

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

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**NOVEMBER 17, 1999 -- 7:30pm**

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

Council President Owen called the meeting to order at 7:30pm.

PRESENT: Council President Steve Owen  
Councilor Ken Quinby  
Councilor Sherry Lillard  
Councilor Len Edwards  
Councilor James Raze  
Councilor Barbara Jones

ABSENT: Mayor Roger Vonderharr

STAFF PRESENT: Marilyn Holstrom, City Administrator  
Gilbert Jackson, Chief of Police  
Jeffrey Sarvis, Director of Public Works  
Roy Wall, Finance Director  
John Andersen, Community Development  
Director  
Bob Cochran, City Engineer  
Caren Huson, City Recorder

**II. CONSENT AGENDA**

Councilor Quinby moved and Councilor Edwards seconded the motion to approve the Consent Agenda, consisting of: a Grant Authorization for Bulletproof Vests; a Grant Authorization for Transportation Growth Management; an Intergovernmental Agreement with Aging Services; Resolution 27-1999, A RESOLUTION DECLARING THE CITY'S INTENT TO EMPLOY LOCAL CONTRACT REVIEW BOARD RULES DIFFERENT THAN THE OREGON ATTORNEY GENERAL'S MODEL RULES; a Proclamation for Mediation Month; Liquor License Renewals; Easement Vacations; and, the Minutes of October 20 and 27, 1999.

AYES: 6  
NOES: 0  
ABSTAINED: 0

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

Councilor Owen called for persons wishing to speak on non-agenda items.

Eric Lofgren, Gresham Fire Lieutenant, reported that Gresham had hired an EMS Manager for the department to handle EMS issues in the County, and that a new Fire Chief had been hired, Dan Fraijo, formerly the Fire Chief of Vancouver.

**IV. COUNCIL BUSINESS**

**A.METRO UPDATE  
Rod Park**

Metro Councilor Rod Park introduced Suzanne Myers who distributed a Metro Facts

Pack and Survey to the Council. Mr. Park reported on various current Metro issues, including: Urban Growth Boundary expansion; preliminary ruling of the National Marine Fisheries (NMFS) outlining how far setbacks must be from streams and waterways for natural habitat issues; the Subregional Means Analysis regarding housing; an inventory on the regional job base; Goal 5 being completed by June 2000; the Regional Transportation Plan public meetings have concluded and the hot topic was how to prioritize the limited funds Metro has for transportation issues; and, communications.

Mr. Park distributed his draft resolution regarding the proposed hotel/motel tax which states a city's right to not support the Civic Stadium. Mr. Park explained that the Metro Exposition Recreation Commission currently operates the Civic Stadium, but the stadium could revert back to Portland and would no longer be a regional facility and not eligible for regional tax support. Mr. Park stated that Mayor Vonderharr had given his limited blessing to the proposed resolution, but still had reservations as East County expects representation for its participation in regional funding.

Councilor Raze questioned whether there was documentation which proved that a 50-foot setback from a stream was really that much more beneficial than a 25-foot setback. Mr. Park responded that, based on the Water Resource Advisory Committee and input from DEQ and others, that 50-feet was the correct distance to be discussing; in addition, the Endangered Species Act also needs to be taken into account. Mr. Park added that he personally felt that federal regulations will be more strict than the 50-foot setback. Councilor Raze stated that Fairview had many wetlands, and if the City's current setback regulations were doubled, that was taking even more private land from property owners without compensation. Mr. Park commented that he understood Councilor Raze's concern, that it was a valid concern, and that Mary Weber of Metro would be a good contact regarding existing structures and platted land. Councilor Raze asked if bicyclists paid road taxes. Mr. Park responded no, but that the citizens of Oregon had passed legislation giving 1% of road taxes for bicycle paths.

Councilor Quinby questioned how Mr. Park personally felt about increasing setbacks to 200 feet. Mr. Park responded that he was still reviewing that, but that he does believe in water quality and practices it at his nursery. Councilor Quinby voiced his concern of continually eating up property-owner rights.

Councilor Lillard thanked Mr. Park for attending the meeting, and asked if cities would be able to provide input on Metro's Goal 5, and in particular, setbacks from waterways. Mr. Park responded that Mel Miracle of Gresham represents East County on the Water Resources Policy Advisory Committee and that a preliminary draft was already available in regards to Goal 5; however, any comments should be addressed to Mr. Miracle. Mr. Park commented that people have conflicting goals and he does not know what the answer is.

Councilor Edwards commented that Council was very happy that Mr. Park was visiting Fairview, and stressed his concerns on growth and transportation. Mr. Park mentioned that House Bill 2709 requires all cities above 25,000 population in the Metro region to maintain a 20-year land supply for building homes in their boundary.

Councilor Owen mentioned that previous correspondence from the City to Metro had requested an increase of fees at Blue Lake Park and Chinook Landing to cover the City's Police Services for those two areas. Mr. Park responded that he has been trying to shape the argument, and that he was investigating a rumor he had heard about fee restrictions from the Oregon Marine Board. However, the proportionality argument has some merit and he will continue to work on the issue.

In closing, Mr. Park commented that he hoped, in the future, that Fairview would love bicycles and walkways because he thought that the railroad crossing was a dangerous situation for those individuals, and that that was a good argument for transportation funding.

**B.LUBA REMAND - Twelve Mile Disposal**

Councilor Owen stated that the Council had before them a Final Supplemental Order regarding the City's decision of approving the Twelve Mile Disposal Conditional Use Permit. On April 7, 1999, the Council had approved the Conditional Use Permit, which was appealed by Max Moini to the Land Use Board of Appeals (LUBA). On September 28, 1999, LUBA ruled on a technical issue regarding the manner in which the City's findings were drafted. Councilor Owen indicated that no oral testimony would be allowed, and that staff would present their staff report; however, public testimony would be accepted in writing only until 5:00pm on Wednesday, November 24, 1999.

John Andersen, Community Development Director, reported that LUBA had indicated that there was a need to more precisely address the issues raised at previous public hearings regarding debris, odor, runoff, and noise impacts. Staff has prepared more defined findings based upon public testimony and it was before the Council. Director Andersen added that in order to ensure that citizens have an opportunity to comment on the findings, they were invited to submit written testimony until November 24th. Written testimony was preferred as it allows protection of the record and will prohibit any testimony on new evidence, as only the existing record was being argued; new evidence could not be considered at this point. Director Andersen stated that once written testimony is received, that Council will consider the matter at their December 1, 1999 meeting. Director Andersen stated that Chris Gilmore of the City Attorney's office was present to answer any questions.

Mr. Gilmore commented that written testimony was limited to the record, which means that LUBA reviewed the City's written record and that that was available for public viewing. An additional issue had been raised regarding the City Attorney's relationship with the developer, and that is a new issue outside of the developed findings and should be addressed as such outside of the LUBA record. Director Andersen distributed a copy of the proposed revised City findings to the audience.

David Nepom, attorney for Max Moini, stated that he had addressed a memo to the Council through the City Attorney's Office regarding due process and the fact that the applicant was providing the funds for the LUBA appeal. In addition, he believes that Mr. Gilmore's findings are slanted 100% to the applicant.

Councilor Edwards moved and Councilor Raze seconded the motion to tentatively adopt the supplemental findings for Twelve Mile Disposal and that the City also accept written comments regarding odor, noise, debris, runoff, and vermin until 5:00pm on November 24, 1999, and that no new evidence be submitted into the record except for the limited issue of bias on the part of the City Attorney; the final Council decision be made on December 1, 1999.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Raze, in response to comments from the audience, again explained the reason why no oral public testimony was being accepted. Mr. Gilmore stated that, on a remand, the City needs to ensure that due process is allowed to citizens, and written testimony would accomplish that. The City was not saying that citizens could not participate or communicate with the City; this was just an avenue to ensure that testimony coming in is based on the record. Mr. Gilmore added that a Planning

Commission public hearing was held, along with a Council public hearing, and the City was not required to have a public hearing on a remand order. Any new evidence must specifically be rejected, and his role was to make sure that Council's decisions were legally defensible.

A gentleman from the audience stated that if the Council limits written comments to the record only, that they were disregarding any findings that were faulty and any evidence that has come to light since the findings. The Council needed to ask themselves if they were doing what was best for the people who live in the area and whom the Council works for.

At 9:00pm, Councilor Owen called for a five minute recess.

**C.INTERGOVERNMENT  
AGREEMENT - Economic  
Development**

Director Andersen reported that there was discussion in the past about the need of the City to present a better face to developers and to show them development opportunities in Fairview. Negotiations occurred, and agreement was reached to work with the City of Gresham and their Economic Development Department to obtain their assistance. Gresham City Council had approved the proposed Intergovernmental Agreement the previous evening, and Gresham staff have already performed some work for Fairview; there is a need for their service as jobs and industry are needed in Fairview.

Councilor Quinby commented that he was pleased that Holt & Haugh had agreed to contribute to this agreement, and stated his concern about the language on page 2 of the agreement regarding termination, as he felt it was somewhat vague. Director Andersen responded that the services Gresham is proposing to provide is the updating of maps and informational materials which will be available in about two weeks; also, they will provide a referral service in which Fairview will be included, and in fact, has already begun. Councilor Quinby commented that if staff was satisfied with the language of the agreement, that it was fine.

Councilor Raze reported that he and Mayor Vonderharr had spoken with the staff of Gresham's Economic Development Department, and that they provide a good service.

Councilor Lillard questioned if there was a certain number of hours the City would be receiving from Gresham and how we would know that they were promoting Fairview. Director Andersen responded that current materials already show Fairview as an equal partner.

Councilor Edwards moved and Councilor Quinby seconded the motion to authorize the Mayor to sign the draft Intergovernmental Agreement and authorize staff to pay \$10,000 to the City of Gresham for business assistance.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**V.PUBLIC HEARING**

**A.RESOLUTION - Twelve Mile  
Disposal License Renewal**

Bob Cochran, City Engineer, reported that the Fairview Municipal Code, Chapter 8.20, requires all firms in Fairview that collect solid waste to have a license with the City. Presently, Twelve Mile Disposal has the only license in Fairview and that it would expire next month; their license renewal application was in the Council's packet, and staff was recommending approval of the license renewal for another five years.

Councilor Owen opened the public hearing; as no one approached the podium,

Councilor Owen closed the public hearing. Councilor Raze commented that Twelve Mile Disposal does a good job for the City of Fairview.

Councilor Edwards moved and Councilor Lillard seconded the motion to approve Resolution 28-1999, A RESOLUTION TO RENEW A FRANCHISE LICENSE WITH TWELVE MILE DISPOSAL, extending the service period to December 2004.

AYES: 6  
NOES: 0  
ABSTAINED: 0

## VI. DEPARTMENTAL REPORTS

### A. Police

Gilbert Jackson, Chief of Police, reported that the study for an additional public safety dispatch center was continuing, and Fairview was part of that group; they were not dissatisfied with the present service, but were trying to look at more economical ways of providing the service as it is a large budgetary item. Chief Jackson stated that the City of Fairview was approached by a group of Gresham business people, including Don King, regarding a 4th of July fireworks show in Fairview, and that Fairview would be the lead agency. It was hoped that the fireworks could take place on the Don Toombs property, and that they would talk with individuals of Blue Lake Park on their involvement. Chief Jackson added that it was hoped to establish the fireworks event for July 4, 2000, and that it would become an annual event.

### B. Public Works

Jeffrey Sarvis, Public Works Director, reported that staff was ready to perform a walk-through and create a final punchlist on the new City Hall on November 29, 1999, and that it was anticipated that the new City Hall would be completed on time - December 8, 1999. Staff will move into the new City Hall over the weekend of January 7, 2000. Director Sarvis stated that the Public Works Department would be updating its telemetry system over the next few years at a cost of about \$100,000; telemetry tells the City wells when to go on and off to fill our reservoirs. Director Sarvis mentioned that the department's Administrative Assistant, Susie Wylder, had resigned and that it was hoped that the position would be filled some time in the next few weeks. Director Sarvis reported that The Oregonian had visited the new City Hall the previous day, without contacting staff, and had taken some photos. Director Sarvis stated that Public Works was ready for Y2K and that additional standby generator power had been reserved for the next four months. Director Sarvis indicated that within the next two months, staff will assemble a Scope of Services to complete the Salish Ponds project.

### C. Community Development

Director Andersen reported that development activities were moving forward very rapidly, and that a substantial amount of single-family development was occurring near Fairview Lake and in Fairview Village. Director Andersen stated that the Planning Commission will hold a public hearing on the proposed Townsend Business Park in January 2000, and that transportation issues were being worked out. Director Andersen commented that staff has been busy dealing with riparian issues around Fairview Lake, but that he thought staff was successful in developing a good mechanism in dealing with those issues. Director Andersen reported that staff was successful in obtaining a \$64,000 grant from ODOT to perform a study on Sandy Boulevard refinement. Staff was also evaluating the new plan for the Wood Village Town Center.

Councilor Edwards questioned if there was a map which depicted the commercial area in Fairview Village. Director Andersen responded that he was working on a map which would depict the Village commercial area along with the commercial area proposed for NE Halsey Street.

**D. Finance**

Roy Wall, Finance Director, reported that the City's annual audit had been completed and was currently at the printer; once again, the City received a clean audit opinion letter. Director Wall stated that the City's Municipal Court had created a new brochure and was also developing the same document in Spanish. Director Wall commented that the City's Y2K Committee had conducted a Town Hall meeting on November 10th, which was lightly attended. However, it was another piece of the City's Y2K program and he thanked Councilor Quinby for attending the Town Hall meeting and providing additional information.

**E. Administration**

Administrator Holstrom reminded the Council that Goal Setting had been scheduled for January 23, 2000, at the new City Hall. Administrator Holstrom commented that Metro Councilor Rod Park had distributed his draft resolution to the Council earlier in the evening regarding the proposed hotel/motel tax, and asked if Council was in agreement that a letter of support of the resolution should be sent to Mr. Park.

Councilor Quinby moved and Councilor Lillard seconded the motion that a letter of support be sent to Metro Councilor Rod Park regarding his proposed resolution on the hotel/motel tax.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**F. Legal**

Mr. Gilmore stated that the Attorney's written report was before the Council.

**VII.MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS**

Councilor Jones reported that she had attended the League of Oregon Cities Conference with Administrator Holstrom the previous weekend, and that it was a great opportunity and an eye-opening experience for her; she realizes now how well Fairview Council and staff works together, compared to other cities.

Councilor Quinby reported that the Solid Waste Citizens Advisory Committee would be providing information on the new co-mingling process. Councilor Quinby commented that he was half-way through his NERT training class and that they would be offering as many classes as needed for neighborhood groups.

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

**VIII. ADJOURNMENT**

Councilor Quinby moved and Councilor Lillard seconded the motion to adjourn. Council President Owen adjourned the meeting at 9:55pm.

AYES: 6  
NOES: 0  
ABSTAINED: 0

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Council President Steve Owen

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Dated:

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Caren C. Huson Quiniones  
City Recorder