

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

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**APRIL 7, 1999 -- 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 Sherry Lillard  
Councilor Dave McCutcheon  
  
Councilor Len Edwards  
Councilor James Raze  
Councilor Steve Owen

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

**II. CONSENT AGENDA**

Councilor Quinby moved and Councilor Lillard seconded the motion to approve the Consent Agenda, consisting of a Liquor License Request for the Tobacco Market and the Minutes of March 17, 1999.

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. As there was no response, the session continued.

**IV. HOMEOWNERS ASSOCIATION  
REPORT  
Fairview Village Phase I**

Darrell Cornelius, President of the Fairview Village Phase I Homeowners Association (Association) thanked the Council for inviting him, stating that he would be presenting a report on the Association and their activities. Mr. Cornelius reported that Phase I of Fairview Village includes 86 lots, with approximately 70 of those lots being occupied; they have only had control of the Association for 8 months, as previously it was handled by the developer, Holt & Haugh. Mr. Cornelius stated that the current Association was more involved than Holt & Haugh's Association as they do more than simply enforce the CC&Rs; their additional committees include the Landscape Committee, Activities Committee, and a Wall Maintenance Committee. Mr. Cornelius reported that the Association's first annual meeting was held on April 1st and that about 50 residents had attended; Fairview Police Chief Gilbert Jackson provided a presentation on the Neighborhood Watch Program, and Fairview Planning Director John Andersen spoke on creek preservation. Mr. Cornelius stated that the Association had published their first newsletter and that they intend to publish one every quarter.

Councilor Raze asked how many kids under the age of 18 lived in Phase I. Mr. Cornelius responded that he was not sure, but he thought it was less than 20.

Councilor Owen commended Mr. Cornelius' on the Association's efforts and added that he might attend one of their meetings to get an idea of how they operate as he

lives in a neighborhood that has CC&Rs, also.

Mayor Vonderharr requested that the Homeowners Association keep in touch with the City, especially if some of their activities revolve around the parks in Fairview Village. Mr. Cornelius assured the Council that he would be in contact with the City.

Councilor Raze commented that the Community Park to be located in Fairview Village was a City park and that all residents of Fairview were looking forward to using that park.

## V. PUBLIC HEARING

### A. LAND USE APPEAL Twelve Mile Disposal

Mayor Vonderharr stated that an appeal to a Planning Commission denial of a Conditional Use Permit was before the Council, and he was asking each Council member to claim ex parte contact if necessary. Councilor Quinby commented that at least four of his neighbors had spoken to him about the project, but that his opinion had not been swayed and he did not tell the neighbors how he felt about the project. Councilor Owen stated that he also had been approached by some of his neighbors, but again, his opinion of the project had not been swayed. Mayor Vonderharr noted that across the Council's desk were posters which indicated the criteria the Council must consider for the appeal application.

John Andersen, Planning Director, reported that an applicant appeal was before the Council of a Planning Commission denial decision on the Twelve Mile Disposal Conditional Use Permit/Design Review. Director Andersen commented that Council approval of the appeal would allow the Conditional Use Permit/Design Review, while a Council denial of the appeal would uphold the Planning Commission decision. Director Andersen stated that the Council had the option of hearing new evidence if they desired, but staff was recommending that Council hear the appeal based on the record as presented to the Planning Commission. In addition, staff was recommending that the appeal be approved per the original staff report.

Director Anderson reported that the Twelve Mile Disposal project was proposing to establish an office and shop complex, which were permitted uses, and in addition, a reload facility was proposed which would require a Conditional Use Permit. The west end of the site would contain the office building and paved parking which would be screened by landscaping and a berm, along with a 6-foot high chain link fence and evergreen trees on the north property lines. Director Andersen stated that the truck maintenance and reload building, east of the office building, would have generous space around them for truck maneuvering; refuse containers and drop boxes would be stored at the far eastern end of the site. The riparian zone adjacent to Fairview Creek would be protected and a minimum 35-foot setback maintained from the creek bed and any new development. Stormwater would be collected in new catch basins and directed to the existing line in NE 223rd Avenue; new oil/water separation will be part of the system. The existing storage building at the southeast corner of the site would be removed. Director Andersen reported that the proposed shop building would include a shop/scale office, driver locker room, parts room, and a truck maintenance area; the reload building would handle a loading that would occur from smaller vehicles into larger vehicles, which would then transfer material and debris to a disposal site.

Director Andersen stated that the Planning Commission did not feel that three of the criteria were met in terms of Conditional Use Permit Approval; however, staff finds that the proposal did meet the three areas of concern: 1) Criteria B of the City's Conditional Use Approval Criteria - the site was well suited for a waste transfer facility as it was relatively level with ample room for truck maneuvering and parking.

Property to the northeast and south was either agricultural or unimproved and wooded. Site grading could be easily accomplished to control stormwater and normal vehicle discharge through the use of oil/water separators and filters. It was

one of the few available sites where necessary building and paving areas could be situated, while retaining generous space for buffering landscaping along Blue Lake Road and the other boundaries. Trees along the south offer a natural buffer; 2) Criteria D - as impact on neighboring properties would be minimal as the site would be well screened and self-contained in nature; waste would not stay on the site for more than 24 hours, and the waste would be transferred inside an enclosed structure located 750 feet from NE 223rd Avenue; and 3), Criteria F - as no public nuisance would result from the development; numerous features would lessen visual, acoustic, environmental, and other types of impacts. Reasonable conditions and requirements had been imposed on the project to insure the health, safety, and welfare of the community.

Councilor Edwards moved and Councilor Owen seconded the motion to hear the appeal based on the record only. Councilor Quinby questioned if anyone in the audience had new evidence which they wished to present. Receiving no comment, Mayor Vonderharr called for the vote.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Mayor Vonderharr stated that the appeal hearing would be based on the record as presented, opened the public hearing, and asked the applicant to state his position.

Randy Burbach, 4645 Welch Road, Gresham, approached the podium and stated that he was the owner of Twelve Mile Disposal; he feels that they have addressed the concerns regarding water runoff and how it would be collected. Mr. Burbach commented that it was his belief that they could build a quality industrial project per the zoning requirements of the area. The site would mostly be screened and all environmental concerns would be addressed. Mr. Burbach stated that he felt his proposal was an appropriate use and design for the currently zoned industrial land; the office and shop were allowed uses and the reload facility was the only issue. Mr. Burbach reported that everything would be enclosed and impervious to wind and blowing debris; from the street, it would look like any normal industrial development. Mr. Burbach stated that the project would not be an eyesore.

Mayor Vonderharr asked for proponents of the project, and requested that everyone testifying keep their comments to three minutes and to avoid duplicate testimony.

Dee LaPlante, 3201 NE 223rd Avenue, Fairview, stated that she was a resident of Blue Lake Village and that for two years she has lived near power lines, listened to trains and planes, and smelled the Gresham Sewage Treatment Plant and the Camas paper mill. Ms. LaPlante commented that Twelve Mile Disposal had serviced the Fairview community for many years, and that they keep their trucks clean and washed daily. Ms. LaPlante realized that there would be additional truck traffic, but trucks use NE 223rd Avenue every day. Ms. LaPlante stated that she believed Twelve Mile would bring tax dollars to Fairview and offer employment to Fairview residents; she had no problem with the proposal.

Dale Burkholder, 410 SE Bower, Corbett, stated that he was speaking on behalf of Twelve Mile and the current property owner, Denise Arndt. Mr. Burkholder wished to clarify that, in the beginning, Twelve Mile was pointed in the direction of the proposed site by the City, and that this has been a 3-year project. Nothing has been overlooked by the buyer or the seller, and that there has been a misconception of the office and truck maintenance facility. Mr. Burkholder commented that Twelve Mile has always lived up to what the City has asked and never faulted on their word. Mr. Burkholder stated that Twelve Mile was not trying to undermine the integrity of the community, and that a lot of work and careful thought had gone into the proposal.

to ensure that every letter of the zoning criteria was met.

Denise Arndt, 29433 SE Lusted Road, Gresham, stated that Fairview has grown and that the City had formed a Sewer Local Improvement District in which the property owners had to bear the cost; she would like to retain her property as farmland, but she could not afford to do that. Ms. Arndt reported that she would not sell her property to someone who would do a bad job, and that when one speaks of concerns on water runoff, they need to consider what farmers were placing on that land in terms of pesticides and what had run off into the creek. Ms. Arndt added that, with City regulations, runoff would certainly be cleaner.

Bill Whitney, 255 NE 4th Street, Gresham, stated that he was the architect of the proposal, and that they had worked as a team to design the facility. Mr. Whitney reported that not only did Fairview have conditions which had to be met, but also the City of Portland, Metro, the Division of State Lands, and the County had conditions and improvements which had to be satisfied. Mr. Whitney indicated that there was a 128-foot setback to the first building off of NE 223rd Avenue, and that the reload facility was located 750 feet from NE 223rd.

Tom O'Connell, 380 Creekside Terrace, Fairview, stated that he has lived in Fairview for 18 years and that he had a lot of respect for Twelve Mile Disposal as they kept Fairview clean. Mr. O'Connell indicated that he had reviewed the plans and that he liked the fact that all debris transferring would be done inside a building. Mr. O'Connell stated that Twelve Mile serves the City well and that the City should do something in return for them.

Mayor Vonderharr asked for opponents of the proposal to approach the podium. Director Andersen indicated that a letter had been received by the City earlier in the day in opposition to the proposal and distributed the letter to the Council.

Will Herrington, 21946 NE Lachenvue, Fairview, stated that he thought Twelve Mile did a great job, but he has a problem in where they want to be located as the garbage business has a stigma that goes along with the community. Mr. Herrington commented that he knew that Council was concerned with aesthetics, but could any Council member imagine the business being placed across the street from a residential area in Lake Oswego, and asked if Fairview was any different. Mr. Herrington stated that Twelve Mile would alter Fairview forever. When the residents of Fairview Lake Estates bought their homes a few years ago, no realtor ever told them that a garbage facility could be located across the street. Mr. Herrington distributed photos of the condition of his street due to trucks, and commented that Fairview Creek was a Class I creek with native cutthroat trout which may soon be placed on the endangered species list. Mr. Herrington stated that the proposed site was not appropriate for such a use due to the nearness to the creek, and that he felt Twelve Mile should be placed at Amazon Recycling where they had 125 acres.

Max Moini, 3201 NE 223rd Avenue #101, Fairview, stated that he was the owner of Blue Lake Village and that an 8-foot fence would not control the debris from the windstorms that occur in East County. Mr. Moini indicated that there were 94 units in Blue Lake Village, and all the garbage from the Twelve Mile site would blow into his manufactured housing park. Mr. Moini asked if the Council would like to live in front of a garbage company. Mr. Moini commented that, on summer afternoons during boat season, traffic halts on NE 223rd Avenue due to Chinook Landing and that garbage trucks would only add to that traffic.

David Callaway, 3643 NE Alton Court, Fairview, stated that at the Planning Commission meeting, Mr. Burbach indicated that his trucks were washed out every day; however, Mr. Callaway knew someone in the garbage business who said the trucks go to a transfer station to be washed and then they pick up their first load. In

the heat of the summer, garbage in those trucks was going to reek. Mr. Burbach commented that his trucks were washed out every day and that smell could occur if trucks were not washed out; the exterior of the trucks will be washed on the site. Mr. Burbach added that, as far as the smell, he believes the odor concerns have been overrated as the trucks will be parked a distance away from the residents; the trucks will be parked at night and will not be sitting in the hot sun. Mr. Burbach stated that he has never had a complaint filed in terms of odor on his current facility in Gresham.

Jim Dickenson, 3524 NE Fairview Lake Court, Fairview, stated that he was a one month resident of Fairview, and that if he had known a month ago that he would have a transfer station placed where it is proposed, that he would never have bought in Fairview. Mr. Dickenson commented that he has friends in Oregon City who live near a dump and it smells all the time; he was sure that Twelve Mile would do everything within their power to contain debris, but the east winds will prove them wrong.

Ron Hayward, 3201 NE 223rd Avenue #68, Fairview, stated that he has been a neighbor of Twelve Mile in Gresham, and that the operation was far from being desirable; there were rats and possums which were uncontrollable, and it did not matter what Mr. Burbach did, as the smell would be there.

Walter Kellogg, Blue Lake Village, Fairview, reported that he had moved to Fairview in 1995 and if he had known that a transfer station could be next door he would never have bought here. Mr. Kellogg stated that all of his money was invested in his home, and that the east wind would prevail and blow debris onto his property. Mr. Kellogg added that he could not believe the Council would make its residents live in conditions like that.

Ray Bechtoldt, 65 Bridge Street, Fairview, stated that in the summer time along NE 82nd Avenue you would not want to live within a mile of the recycling company, and that a recycling plant in Portland had been closed down due to the smell. Mr. Bechtoldt commented that there was not enough room for two trucks to pass under the railroad overpass on NE 223rd Avenue.

Jan Kaiser, 20415 NE Interlachen Lane, Fairview, stated that she has been a resident in the Fairview area for 20 years and that she was amazed that the transfer facility was even being considered. Ms. Kaiser asked with all the washing of the trucks, where would all the water go and added that the water would be polluted. Mayor Vonderharr responded that water runoff would be collected and, after filtration, would be run into the sewer; in addition, a recycled water washing system would be used.

Todd Johnson, 22250 NE Failing, Fairview, stated that at the Planning Commission meeting, Mr. Burbach indicated that the office building would be metal and asked if that was correct. Mr. Burbach responded that Mr. Johnson had his word that the office building would be a concrete tilt-up; the shop would be designed as a web steel building. Mr. Johnson questioned if any painting would take place in the maintenance building and asked what type of exhaust system would be used. Mr. Burbach responded that the building would be engineered to specs of the highest quality, but he could not tell Mr. Johnson what exactly would have to be done. Mayor Vonderharr commented that the City would not allow anything to be placed that did not meet DEQ standards.

John Crawford, 21680 NE Interlachen, Fairview, stated that apart from the aesthetic considerations, his concerns were that any type of garbage disposal area would attract rodents and carries a potential risk; also, there was no organization on earth which could guarantee a clear water supply.

Ron Fell, 4032 NE 220th Avenue, Fairview, wished to remind everyone that the current Twelve Mile facility was not exactly a park as being predicted tonight; he has always believed that a person could not change overnight, and that the current facility should be an example of how this proposal will turn out. Mr. Fell added that he has never seen a trash facility that did not have solid waste lying around.

Glenn Nado, 21911 NE Lachenvue, Fairview, stated that he has been a resident for two years, and that his concern was the congestion of traffic due to the opening of the 207th Connector, construction west of Fairview on Sandy Boulevard, and the proposed mini mart at the northwest corner of NE 223rd and Sandy. There was so much traffic at NE 223rd and Sandy Boulevard, currently, that truck training schools send their students there to experience traffic.

Mark Crawford, 21523 NE Interlachen, Fairview, stated that most of the residents in Fairview Lake Estates have indicated that they would not have purchased their homes had they known of the project. Mr. Crawford commented that it was evidenced that the proposal would affect potential future buyers and the livability of their area.

Mr. Burbach stated that truck traffic from his operation would be headed south out of the facility, and that if he located at Amazon Recycling, every truck would be driving past Fairview Lake Estates. Mr. Burbach explained that his current facility in Gresham was a non-conforming use and he was prevented from making any improvements. In addition, his business was currently located on Fairview Creek, was unpaved, and slopes into the creek. The best thing for the creek was to get them out of their current site in Gresham and make them maintain and clean their wastewater in Fairview. Mr. Burbach added that his proposed facility would look like an industrial facility as one would see on Airport Boulevard. Mr. Burbach reiterated that his proposal was not for a regional transfer center, that the reload building would be self-contained, would handle construction and demolition debris only, and would not emit an odor. Mr. Burbach asked that the Council approve his facility and give him a chance to prove to the citizens that he would not be creating a garbage yard.

Councilor Raze stated his concern in terms of the water situation, and asked if the City was assured that the water filtration system will not affect the creek or the lake, and if there were DEQ requirements. Director Andersen responded that the applicant would have requirements from DEQ and Wellhead Protection to deal with the stormwater issue. The City also has wellhead protection standards, and all of the imposed requirements were listed as conditions in the staff report. To enforce the requirements, staff will review the plans for compliance with City Standards and we would contact DEQ so that they would review those things to be in compliance with their standards. If staff has a reason to believe a violation was occurring, then they would visit the site and impose a requirement that everything be corrected. DEQ will investigate if they believe there could be a problem, and wellhead standards were designed to ensure that no chemicals got into the groundwater. In addition, Portland will review the facility and check periodically to make sure they are functioning correctly. Mayor Vonderharr added that the City was also required to meet NPDES requirements which consist of constant monitoring of creeks and streams. Mr. Burbach commented that the riparian area along the creek was protected with a buffer, then a fence, and then the pavement, with everything sloping away from the creek.

Councilor Raze mentioned that blowing debris seemed to be a big concern and asked what precautions would be provided. Mr. Burbach responded that there would be no exposed debris, that everything would be done in a contained building and that the trucks were sealed. Also, every open top box would be tarped on the

site. Councilor Raze questioned if the transfer station would grind or mulch any debris. Mr. Burbach responded no.

Councilor Owen stated that he had read in the staff report that additional office space may be rented out. Mr. Burbach responded that, in previous meetings, the office building was enlarged to a two-story building which would add additional visioning blockage, so there could be additional office space available for lease, but he had no business in mind at this time. Councilor Owen questioned how the City would deal with an additional tenant and be assured that the type of business would not cause additional problems. Director Andersen responded that the tenant would have to meet the requirements of the zone and, in addition, that any use proposed would have to meet the State Building Code and Occupancy Code. In addition, the City could impose an additional condition that new occupants would have to receive an approval from the City, but that would be an unusual condition. Mayor Vonderharr suggested that perhaps the conditions should state that any tenant must fully occupy the building and not use any exterior space. Mr. Burbach commented that that condition would limit himself to prospective tenants as perhaps a construction company would want office space and would need a couple parking spaces for their trucks.

Councilor Owen asked if the transferring of debris from one truck to another included household debris. Mr. Burbach responded that about 5% of the debris would be household garbage. Councilor Owen questioned what type of precautions would be taken to avoid rodents. Mr. Burbach responded that the trucks would be sealed when they were parked, but he did not know if they were totally rat proof; however, if he did have a problem with rodents, it would be dealt with in some manner. Councilor Owen stated that there were a lot of conditions listed in the staff report and he wondered if the City was equipped to enforce all of those conditions; also, how would staff know if Mr. Burbach was abiding by all the conditions and would the City monitor the site or simply expect complaint calls. Director Andersen responded that both examples would pertain; initially, many conditions are required at time of construction and staff would work with Mr. Burbach. Inspection of the construction would then occur, and if there were complaints and the City had evidence of violations, then staff would respond to the complaints and perform a follow-up check. Councilor Owen commented that, whatever the decision tonight, he was sincere in stating that Twelve Mile does provide high quality service. Mr. Burbach assured Councilor Owen that Twelve Mile would continue to pick up his garbage.

Councilor Lillard questioned if the doors would be closed on the reload building when loading occurs. Mr. Burbach responded that if the wind was not blowing, the doors would probably remain open; if windy, the doors would remain closed. Councilor Lillard asked what exactly construction and demolition materials consisted of. Mr. Burbach responded that the materials consisted of roofing, wood, sheetrock, insulation, concrete, etc., and was all non-food waste. Councilor Lillard questioned what the cleaning standards would be for the reload building. Mr. Burbach responded that any debris making its way to the floor would be swept into a box, and that a water wash down of the building would not occur. Councilor Lillard asked if the 35-foot riparian buffer was a City or Metro Standard. Director Andersen responded that the 35-foot buffer was currently the City's standard; however, in the future, the City will adopt Metro's 50-foot standard. Councilor Lillard questioned if staff knew the traffic counts for the proposed facility. Mr. Burbach responded that, originally, he submitted a count of 10-15 truck trips per day of refuse and 15-25 trips per days for drop boxes, but now feels that may be a little high. Director Andersen commented that the number of truck trips would be limited to 35 round trips a day and that it was Condition No. 7 of the staff report. Councilor Lillard asked if the trucks trips would all occur at the beginning of the day or be scattered throughout the day. Mr. Burbach responded that the trips would generally occur between 6:00-

7:00am, and then 3:00-5:00pm. Councilor Lillard questioned if all trucks would be stored inside the building. Mr. Burbach responded that he would like to store them inside, but was not sure. Councilor Lillard asked if Mr. Burbach had plans for expansion of his business. Mr. Burbach responded that Twelve Mile was growing, so there would be expansion; however, it was very likely that there may be a reduction as he plans to sell one of his companies which would remove ten of the trucks.

Councilor Quinby questioned if the reload material would be entirely retained inside a building. Director Andersen responded yes, that all reload material would be kept indoors. Councilor Quinby asked if a traffic impact study was a State requirement. Director Andersen responded that NE 223rd Avenue was a County road, and that the County might require additional studies in which Mr. Burbach would have to comply with any requirements. The City does not require a separate traffic impact report.

Councilor McCutcheon commented that odor seemed to be a major consideration and asked if there was any way to impose some type of restriction, such as is done for smoke, and place it as a condition. Director Andersen responded that he supposed staff could develop a requirement that if there was an odor complaint that we would respond and document that we found an odor; however, he was not aware of any scientific scale for measuring odor. Councilor McCutcheon stated that he did believe that Mr. Burbach would do the best he could to eliminate any odors, but that he wanted the residents to understand that if the proposal was approved, that odor will be an issue to be considered as a violation. Mr. Burbach mentioned that the worst smelling truck was the yard debris truck, but that it would come into the facility empty and that yard debris would not be stored on site.

Councilor Quinby questioned what the process would be if, after six months of operation, everyone complains that the site turned into a dump. Director Andersen responded that if there was a finding made that they were not in compliance, the City could shut them down immediately, cite them, fine them, and take court action to close the business. In addition, the City had nuisance regulations and Twelve Mile would not be allowed to violate that code. Director Andersen added that the City also requires that Mr. Burbach comply with all other agency permits. Councilor Quinby asked if the City has considered a 100-year floodplain situation. Director Andersen responded that all developments in the City are required to be a foot above the 100-year floodplain which was a result of state and federal requirements and not optional.

Councilor Owen questioned if Mr. Burbach had made any projections as to how big his company would be in five years. Mr. Burbach responded no, but if the population were to double, he would probably have to double his route trucks, so instead of two trucks, they could potentially have 8 more trucks for a total of 10 to handle residential concerns. Mr. Burbach commented that there was plenty of room on the site to handle additional trucks.

Councilor Edwards asked if there would be a 6-foot fence around the property, down both sides and around the back. Mr. Burbach responded yes, and that behind the office building there would be an 8-foot fence. Councilor Edwards questioned what size of trees Mr. Burbach intended to plant as a visual screen. Mr. Burbach responded that the trees would be as big as possible, and that he has a relationship with a nursery who has always provided him trees around 10 feet tall; also, he would have a very aggressive yard maintenance program in effect, and if there was debris in the lot, they would pick it up and conduct perimeter control. Councilor Edwards stated that he was concerned about office space leasing as there would be parking for the current personnel, but would there be parking set aside for those who lease office space. Mr. Burbach responded that there was plenty of parking to handle his

crew, customers, and an additional area for office lease.

Audience concerns consisted of property devaluation, air borne dust from the dumping of one truck into another, the stigma of a garbage business in Fairview, odor, etc. Mr. Burbach responded that he was sensitive to the property value concerns, but he has a commitment to the community and stringent conditions were being placed on him.

Audience members asked what would happen if Mr. Burbach decided to sell his business and whether the same conditions would apply to the next buyer. Director Andersen responded that the conditions would run with the land, not with the owner.

Mr. Herrington stated that the citizens were receiving a snow job and that the proposed use would alter the character of the surrounding area. Mr. Johnson added that he thought a better business could be found which would be more suited to the site.

As there were no further comments or questions, Mayor Vonderharr closed the public hearing. At 10:05pm, Mayor Vonderharr announced that the Council would take a ten minute break.

At 10:15pm, the Council meeting resumed.

Councilor Quinby questioned if a condition could be placed that household garbage transfer does not occur. Mr. Burbach commented that household debris comes in from a satellite truck which picks up smaller areas, and that it was not feasible to run that truck clear to the dump; that would be the only wet household debris truck that would be in use and that would be transferred to another truck everyday and then disposed of. Councilor Quinby stated that his concern was also the wind blowing debris around.

Councilor Raze stated that the office building was a permitted use and that there could be no way to deny that allowed use. The reload facility requires a Conditional Use Permit, and he thought the City was fortunate for that as it allows restrictions to be placed that could not be placed otherwise.

Councilor Owen concurred with Councilor Raze, but one of his concerns was the actual enforcement of the conditional use as the City has some other areas that need enforcement but has a lack of staff. In addition, he was concerned about the lease space and what it might be used for. Councilor Owen commented that he would like to approve the appeal as he felt Mr. Burbach has done a lot of work and has handled 99% of the issues, but the remaining 1% was still a large issue. Councilor Owen stated that he could not support the proposed use for the site, but he commends Mr. Burbach for standing up and taking the evening's abuse.

Councilor Quinby stated that many residents in the audience had signed a petition to have his name placed on the election ballot, and that he has read many flyers and letters which contained misconceptions about the proposal. Councilor Quinby commented that the proposed use was not the same as the landfill site on 82nd Avenue, and that it was not a garbage dump proposal. Councilor Quinby mentioned that State and Federal agencies were very strict, and he encouraged everyone in the audience to contact DEQ and find out their requirements. Councilor Quinby stated that he has spent a lot of time reviewing the issue and that he takes his position very seriously; he has studied the proposal and knows that everyone present tonight would be watching the development like a hawk. Councilor Quinby commented that Twelve Mile was a family-owned business and Mr. Burbach was a gentleman who lived in the area; he was in favor of giving him a shot as the use is conditional and the City would be able to close his business at any time.

Councilor Lillard stated that she had heard a comment from the audience that Council came in to the meeting knowing exactly how they would vote and that that was untrue. Councilor Lillard commented that she came to this meeting with no preconceived decision, and that she basically had a book to read about the proposal; she was a homeowner in Fairview like everyone in the audience, and her property value had not depreciated due to the freeway expansion, and that she believes all home values would appreciate. Councilor Lillard stated that there may be a stigma about the garbage trucks, but she did not think there would be an odor issue. Councilor Lillard commented that she has to act like a judge tonight, and that her heart tells her to deny the appeal, but she could not find a reason to deny the appeal.

Mayor Vonderharr stated that his primary concerns would be odor and debris, and if either one of them was strong, it would be a nuisance issue. Mayor Vonderharr mentioned that everyone has property that belongs to them, whether industrial or residential, and we have to consider the restrictions being placed; it was no different than if we took Fairview Lake Estates and zoned it for housing but said only one car would be allowed for every two houses. Mayor Vonderharr stated that this was not a simple decision to be made by anyone, but we need to look out for the rights of industrial landowners as well as residential landowners.

Councilor Edwards stated that everything he has heard tonight came down to trucks and traffic; the site will remain zoned industrial and traffic will be bad no matter who locates their business there. Councilor Edwards added that what scares him were the outright uses allowed where staff and the City would have no say due to law and our codes. Councilor Edwards reported that Mr. Burbach has 31 conditions placed on him; the land will not be rezoned for residential and will remain industrial/manufacturing.

Councilor Edwards moved and Councilor Raze seconded the motion to approve the appeal based on the findings and conditions of the staff report.

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

At 10:30pm, Councilor McCutcheon moved and Councilor Edwards seconded the motion to extend the meeting to 11:00pm.

AYES: 7  
NOES: 0  
ABSTAINED: 0

## VI. COUNCIL BUSINESS

### A. RESOLUTION - Contract Approval

Director Andersen reported that before the Council was a request to approve a contract with Henderson Land Services to complete the construction services for the Salish Ponds Wetland Park.

Councilor Raze moved and Councilor Lillard seconded the motion to approve Resolution 11-1999, A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF FAIRVIEW ACTING AS THE CONTRACT REVIEW BOARD, EXEMPTING CERTAIN CONSTRUCTION SERVICES FROM THE COMPETITIVE BIDDING PROCESS. Councilor Quinby questioned why there was such a short timeframe for this action. Councilor Raze indicated that Henderson Land Services has a lot of history with the project and the City, and that if staff had to start over again with a bidding process, that it would cost a lot more money.

AYES: 7  
NOES: 0  
ABSTAINED: 0

## VII. CITY ADMINISTRATOR REPORT

Tony Benedetti, a school teacher, approached the podium and stated that schools have received a \$30,000 grant in order to assist in community projects, and he was offering the services of any of his students. Director Andersen indicated that he would have the volunteer coordinator of the project contact Mr. Benedetti.

Marilyn Holstrom, City Administrator, reported that appointments were needed for members to serve on the 242nd Avenue Corridor Study Committee; the Mayor had previously approached Todd Johnson and Planning Commissioner Jan Shearer. Councilor Lillard had also indicated that she was interested.

Councilor Owen moved and Councilor Quinby seconded the motion to appoint Sherry Lillard, Jan Shearer, and Todd Johnson to the 242nd Avenue Corridor Study.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Administrator Holstrom reported that the Time Capsule Committee would hold their first meeting on April 14th at 7:00pm

Administrator Holstrom reported that a while back, Councilor McCutcheon had suggested that the City send a notice to all residents in the area of 207th Avenue and Sandy Boulevard to inform them that ODOT was planning on removing the temporary signal at 207th and Sandy. Administrator Holstrom stated that the City now has a file full of responses that the neighbors sent to ODOT, and that Boeing and Boyds Coffee was now interested in the issue and had requested that the City set up a meeting with ODOT and that they would also like to attend.

Administrator Holstrom reported that a Council Work Session had been scheduled for April 28th, 7:00pm, to review Municipal Court activities.

Administrator Holstrom indicated that at the April 21st meeting, both Mayor Vonderharr and Council President Owen would be out of town, so staff would be relying on Councilor Edwards to conduct the meeting.

Administrator Holstrom stated that before the Council was a purchasing ordinance that would be on the May 5th agenda; they were receiving the document early for review, and it would not be contained in the Council packet for May 5th.

Administrator Holstrom stated that Bruce Niss of the Portland Wellhead Protection Program would be present at the Council's April 21st meeting to explain the program.

## VIII. MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

At 11:00pm, Councilor McCutcheon moved and Councilor Lillard seconded the motion to extend the meeting to 11:15pm.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Councilor Lillard reported that she had attended the joint MPAC/JPAC meeting in which everyone had testified about traffic issues; she had informed them that Fairview wants the railroad bridges to be done right.

Councilors Quinby, McCutcheon, Owen, Raze, and Edwards had no reports or

concerns.

Mayor Vonderharr stated that he and Councilor Quinby had attended a breakfast meeting hosted by Senator Lim, in which they also spoke to Speaker Snodgrass, Representative Sunseri, and Representative Minnis about ceasing the attacks on resources to run our City. Mayor Vonderharr reported that next week he would meet with Rod Park of Metro in regards to the Blue Lake Park police issue, and that he would be attending the meeting with ODOT on the signal at 207th and Sandy Boulevard.

**IX. ADJOURNMENT**

Councilor McCutcheon moved and Councilor Edwards seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 11:04pm.

AYES: 7  
NOES: 0  
ABSTAINED: 0

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Mayor Roger Vonderharr

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Dated:

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Caren C. Huson Quiniones  
City Recorder