

**MINUTES
FAIRVIEW CITY COUNCIL REGULAR MEETING
FAIRVIEW CITY HALL
300 HARRISON
FAIRVIEW, OREGON 97024**

MARCH 18, 1998 -- 7:30pm

**I. CALL TO ORDER/
ROLL CALL**

Mayor Vonderharr called the meeting to order at 7:30pm.

PRESENT: Mayor Roger Vonderharr
Councilor Sherry Lillard
Councilor Mike Weatherby
Councilor Dave McCutcheon
Councilor Len Edwards
Councilor James Raze
Councilor Steve Owen

STAFF PRESENT: Gilbert Jackson, Chief of Police
Roy Wall, Finance Director
Jeffrey Sarvis, Director of Public Works
John Pettis, City Planner
Caren Huson, City Recorder

II. CONSENT AGENDA

Councilor McCutcheon moved and Councilor Lillard seconded the motion to approve the Consent Agenda, consisting of an appointment to the Parks Committee and the Minutes of February 25, 1998 and March 4, 1998.

AYES: 7
NOES: 0
ABSTAINED: 0

**III. CITIZENS WISHING TO
SPEAK ON NON-AGENDA
ITEMS**

Mayor Vonderharr called for persons wishing to speak on non-agenda items.

Jake Vonderharr, 180 Second Street, approached the podium and stated that, as an Eagle Scout project, a few months ago he had begun the project of creating a small park near Fairview Lake. Jake Vonderharr commented that the scouts had almost completed the park, and that he was present to request that the name of the park be the "Ted M. Hockaday" park as Mr. Hockaday had devoted 20+ years to scouting, and also because he was a former Mayor of Fairview.

Mayor Vonderharr stated that the City did not have a formal procedure for naming parks, and that he had suggested that Jake Vonderharr appear before Council with his request. Councilor Lillard asked if there was anything else in the City that had been named after Mr. Hockaday. Mayor Vonderharr responded no. Councilor Weatherby questioned the procedure for naming items after former

Mayors. Councilor McCutcheon responded that the name was being requested because Mr. Hockaday has been involved in scouting for so many years.

Councilor Raze moved and Councilor Weatherby seconded the motion to name the small park near Fairview Lake the "Ted M. Hockaday Park".

AYES: 7
NOES: 0
ABSTAINED: 0

Mayor Vonderharr commented that the City needed to develop procedures for naming parks. Councilor Raze suggested that the Parks Committee be directed to develop procedures, but that final approval of park naming would occur at Council. Council unanimously agreed.

IV. COUNCIL BUSINESS

A.DISCUSSION - Utility Rates

Roy Wall, Finance Director, reported that the subject before the Council was discussion of utility rates for fiscal year 1998-99. Director Wall indicated that utility rates are set by the Council, and that the information presented tonight would discuss possible changes to the rates; a public hearing for any rate changes would be heard at a later date. Director Wall indicated that the Council had received a 5-year financial plan last year for each of the utilities. Director Wall introduced financial analyst Ray Bartlett who had prepared an update of utility rates.

Mr. Bartlett stated that his report was a discussion draft only without firm recommendations, and that it was only intended to facilitate the Council's deliberation on future rate changes. In regards to water, a resolution was adopted by Council last year to implement the second phase of eliminating the second water block rate. Mr. Bartlett reported that no water rate increases were proposed in the coming fiscal year, and that the water fund has allowed the City to make bond payments on schedule, meet the bond reserve requirement, and has exceeded the bond debt coverage requirement; without making any other changes to rates, the utility can continue to meet all of its current bond obligations, complete planned capital improvements, and increase cash reserves. Mr. Bartlett added that the next large project would be to build another new well and a new 3-million gallon reservoir; if development continues as it has in the recent past, then SDC revenues and the accumulated net operating income from rates should provide enough revenue to pay for these improvements with cash. When the City updates the Facilities Plan, more current cost estimates and more accurate forecasts of these and other capital improvements will be available.

Councilor Owen questioned how the City's \$1.39 per 100 cubic feet of water compared with other jurisdictions. Mr. Bartlett responded that he had provided the comparisons in his draft report, and that Table 2 of his report showed the comparisons between Fairview, Gresham, Wood Village, Troutdale, and Rockwood for a 3/4" meter

using 800 cubic feet of water a month; Fairview does have the highest monthly water bill of those cities. Councilor Owen asked why Wood Village had been able to keep their monthly water bill so low. Mr. Bartlett responded that Wood Village has remained the same size city for several years, and is not a rapidly growing city, and possibly their water system has not had to be expanded.

Councilor Weatherby asked why rates have climbed so much in the past and whether it was due to development. Mr. Bartlett responded that developers have paid for a good share, but Fairview has had to expand their water resources and storage. Mayor Vonderharr commented that with the City's current income from the water utility, even if growth stops in Fairview, our rate may still be higher than neighboring jurisdictions, but the fund will be able to cover our bonds. Councilor Edwards asked what the City would be doing in fiscal year 2001/02 as expenses are shown as increasing. Mr. Bartlett responded that the increase would be due to the City placing a new reservoir and well.

Mr. Bartlett presented his report on the sanitary sewer utility, stating that last year the utility experienced a 35% increase to make up for operating deficits due to invoices the City received from Gresham for sewer treatment. Mr. Bartlett commented that when the 35% increase was approved, the Council took under advisement future rate increases, which for fiscal year 1998/99 was a 10% increase, followed by a 5% increase each year after until July 2001 when a 10% increase was suggested. Mr. Bartlett mentioned that it appeared that Fairview would not have to buy a \$5 million bond to pay for capacity increase at the Gresham Sewer Treatment Plant, as Gresham plans to finance the plant expansion and then bill Fairview, so the City will not need to meet debt coverage requirements, and staff does not think Gresham will insist on a bond reserve. Mr. Bartlett explained that the proposed rate increase assumes that the City will borrow from the market to finance the bond reserve; next month, Gresham is supposed to draft an agreement with Fairview for the City's share of the treatment plant expansion, and that they are looking at a monthly charge which appears to be cheaper than anticipated. Mr. Bartlett concluded by stating that in terms of sewer rates, Fairview is dependent on Gresham to ascertain the terms so that Fairview will have a better idea of what the sewer rate increase would need to be.

Councilor McCutcheon stated that he could not justify increasing sewer utilities by 10%; maybe by 2% for cost of living, but he felt that the City should wait until it receives Gresham's draft agreement before placing any sewer rate increase. Director Wall stated that if the City does receive good news from Gresham, that staff would then come back before Council with a recommended lesser sewer increase amount. Director Wall added that the City is managing and operating a larger sewer system today than 3 or 4 years ago, and operating costs have increased. Mr. Bartlett commented that the capital which the current population bought will wear out and need to be replaced; with Gresham's proposed plant expansion, they will not only expand, but replace equipment also as capital items are not simply purchased once. Mayor Vonderharr mentioned that he

thought Councilor McCutcheon was simply stating to proceed with caution and not raise sewer rates until it was necessary. Mr. Bartlett stated that the City must be proactive and ahead of the game, but there was always the possibility that staff may propose no rate increases. Councilor Raze stated that Council does not wish to make any rate increases until all information was received from Gresham.

Mr. Bartlett reported that last year the Council reviewed the financial forecasts for the stormwater utility and decided to increase rates 10% beginning July 1, 1997, which it did. The Council also took under advisement the future rate increases of 10% in June 1998, 10% before July 1999, 5% before July 2000, and 3% annual rate adjustments thereafter to account for inflation. Mr. Bartlett stated that Fairview was at the top of the list for stormwater rates, but the fund did not begin until 1995. Fairview has had massive improvement projects in terms of stormwater, so the rates have been climbing; capital improvements have been made in the past due to grant funds, but the need for stormwater rate increases should match the City's desire to transfer the operating cost entirely to the stormwater fund. Mr. Bartlett reported that the proposed increase would move stormwater rates from the current \$5.50 a month to \$6.05. Mr. Bartlett stated that the stormwater fund will need to finance some substantial projects, and that the fund was simply not old enough to provide a strong, net income.

Councilor Raze commented that if a 10% increase was approved, Fairview's stormwater rate would then be about a third higher than the next highest city. Mr. Bartlett responded yes, but he did not check the rate for every city in the state.

Councilor Edwards questioned what Mr. Bartlett foresaw in the future that would justify all of the proposed rate increases. Mr. Bartlett responded that funds are needed to build all of the capital improvements necessary to reduce damage to private property. Councilor Weatherby asked how Fairview got to the point of being the worst situation in the state. Mr. Bartlett responded that Fairview is trying to take care of its problems; other cities are not, and private properties are suffering damage due to that fact.

Councilor McCutcheon asked if the City increases its utility rates and takes care of its capital improvements for new residents moving into the City, that when those new developments pay their SDCs, will that lower the City's monthly utility rates. Mr. Bartlett responded that you can not take SDC revenues and use them for operating costs; but, yes, as the City grows, you will take in more revenue.

Mayor Vonderharr thanked Mr. Bartlett for his report.

**B.ORDINANCE -
Design Review
Amendment**

John Pettis, City Planner, reported that a Design Review Permit was needed for any apartments, commercial, or industrial development in Fairview, and that the Planning Commission reviews proposed layout plans for these projects. Currently, there was no requirement that a developer had to show outside lighting and design of fixtures in the Design Review process. Planner Pettis stated that a Lighting

and Fixture Plan should be required of applicants, as outside lighting can adversely affect surrounding properties. Planner Pettis reported that the proposed amendment would require an outside lighting plan in an applicant's Design Review submittal, and staff was recommending the approval of first and second readings of Ordinance 7-1998.

Councilor Raze asked if there shouldn't be some guidelines that an applicant would have to try and meet. Planner Pettis responded that the standard would be that the developer would have to show that the lighting would not illuminate other properties. Councilor Owen commented that the proposed ordinance, as it was written, was pretty subjective, and that there needed to be a standard in writing. Councilor Weatherby concurred, stating that there would be too many inequities. Mayor Vonderharr suggested that the ordinance state that any proposal must have minimal impact on neighboring properties.

Paul Elsner, City Attorney, commented that the proposed ordinance would only require that there be a lighting plan; the criteria is then listed in the next section of Fairview's Municipal Code. Councilor Owen stated that he believed Mr. Elsner was correct and that the ordinance was fine as written. Mr. Elsner mentioned that the Ordinance contained a typographical error and that it should state "Section 19.175.050" instead of "Section 19.175.05" as written.

Councilor Edwards moved and Councilor Owen seconded the motion to read Ordinance 7-1998 by title only.

AYES: 7
NOES: 0
ABSTAINED: 0

Mr. Elsner read Ordinance 7-1998 by title only.

Councilor Edwards moved and Councilor Lillard seconded the motion to adopt Ordinance 7-1998, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW, OREGON, AMENDING CHAPTER 19.175, DESIGN REVIEW BOARD" with the correction of the typographical error.

AYES: 7
NOES: 0
ABSTAINED: 0

V. DEPARTMENTAL REPORTS

A. Police

Gilbert Jackson, Chief of Police, stated that City Administrator Marilyn Holstrom was on vacation, but had submitted the following report:

1. Administrator Holstrom met with City Attorney Pam Beery and the developers of a large project proposed for the Fairview Lake area. The meeting was successful and the developers have agreed to develop a code similar

to the Fairview Village overlay and the Jones Farm overlay in Hillsboro.

2. Wood Village has proposed that Pam Christian be appointed as alternate to the Metro Regional Solid Waste Policy Advisory Committee.

Councilor McCutcheon moved and Councilor Edwards seconded the motion to appoint Pam Christian as alternate to the Metro Regional Solid Waste Policy Advisory Committee.

AYES:	7
NOES:	0
ABSTAINED:	0

3. No Council meeting would be held on April 1st due to a lack of agenda items.

Chief Jackson reported that the truck full of garbage which had been parked at the northeast corner of Sandy and 223rd Avenue had been removed. The Metro Illegal Dumping representative was called to investigate the truck and find the owner. Mayor Vonderharr commented that he has noticed a tractor trailer rig being parked on the east side of 223rd Avenue. Chief Jackson responded that the City has no ordinance against parking on 223rd Avenue.

B. Public Works

Jeffrey Sarvis, Director of Public Works, reported that he had met with representatives from the Department of Environmental Quality (DEQ) regarding TMDLs on Fairview creeks and Fairview Lake; the City's desire is to negotiate a Memorandum of Agreement with DEQ on how we intend to meet their criteria. Director Sarvis added that Fairview is probably the smallest city having to deal with issues such as this, and that it costs the City \$3,000 a year to make an annual report to DEQ. Director Sarvis indicated that staff has a Request for Proposal ready for the Capital Improvement Plan, and would like Councilors McCutcheon and Raze to review it before it is released.

C. Planning

Planner Pettis reported that at their March 1998 meeting, the Planning Commission approved a proposed zone change on NE Halsey Street, and that Council would review the proposal at their April 15th meeting. Also on April 15th, the Council will review a cellular tower ordinance which has been recommended for Council approval by the Planning Commission. Councilor Raze asked how he should handle the zone change Council hearing on April 15th as he is the applicant. Mr. Elsner responded that he would simply have to step off the dais, stating that he has a conflict of interest and could not participate in the Council decision; however, he may argue on his own behalf as the applicant of the proposal.

Planner Pettis stated that he has been reviewing the final plat of Blue Heron Shores II subdivision and the final design plan for the Texaco StarMart facility.

Councilor Edwards asked if Planner Pettis had any information on

the electrical meter at the new manufactured home on Sixth Street, as the meter had been installed on a post. Planner Pettis responded that he had not spoken to the electrical inspector, but would try to contact him the following day. Councilor Edwards commented that he would like to know why the post was allowed and would like to have something placed in an ordinance to prevent instances such as that; Mayor Vonderharr concurred.

D. Finance

Director Wall stated that a Budget Committee training session had been scheduled for new Budget Committee members on March 25th at 7:00pm; however, all were invited to attend. Director Wall reported that the first budget hearing would be on April 6th at 7:00pm. Director Wall commented that phone system work would occur at the Public Works building the following day; GTE has run the additional lines so that City Hall and Public Works may be connected.

E. Legal

Mr. Elsner stated that Pam Beery had prepared a written report to the Council, which was before them, along with a memo from Ms. Beery regarding the JT Smith meeting.

Mr. Elsner reported that he had been asked to bring forward a resolution to the Council regarding the Silent Creek Reimbursement District. Under the current City ordinance, a resolution is required to formalize the establishment of the district; Resolution 3-1998 was before the Council tonight for their consideration. Mr. Elsner stated that he had been having discussions with an attorney, Mark Reeve, who represents Mr. Les Moore; Mr. Moore had also provided the Council with a letter which was before them.

Councilor Edwards questioned what exactly were Mr. Moore's arguments. Mr. Elsner responded that Mr. Moore was claiming that his subdivision was approved in 1994, and that the reimbursement district was a new condition being imposed on him; therefore, he feels he can not be required to pay the fee being asked of him to hook into the public facilities that were put in along NE 205th Avenue. Mr. Elsner added that he has exchanged letters with Mr. Reeve in this regard, and believes that this is now a lawful action to be conducted in the courts. Mr. Elsner commented that the resolution before the Council was simply a formalistic device to manifest the ordinance they approved in November 1997; however, Mr. Moore would have 60 days to appeal the resolution. Councilor Weatherby asked if the 60 day appeal period would be for the Council or the courts. Mr. Elsner responded that the appeal would be made to the courts.

Councilor Weatherby questioned if other property owners had objected to the reimbursement district. Mr. Elsner responded that only one other property owner had attached prior to the infrastructure and prior to the reimbursement district.

Councilor Raze asked if the resolution before Council was a normal process. Mr. Elsner responded yes.

Councilor Weatherby moved and Councilor Lillard seconded the

motion to approve Resolution 3-1998, A RESOLUTION OF THE FAIRVIEW CITY COUNCIL ESTABLISHING THE SILENT CREEK REIMBURSEMENT DISTRICT. Mayor Vonderharr asked for Council discussion on the motion. Councilor Owen stated that he thought Mr. Moore wished to address the Council; Mayor Vonderharr asked Mr. Moore if he had any comments.

Mr. Moore approached the podium and stated that the utilities were not oversized to serve his property; he must place the same utilities in front of his property as Mr. Payne had to place for the Silent Creek project; Mr. Payne placed his utilities to serve his project irregardless of Mr. Moore's project, and he does not think he should have to pay half of his neighbors utility bill before he pays his own. Mr. Moore commented that he had been issued a Stop Work order and was losing thousands of dollars while he waits for a decision. Mr. Moore added that he has also been asked to reimburse Creekside Manufactured Housing Park for water utilities, and commented that he will be placing public utilities in the street to serve his project. Mayor Vonderharr asked Mr. Moore how he would have connected to utilities if Mr. Payne had not placed the line to Sandy Boulevard. Mr. Moore responded that he would not have constructed.

Mr. Elsner stated that the Council needs to review Table 1 in the Engineer's Report, and then take a look at Table 3 which speaks to each adjoining property owner. Mayor Vonderharr commented that a public hearing was held on this matter in November 1997, and that the resolution before the Council tonight was just a formality to process the ordinance; the only way Mr. Moore can now resolve his issue would be to take it to court. Mr. Moore stated that he understood what the Mayor was saying, and that he would like to leave a copy of Oregon State Law for the Council to review. Mr. Moore added that this was not the type of treatment any other Fairview resident received when they hooked up to the sewer.

Councilor Edwards commented that he felt for Mr. Moore, but that he also felt that the Council had to pass the resolution and let Mr. Moore's particular issue be dealt with in the courts, or by arbitration, to determine if the methodology was calculated correctly for Mr. Moore's property.

Mayor Vonderharr called for the vote for the motion which was on the floor.

AYES: 6
NOES: 1 (McCutcheon)
ABSTAINED: 0

**VI.MAYOR/COMMITTEE
REPORTS AND COUNCIL
CONCERNS**

Councilor Weatherby reported that the Clackamas County Boundary Change process continues and that his prediction was that the cost and complexity of the boundary change would not allow it to occur.

Councilor Edwards reported that he had participated in a ride-along with the police and had enjoyed it. Councilor McCutcheon asked if Chief Jackson had participated in the HazMat exercise which occurred at LSI. Chief Jackson responded that he was aware of the

exercise, but had not participated.

Councilors Lillard, McCutcheon, Raze, and Owen had no reports or concerns.

Mayor Vonderharr reported that he would attend the MPAC meeting on April 1st, and that on March 21st, he would sit on a panel hosted by Congressman Blumenauer regarding post office issues.

VII. ADJOURNMENT

Councilor Weatherby moved and Councilor Edwards seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 10:07pm.

AYES: 7
NOES: 0
ABSTAINED: 0

Mayor Roger Vonderharr

Dated:

Caren C. Huson Quiniones
City Recorder