

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

FEBRUARY 17, 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
Gilbert Jackson, Chief of Police
Jeffrey Sarvis, Director of Public Works
John Andersen, Planning Director
Roy Wall, Finance Director
Caren Huson, City Recorder

II. CONSENT AGENDA

Councilor Quinby moved and Councilor McCutcheon seconded the motion to approve the Consent Agenda, consisting of: a Liquor License Change of Ownership for Fairview Shell; a Bid Award for Stormwater Projects; a GIS Grant Authorization; and, the Minutes of February 3, 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. PUBLIC HEARINGS

**A.ORDINANCE -
First and Second Readings -
Zoning Code -
Front Yard Parking Prohibited**

Marilyn Holstrom, City Administrator, reported that the Renaissance Plan Citizen Advisory Committee (CAC) had put together a plan, which the City Council adopted in Spring 1997, to upgrade and provide new ideas for the core area of Fairview. Administrator Holstrom indicated that much of the Committee's discussion had revolved around junk cars, parking on the street, etc, and that the ordinance amendment before the Council was a recommendation from the Committee. Administrator Holstrom stated that a notice of tonight's meeting was contained in the City's Newsletter which was delivered to each resident in Fairview, and reported that the proposed ordinance amendment would not allow people to use their front yards for parking; however, private driveways, or other graveled or paved parking areas meeting all applicable City requirements were exempt. There are no restrictions for public right-of-way.

Mayor Vonderharr opened the public hearing.

Rob Flack, 225 4th Street, Fairview, approached the podium and stated that the ordinance amendment seemed pretty vague in terms of what the City was considering a front yard. Mr. Flack indicated that he owns a corner lot and has a driveway, but he also has a fully graveled area in the front of his house and wondered if, all of a sudden, the City was going to say that that was not allowed. Administrator Holstrom responded that the ordinance does state that what Mr. Flack had described was exempt. Mayor Vonderharr stated that it was never an intent to keep people from making a place to park their car in their yards. Administrator Holstrom mentioned that the intent of the Renaissance Committee was that residents not gravel their entire front yard and turn it into a parking lot.

Ray Bechtoldt, 65 Bridge Street, stated that the front yard parking amendment seemed to be a good idea, but asked what would be done about side yard parking on the grass. Mayor Vonderharr responded that the Council did discuss side yard parking, but that the City must be careful about how much limitation they place on people and their property. Councilor Raze added that if the Council were to prevent side yard parking, it would prohibit those individuals with RVs and boats. Mr. Bechtoldt commented that he had reported junk cars and unlicensed vehicles in the past, but received no response. Councilor Raze stated that the Police Department or the Nuisance Officer would deal with inoperable vehicles. Administrator Holstrom mentioned that she did remember Mr. Bechtoldt reporting some vehicles, but that all vehicles reported must meet violation requirements. Councilor Raze suggested that Mr. Bechtoldt again submit a complaint on apparent inoperable vehicles.

Nettie Jean McDaniel, P.O. Box 272, Fairview, questioned whether a travel trailer could be parked in someone's driveway and if there was a limit on the amount of time it could be parked there. Mayor Vonderharr responded that parking in a driveway was fine, and that there was no time limitation on when it would have to be removed, unless it was stated as such in a Homeowner's Association CC&Rs.

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

Councilor McCutcheon moved and Councilor Raze seconded the motion to approve first and second readings of Ordinance 3-1999 by title only.

AYES: 7
NOES: 0
ABSTAINED: 0

Administrator Holstrom read Ordinance 3-1999 by title only.

Councilor Edwards moved and Councilor Raze seconded the motion to approve Ordinance 3-1999, AN ORDINANCE AMENDING CHAPTER 10.05 OF THE FAIRVIEW MUNICIPAL CODE REGARDING PARKING RESTRICTIONS.

AYES: 7
NOES: 0
ABSTAINED: 0

**B.RESOLUTION -
Disposition of 207th Avenue Property**

Administrator Holstrom reported that the City owns property at the corner of 207th Avenue and NE Halsey which was donated to the City by Tektronix Inc. in 1996. Administrator Holstrom indicated that, currently, the property lies adjacent to Fairview Village; Holt & Haugh have been unsuccessful in locating an anchor grocery store in the Village, and in response to potential developers, the grocery site was moved to the western edge of the Village, close to 207th Avenue.

Administrator Holstrom stated that developers have still not been interested in the current site as it was not as close to 207th Avenue as they would like, nor a large enough parcel. The City and Holt & Haugh have discussed the subject, and an agreement between them and the City was now before the Council that would allow Holt & Haugh to market the City's property along with their own to attract a grocery tenant to Fairview Village.

Mayor Vonderharr opened the public hearing.

Councilor Owen reported that he had spoken with Mary Ann Arnold, of the Fairview Creek Watershed Council, earlier in the evening, but that their discussion did not place a bias on any decision he may have on the topic.

Charlie Haugh of Holt & Haugh, 1200 NW Front Avenue, approached the podium and stated that Holt & Haugh thought this was an opportunity which was good public policy and would make good use of public land; the addition of the City's portion of the land would make a grocery site more attractive to a developer.

Mary Ann Arnold, 2120 NE Fairview Avenue, Fairview, stated that she was speaking only on her own behalf and that she had always advocated the condition of Fairview Creek and that she simply liked to watch over it. Ms. Arnold commented that she knows by studying the Creek and wetland education, that we are filling all the wetlands and will run into trouble because we are doing that. Ms. Arnold requested that the Council give the topic serious consideration as the filling of wetlands bothers her; water was rushing down harder in the Creek, and if it wasn't for the gravel pits in Gresham holding the water back, Fairview would be in trouble.

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

Councilor McCutcheon requested that Randy Jones of Holt & Haugh speak on the mitigation issue and provide an overview of their plans.

Mr. Jones stated that wetlands have functional and social values; they filter sediments, provide wildlife habitat, open space, and recreation. Mr. Jones commented that wetlands were a serious issue, and one must ask if the value of the wetland in retaining it would outweigh the public interest in providing a critical section of a Town Center. Mr. Jones reported that he could not answer the question of what the total mitigated acreage would be as they were not definite on how much extra area a developer would like to have, which in the long run, would determine the size of the mitigation area. Mr. Jones commented that State Resources would have to approve any mitigation for wetland property, and that the primary mitigation area would be to the west of 207th Avenue. Also, they would look at ways to make the remaining area of wetlands near Fairview's property an enhancement through diversifying hydrology and placement of plants, in addition to looking at other opportunities such as educational study stations, etc.

Councilor Quinby stated that his understanding was that it would be State mandated mitigation, so the City would not actually lose any wetlands. Mr. Jones responded that that was correct and that, in fact, the City could end up with more resources than what they originally lose.

Councilor Owen questioned where exactly the mitigation would occur and whether the area would be near Fairview Creek. Mr. Jones responded that mitigation would have to be in the general vicinity of the Village and certainly in the watershed.

Councilor Lillard commented that she was not concerned about the City selling part of its land to promote development in Fairview Village as Fairview has set aside

25% of its land for parks and open space; but she was concerned about the impact on Fairview Creek. Mr. Jones stated that stormwater within the entire area of Fairview Village goes to a large stormwater detention basin which can handle all the stormwater of a 25-year event level, but they could not state that the detention basin could hold another acre worth of additional stormwater.

Mayor Vonderharr reported that the City had negotiated open space properties from various businesses, which did not cost the citizens any money. Mayor Vonderharr added that he believed a lot of the wetlands in the Village and near 207th Avenue were created by the placement of Halsey Street. Mayor Vonderharr stated that the biggest question he hears from citizens is, "when is the City going to get a grocery store", and that humans are also part of the ecology; he was not that concerned about losing a small, low level wetland, and he feels that selling a small portion of City property to provide a local grocer was in the best interest of the citizens.

Councilor Edwards moved and Councilor Owen seconded the motion to approve Resolution 5-1999, A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR THE SALE OF SURPLUS CITY PROPERTY.

AYES: 7
NOES: 0
ABSTAINED: 0

Mayor Vonderharr mentioned that Metro has placed a requirement on each City in the region that they are supposed to meet certain criteria, and Fairview was very weak in the area of jobs; an anchor grocery store would create many jobs in the Town Center.

**C. GRANT AUTHORIZATION -
Community Development Block
Grant**

Jeffrey Sarvis, Director of Public Works, reported that the purpose of the public hearing was to receive public input regarding potential Community Development Block Grants. Director Sarvis indicated that the City has participated in the grant program for 15 years and has had well over \$1 million granted to the City for improvements.

Director Sarvis stated that the City had four stormwater projects to complete in the core area, and that staff was recommending that the City's 1999 applications address those four projects to be phased over the next three years. The four projects were: 3rd Street and Main Street, 3rd and Cedar Streets, Main and Cedar Streets, and 4th Street, all of which would complete the core area storm drainage. As funds become available through Block Grants, the City would have the four projects in line and could complete them. Director Sarvis added that the City would be requesting \$248,000 for project funding and expect that the first project would be 3rd and Main Street at \$85,000.

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

Councilor Lillard asked if the four projects would cover the concerns raised by residents in the core area who, in the past, have complained about flooding. Director Sarvis responded yes.

Mayor Vonderharr questioned if the City had notified residents in the past that when a stormwater line was coming in, that private property drains could be installed and then hooked up into our new lines when they are placed. Director Sarvis responded yes, and that staff does intend to notify affected residents who could then connect their line into the City's, if they desire.

Councilor Lillard moved and Councilor Quinby seconded the motion to authorize

staff to submit grant applications to the Community Development Block Grant Program.

AYES: 7
NOES: 0
ABSTAINED: 0

V. COUNCIL BUSINESS

A. RESOLUTION - Tri-County Building Inspection

John Andersen, Planning Director, stated that before the Council was a resolution regarding proposed legislation for a tri-county building inspection program. Director Andersen introduced Fairview's Building Inspector, Dave Traxler, and Al Langendorf, President of the State Building Officials Association.

Mr. Langendorf reported that during the last legislative session, a bill was passed to form a Task Force which would research a tri-county building inspection program. Mr. Langendorf stated that SB512 would simply establish another layer of government that the tri-county would have to work under for building inspection services. A tri-county inspection board would have rule writing ability and the board make-up is weighted toward industry, with only three building officials on the board.

Councilor Raze commented that it seemed to him that a tri-county board would simply regulate the regulators and that it was a hideous piece of legislation which he hoped would fail. Mr. Langendorf mentioned that the Building Officials Association recognizes that some of the issues of the bill were valid and will work towards making things more similar for contractors.

Councilor Lillard questioned why the issue came up and who would the bill best serve. Mr. Langendorf responded that the bill best serves the contractor, and the bill came about through a plumbing union to facilitate the discussion.

Councilor McCutcheon stated that his concerns include the 3-5% increase in state surcharge and adding that onto the price of a home, and the extra layer of government. Councilor McCutcheon added that Fairview has great building inspectors, but he does understand that there are some areas of the region that do not have a responsive building inspection program; there has to be some way to bring other cities up to the same standards we have, and to have uniformity and response. Councilor Raze stated that in Fairview, we would like to keep things status quo.

Councilor Edwards mentioned that citizens do not need another government level telling them what to do. Mayor Vonderharr stated that it seems that every time the State does something for the cities, that we get burned and he knows that if the proposed legislation passes, that the State would want some money from the City.

Councilor McCutcheon moved and Councilor Raze seconded the motion to approve Resolution 4-1999, A RESOLUTION OPPOSING LEGISLATION CREATING A NEW STATE BOARD TO REGULATE BUILDING CODE ACTIVITIES IN THE PORTLAND METROPOLITAN AREA, AND SUPPORTING THE ESTABLISHMENT OF AN INTERGOVERNMENTAL AGREEMENT TO ENHANCE CONSISTENCY AND SERVICES IN BUILDING CODE ENFORCEMENT.

AYES: 7
NOES: 0
ABSTAINED: 0

B. ORDINANCE/ RESOLUTION -

City Attorney Pam Beery reported that a memo had been placed in the Council packet which explained the reason for this proposed legislation. Ms. Beery stated

**First & Second Readings -
Telecommunications**

that she developed the proposed ordinance while working with the League of Oregon Cities and the Metropolitan Area Communications Commission. Ms. Beery commented that there was a telecommunications provider who requested a new franchise in Fairview under this new process, and that there was a memo before the Council which states three changes which she was asking the Council to incorporate into its motion. Ms. Beery added that there was also a proposed resolution attached which would set a fee structure for staff to work with.

Councilor Owen asked about the company, Electric Lightwave. Ms. Beery responded that the company would attach their communication line to existing poles in Fairview, but would not serve residences, only businesses. The proposed ordinance and resolution would provide the City with a mechanism to keep track of who was using its rights-of-way.

Councilor Edwards moved and Councilor Lillard seconded the motion to read Ordinance 4-1999 a first and second time by title only.

AYES: 7
NOES: 0
ABSTAINED: 0

Administrator Holstrom read Ordinance 4-1999 by title only.

Councilor Edwards moved and Councilor Lillard seconded the motion to adopt Ordinance 4-199, AN ORDINANCE AMENDING THE CITY OF FAIRVIEW MUNICIPAL CODE BY ADDING CHAPTER 12.35, "TELECOMMUNICATIONS FACILITIES" TO TITLE 12 GOVERNING STREETS, SIDEWALKS, AND PUBLIC PLACES, with the three additional changes as indicated in the memo from Attorney Beery.

AYES: 7
NOES: 0
ABSTAINED: 0

Councilor Lillard moved and Councilor McCutcheon seconded the motion to adopt Resolution 6-1999, A RESOLUTION ESTABLISHING FEES FOR TELECOMMUNICATIONS CARRIER OCCUPYING THE CITY RIGHT-OF-WAY.

AYES: 7
NOES: 0
ABSTAINED: 0

At 9:07pm, the Council took a five minute break.

VI. DEPARTMENT REPORTS

A. Police

Gilbert Jackson, Chief of Police, reported that the City has two officers a week going to in-service training, which includes driving, range, building searches, etc. Chief Jackson stated that BOEC charges continue to rise, and Gresham has again mentioned that they would like to research having their own dispatch center and has invited Fairview and Troutdale to look into the possibility with them. Chief Jackson indicated that he serves on the research committee and will be looking at the proposal from several angles. Currently, Fairview pays \$21.30 per resident for BOEC services, and as our population grows, so will the cost per resident. Chief Jackson stated that it would cost the City a small amount to have a consultant prepare the dispatch center feasibility study, but that all three cities will participate in the cost.

Mayor Vonderharr questioned what the rate of inflation was that BOEC uses in its rate per resident. Chief Jackson responded that he was not sure, but the cost was based on need and the user board. Councilor Edwards asked if the service we receive from BOEC has deteriorated somewhat due to population growth and would a dispatch center in Gresham be more functional. Chief Jackson responded that Gresham would have the same standard as BOEC, but would have some additional start-up costs. BOEC adds more personnel as population increases, and they do keep up their efficiency.

Councilor Lillard asked what Chief Jackson thought about Gresham's recently adopted Road Rage ordinance. Chief Jackson responded that the intent was good; but his position was that Fairview should wait and see how Gresham handles their law and how it will stand up to court challenges. Chief Jackson also thought that it was possible that the State would pick up on the Road Rage issue and write their own law which Fairview would enforce.

B. Public Works

Director Sarvis reported that staff had been dealing with an easement issue in the Local Improvement District, and had been going through the budget process. DEQ has contacted the City and wishes to discuss TMDLs for the Columbia Slough and Fairview Creek, along with discussing a Memorandum of Understanding with Fairview. Director Sarvis stated that the City would be advertising for bids for a 12" water line to be placed on 223rd Avenue and east on Marine Drive. Director Sarvis reported that the mandatory pre-bid meeting was held for the new City Hall project and that over 20 general contractors had been present.

Councilor McCutcheon questioned if the State would come into the City and try to find the source of TMDLs, as there had been a problem with the numbers and it could end up that the City would have to spend money to figure out where everything was coming from. Director Sarvis responded that staff would agree to expand the testing and monitoring process a little bit, but would try to dovetail on what the City was already doing for its NPDES Permit; the City will not make an agreement to meet some numerical limit.

Mayor Vonderharr commented that his concern was the possible impact which Wood Village contributes. Director Sarvis responded that he had spoken to DEQ who stated that they would be forming an agreement with Wood Village, also.

C. Planning

Director Andersen reported that the Planning Commission had denied the Twelve Mile Disposal Conditional Use Permit and Design Review, and that staff anticipates that the applicant will appeal that decision to the City Council. The Planning Commission had approved Bernert Barge Lines and the Rosewalk Rowhouses in Fairview Village. Director Andersen stated that things were picking up in terms of building permit issuance, and that two pre-applications had been recently held, one for the Pelfrey property on Sandy Boulevard which would include 31 single-family residential sites; Townsend Farms came in for a pre-application meeting to discuss a business park development with a mixture of commercial and industrial development. Director Andersen stated that staff had been attending transportation meetings and had been pushing hard for a high level priority for the railroad bridge overpasses; it appears the City has been successful with a recognition on the regional level in terms of the railroad overpasses, and that a workshop would be held at Metro where staff will express their belief that the overpasses need to stay at a high level of priority and be funded entirely through construction. Councilor Lillard commented that she had attended the second Transportation System Plan (TSP) meeting, and that the Planning Commission members have a good handle on every parcel of land in Fairview; the TSP will be a very concise package and she was impressed with the committee.

Councilor Raze asked what the solution was for the Planning Commission as only four out of the seven members were present at the last meeting and that that seems

to occur quite often. Director Andersen responded that, actually, the Planning Commission had a good record of attendance. Councilor Raze questioned if alternates could be assigned for the Planning Commission. Ms. Beery responded that the City could legally have alternates, but another solution may be to revise the Planning Commission by-laws and make them more strict.

D. Finance

Roy Wall, Finance Director, distributed a budget meeting schedule to the Council, stating that the most important date was April 5th and the following two Mondays, as those were scheduled for Budget Committee meetings. Director Wall reported that the Y2K process continues; the committee meets every two weeks and a survey was recently sent to 70 of the City's key vendors, asking about their Y2K compliance. Director Wall stated that a Y2K disclosure statement had been added to the City's Purchase Orders, and the City Newsletter Y2K article series has begun. Staff has already determined that all of the police vehicles were Y2K compliant, and all but two Public Works vehicles were Y2K compliant; Motorola radios are compliant, and the committee will begin working on contingency plans, and have determined that City staff should be present on New Years Eve and the first day of the year 2000.

Councilor McCutcheon questioned when the Council could expect to receive the budget documents as he would like to review it before he leaves on vacation and then pass along any of his concerns to those Council members who would be present at the April 5th meeting. Director Wall ensured Councilor McCutcheon that budget documents would be delivered to him before he left for vacation.

Councilor Owen asked if the City was looking for Budget Committee members. Director Wall responded yes, and that two applications had been received.

E. Administration

Administrator Holstrom reminded the Council that on February 24th a Work Session would be held at 7:30pm and the topic was planning. Administrator Holstrom asked Council if they would be willing to come in one evening for five minutes just to award the construction bid for the new City Hall so that the process could move ahead quicker. Administrator Holstrom commented that the Twelve Mile Disposal proposal would probably be appealed to Council, and that the Council will have to sit in the role of a jury, that they must be non-biased and not talk to people in advance; they must keep an open mind and make their decision. Administrator Holstrom reminded the Council that if it became known that they spoke to people in advance of the meeting, it could be challenged in court that they were influenced and could not make an unbiased decision. Ms. Beery added that the Council must give an appearance of fairness and disclose any discussion they have had on a subject before the Council; discussion one-on-one between other Councilors was fine as it is among themselves, but basically the Council would be acting as a jury.

Councilor Lillard questioned if a decision on bullet-proof glass for the new City Hall was ever made. Director Sarvis responded that bullet-proofing was an alternate bid option.

F. Legal

Ms. Beery reported that she had distributed her written report to the Council.

VII.MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

Councilor Quinby stated his concern about the bid award on the Consent Agenda, hoping it contained a rock clause. Director Sarvis responded that an addendum had been sent to the bidder and discussion had occurred, reinforcing the fact that there was no rock clause. Councilor Quinby reported that he had attended Senator Lim's breakfast meeting; Senator Lim had invited Councilor Quinby to sit down with him during the legislative session.

Councilor Lillard stated that at the last East Metro Cities Forum, she had spoken with the Events Coordinator for Troutdale who informed her that they have a list of

volunteers who come in and help various City departments. Councilor Lillard commented that she realized the City's current budget could not handle such a position, but that maybe it should be considered in the future.

Councilor McCutcheon stated his concern about Council accepting information during the Council meeting and that he would really like to see that practice stopped.

Councilors Owen, Raze, and Edwards at no reports or concerns.

Mayor Vonderharr reported that he is a member of two subcommittees on affordable housing and that he had been attending many meetings; the process was moving slowly.

VIII. ADJOURNMENT

Councilor McCutcheon moved and Councilor Lillard seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 10:29pm.

AYES: 7
NOES: 0
ABSTAINED: 0

Mayor Roger Vonderharr

Dated:

Caren C. Huson Quiniones
City Recorder