

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

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**MAY 19, 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  
Caren Huson, City Recorder

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

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

Les Moore, 2506 NE 205th Avenue, Fairview, approached the podium and presented a letter to Mayor Vonderharr which would serve as an official request for public information, including Council audio tapes, City Attorney billings and reports from their date of hire to present, legal activities with Attorney S. Marks, and all files regarding the Silent Creek Reimbursement District. Mr. Moore's letter is attached and incorporated into these minutes.

Ray Bechtoldt, 65 Bridge Street, Fairview, approached the podium and asked if the proposed Twelve Mile Disposal site had conditions placed on it in terms of odor control. Mayor Vonderharr responded that the site would be used primarily for construction materials and that no garbage products would remain at the facility, except perhaps for one small, sealed truck which would be emptied daily. In addition, no composting materials would be contained on the site, and the Council is as concerned as any citizen about the project, and that conditions and restrictions have been placed on the facility.

Rod Park, Metro Councilor, approached the podium and stated that he simply wished to visit with the Council, and that in terms of the JPAC meeting, the railroad bridge widening on 223rd Avenue only received minimum funding for preliminary design; if the legislature passes the proposed 6% gas tax, perhaps other funds may become available for the railroad bridges. Mr. Park reported that in regards to Blue Lake Park and Chinook Landing, he was trying to build a reasonable policy that would be acceptable to both Metro and Fairview in terms of providing law enforcement services, such as an additional fee for facility use, or converting the rules and regulations of Blue Lake Park and Chinook Landing to Metro regulations

and perhaps contract with Multnomah County Sheriff Deputies to patrol the facilities. Mr. Park commented that he was still working through Title 3 issues and how they fit with Goal 5 regarding habitat issues, and that the latest ESA listing was a major concern.

Mayor Vonderharr mentioned that this was the first time a Metro Councilor had come before the Council and stated their concern for Fairview. Mayor Vonderharr asked Council members to keep their questions as brief as possible, as Mr. Park would be invited back to Fairview at a later date.

Councilor Lillard questioned what the general feelings were of JPAC regarding the railroad bridges on 223rd Avenue. Mr. Park responded that he does not serve on JPAC, but he thought the issue was too many needs and not enough dollars. Also, East County must do a better job of organizing themselves and present their concerns as a united front. Mr. Park added that other districts have simply had more experience and been through similar processes before.

Councilor Raze stated that the temporary traffic signal at 207th Avenue/Sandy Boulevard was very important to Fairview, and also the 223rd railroad bridges. Mr. Park posed the question if Fairview could have one or the other, what project would they choose. Councilor Raze commented that the signal at 207th/Sandy has already had two fatalities; there were no fatalities that he was aware of regarding the railroad bridges, but the City wants to keep both issues before Metro at all times. Mr. Park reported that JPAC was made up of 21 members and they decide the priority of transit funding; presentations are made to JPAC, and it seems that the squeaky wheel gets the grease. JPAC makes recommendations to the Metro Council, and the Council could either accept or reject the recommendations, but could not amend.

Mayor Vonderharr commented that the railroad bridges had been removed from the priority list by Metro staff, not Metro Council, and that it appears that Metro staff was not speaking with City of Fairview staff.

As there were no further questions or comments, Mayor Vonderharr thanked Mr. Park for visiting.

### III. PUBLIC HEARING

#### A. ORDINANCE - Functional Plan First Reading

Councilor Raze stated that he would be abstaining from this item as some of the issues could affect his own personal property.

John Andersen, Planning Director, reported that before the Council was a proposed ordinance which contained amendments to the City's Comprehensive Plan so that it would be in compliance with Metro's Regional 2040 Growth Concept Functional Plan. Director Andersen stated that staff was recommending a first reading of the proposed ordinance tonight, with the official action to occur at the June 2, 1999 Council meeting. Director Andersen commented that Fairview has a responsibility to comply with Metro's Regional Plan, and that Brenda Bernards of Metro was present to answer any questions or provide additional information. Director Andersen reported that the Planning Commission had reviewed the proposed amendments and held a public hearing on May 4, 1999. Director Andersen added that, incrementally over the year, additional amendments would be brought before the Council.

Director Andersen reported that the proposed amendments currently before the Council deal with Accessory Dwelling Units (ADUs), the 80% requirement for new

development which mandates smaller lot sizes and/or higher densities than are currently specified, and new standards for parking including a parking maximum. Director Andersen stated that, in addition, the Planning Commission was recommending a 40,000 square foot limitation for retail uses in Industrial zones.

Councilor Edwards questioned if the 40,000 square foot maximum for retail uses would affect Fairview Village. Director Andersen responded no, as Fairview Village had part of its site zoned for commercial uses, and the 40,000 square feet limitation would only pertain to retail uses in Industrial zones.

Councilor Lillard asked for clarification regarding the 80% requirement for new development. Director Andersen responded that the purpose of the 80% requirement was to ensure that at least a minimum density was being achieved; studies have shown that communities were not developing at densities allowed by the zoning, thus, the urban growth boundary would have to be expanded; this provision would require that at least 80% of the density planned would be achieved. Councilor Quinby requested a definition of "residential density". Director Andersen responded that if someone came to the City with a parcel of land for apartments which could handle 100 units, the proposal would have to include at least 80 units, or 80%.

Councilor Owen questioned if the ADU language would pertain to both new construction and existing homes. Director Andersen responded that that was correct, and that the size of an ADU would be mandated by the Uniform Building Code. Councilor Owen asked if multi-family residential parking requirements had changed. Director Andersen responded that it would change about ½ space per unit less. Councilor Owen stated he was concerned with that requirement as there was currently not enough parking for apartment developments. Mayor Vonderharr commented that parking has been an issue in Fairview for some time, and that the logic about providing less parking is that the public would use public transportation. However, in Fairview, we do not have adequate public transportation and families need to buy a second car. Mayor Vonderharr stated that Metro needed to be realistic and realize that there was no correlation between needed parking for downtown Portland apartments and an apartment complex in Fairview.

Mayor Vonderharr commented that he had a serious concern that if Fairview ends up being the only City allowing a maximum square footage of 40,000 square feet for retail uses in Industrial zones, that we would be shooting ourselves in the foot as 40,000 square feet was only a large gas station. Mayor Vonderharr stated that Fairview was currently trying to promote its industrial areas, and now we were going to limit retail area in those zones to a small store. Mayor Vonderharr added that he thought it was a mistake to limit the retail use to 40,000 square feet, and that it should be similar to the rest of the region at 60,000 square feet. Director Andersen reported that the Planning Commission had felt that Fairview was more oriented to attracting industrial uses, and if we want to focus on that, we should be doing more to encourage those industrial uses. Councilor Lillard suggested that the more retail uses you have, a lower level of pay would also go with that, so maybe the Planning Commission was hoping for industrial uses with higher paying jobs. Councilor Edwards agreed that limiting the retail use to 40,000 square feet was just one more setback in attracting businesses to Fairview.

Councilor Lillard requested that comparisons of other cities be provided at the June 2nd meeting regarding the 40,000 vs. 60,000 square foot limitation. Director Andersen stated that he would provide the comparisons along with definitions on subdivision partitions vs. residential developments as requested by Councilor

Quinby. Councilor Quinby commented that there was no base provided in the staff report to compare the proposed changes to. Director Andersen responded that he would have all the comparisons to the Council before their June 2nd meeting.

Mayor Vonderharr opened the public hearing.

James Raze, 20901 NE Halsey, Fairview, stated that developers do not like to squeeze parking on apartment developments, but that they were restricted in providing more parking; mass transit was being encouraged and it was not the developer who was encouraging that.

Councilor Owen commented that he could not find the maximum parking ratio for multi-family residential in the parking table provided in the staff report. Brenda Bernards of Metro responded that the listing of "none" in the maximum column of the table actually means that the City could choose to set a maximum number of spaces if it wished, but that a developer could provide as much as they want. Director Andersen stated that a more clarified table would be provided at the Council's June 2nd meeting.

Mayor Vonderharr continued the Functional Plan hearing to the Council's June 2, 1999 meeting.

Councilor Edwards moved and Councilor Owen seconded the motion to read Ordinance 6-1999 a first time by title only.

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

Administrator Holstrom read Ordinance 6-1999 a first time by title only.

#### IV. COUNCIL BUSINESS

##### A. ORDINANCE - Paragon/TCI Cable Transfer

Administrator Holstrom introduced Rich Goheen, Fairview's representative on the Mt. Hood Cable Regulatory Commission (MHCRC).

Mr. Goheen stated that he, along with the MHCRC was recommending that the Council approve the transfer of Paragon Cable to AT&T/TCI Cablevision with conditions.

Mr. Goheen stated that the Council had renegotiated a Paragon Cable franchise last year, and that there had been discussion at that time of a transfer of Paragon to another entity. Mr. Goheen explained that in order to become more efficient, consolidation has become very common place. Negotiations occurred between Paragon and TCI; discussions had taken several months and parent companies were involved. Mr. Goheen reported that public hearings were conducted on the proposed transfer and televised live on cable television. Mr. Goheen stated that the transfer conditions, among other things, address customer service and management concerns, performance guarantees, upgrade and institutional network construction, cable access interconnections, and finally the manner in which the company will supply "@Home" if the company chooses to deploy it or similar high speed cable modem Internet access in Multnomah County. Mr. Goheen added that the agreement before the Council includes several "triggers" requiring the company to provide "open access" to their cable modem platform if Multnomah County and

Portland prevail in the current litigation, or if AT&T and TCI otherwise agree to offer open access in other large cable systems on the west coast. Mr. Goheen concluded by stating that Council action was now required on the proposed transfer, as a final decision must be made before May 22, 1999, or the transfer will be deemed approved without the attached conditions. Mr. Goheen reiterated that all existing franchise commitments would be honored.

Mayor Vonderharr questioned if Portland and Multnomah County were successful in their litigation, then in turn would we be offered the same platform or one that TCI offers as a service elsewhere.

Duane Bosworth, AT&T Attorney, responded that paragraph 9f of the agreement contains two "triggers"; if the court orders open access, then the trigger to provide open access would not be effectuated. Only if the company decides to voluntarily provide open access in some other large city on the west coast, the local jurisdictions can not be ruled out; in any case, they would receive "@Home".

Councilor Owen asked for a brief summary as to what changes a Paragon subscriber would actually see. Mr. Goheen responded that, as the transfer is completed, more stations would be available. Councilor Owen questioned if the additional stations would come at an additional cost. Gloria Crayton, TCI, responded that, initially, there would be no difference in stations; over time, as TCI transitions customers, they will see a difference in their bill, the way the phone is answered, and once upgrades of the cable system are completed, additional channels, both basic and premium, would be available.

Mary Beth Henry, MHCRC, explained that, primarily, TCI was guaranteeing that they will address all of the existing franchise requirements, and commit to the upgrade and construction of the institutional network which is occurring in East County.

Councilor Edwards requested that Ms. Crayton "sell" him on the TCI company. Ms. Crayton stated that TCI was recently acquired by AT&T, and that everyone was aware of AT&T's customer service. AT&T guarantees that TCI will sustain the level of service that AT&T was recognized for, and that she assures Councilor Edwards that AT&T has more satisfied customers than unsatisfied customers.

Councilor Raze commented that if Mr. Goheen felt comfortable with the transfer, then that was good enough for him.

Mayor Vonderharr questioned how the transfer would affect the City. Ms. Crayton responded that the City would see no change and that the franchise fees would continue.

Councilor Edwards moved and Councilor Raze seconded the motion to read Ordinance 7-1999 a first time by title only.

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

Administrator Holstrom read Ordinance 7-1999 a first time by title only.

Councilor Edwards moved and Councilor Raze seconded the motion to adopt Ordinance 7-1999, AN ORDINANCE CONSENTING TO TRANSFER OF KBL MULTNOMAH CABLESYSTEMS, L.P. DBA PARAGON CABLE TO TCI

CABLEVISION OF OHIO, INC. (AN AFFILIATE OF TELE-COMMUNICATIONS, INC. AND AT&T CORP.), WITH CONDITIONS, AND DECLARING AN EMERGENCY.

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

**B. ANNUAL BUDGET APPROVAL -  
Mt. Hood Cable Regulatory Commission**

Mr. Goheen reported that the City of Portland provides staff and support services to the MHCRC through a services agreement; each of the member jurisdictions provide a portion of their franchise fees from cable service providers to annually fund the Commission. Mr. Goheen listed some of the Commission's accomplishment during 1998, including: assisting in the resolution of 1,160 complaints from cable subscribers; regulating the basic rates of local cable companies which resulted in lower basic rates or minimal increases to subscribers; negotiated an amended franchise with TCI which includes public benefits; process the nationally significant proposed franchise transfer from TCI to AT&T; began to process the proposed franchise transfer from Paragon to TCI; oversaw the initial design and planning of Paragon and TCI's upgraded cable system which is anticipated to be completed by 2000, including the I-Net; and, administered the Community Access Capital Grant program.

Mr. Goheen stated that the proposed budget includes increasing personnel by ½ person, and added that the budget had been carefully developed, reviewed, and recommended by the full MHCRC.

Councilor Owen moved and Councilor Raze seconded the motion to approve the proposed budget for fiscal year 1999-2000 for the Mt. Hood Cable Regulatory Commission.

AYES: 7  
NOES: 0  
ABSTAINED: 0

**V. DEPARTMENT REPORTS**

**A. Police**

Gilbert Jackson, Chief of Police, reported that two Reserve Officers had been sworn in earlier in the evening, and that the Graffiti Committee was moving along. Councilor Raze questioned if the Graffiti Committee painted over, or removed, graffiti. Chief Jackson responded that the Committee removes graffiti from public property only.

**B. Public Works**

Jeffrey Sarvis, Director of Public Works, reported that the City would like to discuss the Intergovernmental Agreement between Fairview and DEQ on TMDLs for Fairview Creek and Fairview Lake, but staff had not been able to get in touch with DEQ. Director Sarvis stated that the Marine Drive water line project had been completed, and that Fairview now connects with Troutdale on the east end of the City. Director Sarvis commented that the City collects water samples monthly, and for the past two months has received positive results for coliforms; when that occurs, additional water samples are taken from the same location and, in 48 hours time, the results are known and they have been negative. Sampling stations in meter boxes will be removed, and new sampling stations would be placed which will

not be connected to house service or locations which are prone to flooding. Director Sarvis indicated that the City was not in a violation or reporting mode, but we do not want to continue receiving contaminated samples. The City would no longer be using a independent vendor to pick up our samples and deliver them to the lab; staff will handle the samples all the way to the lab and the test bottles would not leave City staff's hands. Councilor Quinby asked what Director Sarvis believed the contaminants were caused by. Director Sarvis responded that he believed the samples were contaminated by the first draw of the independent vendor.

Director Sarvis reported that staff was working on upgrading the sanitary sewer pump station for Blue Lake, and that Stephen Richard had been offered, and accepted, the Public Works Supervisor position which has been budgeted to begin in July 1999 and which was budgeted.

#### C. Planning

Director Andersen reported that staff had been working on the Salish Ponds project, including having the ponds transferred to the City; the Planning Commission had approved a proposal from Mike McKeel to place ten cottages on the west side of the ponds. Director Andersen stated that work continues on the Transportation System Plan, with a Council Work Session to be held on May 26th. Director Andersen stated that staff continues working on functional planning activities, and that the Planning Commission had approved the Pelfrey South Shore subdivision, which is the last gap for the development on the south side of Fairview Lake. Director Andersen reported that a pre-application meeting was held with Paul Schatz for NE 205th/Wistful Vista for a residential partition, and also an application on the Schmautz property on Sandy Boulevard just east of the 207th Avenue signal for a proposed business park. Director Andersen commented that: building permit activity has increased; the City Hall site was moving along; and, that Lakeside Estates was going through environmental analysis with DSL and Fairview in terms of riparian areas.

Councilor Raze questioned if any news had been heard regarding the selling of the City-owned property on 207th and Halsey in conjunction with Holt & Haugh's site. Administrator Holstrom responded no, but that she was having lunch with Charlie Haugh the following day.

#### D. Administration

Administrator Holstrom reported that: a Volunteer Reception would be held on June 2, 1999, 7:00pm, right before the Council meeting; on May 26th, a Council Work Session would be held at 7:00pm on the Transportation System Plan and potential future revenue sources; and, that a Street Faire was scheduled for June 24th, 6:00pm-8:00pm.

Administrator Holstrom stated that she had signed the title report to purchase property on Fairview Lake for a park site.

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

Councilor Raze reported that work on the Heslin House was moving along, and that an electrician will be signing off on the electrical work that is performed on the house.

Councilors Quinby, Lillard, Owen, and Edwards had no reports or concerns.

Councilor McCutcheon stated that he would be moving out of the City of Fairview and that he had submitted his resignation from the Council. Councilor McCutcheon commented that he will miss the Council and that he had learned a lot from serving on it.

Mayor Vonderharr stated that the request received from Les Moore earlier in the evening was a legal matter and would be referred to the City Attorney. Mayor Vonderharr reported that he had met with Denny West of the Housing Authority of Portland in regards to lack of funds for policing tax exempt Fairview Oaks and Woods. Mayor Vonderharr commented that the Affordable Housing Committee continues to meet and that he would prepare a written report and distribute it to the Council. Tomorrow, Mayor Vonderharr would attend a Mayor's Legislation Day in Salem.

Council and staff conducted a small "presentation of thanks" to Councilor McCutcheon for his years of service on the Fairview City Council.

**VII. ADJOURNMENT**

Councilor McCutcheon moved and Councilor Lillard seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:52pm.

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