

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

OCTOBER 7, 1998 -- 7:30pm

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

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

PRESENT: Mayor Roger Vonderharr
Councilor Ken Quinby
Councilor Dave McCutcheon
Councilor Len Edwards
Councilor James Raze
Councilor Steve Owen

ABSENT: Councilor Sherry Lillard

STAFF PRESENT: Marilyn Holstrom, City Administrator
John Andersen, Acting Planning Director
Caren Huson, City Recorder

II. CONSENT AGENDA

Councilor Edwards moved and Councilor Quinby seconded the motion to approve the Consent Agenda, consisting of the Minutes of September 16, 1998.

AYES: 6
NOES: 0
ABSTAINED: 0

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

Mayor Vonderharr called for persons wishing to speak on non-agenda items. As there was no response, the session continued.

**A.ORDINANCE -
Zone Change**

John Andersen, Acting Planning Director, reported that the Planning Commission recommendation before the Council was for a zone change of a parcel from F-2, Agriculture, to M-2, General Manufacturing. Director Andersen stated that the parcel was located on the east side of NE 223rd Avenue, Tax Lot 900, and that Townsend Farms was located to the east of the site. Director Andersen indicated that the subject property was 5.18 acres in area and that Fairview Creek ran through the lower southwest corner of the site; the site slopes east to west towards the southwest corner.

Director Andersen stated that the applicant was requesting that the property be rezoned to M-2, General Manufacturing, which would allow a broad range of light and medium intensity industrial uses which include assembly, manufacturing, fabrication, storage, and offices. The applicant indicated that the site would be used in the future for a refuse transfer station and recycling business, which would require approval of the Planning Commission. Director Andersen commented that the requested M-2 zoning was consistent with the General Industrial designation as shown on the City's Comprehensive Plan Map. Director Andersen added that basic criteria must be addressed for a zone change, including: the livability of the area,

value of other land in the vicinity, and no creation of spot zoning.

Director Andersen reported that landscaping and fencing would be required during the Planning Commission's Design Review hearing, should the Council approve the zone change. Director Andersen commented that additional information had been submitted by the applicant and was before the Council, along with a letter from David Glennie. Director Andersen stated that the complexity with the zone change was that tonight's public hearing was not to decide how actual development of the site should occur, as a specific proposal had not been submitted by the applicant; when a specific proposal is submitted, staff and the Planning Commission would review the issues of noise, buffering, etc., and address those issues at a future Commission public hearing. Director Andersen requested that if the Council decided to deny the zone change request, that they delay their final decision until their next regularly scheduled meeting so that Director Andersen could draft findings to indicate the denial.

Councilor Quinby questioned if there were mandates which indicated the Council had to approve rezonings. Director Andersen responded that criteria was contained in the City's regulations for zone changes, and that the City's Comprehensive Plan indicates that the subject area is to be zoned as industrial.

Councilor McCutcheon asked if there was a buffer of some type required between residential and industrial land. Director Andersen responded that no document states that a buffer is to exist between zoning divisions, but any requirements could be made at the time of an actual Design Review hearing.

Mayor Vonderharr opened the public hearing and asked for any proponents who would like to speak to the zone change request.

Randy Burbach, 4645 SE Welch Road, Gresham, stated that he was the owner of Twelve Mile Disposal and the applicant for the requested zone change. Mr. Burbach indicated that he was available to answer any questions the Council might have, and wished to clarify that the wording of the staff report was misleading as he was not proposing a transfer station or recycling yard, but simply a truck terminal, office building, and small reload facility.

Tom McDonald, 301 SW Lincoln #616, Portland, stated that he owned the property on the northwest corner of Sandy Boulevard and 223rd Avenue, and that he understood that tonight's hearing was only for the zone change request. Mr. McDonald commented that he understood that the property would be rezoned to industrial at some point in time, but he wished to clarify that he would participate in the public hearing on the actual use of the land. Mr. McDonald stated that if the hearing tonight was just to consider the zone change, that he was in favor of the change.

As no other proponents of the project approached the podium, Mayor Vonderharr asked for opponents of the proposal.

David Glennie, 200 Hawthorne Street SE #C-310, Salem, stated that Oregon Fir Supply Co., Inc. was the actual owner of the Woodward property across from the project site, and that he was representing Bob Stuckart, the President of Oregon Fir Supply. Mr. Glennie indicated that he had submitted a letter into the record regarding the zone change, and that his letter was before the Council. Mr. Glennie stated that he could think of no worse use on the site than a transfer facility, as garbage trucks would be detrimental to the residential area. Mr. Glennie requested

that the Council leave the record open for 7 to 10 days so that he may review the draft drawings for the proposed site. Mr. Glennie also requested that he be placed on the mailing list for any future hearings on the subject property, and added that Jeff Payne had informed him that a survey of the Oregon Fir property had indicated that the sanitary sewer was constructed 20 feet outside of the easement that was granted and may cost him 8 buildable lots for his subdivision. Mr. Glennie stated that if the easement variance was there, that the City would hear from him. Councilor Raze questioned if Mr. Stuckart had been properly notified of tonight's public hearing. Marilyn Holstrom, City Administrator, responded that the notice was sent 7-10 days prior to the hearing and that the mailing list was in the Council's packet; the owners of record were obtained from the Multnomah County Assessors Office.

July Hays, 3201 NE 223rd Avenue #87, Fairview, stated that she lives directly across the street from the proposed development. Ms. Hays commented that Twelve Mile Disposal was the best garbage disposal company, but she wondered if the City's Comprehensive Plan was outdated. In speaking with her neighbors, all assumed that they were moving into a residential area, and the thought of the property becoming manufacturing worries them as they want the creek to remain healthy and they wonder if the new use would protect the creek.

Amber Johnson, 22250 NE Failing Street, Fairview, stated that she had assumed that the property to the east of her would be residential, and that she was concerned about the traffic on 223rd Avenue and Sandy Boulevard, and what 30-35 trucks could do to the flow of traffic. Ms. Johnson commented that residents of Fairview Lake Estates already suffer from train and plane noise, and she wonders what it would be like in the morning when all the trucks were warming up their engines.

Dale Burkholder, 410 SE Brower Road, Corbett, stated that he was the real estate agent representing Mr. Burbach and the property owner, and that they had first begun the relocation process over a year ago; they had gone through great efforts to find property of an appropriate size, and the subject property took nine months to get to the point of a contract. Mr. Burkholder mentioned that the property was currently zoned F-2, Agriculture, and that there was the potential, if the zone change is approved, that the deferred farm tax would be due; the property owner could face \$25,000 in tax deferrals once the zone change occurs. Mr. Burkholder commented that Fairview Creek was loved by everybody and that there was a Significant Environmental Concern overlay on the creek where nothing was allowed to be done within that boundary.

Mr. Burbach stated that he wanted to reaffirm that he was not proposing a transfer station; his understanding was that the City's Comprehensive Plan indicated industrial zoning on the subject property whether or not the request came from him. Mr. Burbach stressed that he would not build an eyesore facility in Fairview, and that he believed the site would have to be screened and would have several requirements placed on it by the Planning Commission. Mr. Burbach reported that the proposed reload facility would be fully contained within a building, and that all materials would be contained inside a storage container. Mr. Burbach commented that he currently had 35 garbage trucks, but only run about 20 of them a day.

Councilor Quinby asked what time in the morning the garbage trucks would leave the site. Mr. Burbach responded that 10 trucks leave around 6:00am, and then another 5 to 10 trucks would leave at 7:00am; on Saturdays, he would have 1 garbage truck and 4 other trucks leaving the facility. Councilor Quinby questioned if the proposed driveway to the site could be moved further to the south. Mr. Burbach

responded that in moving the driveway further south, it would be hard for trucks to stop on the hill, and as a safety point, it was better to have the driveway to the north. Councilor Quinby asked if the garbage trucks would only contain standard household debris. Mr. Burbach responded yes.

Councilor Owen questioned if garbage would be stored in sealed trucks on the site. Mr. Burbach responded yes. Councilor Owen asked for clarification of a transfer truck. Mr. Burbach responded that those were roll-off trucks which pick up a 10-yard box of construction and debris material, take it to a reload facility, dump the debris into a transfer truck, and then that transfer truck goes to the dump. Councilor Owen commented that from a noise perspective, it seems that the garbage trucks can be cranked up very loudly, and asked if the transfer facility situation would be similar in noise levels. Mr. Burbach responded that in a transfer situation, two trucks mate up, one will dump debris and have its motor running; however, both trucks would be in an enclosed building which will muffle some of the noise. Mr. Burbach added that he did not think the residential area across the street would be able to hear any noise coming from the building as the building would be located at the rear of the property. Mr. Burbach commented that no recyclable materials would be stored on the site as they are taken straight from the curb to the MERF. Councilor Owen stated that he understood there was some concern that if the zone change was approved, but the Conditional Use Permit was not, that there could be a problem. Mr. Burbach responded that the only problem would be for the property owner in terms of dollars. Councilor Owen questioned that if the zone change was approved and the Conditional Use Permit was not, if the zone change would still stand. Director Andersen responded yes.

Councilor Raze stated that the Council all believed Mr. Burbach when he states he would construct a good facility in Fairview, but he was hoping that the Council was not being set up with the possibility that Mr. Burbach would sell his business to a larger firm at a later date. Mr. Burbach responded that he has been approached to sell his business, but he did not want to; he would like to see Twelve Mile Disposal continue being operated by his family. Councilor Raze commented that in regards to traffic on NE 223rd Avenue, that 30 trucks would probably provide less traffic than if a large subdivision were to be placed on the proposed site.

Councilor Edwards commented that garbage trucks do make quite a bit of noise, but that he likes to have his garbage picked up. Councilor Edwards questioned what would be the earliest time a drop-box would be deposited on the site. Mr. Burbach responded that the earliest time would be 7:30am and the latest time would be 5:00-6:00pm. Councilor Edwards asked how wide the driveway and gate would be to the site. Mr. Burbach responded that he thought the width would be 33 feet.

Councilor McCutcheon wished to clarify that no wet transfer would be conducted on the site. Mr. Burbach responded that there would be a 6-yard truck that would dump debris into a box, but no material would be placed on the ground. Councilor McCutcheon stated his concern about runoff into the creek as the property slopes in that direction. Mr. Burbach responded that he was certain the Planning Commission would require that the entire driving surface on the property would have to be impervious, draining to a stormwater detention facility, then into an oil separator, and that no runoff water would run into the creek.

Mayor Vonderharr commented that his biggest concern was on a national scale, as large corporations are managing to have laws placed to run small, local companies out, and he was concerned about how he could protect the City from that. Mr. Burbach responded that the Council could protect the City by not renewing a

franchise agreement to provide service in Fairview. Mayor Vonderharr questioned if the City could restrict the number of vehicles that could be located on the proposed site. Director Andersen responded yes, that during the Conditional Use process, the City could limit the number of trucks and the number of trips a day coming from the site.

Del Lickar, Fairview, questioned if Gresham was asking Mr. Burbach to relocate his business due to surrounding residential areas, why would Fairview want to locate the business in a residential area. Mayor Vonderharr responded that the entire area east of 223rd Avenue, north of Sandy Boulevard, was depicted as industrial on the City's Comprehensive Plan Map.

As no one else approached the podium, Mayor Vonderharr closed the public hearing.

Councilor Owen stated that Twelve Mile Disposal does a very good job, and that the City's zone change criteria was pretty specific that a use could not interfere with the livability of an area, but that he was not convinced that the proposed use would not interfere with livability; also, he was concerned about the noise issue as Fairview was already blessed with train and plane noise.

Councilor Raze asked Director Andersen to read aloud what was allowed in an industrial zone without a Conditional Use Permit. Director Andersen read from the City's Municipal Code those uses which were allowed outright in an industrial zone and which included businesses ranging from automotive assembly, can and bottle manufacturing and fabrication plants, to small animal slaughter facilities. Councilor Raze commented that in considering the list of permitted uses, that the proposed use appears to be a better choice. In addition, Councilor Raze stated that he did not think the zone change was deniable as industrial use was depicted on the City's Comprehensive Plan Map for the subject site. Councilor Raze added that he thought the City would actually have more control over the property with a conditional use than if someone came in with a small animal slaughterhouse. Councilor Raze stated that he would be in favor of the zone change, and that he felt sorry for the property owner should the Conditional Use Permit be denied at a later date, but he could not make his decision based on a future land use decision.

Councilor Quinby questioned if the City would be open to litigation should the Council deny the zone change. Director Andersen responded that he was not a lawyer, but normally what happens is that the applicant would go to court to have the decision overruled, and should the court determine that the decision was wrong, they could override the Council's decision.

Councilor Edwards stated that he has served on the City Council for ten years, and that he thought at some point the zone change would occur as the Comprehensive Plan calls for such a change. The Council has to make a decision on what was best for Fairview as a whole.

Councilor Edwards moved and Councilor Raze seconded the motion to read Ordinance 16-1998 a first time by title only.

AYES: 5
NOES: 1 (Owen)
ABSTAINED: 0

Administrator Holstrom read Ordinance 16-1998 a first time by title only, and stated

that since the initial motion was not a unanimous vote, that the second reading and adoption would have to occur at the Council's next regularly scheduled meeting.

V. COUNCIL BUSINESS

A. APPOINTMENT - Planning Commission

Mayor Vonderharr announced that three applications had been received for the Planning Commission vacancy, but that only two applicants were present. Mayor Vonderharr asked Gail Swanson to approach the podium and tell the Council something about herself.

Ms. Swanson stated that she had moved to Fairview in February 1997, purchasing a home in Fairview Village. Ms. Swanson commented that she had chosen Fairview for its livability, and that she now had the time to contribute to that livability by serving on the Planning Commission. Ms. Swanson indicated that she had a background in management and sales, and that she tends to think outside the box; she felt she could be an asset to the community and the Commission as she cares about what happens in Fairview.

Councilor McCutcheon asked if Ms. Swanson was aware of the time responsibilities associated with serving on the Planning Commission. Ms. Swanson responded that initially she had applied for a City Council vacancy but understood that quite a bit of time was required of that position; when the Commission vacancy came open, she gave it great thought and knew it was an opportunity to take the first step in supporting the livability of Fairview.

Councilor Raze questioned how Ms. Swanson felt about growth. Ms. Swanson responded that the interests of everyone needs to be viewed, and visioning needs to occur in what is best for the City; Fairview is in a growing urban area, and needs to balance what is best for the community. Ms. Swanson added that if she wasn't in favor of growth, that she would not have moved to Fairview.

Councilor Quinby asked what type of committees Ms. Swanson had previously served on. Ms. Swanson responded that she is currently a board member of the Fairview Village Homeowners Association. Councilor Quinby commented that there was an incredible amount of reading required of Commission and Council members and cautioned Ms. Swanson in that regard. Councilor Quinby questioned how Ms. Swanson felt about environmental issues in general in terms of merging them with growth and big business. Ms. Swanson responded that she does live along Fairview Creek, and supports natural areas, but she thinks those are the aspects which are bringing people into Fairview as so much open space has been allotted in the City.

Councilor Edwards asked if Ms. Swanson was capable to make decisions without bias, especially when a decision could affect her personally. Ms. Swanson responded that a person needed to separate their emotion from logic, and base their decisions on what was best for the community. Mayor Vonderharr stated that the biggest problem may be in making a decision that some citizens would not be happy with.

Councilor Owen asked for Ms. Swanson's thoughts in regards to parks in the City. Ms. Swanson responded that she thought there were currently 17 or 18 parks owned by the City, but she did not know how the percentages broke down in terms of open space and greenspace. Ms. Swanson added that she did not think there could never be too many greenspaces, as we need to keep in mind the desire of

livability in Fairview.

Mayor Vonderharr thanked Ms. Swanson for her comments, and asked the next applicant to approach the podium.

Dee Lickar stated that she had moved to the Fairview area 6 years ago from the East Coast as she thought it was a really beautiful area. Ms. Lickar indicated that she has a lot of contact with people in Fairview, and her first interaction with Fairview staff was when she pushed for a TriMet bus route on Sandy Boulevard. Ms. Lickar commented that she believed some of the things happening in Fairview were not too good, but that other things were good. Growth was important, but that you have to be careful on how you direct the growth. Ms. Lickar added that she wanted to be more active in the community.

Councilor Owen questioned if Ms. Lickar had had any experience in serving on committees. Ms. Lickar responded that she was a member of the TriMet team to promote bus service in Fairview, and that she had also served on the National Organization of Women in Construction. Councilor Owen asked what Ms. Lickar had gained from serving on committees. Ms. Lickar responded that she felt good that she was on a committee and was able to contribute to the community. Councilor Owen commended Ms. Lickar for her efforts on the TriMet issue.

Councilor Edwards asked what Ms. Lickar's position was on making important decisions. Ms. Lickar responded that you can please some of the people some of the time, but not all the people all of the time; one must use common sense, evaluate the situation, and review thoroughly what was before them.

Councilor Quinby questioned if Ms. Lickar had attended any of the Planning Commission meetings. Ms. Lickar responded no. Councilor Quinby asked if Ms. Lickar had the time to devote to the Commission. Ms. Lickar responded that she does have the time; she is a manager of a storage facility, but the business owner was supportive of her becoming involved in the community.

Councilor McCutcheon asked what Ms. Lickar thought her role would be as part of the body that makes the growth decisions for Fairview. Ms. Lickar responded that one has to look at the entire picture; a City needs people, industry, and recreation for growth and to form something that is pleasant for everyone.

Councilor Raze questioned if Ms. Lickar had a real estate background or any extensive knowledge of land uses. Ms. Lickar responded that other than personal real estate purchases, she had never been involved in the real estate business.

Mayor Vonderharr asked what specific area the City was not focussing enough attention on. Ms. Lickar responded that Fairview Village was very nice along with other areas, but that you have to be careful that you do not form pockets, because if you put too many people in one pocket, you have the potential of kids forming gangs, overpopulation, etc.

Mayor Vonderharr thanked both applicants for their comments, and asked the Council to write their choice of candidate and their name on a piece of paper and pass it on to the City Recorder. Mayor Vonderharr stressed that there were many portions of the City that required citizen volunteers, so that the person who was not selected was encouraged to apply for other positions as they come open.

Recorder Huson announced that the majority of the votes were for Gail Swanson.

Mayor Vonderharr appointed Ms. Swanson to Position No. 2 on the Planning Commission.

VI. CITY ADMINISTRATOR REPORT

Administrator Holstrom reported that things were moving quickly regarding the new City Hall; on October 21st, Council will receive a briefing from the architects who will have designs for the Council to review. Administrator Holstrom commented that the original design had changed somewhat, but that staff meets frequently with the architects to discuss their space needs. Administrator Holstrom stated that the City would be applying for a grant through Multnomah Cable Access and Paragon Cable which will assist the City in developing telecommunication access for the new City Hall.

Administrator Holstrom commented that in regards to the Y2K issue and the concern of possible problems which could arise, nobody knows exactly what will happen, but Fairview has been addressing the problem for the last year. A formal committee was formed which will compile a notebook of all the efforts made, and provide a "due diligence report". Administrator Holstrom emphasized that the City needs to limit their liability should a problem occur, and staff will be obtaining the appropriate documentation from all outside entities that could affect the City. Administrator Holstrom added that all internal problems could be solved, but the City does not have control over outside agencies such as the Bureau of Emergency Communication, the telephone companies, electricity, and natural gas.

Administrator Holstrom reminded the Council that if they plan on attending the League of Oregon Cities Conference, to please let staff know as soon as possible.

VII. MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

Councilor Quinby stated that he spends about 10 hours a week reading about Y2K, and he understands that Fairview will have all internal concerns rectified, but he was extremely concerned about the regional police situation. Councilor Quinby suggested that perhaps the City could come up with something in Fairview that their citizens could dial the police directly, or perhaps a newsletter should inform people of what might be expected from Y2K and make some recommendations.

Councilor Owen reported that he would be attending a dinner the following evening at the Airport Sheraton which the Port of Portland would be sponsoring; the previous Airport Noise Abatement Committee would be officially dissolved at the dinner, and then a new committee will be formed with 15 representatives. The first meeting of the new committee will probably be scheduled for November, and he hopes to be the representative for the three cities on that committee.

Councilor Edwards suggested that he and Councilor Owen get together to discuss the City's Renaissance Plan.

Councilors Raze and McCutcheon had no reports or concerns.

Mayor Vonderharr stated that he had hoped the boundary change issue would disappear for good as a result of last week's Four Cities Forum, but he has a feeling that Gresham may try to push for it again.

VIII. ADJOURNMENT

Councilor McCutcheon moved and Councilor Quinby seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:45pm.

AYES: 6
NOES: 0
ABSTAINED: 0

Mayor Roger Vonderharr

Dated:

Caren C. Huson Quiniones
City Recorder