

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

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**DECEMBER 6, 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  
Councilor Barbara Jones
- STAFF PRESENT: Jeffrey Sarvis, Public Works Director  
John Andersen, Community Development  
Director  
Bob Cochran, City Engineer  
Caren Huson, City Recorder
- II. CONSENT AGENDA** Councilor Owen moved and Councilor Quinby seconded the motion to approve the Consent Agenda, consisting of: Two Reappointments to the Planning Commission; Liquor License Renewals; Acceptance of Election Results; and, the Minutes of November 15, 2000.
- AYES: 7  
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. Water Source Option  
Study** Kan Hwee of CH2M Hill distributed copies of his slide presentation and reported that in March of 2000, Council approved the 5-Year Capital Improvement Plan (CIP) for the City of Fairview. This Plan listed projects to be completed to improve and maintain the functionality of the City's infrastructure. The CIP listed project W-SP-1 as a Water Source Option Study to be completed in the year 2000-2001, and CH2M Hill was currently working on the study. Mr. Hwee commented that, presently, the City's water production was at capacity. With four wells, the City has the potential of producing up to 2.2 million gallons of water a day. The 2000 maximum day demand occurred on August 18th with a use of 1.43 million gallons. Should one of the wells become inoperable, the City would not be able to supply adequate water to its residents nor would the City be able to supply adequate water during peak demands as growth continues.

Mr. Hwee stated that CH2M Hill has been investigating various options for the City to obtain additional water, and the following options were identified:

1. Purchase of surface water from either Portland Water Bureau or Rockwood Water District.
2. Expand the City's existing groundwater source through the construction of an additional well.
3. Develop an Aquifer Storage and Recovery System to store surface water within the City's' existing well field.
4. Utilize the Portland Water Bureau well field for additional supply.
5. Develop Boeing/Cascade groundwater reclaimed source.

Councilor Quinby questioned if Rockwood water was chlorinated. Bob Cochran, City Engineer, responded yes. Councilor Quinby stated that he appreciated the fact that Fairview's water has no chlorine and a high mineral content, but that it appears that the purchase of Rockwood water would be our only short-term option. Jeffrey Sarvis, Director of Public Works, commented that there are alternatives to chlorination.

Councilor Owen asked if the City currently had system connections with Rockwood's water system. Mr. Hwee responded yes, at 223rd and Glisan. Councilor Owen questioned if Fairview went beyond its source of water next summer, if that connection could be turned on. Engineer Cochran responded yes. Councilor Owen asked what the next step was in the project. Engineer Cochran responded that staff will proceed with a mixing study to define how Bull Run water and Fairview water would mix; it needs to be determined what will happen when Fairview's mineral rich water is mixed with chlorinated water.

Councilor Jones questioned how utility bills would be affected if water came from Rockwood. Engineer Cochran responded that there would be no change.

Mayor Vonderharr commented that a few years ago, Fairview had drawn water from Rockwood and asked if there were any affects other than the smell. Director Sarvis responded no, and that citizens actually liked the higher water pressure. Mayor Vonderharr questioned what the primary cause of drawdown was. Mr. Hwee responded that drawdown was caused due to the continual use of the groundwater, and that Fairview has relied on that groundwater for decades. Director Sarvis added that the Portland Water Bureau had performed extensive water modeling, and that drawdown was caused by extensive use of groundwater region-wide. Mayor Vonderharr asked what the likelihood was of a stable, long-term water rate. Mr. Hwee responded that Rockwood would need to perform more calculations to determine the actual cost to wheel water. Mayor Vonderharr questioned why the City has never drilled wells north of the freeway. Director Sarvis responded that water rights and appropriations prevented the City from drilling wells north of the freeway.

Councilor Lillard asked how the City would be billed for Rockwood water. Director Sarvis responded that the City would purchase the water wholesale through meters and Rockwood would bill us; Fairview would still bill its utility customers. Councilor Lillard questioned if it was inevitable for Fairview to have to do some type of mixing. Director Sarvis responded yes; without additional groundwater sources it is inevitable that we will need to mix.

Mayor Vonderharr thanked Mr. Hwee for his presentation.

## **B.Sanitary Sewer Pipe Replacement**

Engineer Cochran reported that the City's CIP recommends a "systematic annual pipe replacement program (SAPRP)" with an estimated expenditure of \$100,000 per year. This project is intended to replace the older sanitary pipes within the City with new plastic pipe.

Engineer Cochran stated that the benefit of a SAPRP was three-fold: 1) it will limit the amount of groundwater and surface water that enters the sanitary sewer system (Inflow and Infiltration [I/I]) through defects in the older piping system or illegal cross connections, with monthly treatment costs being reduced; 2) it will increase capacity in the sanitary sewer system by increasing the conveyance capacity which will also minimize sanitary sewer overflows that can happen as a result of large stormwater and associated I/I events; and, 3) it will eliminate the potential for clogged lines due to defects in the older system which in turn will eliminate the potential for emergency work by the Public Works crews to repair and/or replace defective lines.

Engineer Cochran reported that the first SAPRP project area determined by City staff was the Depot Street Drainage Basin. The City recently invested in equipment that monitors sanitary sewer flows 24-hours a day. This device is presently installed in the Depot Street sanitary line and during the course of the winter, data will be collected to determine the I/I influence in the portion of the system. After the pipe replacement scheduled for the summer of 2001, data will again be collected that will determine the amount of reduction actually realized by the pipe replacement program.

Engineer Cochran stated that the SAPRP is intended to address only publicly-owned sewer lines. These would include the sewer lines located in the street and the smaller laterals from the street line to the edge of the right-of-way or property line. The Unified Sewerage Agency (USA) recently completed a study that shows the replacement of public lines achieved only a minor reduction in the desired I/I removal. When private laterals were also replaced (those laterals from the right-of-way to the house), a substantially greater reduction in I/I was realized. With this in mind, staff proposes the following options: 1) implement the SAPRP only within the right-of-way; 2) implement the SAPRP within the right-of-way and on private property at a cost to the City; 3) implement the SAPRP only within the right-of-way and require private property owners to replace their portion of the private lateral at their own costs; and, 4) implement the SAPRP only within the right-of-way, collect data the following year and determine if private lateral replacement is recommended.

Councilor Quinby commented that he thought it would be a win-win situation and that it would be a long-term payoff if the City also replaced the private laterals.

Councilor Lillard stated that people did not like construction in front of their homes, so she would think that the private and public laterals should be replaced all at once. Councilor Lillard added that she would like to see the City pay to have the private laterals replaced, but if we decided to ask property owners to pay for the private laterals, would a payment program be put into place. Director Sarvis responded that if that was Council's desire, that staff would have to study a payment plan as an option.

Councilor Raze commented that he was in favor of the City paying to

replace the private lines, as it was in our best interest to do so; however, maybe the cost of replacing landscaping could be the responsibility of the property owner.

Councilor Jones mentioned that she agreed with the concept, but questioned what would happen to the resident who did not need their private lines replaced now but ten years down the road - would the City replace those lines at that time. Engineer Cochran responded that staff would make an evaluation, based upon the video of the pipes, of what residences would need their private lines replaced now; he did not know what the City would do for those residents who needed replacement ten years from now.

Councilor Edwards stated that the SAPRP was proposed as a 5-year plan and asked what happens in year six. Engineer Cochran responded that he hopes to appropriate \$100,000 for the project each year, not just the next five years.

Councilor Owen questioned what would happen if a resident did not want the City on their property; would you skip over that private lateral even though it needed to be replaced. Paul Elsner, City Attorney, responded that the City could require private laterals to be replaced, but whether or not you want to elect to do that is a policy decision to be made by Council. Councilor Owen asked if the Depot/Main Street project would cost \$100,000 as budgeted for the year. Engineer Cochran responded that Phase I of the project was estimated to cost about \$300,000, and that includes about 60 private laterals along with the public laterals; however, Engineer Cochran thought the City could save about \$4,000 a year on those 60 homes if the sewer pipes were replaced. Councilor Owen commented that the money saved in treatment costs would not pay for the project. Councilor Lillard mentioned that the SAPRP project would save treatment plant capacity that the City purchases from Gresham.

Mayor Vonderharr stated that the general Council consensus was that the City would replace the main public lines, inspect private laterals, and if those laterals needed to be replaced, the City would do that at that time. If the homeowner does not want it done at that time, then it will be at their expense in the future; in addition, landscaping would be the responsibility of the property owner.

**C.Ordinance/Resolution  
Ballot Measure 7**

John Andersen, Community Development Director, reported that Ballot Measure 7 was passed by Oregon voters on November 7, 2000. This Measure will require payment to property owners if government regulation reduces real property value under certain circumstances. In order to receive compensation, a property owner must apply for compensation to the government whose regulation allegedly has caused a reduction in the fair market value of property, and the government has 90 days from the filing of said application to deny the claim, pay the claim, or take action to remove the property from the application of the regulation. City Attorney Paul Elsner has prepared an Ordinance and Resolution which will set a process and fee that will allow the City to analyze the claims that are presented to it.

City Attorney Elsner stated that a memo from him to the Council had been included in the Council packet. Mr. Elsner commented that earlier in the day, a judge had found that Measure 7 would likely be found unconstitutional and an injunction was filed.

Councilor Quinby asked if language could be added in Exhibit "A" of Ordinance 19-2000, Section 2.75.020(B), where it speaks to a decision on

the application, if the words "by certified mail" could be added. Mr. Elsner responded that those words could certainly be added. Councilor Quinby questioned if the proposed \$3500 application fee would be refundable. Mr. Elsner responded no as there was no reward of compensation - only a refund if the City did not use an appraiser. Mr. Elsner explained that the fee was meant to cover the cost incurred by the City to process the claim; if an appraiser is not used, then that amount of the fee would be returned to the applicant. Councilor Quinby asked, if he were to prove the City lowered the value of his land and he won the case, would he still be out the \$3500 application fee. Mr. Elsner responded yes, so that taxpayers in the City were not paying a subsidy for you to prove your case; the fee will cover the cost of property appraisal. Councilor Quinby stated that he knew Ballot Measure 7 was a difficult issue and commended Mr. Elsner on the writing of the ordinance.

Mayor Vonderharr thought that if he paid the \$3500 fee and it was determined that his property was devalued, that any court would put the burden of cost on the offender, so the claimant would get his money back. Director Andersen explained that the \$3500 would pay for an appraisal of the property; if the appraisal fee is more than that, the City may ask for additional funds to cover the actual cost. If an appraisal is not done, then the money would be returned to the property owner.

Councilor Raze stated that the voters have said that it is not right for any government to take land from property owners without paying for that loss of land; this is a State law, so who would have to pay for the loss of value? Councilor Raze commented that he would like to see the ordinance worded such that if the applicant prevails, they should be refunded their application fee; although, it is not fair that if the money is refunded, then the cost of the appraisal would come from the taxpayers.

Councilor Jones mentioned that an appraisal would be needed and either the applicant pays for the appraisal himself or the City would pay for it. If the applicant really feels they have a case, they will have to pay a little bit of money to prove their case - it was not up to the City to prove the property owner's case. Councilor Jones stated that she believed you must have an appraisal done to have a valid case. Mayor Vonderharr mentioned that if a claimant prevails in court, their money is returned to them.

Councilor Raze questioned if someone could not afford the \$3500 fee, if there was a hardship clause to suspend some or all of the fee. Director Andersen responded that he believed there was language in the ordinance or resolution to make that determination.

Councilor Owen suggested that the decision of refunding the fee be left up to the discretion of the Council on a case-by-case basis. Mr. Elsner stated that page 5 of Exhibit "A" basically stated that as such. Councilor Lillard mentioned that the problem with refunding the fee is that it could be a land use rule made by the State and the City should not pay for that mandate; it seemed unfair that Fairview citizens should have to pay for that fee if it was not our mandate. Councilor Lillard asked what recourse the City had in obtaining the fee from the agency that mandated the rule. Mr. Elsner responded that under the terms of the application, the applicant must state what regulation affected the value of their land; if the rule was mandated by another body, the City's recommendation would be to not pay the claim. In that case, it would be at Council's discretion to refund the application fee since it was not your regulation in the first place.

Councilor Quinby commented that no matter who pays for the appraisal, that no property owner should pay for an appraisal to protect his own property when it is being attacked by a government agency.

Councilor Edwards stated that he was on the Council to represent all the residents of Fairview, and his opinion was that the City Attorney had written an ordinance to cover the citizens and the individual.

Councilor Edwards moved and Councilor Lillard seconded the motion to read Ordinance 19-2000 a first time by title only.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Caren Huson, City Recorder, read Ordinance 19-2000 by title only.

Councilor Quinby requested that Ordinance 19-2000 be amended to state in Section 2.75.020(B) that "... the applicant will be notified by certified mail of the deficiencies ..."

Councilor Edwards moved and Councilor Lillard seconded the motion to adopt Ordinance 19-2000, AN ORDINANCE ADDING A NEW CHAPTER 2.75 TO THE FAIRVIEW MUNICIPAL CODE CREATING A PROCEDURE FOR PROCESSING CLAIMS MADE PURSUANT TO ARTICLE I, SECTION 18 OF THE OREGON CONSTITUTION AS AMENDED BY BALLOT MEASURE 7 (2000) AND DECLARING AN EMERGENCY, with the amended language as suggested by Councilor Quinby.

AYES: 7  
NOES: 0  
ABSTAINED: 0

## **V. CITY ADMINISTRATOR REPORT**

Director Sarvis reminded the Council that their annual Goal Setting Session would occur on Sunday, January 21, 2001, and that the Council meeting of December 20, 2000 had been cancelled due to a lack of agenda items.

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

Councilor Quinby reported that the second Skateboard Meeting had occurred with approximately 25 people in attendance. Suggestions were made that various groups such as the YMCA, Girls and Boys Clubs, etc., be invited to attend the next meeting in order to offer ideas regarding short and long-term solutions. In addition, it was suggested that citizens meet with the Slavic Church regarding the rental of some portion of their parking lot for skateboarders. Councilor Quinby added that the next Skateboard Meeting would occur on January 11, 2001, at 7:00pm in the Council Chamber.

Councilor Edwards reported that the City's Police Sergeant and another Officer had meet with the concerned citizens on Depot Street on November 29th to discuss on-going crime problems in Fairview. The meeting was very successful and progress was being made on the investigations.

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

Mayor Vonderharr stated that he would go to Salem the following day to attend the League of Oregon Cities Community Development Standing Committee meeting with one agenda item being Measure 7.

**VII. ADJOURNMENT**

Councilor Quinby moved and Councilor Edwards seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 10:10pm.

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