

**MINUTES  
CITY OF FAIRVIEW  
CITY COUNCIL**

September 17, 2014

**Council Members**

Mike Weatherby, Mayor  
Dan Kreamier  
Steve Prom  
Steve Owen *Excused*  
Lisa Barton Mullins *Excused*  
Tamie Arnold  
Ted Tosterud

**Staff**

Samantha Nelson, City Administrator  
Allan Berry, Public Works Director  
Ken Johnson, Police Chief  
Lesa Folger, Deputy Finance Director  
Heather Martin, City Attorney  
Tammy Shannon, IT Coordinator

**WORK SESSION (6:00 PM)**

**1. UTILITY RATE REVIEW**

Mayor Weatherby stated the Utility Rate Review discussion is deferred to the next meeting.

**2. FIRE STUDY OPTIONS REVIEW**

City Administrator Samantha Nelson summarized she and Councilor Arnold are representing Fairview in the fire service discussions and are requesting Council direction as to what Council wants, does not want, and what specific outcomes they would like to see. Wood Village representatives have indicated they do not want a model that relies on volunteers; concerned for predictability. Troutdale has indicated they want improved service and response times, and reduced costs. The PSU Fire Study identified 10 key findings and provided a comparison of selected alternatives.

City Administrator Nelson outlined the process and time line. The contract terms June 30, 2015. The Committee would like to begin the process by forwarding an initial letter with a proposed scope to see what Gresham's position is by mid-October. The proposed scope is primarily to increase response times and adopt set standards. The negotiation process will follow over the next 3 to 6 months. In a worst case scenario if Gresham does not negotiate initially, may have to revisit some of the selected alternatives. In preparation the Committee has engaged PSU to provide cost estimates for the 3 cities creating their own emergency response model for EMS, and initiated a conversation with Fire District 10 and their interest in providing EMS to the 3 cities. Fire District 10 currently contracts with Gresham and is satisfied with the service they are receiving. They are in the process of renewing their agreement. The Committee has had some discussion for creating one large fire service district.

Councilor Arnold noted she supports the one large district concept – 3 cities, Fire District 10 and Gresham (i.e. East County District) but this requires more time and process to negotiate than time allowed. This could be a long-term option, but need short term goals and direction now.

Councilor Kreamier asked if the 3 cities have the same contract date and if there has been a discussion to negotiate Gresham's AMR contract with Multnomah County. City Administrator Nelson replied yes to both questions. They had a meeting with County Commissioner Debra Kafoury. The County recently extended their contract with AMR while they are investigating a pilot program to filter calls for medical response or an "ask a nurse" program.

Councilor Arnold asked if Multnomah County seemed open to change. City Administrator Nelson answered Wood Village City Administrator Bill Peterson has taken the lead in vetting out the County's contract language. The sense is there is some push back on change. He is receiving vague responses to questions. They do recognize that mental health and EMS calls are a significant problem and a draw on resources. Their position on how to resolve it is unclear.

City Administrator Nelson remarked some of Gresham's issues to reconfigure call-outs are union concerns; they operate 3 persons per truck, best practice is 4 persons per truck. The union has not pushed back on this, but it does impact how call-outs and staffing are structured.

Councilor Tosterud commented with limited short term options should negotiate with Gresham for cost and service; expectation to meet service standards and response times.

Councilor Kreamier noted he would support paying a reasonable fee. The PSU study showed Fairview pays less than Gresham. He would understand if the fee is raised to pay the same as Gresham per capita so long as the same standards are being applied and met.

Councilor Prom agreed. If paying more need to ensure Fairview receives the best fire service and best response times. He would support using volunteers as back-up for major responses.

Councilor Arnold commented her first choice would be to create a Fire/EMS district with its own funding. Her second choice would be to pull out of the contract with Multnomah County and contract with Gresham for fire service only and work with another organization for paramedic/medical services.

City Administrator Nelson summarized for the short term, the direction is to continue with Gresham. Negotiate a shorter term, standards, expectations to meet standards, and better response time.

### 3. MARIJUANA LEGISLATION UPDATE

City Attorney Heather Martin outlined the impact Measure 91 (M91) will have on city's if it passes in November. M91 could legalize recreational marijuana. It allows city and counties to adopt reasonable time, place and manner regulations. M91 contains language that will supersede and repeals municipal charter and ordinance language that is contrary to M91. The process to prohibit sales within the city can only be done through a citizen initiative process signed by not less than 10% of registered electors within the jurisdiction. M91 also places a tax on marijuana retailers with the State having the exclusive right to tax.

City Attorney Martin commented on the measures a city could take preemptively. Nothing prohibits a city from taxing marijuana (medical or recreational). If have to allow dispensaries, will have the tax authority implemented prior to. State may supersede but will have a base to begin with.

Mayor Weatherby inquired about conflict between ordinances. City Attorney Martin replied there is no conflict. If the other ordinances are repealed then the tax applies.

Council discussed the proposed tax. Mayor Weatherby, Councilor Arnold and Councilor Kreamier agreed the tax should be at the highest limit. Discourage dispensaries from locating within Fairview.

City Attorney Martin commented the proposed tax is zero for medical and 10% for recreational. The tax is imposed on the retailer's gross receipts. The city could be challenged legally if the tax is set to

high. There is some discussion as to whether medical can be taxed since it is medicinal; cannot tax such that the person cannot get their medicine. City Attorney Martin will research tax limits.

Mayor Weatherby asked about the cost to the city to collect the tax. City Administrator Nelson replied the city already collects for franchise agreements. The process is similar; the retailer will submit formal reports, cost will be broken out, etc. The only foreseen cost to the city is if a retailer does not comply and enforcement action is taken.

Council discussed location if the city has to allow retailers to locate within city limits. Council agreed to limit to Light Industrial areas. City Attorney Martin commented this is a land use process and will begin with an application to Planning Commission. Council will have final approval. Council agreed they would like this process to start so if retailers are ever permitted in Fairview they can only locate in the specific area.

City Attorney Martin commented on other items, besides location, that Council can consider regulating i.e. time limitations, security requirements, lighting, etc.

City Attorney Martin briefed Council on the current legal challenge the City of Sandy is dealing with. They were challenged on the compliance with US Controlled Substance Act and limiting location. Instead of responding to both challenges, Sandy repealed their land use zoning regulations and is defending compliance with the US Controlled Substance Act and the moratorium authorized by the State that is in effect until May 1, 2015; which they adopted.

## **COUNCIL MEETING (7:00 PM)**

### 1. CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

### 2. CONSENT AGENDA

- a. Minutes of August 20 & September 3, 2014.
- b. Authorizing the City Administrator to Enter into a Franchise Agreement with Electric Lightwave, LCC to use the City Rights of Way for the Purpose of Providing Telecommunications in the City: Resolution 47-2014
- c. Appointing a Member to the Parks and Recreation Advisory Committee (PRAC): Resolution 48-2014
- d. Authorizing the City Administrator to sign a Professional Services Agreement with Brown And Caldwell, Inc. for the preparation of the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) report deliverables to DEQ by November 1, 2014: Resolution 49-2014

Councilor Tosterud moved to approve the consent agenda and Councilor Prom seconded. The motion passed unanimously.

AYES: 5

NOES: 0

ABSTAINED: 0

### 3. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

None.

### 4. CITY ADMINISTRATOR AND DIRECTOR REPORTS

Chief Johnson reported there is a Bike Rodeo this Saturday, September 20th in the Fairview Target parking lot. The Police Dept. and Target have partnered to host this event. Other Target stores are sending additional volunteers and contributing donations. It should be a great event. The volunteers of the Citizens on Park Patrol (COPP) program are exceeding expectations. Not only do they donate their time, they have picked up litter, reported and cleaned-up graffiti. They are making a positive difference.

Public Works Director Berry reported both current park projects, Park Cleone and Fairview Woods, are going well. The city has been awarded a TGM grant for the Transportation Plan update. Staff researched the cost for bolt down speed bumps for the Market St. corner. They are approximately \$2,000 each. Director Berry remarked staff's recommendation for the Market Dr. corner is to install turtles.

Councilor Prom noted the success of the turtles at the corner near Target. Traffic lanes are separated and traffic has slowed down. Councilor Kreamier asked if installing a crosswalk is an option. Director Berry replied he has not researched that.

Councilor Prom inquired about the status of auto-pay options for utility bills. Deputy Finance Director Lesa Folger answered the Finance Dept. is planning to initiate a Request for Proposal (RFP) for banking services in October. Debit/Credit and payment options will be analyzed as part of the process.

Councilor Arnold asked about recent activity in Fairview Woods Park. Chief Johnson replied there was a recent complaint about children throwing items at homes. Sergeant Kirby and Detective Flener made contact with the children's parents. The US Marshal's office recently served a warrant at Fairview Oaks/Woods Apartments. That caused a lot of activity. Do to the elevated potential for gang activity; police gang units have increased their presence with more frequent patrols. Mayor Weatherby noted the quarterly meeting with Home Forward is October 3. All councilors are welcome to attend.

### 5. MAYOR/COMMITTEE REPORTS AND COUNCIL COMMENTS

Councilor Kreamier noted at the Economic Development Advisory Committee (EDAC) meeting Eric Anderson, Troutdale City Councilor and East Metro Economic Alliance (EMEA) Executive Director, expressed interest for EMEA and the City of Gresham regarding the Halsey Corridor. Mr. Anderson has also made contact with Metro and Multnomah County regarding the project.

Councilor Arnold reported attending City Hall Week with Councilor Tosterud. The League of Oregon Cities shared the issues they are focusing on this legislative season. She attended the Local Government Advisory Committee (LGAC) meeting. The committee discusses the issues and concerns of children in crisis and makes recommendations for mental health services.

## 6. PRESENTATIONS

None.

## 7. COUNCIL BUSINESS

### a. Village Sidewalk Update and Budget Review

City Administrator Nelson summarized Councilor Owen, Councilor Tosterud and staff has been working with the Village Street HOA's regarding the sidewalk/street tree issues. The city paid for new design standards i.e. size of cement tiles, size of tree wells, how many trees, kind of trees, etc. The HOA's elected to lead the project and are in the process of collecting bids. They will be utilizing the sidewalk grant program for \$6 per square foot.

Staff is requesting direction as to which option to follow for funding the grant program for Village Street. The expected grant amount is approximately \$44, 0000. Can use the existing budgeted grant assistance funds (\$50,000) or can direct staff to provide a supplemental budget to move funds from the Street Fund Contingency line to Sidewalk Assistant Funds for Village Street.

Councilor Kreamier supported moving funds; does not want to exhaust the existing fund.

Councilor Prom proposed using the budgeted funds for Village Street and using contingency funds for more curbs and sidewalks in Old Town.

Councilor Tosterud agreed with Councilor Prom; supported a mixed approach for sidewalk repairs and assistance in Old Town. Councilor Arnold concurred and recommended leaving some grant funds for others who may need sidewalk repair assistance.

City Administrator Nelson reiterated as of July 1, per Council direction, the sidewalk program is a proactive program with different sections of the city being focused on each year. Staff has letters ready to issue, but is holding them pending this discussion.

Councilor Kreamier inquired what the amount of grant funds used in Fiscal Year 2013-14 was. City Administrator Nelson replied approximately \$20,000. Not sure how much has been used this fiscal year; doesn't believe it is much.

Councilor Kreamier commented \$200,000 to \$300,000 is needed to construct a street of curbs and sidewalks. Allocating \$20,000 to \$25,000 for sidewalks in Old Town will not have much impact on the project timeline using the CDBG program to complete all the needed sidewalks in Old Town.

Councilor Arnold supported delaying the proactive initiative 6 months. Councilor Prom did not support a delay; need to move forward in the repair of tripping hazards.

Councilor Kreamier moved to transfer \$25,000 from the Contingency Street Fund to the Sidewalk Assistance Fund and Councilor Tosterud seconded. The motion passed unanimously.

AYES: 5

NOES: 0

ABSTAINED: 0

b. Establishing a Tax on the Sale of Marijuana-Infused Products in the City of Fairview and Adding a New Chapter 3.22 to the Fairview Municipal Code: Ordinance 12-2014; 1st Reading – Introduction

IT Coordinator Tammy Shannon read the first reading of the ordinance by title. City Attorney Heather Martin summarized in the event medical or recreational marijuana is allowed in the future this ordinance would authorize a tax on the gross receipts of the retailer (business owner). Collecting the tax would be coordinate by the Finance Dept. Funds collected would be allocated to the General Fund. There are potential state law changes if Measure 91 passes.

Mayor Weatherby proposed imposing the highest tax limit allowed.

8. PUBLIC HEARING

None.

9. ADJOURNMENT

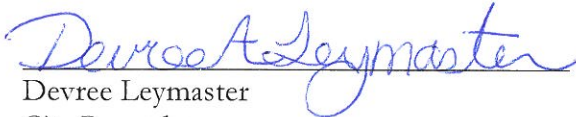
Councilor Arnold moved to adjourn the meeting and Councilor Prom seconded. The motion passed, and the meeting adjourned at 7:40 PM.

AYES: 5

NOES: 0

ABSTAINED: 0

A complete recording of these City Council proceedings is available by contacting the City of Fairview Administration Office, 1300 NE Village Street, Fairview, Oregon 97024.

  
Devree Leymaster  
City Recorder

  
Mike Weatherby  
Mayor

Oct. 16, 2014  
Date of Signing