

MINUTES
FAIRVIEW CITY COUNCIL REGULAR MEETING
FAIRVIEW CITY HALL
1300 NE VILLAGE STREET
FAIRVIEW, OREGON 97024

AUGUST 16, 2000 -- 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 Steve Owen
Councilor Len Edwards
Councilor James Raze

ABSENT: Councilor Barbara Jones

STAFF PRESENT: Marilyn Holstrom, City Administrator
Jeffrey Sarvis, Director of Public Works
Roy Wall, Finance Director
John Andersen, Community Development
Director
Doug Aden, Police Sergeant
Caren Huson, City Recorder

II. CONSENT AGENDA

Councilor Quinby moved and Councilor Edwards seconded the motion to approve the Consent Agenda, consisting of the Minutes of July 19 and August 2, 2000.

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. PUBLIC HEARING

**A.RESOLUTION
21-2000 -
Revising Sanitary Sewer,
Water, and Stormwater
System Development
Charges**

Councilor Raze stated that he would be excusing himself from this item as he has property he was developing in Fairview, and stepped down from the dais.

Jeffrey Sarvis, Public Works Director, reported that based on the City's current Capital Improvement Plan (CIP), there was a need to adjust System Development Charges (SDCs) to construct City infrastructure. Staff had provided Council and the general public with an informational presentation regarding the SDC increase on June 21, 2000.

Director Sarvis indicated that written comments received by the City regarding the proposed SDC increase were included in the Council packet, and page 14 of the Update of Sewer, Water, and Stormwater SDCs included a comparison of costs with other East Multnomah County cities, showing that Fairview continues to be the lowest overall.

Director Sarvis stated that three recent issues regarding SDCs had arisen: 1) SDCs are made from an improvement fee and a reimbursement fee, so the Fairview Lake Local Improvement District (LID) area needs to be researched in terms of SDCs as staff has not decided if those participants should only pay the improvement portion of the SDC or the entire SDC; 2) the State of Oregon requires that SDCs have the option of being financed, so the City would need to work on a mechanism to allow financing; and, 3) staff needs to finalize the research and proposal regarding an administrative fee for direct costs of administering the SDC program. Director Sarvis asked the Council to please take the three issues into consideration and defer any Council action to a future date when staff may address the three issues.

Mayor Vonderharr opened the public hearing.

Garth Everhart, 607 SE 59th Court, Portland, stated that he was the owner of Paragon Properties and had built a number of the homes in Fairview Village. Mr. Everhart commented that he was coming before the Council with two issues: 1) permits which have already been totaled in amount and waiting for payment, and, 2) affordability, as fees have increased 30% in two years, but the cost of constructing a home has not risen 30%. Mr. Everhart stated that a homeowner in 1998 would pay \$8400 in mortgage interest; however, currently, they would pay \$10,000 in interest and with the increases proposed, they would be looking at \$11,400 in interest. Mr. Everhart commented that builders are always blasted for affordability, but their costs have not increased, it's the increase in fees that cause the increase in home prices. Mr. Everhart asked the Council to please review the analysis he prepared which is incorporated as a part of these minutes.

Jim Raze, 20901 NE Halsey, Fairview, stated that he has a development of 39 lots and fees have a direct impact on everybody; he realizes that the City needs funds in order to make improvements for all, but he hoped there would be some delay in implementing the new fees as the increase would be a large additional amount of money for 39 homes. Mr. Raze added that for affordable housing to be a reality, adjustments needed to be made by cities, counties, designers, etc., and that everybody would need to pitch in. Mr. Raze commented that he would be supportive of an increase in the fees, but with some time to adjust.

Allen Grant, 1312 Main Street, Vancouver, Washington, stated that he has an approved project, Fairview Terrace, and submitted pictures of the project to the Council. Mr. Grant commented that the project was approved for 176 units and the increase in fees would affect him in the additional amount of \$200,000. His financing is already in place and it does not include the additional \$200,000. Mr. Grant asked the Council to appreciate what a developer must go through to construct a project and the costs involved, such as marketing, analytical studies, financing costs, overhead and profit, permits and fees. Mr. Grant commented that many cities he has worked with will "vest" a developer's fees for two years once their project is

approved, as that protects the developer and his economics. Mr. Grant recommended that the Council "vest" all approved projects for a period of two years, then calculate the amount of fees that those approved projects would generate, subtract them from what is needed for infrastructure, and then the rest of the fees needed should be distributed on new developments coming in.

Director Sarvis commented that "grandfathering" fees for those projects already totalled and approved could be done, but he was unsure of the vesting of fees for two years. Ray Bartlett, Financial Analyst, reported that some cities do vest fees and delay implementation of SDCs to allow those projects who have gone through financing to maintain the original approved fee for two years; however, there can be some difficulty in tracking all those dates. Mr. Bartlett suggested that if the Council allowed the subject to be postponed, that he could speak with Mr. Grant regarding the vesting of fees.

Mayor Vonderharr questioned when staff planned to return to Council. Director Sarvis responded that he would like to return to Council sometime in October or November for discussion. Mayor Vonderharr stated that he would like responses brought back at that time in regards to the questions raised tonight.

Councilor Quinby requested that any new projects received by the City be informed of a possible increase in the SDCs in the near future.

As no one else wished to testify, Mayor Vonderharr closed the public hearing.

Councilor Lillard commended staff for listening to the individuals who testified, but she did want to make sure that Fairview SDCs were in line for providing infrastructure.

Councilor Owen commented that based on the financial analysis prepared by Mr. Bartlett, that he would suspect the analysis was prepared in terms of build-out, so by delaying any action on permits in the near future, would that cause costs to rise even higher than what is proposed tonight. Mr. Bartlett responded that staff is hopeful that the projects will come in as budgeted, as it is hard to predict too far in the future. Councilor Owen mentioned that the financial analysis shows Fairview, even with the proposed increase in SDCs, to be significantly lower in their SDC fees than other East County cities. Councilor Owen stated that he was in support of staff researching and studying the issues further, and that there should be some delay of time in grandfathering fees.

Councilor Edwards questioned if the City was obligated to provide financing of SDC fees. Mr. Bartlett responded that, as he read the law, the intent is that if a developer requests financing of SDCs, the City must oblige them. Mr. Bartlett added that the City should come out even in the end as they would receive interest payments, but the City may have to borrow the money to finance the SDCs. In addition, you would have to add in the cost of staff time in financing the SDCs and developing a program.

Councilor Quinby commented that he would hope the City would make a smooth transition so that this increase would not hit builders who have

projects already in the process and fees predetermined; in addition, if the conclusion is that the City can not provide a vesting program, that the fees be less for those with projects already in the works. Mayor Vonderharr stated that when staff returned to Council with an update, that the incorporation of administrative costs of the entire project be included in terms of the financing program.

Councilor Edwards moved and Councilor Quinby seconded the motion to table the SDC discussion and action to a date uncertain, where it would be presented to Council for further discussion.

AYES: 5
NOES: 0
ABSTAINED: 1 (Raze)

V.COUNCIL BUSINESS

A.ORDINANCE 7-2000 Public Service Fee for Recreational Vehicle Parks

Roy Wall, Finance Director, reported that before the Council was Ordinance 7-2000 regarding a Public Service Fee for Recreational Vehicle (RV) Parks. Director Wall stated that on three occasions between July 1999 and April 2000, Council was presented with information regarding the proposed public service fee for RV Parks. At the April 5, 2000 Council meeting, staff was directed to further quantify the percentage basis for the proposal and discuss with the Portland/Fairview RV Park the proposed charge. Three meetings have been held with the RV Park where information was exchanged regarding the proposed fee. The units used as "transient" will not be impacted or affected by the proposed fee; only those "permanent" units were considered in the analysis.

Director Wall reported that when discussions began, the City used a figure of total tax burden and found that the RV Park was hundreds of dollars under per unit. After much discussion, staff thought another way to look at it would be the total tax paid to the City as a basis, and then looking for some calculation that would give us an even charge when we looked at other mobile home parks and apartment complexes. The analysis now quantifies that a 1.8% privilege tax would bring the "permanent" units tax amount received by the City of Fairview in line with comparable entities analyzed. The Table in the staff report depicts the tax amounts received by the City, with the average being \$130 per unit.

Director Wall stated that it was estimated that a 1.8% public service fee for full-time RV Park sites would generate \$72 per unit per year. This \$72, or \$6 per month, plus the \$58 from property taxes, would bring the Fairview taxes paid per unit to \$130. This \$130 would then equal the average tax paid by the apartment complexes and mobile home parks for the public services received.

In conclusion, Director Wall reported that staff shared their information with the RV Park as they moved through the process, and staff was now recommending that the 1.8% privilege tax be applied to those tenants staying in excess of 30 days to defray the costs of the municipal services provided them; the initial 30 days would remain at the current rate of 6%.

Councilor Owen questioned where the number used in the analysis of 247 full-time units was obtained. Director Wall responded that that number was

received from the RV Park owners. Councilor Owen clarified that a transient would pay a 6% tax for the first 30 days in the RV Park, and anyone staying 31 days or more would be charged the 1.8% tax. Director Wall responded that that was correct.

Councilor Quinby asked if the property tax shown for individual tenants at Quail Hollow Mobile Home Park was on improvements. Director Wall responded that Quail Hollow owns the infrastructure and the residents living there bring in their own mobile home and pay a separate property tax on that mobile home, so staff gave them a credit for the amount the City receives on that unit.

Councilor Edwards questioned, when the original ordinance was adopted in 1986, was that when the 6% transient tax was introduced. Director Wall responded yes, that the original intent of the Park was as a transient park with no one staying longer than 30 days. Marilyn Holstrom, City Administrator, added that there was never any discussion in 1986 in regards to long-term residents of the RV Park. Councilor Edwards stated that he never could understand the fact that someone could rent a RV space and pay a 6% tax, with that space being rented several times throughout a month, yet, someone else could stay in a space for years and only pay the 6% tax once. Councilor Edwards commented that he was in favor of the 1.8% tax.

Councilor Raze mentioned that when he views children waiting for a school bus in front of the RV Park, that that indicates to him that there are many full-time residents in the Park who are receiving full-time service, and he agrees with Councilor Edwards and is in favor of the 1.8%. In addition, he did not think it was unreasonable to pay \$6 a month for police services.

Mayor Vonderharr commented that the City had originally proposed a 6% tax per month and after more extensive research, were coming back with a 1.8% tax, which should make it clear to everyone that the City was not out to just make money, but to simply cover the cost of services. Mayor Vonderharr stated that since the proposed tax affected only one RV Park in Fairview, that he would offer them the opportunity to speak on the matter.

Mark O'Donnell, 1706 NW Glisan, Portland, stated that he was legal counsel for the RV Park and introduced Bill Wean, Manager of the Portland/Fairview RV Park. Mr. O'Donnell stated that City staff had been very cooperative; but when you count the taxes the RV Park pays in transient occupancy tax, they were paying more than their fair share as an RV must be licensed with the Division of Motor Vehicles and pays a fee for that. Mr. O'Donnell commented that his clients were concerned about competition, and went on to display three charts for the Council.

Mr. O'Donnell commented that the City share of property taxes paid by the RV Park was \$22,362, and the 6% transient tax the City receives is \$29,212, bring total taxes paid to the City by the RV Park at \$51,500. Mr. O'Donnell mentioned that Mr. Wean had researched "real" occupancy (daily, weekly, monthly rentals), and in 1998 they had 68% occupancy and in 1999 they had 70.3% occupancy, meaning if the City gave credit for the occupancy tax and property tax, that the RV Park was actually paying \$180 per rental space. Mr. O'Donnell stated that the City was saying that public service needs were different for the Park than for an average single-family

residence and that the Park was not paying its fair share. Mr. O'Donnell added that the City's justification for the 1.8% tax was to bring the monthly rentals in the Park up to a comparable cost with others paying for cost of service in Fairview. In conclusion, Mr. O'Donnell stated that the math was simple - the RV Park's property taxes, combined with the occupancy tax, actually pays more than anybody per unit.

Mayor Vonderharr stated that the 6% transient tax was not based on services; if the RV Park had 350 or 400 units filled year round, the City would receive nothing. Mayor Vonderharr commented that, in reality, the RV Park has a transient area and a residential area, and it was only the residential portion of the Park that was being addressed, not the transient business. Mayor Vonderharr added that all other types of dwellings pay property tax whether there is an occupant or not.

Mr. Wean stated that if the City was basing the \$58 RV Park tax figure on the monthly units, then 247 units was not an accurate figure as those staying only a month were included. Mayor Vonderharr responded that that was not important because the 1.8% tax only comes into play at day 31; the 6% tax was not a property tax.

Mr. O'Donnell stated that the City was saying that the RV Park was not paying its fair share to services and that he disagrees; the RV park was producing \$160 per unit as opposed to apartment complexes who were paying less per unit. Mayor Vonderharr responded that the 6% transient tax had nothing to do with property taxes; when a transient business becomes permanent, then that is equivalent to a Manufactured Housing Park. The Portland/Fairview RV Park is paying property taxes on the land only, not for the units on top of that land. If the permanent residents of the RV Park dropped down to 0, then the City would not receive the 1.8%; you need to look at the RV Park as two residential areas, permanent and transient. Mr. O'Donnell stated that they disagreed with that analogy; the Park pays property taxes and is being taxed at a commercial/industrial tax rate, not at a residential tax rate. Dollar for dollar, the Park is paying more than its fair share. Mr. O'Donnell commented that the City was not approaching this as a business tax.

Councilor Owen reported that he had read through the staff reports and no where did it state that the RV Park was not paying its fair share; we need to treat this subject as two types of residences - transient and permanent. Councilor Owen commented that Mr. O'Donnell's analysis only uses 286 units when the park has 407 spaces available - for an analysis you have to show what you have available, not just what you have being used as occupied.

Director Wall stated that staff would be happy to share what they used in their analysis, with the goal being to find an even-handed way for permanent residents to pay a public service fee. Staff tried to come up with a fair, equitable way for the permanent residents of the RV Park to pay for public services.

Councilor Raze commented that the subject could be battled back and forth forever, but he was confident that staff had researched it as thoroughly as possible, and he was personally surprised at the low 1.8% recommendation.

Councilor Lillard stated that comments had been made that public services were not needed that much in the RV Park; however, she might call the police only once in 20 years, but she must continue to pay property taxes for that service. Based on the number she has been given by staff, it is a fair estimate for the permanent residents to pay the 1.8%.

Councilor Owen moved and Councilor Lillard seconded the motion that Ordinance 7-2000 be read by title only.

AYES: 6
NOES: 0
ABSTAINED: 0

Caren Huson, City Recorder, read Ordinance 7-2000 by title only.

Councilor Owen moved and Councilor Lillard seconded the motion to adopt Ordinance 7-2000, AN ORDINANCE AMENDING SECTION 3.05.050 OF THE FAIRVIEW MUNICIPAL CODE BY DELETING THE PRIVILEGE TAX EXEMPTION FOR OCCUPANTS OF RECREATIONAL VEHICLE PARKS.

AYES: 6
NOES: 0
ABSTAINED: 0

**B.ORDINANCE 15-2000
Cross Connection Control
Ordinance**

Director Sarvis reported that the ordinance being proposed was required by State law; the ordinance protects the City water supply from contamination or pollution due to existing or potential cross connections. Director Sarvis stated that the new ordinance would replace the existing Cross Connection Ordinance, 3-1988, and that the basic changes or updates in the new ordinance were: 1) expanded and refined definitions; 2) meeting current State of Oregon Health Division Regulations; 3) requiring backflow assembly testers to be registered with the City annually; 4) addressing thermal expansion as required by State Law; and, 5) providing for termination of service as required by State Law. Director Sarvis stated that staff was recommending adoption of Ordinance 15-2000.

Director Sarvis introduced Derrick Yates of the Public Works Department who is a State Certified Backflow Inspector. Mr. Yates defined "cross connection" for the Council, stating that it was any point in a plumbing system which ties into a non-drinkable source or chemical that may pollute the potable water. Anything that can be hooked to a garden hose and was on the market could possibly contaminate drinking water by backflow. Mr. Yates commented that the ordinance before the Council reflects changes in the Oregon Health Division Rules, that the City is responsible for protecting the water coming into a home at the water meter, and added that the City of Fairview has about 550 backflow systems.

Councilor Owen asked if staff had considered providing the backflow testing for its citizens for a fee. Director Sarvis responded that staff had not looked into the legalities of providing that service, but it could possibly be a revenue source.

Councilor Quinby questioned what exactly was inspected in terms of backflow devices. Director Sarvis responded that the City requires

homeowners to have their backflow devices tested yearly, with the City only inspecting if its noticed that a sprinkler system has been added.

Councilor Lillard asked what the definition was for thermal expansion. Mr. Yates responded that thermal expansion occurs when water heats and expands; if there is no room to expand, there could be an explosion. Councilor Lillard questioned how this ordinance would affect the average owner of a home currently in Fairview. Director Sarvis responded that, since 1988, if a resident has a sprinkler system or has created a cross connection, the City requires a backflow assembly for the appropriate protection.

Councilor Owen moved and Councilor Raze seconded the motion to read Ordinance 15-2000 by title only.

AYES: 6
NOES: 0
ABSTAINED: 0

Recorder Huson read Ordinance 15-2000 by title only.

Councilor Owen moved and Councilor Raze seconded the motion to adopt Ordinance 15-2000, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW AMENDING CHAPTER 13.15 OF THE FAIRVIEW MUNICIPAL CODE (FMC) "CROSS-CONNECTIONS".

AYES: 6
NOES: 0
ABSTAINED: 0

VI. DEPARTMENTAL REPORTS

A. Police

Sergeant Doug Aden reported that the Police Report for July 2000 was before the Council, and that the City's two new officers were at the five-week point in their academy training. Sergeant Aden stated that all three of the City's Reserve Officers have been trying to help out during the past month.

Sergeant Aden commented that a fatal accident had occurred at Salish Ponds, and that a Fairview Officer had assisted in a Drug Enforcement Agency search warrant. Sergeant Aden stated that about 79% of calls received by the Police last month were to apartments, manufactured housing parks, and the RV Park. In response to a question by Councilor Owen, Sergeant Aden explained the process of tagging abandoned vehicles.

B. Public Works

Director Sarvis reported that the property purchase which Council had previously discussed was successful. The final major storm drainage project in the core was currently occurring, and the City's Vandalism Abatement Program was moving forward. Director Sarvis stated that the City's Landscape Technician, Matt Hollenbeck, was the first to arrive on the scene of a head-on collision; the City had just provided training in CPR and first aid, and Matt did an outstanding job in keeping the injured person calm. Another Fairview employee who was with Mr. Hollenbeck had

phoned 911.

Mayor Vonderharr commented that his residential street was the last one to receive the storm drainage improvements and that he thought the citizens were impressed that the City was listening to individual residential problems.

C.Community Development

John Andersen, Community Development Director, reported that staff has seen more interest in commercial development and adjustments to existing developments, and that the Planning Commission was involved in updating and rewriting the City's development code. Director Andersen stated that the conceptual plans for the Community Park were being turned into actual construction plans and that staff hopes to move forward on them. Director Andersen commented that staff had completed most of the technical work for Title 3, but that they are going to ask for an extension to complete that work since they are involved in rewriting the development code could include the latest information without having to go back and amend.

Councilor Lillard questioned if the Planning Commission had ever thought of holding a joint meeting with other Planning Commissions in the area. Director Andersen responded that the Commission would like to do that at least once a year so that they may discuss common concerns and issues.

Councilor Quinby commented that he had a neighbor who wished to build a garage for his boat and that it took a month to receive a permit. Director Andersen responded that he would have to review the permit as usually the process only takes about ten days.

Councilor Owen asked if Metro would be presenting their proposed plans to the Council regarding Blue Lake Park. Administrator Holstrom responded that Metro would be before the Council on September 6th with their presentation. Councilor Owen stated that he would be unable to attend the September 6th meeting. Councilor Lillard questioned if Council would be able to make comments to Metro in terms of what to do in Blue Lake Park. Director Andersen responded that the September 6th meeting would be one of the opportunities to provide comment, but that comments could also be made directly by contacting Metro.

Councilor Edwards asked why there was such a delay in building the Fairview Library. Director Andersen responded that he had recently spoke to the developer who indicated that construction should begin within the next month.

D.Finance

Director Wall reported that before the Council was Resolution 23-2000 regarding the proposed police levy to be on the November 7, 2000 ballot. Council had previously passed Resolution 19-2000, calling for the vote; however, that Resolution did not clearly state the purpose of the levy and Resolution 23-2000 makes it clear that it is a rate-based levy and includes estimated amounts per year that the levy would bring in.

Councilor Edwards moved and Councilor Owen seconded the motion to adopt Resolution 23-2000, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW, OREGON ADOPTING A REVISED BALLOT TITLE FOR THE NOVEMBER 7, 2000 ELECTION ON THE QUESTION OF A LOCAL OPTION TAX FOR POLICE SERVICES.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Raze stated that he had voted no on Resolution 19-2000, due to the lack of a monetary breakdown, but since the information has been furnished, he voted to approve the Resolution tonight.

E. Administration

Administrator Holstrom reported that she continues to meet with Metro staff in regards to the proposed surcharge, and reminded Council that they have been invited to a barbecue at Blue Lake Village on September 7, 2000.

Administrator Holstrom commented that the City would begin a passport acceptance service on Tuesday, September 5th, and that staff was working on the salary study which Council asked to be performed.

F. Legal

Paul Elsner, City Attorney, stated that their written report was before the Council.

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

Councilor Raze stated that he continues working with the Parks Committee.

Councilor Quinby reported that he had attended a Solid Waste Citizens Advisory Committee meeting the previous Monday where they had spent 2½ hours discussing language and had prepared a draft of what will need to be implemented concerning haulers and the decision made on the AGG case in Beaverton. The AGG decision will be appealed, but Gresham is trying to revise the language so that it will address the ultimate final decision.

Councilor Lillard stated that she was not able to attend the last East Multnomah County Transportation Committee (EMCTC) meeting.

Councilor Owen commented that he would not be able to attend the barbecue on September 7th.

Councilor Edwards stated that he had no reports or concerns at this time.

Mayor Vonderharr reported that he had attended the EMCTC meeting where the intent was to develop values in order to make decisions on road improvements and developments for the East County area. Mayor Vonderharr stated that he had arranged a meeting with County Chair Bev Stein and County Commissioner Sharron Kelley regarding the 223rd/Sandy intersection improvements. Mayor Vonderharr commented that he would be attending the Mayor's Conference in Enterprise, Oregon, and would not be able to attend the Street Dance on August 19th.

VIII. ADJOURNMENT

Councilor Owen moved and Councilor Edwards seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:45pm.

AYES: 6
NOES: 0
ABSTAINED: 0

Mayor Roger Vonderharr

Dated:

Caren C. Huson Quiniones
City Recorder