

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

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**SEPTEMBER 15, 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 Steve Owen  
Councilor Len Edwards  
Councilor James Raze  
Councilor Barbara Jones

ABSENT: Councilor Sherry Lillard

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

**II. CONSENT AGENDA**

Councilor Quinby moved and Councilor Owen seconded the motion to approve the Consent Agenda, consisting of Resolution 25-1999, A RESOLUTION ACCEPTING THE CITY OF FAIRVIEW SAFETY COMMITTEE LOSS CONTROL EVALUATION FOR FISCAL YEAR 1998-99 and the Minutes of September 1, 1999.

AYES: 6  
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. COUNCIL BUSINESS**

**A. ANNUAL REPORT  
& RESOLUTION -  
Heslin House**

Jeanette McDermid, Fairview-Rockwood-Wilkes Historical Society (Society) President, approached the podium and stated that their written report had been included in the Council's packet. Ms. McDermid commented that the Society had been working very hard for the past year on the Heslin House, and that they have some great volunteers; Councilor Raze had helped in getting electricity placed in the house. Ms. McDermid indicated that a lot of work had been done in the yard of the Heslin House, and citizens had actually stopped and commented that the house was looking good. Ms. McDermid reported that the Heslin House exterior had been painted, and that at least 290 hours had been volunteered in the past year to work on the house. Ms. McDermid commented that the Society plans on obtaining a

narrow wheelchair for the Heslin House because the original doorways are smaller than the building code now requires. Councilor Raze mentioned that he thought there was some easing of building code requirements when it pertained to historical structures. Ms. McDermid stated that the Society is planning on having a web site, and plan on producing a video on the Heslin House; next month, information will be available on the Heslin House and Fairview at an art exhibit at the Gresham Public Safety Building. Ms. McDermid mentioned her concerns at rumors she has heard regarding the widening of 223rd Avenue and the impact it could have on the Heslin House property. Councilor Quinby commented that the widening of 223rd Avenue has been discussed in the past, and he thought the widest it would ever be would be two lanes with a middle turn lane.

Councilor Edwards moved and Councilor Quinby seconded the motion to adopt Resolution 26-1999, A RESOLUTION TO EXTEND LEASE AGREEMENT WITH THE FAIRVIEW-ROCKWOOD-WILKES HISTORICAL SOCIETY, INC. CONCERNING RESTORATION, MAINTENANCE AND USE OF THE HESLIN HOUSE AND PROPERTY.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Quinby commented that the report presented by the Society was much better this year, and that it appears that much progress had occurred on the Heslin House in the past year.

**B.ORDINANCE - Northwest  
Natural Gas Franchise Fee**

Roy Wall, Finance Director, reported that the Council had passed Ordinance 10-1999 on August 4, 1999, concerning compensation for a non-exclusive gas utility franchise issued to Northwest Natural Gas. Northwest Natural could not implement the agreement based upon the specified date; Ordinance 11-1999 would allow for implementation for the franchise fee rate change to become effective on September 1, 1999.

Councilor Owen moved and Councilor Quinby seconded the motion to read Ordinance 11-1999 a first time by title only.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Marilyn Holstrom, City Administrator, read Ordinance 11-1999 a first time by title only.

Councilor Owen moved and Councilor Raze seconded the motion to adopt Ordinance 11-1999, AN ORDINANCE AMENDING ORDINANCES 15-1990 AND 10-1999 CONCERNING COMPENSATION FOR A NON-EXCLUSIVE GAS UTILITY FRANCHISE ISSUED TO NORTHWEST NATURAL GAS COMPANY, AND DECLARING AN EMERGENCY.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**C.REQUEST FOR  
CONSIDERATION -  
Reimbursement District**

Mayor Vonderharr announced that both parties involved had requested that this item be continued to the Council's October 20, 1999 meeting.

Councilor Owen moved and Councilor Raze seconded the motion to continue the Request for Consideration to the City Council meeting of October 20, 1999.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**V.DEPARTMENTAL REPORTS**

**A. Police**

Gilbert Jackson, Chief of Police, stated that someone had phoned in a report about a masked man with a rifle, but a police search found no one, and as it turns out, it may just have been the caller's imagination. Chief Jackson reported that there has been a lot of activity in Fairview than what the police are used to from years past. Chief Jackson stated that the police are conducting a large meeting of apartment managers every month so that they can get to know each other and feel free to talk to each other.

**B. Public Works**

Bob Cochran, City Engineer, reported that Public Works Director Sarvis was attending a Parks District information meeting for citizens and could not be present. Mayor Vonderharr commented that the Parks District discussion was very preliminary, but Gresham was moving forward to prepare a study and had invited the other East County cities to join them in order to form a separate Parks and Recreation District.

Engineer Cochran stated that a new Engineering Technician had been hired, Jim Callantine, who has a strong background in city mapping and who will place Fairview's infrastructure on Autocad. Engineer Cochran reported that the Salish Ponds Detention Facility had been completed, which is a regional stormwater facility. Substantial Completion was applied to Lakeside West which is adjacent to Blue Heron Shores II. Engineer Cochran commented that staff was working on the Blue Lake Pump Station upgrade which should be completed around December 1st, and that staff was in the process of reviewing the plans for Raze Meadows, the Commons at Fairview, Salish Ponds West, and Pelfrey Subdivision.

**C.Community Development**

John Andersen, Community Development Director, reported that the Planning Department continues to be busy, and had received the Zone Change/Conditional Use Permit/Lot Line Adjustment application for Townsend Business Park, which will go before the Planning Commission in November. Director Andersen commented that the Assistant Planner application period had closed and that staff hopes to conduct interviews in the next couple weeks. Director Andersen reported that the Fairview Village newsletter contained an article about homes with garages closer than 20 feet from the front setback; the article contained inaccuracies, and he respects Mr. Cornelius' right to have a different opinion, but it was unfortunate that he misrepresented the situation. Director Andersen explained that there was no hearing involved regarding the homes and the garages, as it was an administrative process, and Mr. Cornelius was concerned that they would not have an appeal opportunity; staff worked with the City Attorney to term this as a "land use decision" so that they could appeal staff's decision to the Council, but they have not.

Councilor Quinby questioned how an appeal cost was determined. Director Andersen responded that the ordinance states that the fee for an appeal of "any

other land use" was \$800.

Councilor Edwards asked if there was a standard in the Fairview Village Code about two garages facing the street and then the third garage must be perpendicular to the street. Director Andersen responded that that was correct. Councilor Edwards questioned if the Townsend proposal included the Arndt property. Director Andersen responded yes, and that the property goes to 223rd Avenue and the berry processing plant.

**D. Finance**

Director Wall reported that the annual financial audit had begun for the City's last fiscal year, and that it should be completed three weeks earlier than last year. Director Wall commented that the City had completed a comprehensive furniture inventory for the current City Hall and Public Works Shop, in preparation of the new City Hall; all departments worked well together on the inventory. City/County Insurance Services has granted the City Y2K coverage as we met their stringent requirements and we were one of the first cities that the coverage was granted to. Director Wall reported that staff was planning to come before the Council on October 20th with a more formal Y2K update, and that a Town Hall meeting has been planned for November in which a separate mailing will be sent to all residents.

**E. Administration**

Administrator Holstrom reminded the Council that a Street Faire would be held the following evening at 6:00pm, on NE 227th Court. Administrator Holstrom reported that the national ICMA conference would be held in Portland this year, and that about 4,000 city managers were expected to attend; a field demonstration will be provided on Fairview Village, with the last count being three bus loads of interested individuals. Administrator Holstrom stated that a meeting had occurred with Tom McDonald and that a settlement was reached regarding the nuisance complaint.

Councilor Quinby questioned what the dollar amount was that was currently owed on Mr. McDonald's fines. Administrator Holstrom responded that that amount was just a bail amount and there was no idea what amount the judge would actually have placed on the nuisance.

**F. Legal**

Paul Elsner, City Attorney, reported that the Ten Mile LUBA appeal hearing would be held the following day. In addition, their office has been dealing with LID financing issues, Fire District 10 funding, and the Beal condemnation.

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

Councilor Quinby stated, regarding the reimbursement district, that he was representing citizens of Fairview; on a national level, he as a citizen would go to his congressman and make a complaint. If there is litigation going on in the City regarding an issue, what was Mr. Elsner's legal opinion of Councilor Quinby speaking to a party of that litigation. Mr. Elsner responded that Councilor Quinby was free, if he so chose, to talk to anybody on any topic about whatever he wanted to as a citizen; however, the Council as a whole decided not to talk to the parties involved in the litigation. Mayor Vonderharr commented that, from what he's been reading from the State, when a Council is making a decision that affects the financial situation of two clients, they act as a jury and must base everything on public record. If one goes outside of the "courtroom", they can not discuss what was going on and that that was called "ex parte". Mr. Elsner agreed that Council members have to distinguish their role as to whether or not they were acting in a quasi-judicial capacity and not as a legislator; if they are acting as a judge, they can not have ex parte communications as it is similar to a judge going out and talking to one side without letting the other side know. If a Council is in the process of adopting a law, they should listen to their constituents; however, if you are acting on a piece of law already in place, you only want to hear testimony that both parties will

hear.

Councilor Raze added that if you are in litigation with a body, you are not going to call them up and make a deal; if it's in litigation you must remain neutral. Councilor Edwards commented that he did not know why the topic was being brought up at this time, as the decision, if the Council needs to make one, should be discussed the night the item is before them; if he personally knew one Councilor was talking to one of the parties involved individually, he would have a problem making a decision knowing that discussions had already occurred outside of a Council meeting.

Councilor Quinby stated that, in regards to the Les Moore issue, that he felt he only got to hear information from the side of the City, and he thought there were two sides to every story. Councilor Quinby added that the Council had been through the discussions before, but when Mr. Moore got up to talk, we told him it was to be dealt with in court. Councilor Quinby stated that he has had a tough time trying to find out both sides of the story. Mayor Vonderharr commented that Councilor Quinby was not on the Council at the time the original decision was made; however, the decisions were made and Council does not change those decisions simply because someone was not on the Council at the time.

Councilor Quinby reported that the Multnomah County Emergency Management Board would be meeting on September 27th or 28th and that he would have a report from that meeting on October 6th.

Councilor Owen reported that the Port of Portland did agree to appoint a person from CNAC to the Regional Air Transportation Demand Study Task Force, and that today, he had drafted a letter in which all mayors of East County had signed to request membership from the combined cities on the Task Force.

Councilors Jones, Raze, and Edwards had no reports or concerns.

Mayor Vonderharr reported that he had attended a meeting at Smith Memorial Church the previous evening, and they were interested in knowing what was going on in the City and also interested in our demographics. Mayor Vonderharr told them that the City could always use involvement with youth. Mayor Vonderharr stated that he and Councilor Edwards would be going to Metro the following day to testify on the \$60 million in excess funds. Mayor Vonderharr asked if anyone on the Council was interested in touring the new City Hall as he will set up a time with the Public Works Director for the tour; all Councilors indicated that they would like a tour.

Mayor Vonderharr distributed a State manual on ethics to the Council.

## VII. ADJOURNMENT

Councilor Owen moved and Councilor Raze seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:07pm.

AYES: 6  
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