were to apply, they would be informed of this.

Council President Weatherby reiterated there was a prior complaint and the city needs to make proactive choices to do something. Councilor Forsythe commented she did provide this address and shared the intent for it to be a vacation home. At that time, Council didn't agree that action needed to be taken about this property or Airbnb's in general.

Mayor Cooper inquired how the police notify the city of a property compliant, so code enforcement can follow up. CA Young replied, MCSO comes when called for a disturbance. At that time they are focused on resolving the issue at hand.

CA Young summarized the direction from Council is to have a larger discussion - include the community, invite the Planning Commission, and reach out to those we suspect are operating Airbnb's; review the code and look at other comparable city codes; clarify if tax is being collected; look at enforcement options; and communication between the police and city. Council concurred.

e. Amend the City of Fairview Zoning Map from Agricultural Holding (AH) to General Industrial (GI) for the Port of Portland's Troutdale Reynolds Industrial Park (TRIP) Fairview lot on the north side of NE Marine Drive: Ordinance 5-2020

CR Leymaster read the first reading of Ordinance 5-2020 by title. Director Berry summarized the request is for an amendment to the zoning map from Agricultural Holding (AH) to General Industrial (GI) for the Fairview parcel that is part of the Port of Portland's Troutdale Reynolds Industrial Park (TRIP). The site is currently vacant. There is potential for a portion of the site to be developed as a solar site.

f. Review Well 10 Contract and Authorize City Administrator to Enter into the Contract for Engineering and Related Professional Services for the Well 10 Project: Resolution 11-2020

Director Berry reviewed the bid process and the recommendation that Murraysmith provide the services. He noted, there will be an updated construction estimate and final design construction scope for Council to confirm prior to moving to the next phase.

Councilor Kudrna asked where they ranked in cost. Director Berry replied the process was based on qualifications. Per State rules cannot view the cost. Work with a qualified applicant to negotiate a final scope of work and cost. He noted it took almost three months to negotiate the proposed services and cost.

Councilor Riordan moved to adopt Resolution 11-2020 and Councilor Kudrna seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

g. Declare Council Vacancy - Position 5: Motion

CA Young reported receiving the notice of resignation from Councilor Voruz.

Council President Weatherby moved to declare City Council Position 5 vacant and Councilor Forsythe seconded. Motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

Council discussed the appointment process for the vacant position. Council President Weatherby suggested a 90-day recruitment process. Councilor Forsythe agreed. Mayor Cooper suggested not appointing the vacant seat and waiting until the November election. Councilor Kudrna concurred. Councilor Riordan noted due to the unknown with COVID-19 it may wise to fill the vacant position. He suggested following the typical process for a thirty day notice period to accept applications. Council agreed candidates should be interviewed; potentially through a virtual process.

Councilor Riordan moved to follow a thirty day notice and application process, with interviews, for the appointment to the vacant Council position and Councilor Kudrna seconded. Motion passed by majority.

AYES: 5
NOES: 1 – Councilor Forsythe
ABSTAINED: 0

6. ADJOURNMENT

Councilor Kudrna moved to adjourn the meeting and Councilor Forsythe seconded. The motion passed, and the meeting adjourned at 7:59 PM.

AYES: 6
NOES: 0
ABSTAINED: 0



Devree Leymaster
City Recorder



Brian Cooper
Mayor



Date of Signing

A complete recording and/or video of these proceedings is available.
Contact the City of Fairview City Recorder Office, 1300 NE Village St., Fairview, OR 97024, (503) 674-6224.

From: Nolan Young
Sent: Wednesday, March 18, 2020 3:51 PM
Subject: FW: Phillip Martindale letter for city of Fairview

Honorable Mayor and City Council;

Part of our social distancing plan for meetings has been to encourage the public to submit any written statements they wish to make under Audience participation. This gentleman would like the statement below placed into the record for tonight's Council meeting. Under the City Administrator's report I will mention that we've received this statement and asked the City Recorder to include it with the minutes for this meeting. City staff is currently actively pursuing code violations on this property. Please let me know if you have additional questions.

Nolan Young
City Administrator
City of Fairview
503.674.6221

Statement from 525 Cedar neighbor

To whom it may concern,

My name is Phillip Martindale and I am the homeowner at 160 6th street in Fairview OR. This letter is to briefly explain my experiences and struggles with the current resident, Joe, of 525 cedar street and the property owner, Johnita Wilson, who is also Joe's mother. My partner and I purchased our home in October of 2013.

In fall of 2014 Joe took a 4x4 truck through our public alleyway and made ruts so deep I was unable to access my garage. I sent a letter to City of Fairview and never got a response. I ended up using money out of my own pocket to buy sand to fill in the ruts just so I could use my garage that is accessed from the alleyway.

Ever since we have lived here Joe has always had several cars throughout the property, most not in working order and visibly leaking fluids on the ground. We have also noticed that he very frequently works on other peoples cars, which is not allowed according to City Of Fairview. There is always one or more vehicles parked in front of the house that are partially in the street, and often impedes traffic on the street. I have lost count of how many times he has unnecessarily revved engines much later than 10:00pm, waking my partner, my son, and me.

Between January 2019 and an May 2019 the alleyway was destroyed once again, a trailer and van were stuck in the mud for several days, the trailer was put into the back lot and someone was living in it, The trailer was recovered by Gladstone police, and his pitbull and doberman escaped multiple times from the yard and were left running at large.

In April of 2019, Joe's pitbull got out from the yard, broke through our fence and killed our 11 year old Husky. Everyone in the neighborhood knew how friendly our husky was and he had no history of violence. Joe grabbed the pitbull, and left our husky dead in the alleyway and has not spoken to us since. I pursued it legally with Johnita and had a terrible experience with her.

These have been the most severe situations. In keeping things as brief as I can I strongly feel that Joe and his transient friends are a serious threat to the safety of our children, our pets, our environment, and us. My biggest concern is that Johnita is aware of everything that has happened and is not taking responsibility as the homeowner. As a homeowner, partner, and father I am very concerned with the current situation and would like see something done about it.

I also feel that it is necessary that I state how disheartened I have been with the lack of actions I have seen by law enforcement and animal control. I feel as though the situations have been put to the side and that laws and codes are not being enforced. I sincerely hope to see some positive changes made in regards to Joe, Johnita, and the overall safety of our neighbor.

Sent from my iPhone