

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

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**FEBRUARY 2, 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 Steve Owen  
Councilor Len Edwards  
Councilor James Raze  
Councilor Barbara Jones

ABSENT: Councilor Sherry Lillard

STAFF PRESENT: Marilyn Holstrom, City Administrator  
Caren Huson, City Recorder

**II. CONSENT AGENDA**

Councilor Owen moved and Councilor Quinby seconded the motion to approve the Consent Agenda, consisting of Resolution 1-2000, A RESOLUTION AUTHORIZING MT. HOOD CABLE REGULATORY COMMISSION (MHCRC) TO DEVELOP AND NEGOTIATE COMPETITIVE CABLE AND TELECOMMUNICATIONS FRANCHISE AGREEMENT(S) FOR CONSIDERATION AND FINAL ACTION BY THE CITY OF FAIRVIEW, and the Minutes of January 19, 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. COUNCIL BUSINESS**

**A.PRESENTATION -  
Multnomah County  
Chair Bev Stein**

Mayor Vonderharr welcomed Multnomah County Commission Chair Bev Stein. Ms. Stein congratulated the City on its new City Hall.

Ms. Stein stated that each year she visits every city in the County to provide a report on Multnomah County. Ms. Stein reported that the County was coming to a conclusion on an Intergovernmental Agreement (IGA) regarding tourism issues and the increase in the hotel/motel tax; the County Commission would be voting on the proposal the following day, with a strategic plan for East County to be created per the IGA. Ms. Stein commented that the main thing she wished to discuss was the proposed County Public Safety Levy, to be on the November 2000 ballot. Ms. Stein

explained that the levy would be a five year local option property tax levy for operating funds to provide operations for a new 225-bed jail at Rivergate, operations for a new 300-bed alcohol/drug center at Rivergate, along with other additional public safety services. Ms. Stein stated that she wanted to make sure the Fairview Council knew of potential impacts this levy would have on the various East County cities in terms of capacity - Fairview would still have the capacity to go out for its own levy. However, the proposed County levy would place a cap on the City of Portland who was comfortable with the levy proposal.

Ms. Stein reported that design work had begun on the new East Multnomah County Health, Aging and Disability Services Building, located at 8th and Kelly in Gresham. The new facility will serve all of the East County area and would include a multi-purpose Senior Services and Activity Center, a Health Department, and a Disabilities Services Office and Counseling Programs.

Ms. Stein commented that the budget situation was not very pretty for the coming year, and that she had informed County departments to come in with budgets at 95% of the current budget dollars. Ms. Stein added that she did not think there would be any major cuts in services to East County cities.

Councilor Raze questioned the IGA regarding an increased hotel/motel tax, and asked if the funds from East County cities which would have gone to the Civic Stadium would be converted back into dollars for the individual cities. Ms. Stein responded that the funds from the cities in East County, which would have gone to the Civic Stadium, would be placed into a Visitor Development Fund, administered by a Board, with the funds going toward East County tourism. Councilor Raze asked what the square footage was for the East County Health, Aging, and Disability Services Building. Ms. Stein responded that the building would be 88,000 square feet in size.

Councilor Owen asked, in terms of the proposed 5-year levy, if enough funds were being projected for the future, or would another levy be proposed in Year 6. Ms. Stein responded that, more than likely, they would have to go out again for another levy after five years in order to continue to provide services. Councilor Owen questioned what the reaction was of the various County departments when told to bring in a budget at 95% of current budgeted dollars. Ms. Stein responded that the County Commission works with the departments through the entire budget process and tries to make adjustments as they proceed. Ms. Stein emphasized that there would not be an across the board cut in the budget.

Councilor Jones asked Ms. Stein to expand on the early childhood component of the proposed levy. Ms. Stein responded that research had been performed which stressed that early childhood development was important in trying to dissuade crime and violence in future generations, and that there were many programs to pick from. Mayor Vonderharr commented that he strongly believes that the earlier you address many issues of character with children, the more effective it is.

Mayor Vonderharr mentioned that the City of Fairview would also be going out for a Public Safety Levy and that we will not meet the Measure 5 cap,

but if a Parks District was formed in East County, the cap could be reached during a recession. If Fairview was to come under any level of compression, the only place we could make budget cuts would be from police. Mayor Vonderharr stated that caution needed to be used in regards to how hard we push Measure 5 vs. the Measure 50 cap.

Mayor Vonderharr stated his concern about how road dollars were being spent in the County, especially in regards to bridges. Mayor Vonderharr commented that Metro, Multnomah County, and the City of Portland needed to discuss the bridges as they actually are regional bridges, and having Multnomah County solely maintain them was a significant drain on the County's budget and ability to provide services in regards to road repair and new road construction. Ms. Stein responded that the County continues to tell Metro and JPAC that the bridges are regional roads, but until another financing mechanism is found, all the County can do is push the issue.

As there were no further questions or comments, Mayor Vonderharr thanked Ms. Stein for her presentation.

Mayor Vonderharr announced that Gresham Boy Scouts Group 171 was in the audience, and welcomed them to Fairview.

## **B.PRESENTATION - Metro**

Mayor Vonderharr welcomed Elaine Wilkerson and Brenda Bernards of Metro.

Ms. Wilkerson stated that she was very grateful for the time to brief the Council about fish and wildlife proposals. Ms. Wilkerson commented that this was just the beginning of the process; Metro has developed a Discussion Draft, "Streamside CPR Program", but it was not a firm proposal. Ms. Wilkerson commented that Metro wants to have the opportunity to talk about all aspects of the program with each city in order to receive assistance in defining some areas, and that they want each city to be involved as much as possible with the process. Ms. Wilkerson stated that they are attempting a coordinated approach per the Endangered Species Act. Ms. Wilkerson referred to the Draft Discussion packet, commenting that Metro was trying to provide an umbrella for managing the development in streamside areas. Ms. Wilkerson stated that Metro feels that about 2/3 of the 12 requirements are satisfied, but that there were a few principles to cover the approach - equal importance needs to be given to protection and restoration, and they want the cities to have choices.

Ms. Wilkerson reported that the Discussion Draft recognizes the importance of riparian areas, and stresses three purposes: protect riparian (streamside) corridors for fish and wildlife habitat; meet State requirements; and, respond to Federal Endangered Species Act (draft 4(d) rule (final rule expected in June 2000)). Ms. Wilkerson commented that riparian corridors provide: food, water and cover for fish and wildlife; travel routes for fish and wildlife; shade to reduce water temperature; stability to streambanks for sediment control; and, filtration of stormwater runoff. Ms. Wilkerson stated that Metro was also trying to comply with State Goal 5 (Natural Resources and Open Space Protection) guidelines, and that they have a tight timeline.

Ms. Wilkerson commented that the entire stream system was of regional significance and that there must be continuity through the entire system, or

if not, efforts will be useless; if one link was missing, the plan will not hold together. Ms. Wilkerson commented that there were three components to the regulatory program: 1) Regional Safe Harbor, which is a clear and objective standards approach; 2) Local Alternatives, which is a discretionary review, case-by-case approach, allowing local government flexibility; and, 3) Local Riparian District Plan, which is a master planning approach allowing a combination of parcels (a larger area) to be planned for development.

Ms. Wilkerson reported that Metro did not want to propose regulations that would take away property owner rights entirely; they have suggested that any development be as far away from the water as possible and that development should not exceed over half the property area. Ms. Wilkerson added that the proposed options would not affect any existing homes unless they propose remodeling, and that the options would apply to non-residential development also, so that development is kept far enough from waterways.

Ms. Wilkerson concluded by stating that the next steps Metro will be taking in their Streamside CPR Program would be public outreach workshops scheduled during February 2000, Functional Plan language completed by March 2000, public review and advisory committee review in April 2000, review by MPAC, Metro Committee and Council, with a Metro Council decision due in June 2000 in order to satisfy State UGB deadline.

Metro Councilor Rod Park introduced Dave Moskowitz, Metro's fish specialist. Mr. Park stated that Metro was required to provide some type of template for metro region cities to assist them in minimizing costs and impacts. Mr. Park commented that each city has until March 6, 2000, to respond to National Marine Fisheries (NMF), in writing, to let their views be known. Mr. Park added that if Metro is successful in passing a plan which is acceptable to the National Marine Fisheries, the question will then be will there be protection from lawsuits during the time the plan is accepted and actually put into effect; it is hoped that the NMF will see Metro's plan as a good faith effort.

Mr. Moskowitz reported that he was the Salmon Recover Coordinator for Metro, and that the Federal Endangered Special Act Rule 4(d) will be finalized in June 2000; however, the federal government may extend the effective date of any new plans for 30 to 90 days from June 2000, but during that period of time, if riparian buffer regulations are not adhered to, the federal government could view property owners and developers as "taking" fish which are listed in the Federal Endangered Species Act. Mr. Moskowitz commented that most jurisdictions were being advised by their attorneys to avoid "take".

Mayor Vonderharr commented that this was a very complex issue and that Council would have a Work Session in order to obtain a better understanding of what was occurring.

Councilor Raze stated that he believed the 4(d) Rule was meant to benefit fish and people, however it appears as though Metro was placing the total responsibility on new development or redevelopment. Mr. Park commented that the 4(d) Rule was a federal regulation and in order to enforce the change, a different philosophy was needed; Metro is forced to do what they

can to allow urban communities to exist in their current format. Councilor Raze stated that he was not anti-environment, that he does respect the environment, and that there is a lot that needs to be done, but when Metro speaks of voluntary participation, that there was nothing voluntary about regulation. Councilor Raze added that Metro has made comments about tax credits for property owners, but what is actually being done is taking land from private property owners; the environment is everyone's problem, but only a few will pay. Mr. Park commented that economic impact was not addressed in the Endangered Species Act, but under Goal 5, economic impact is taken into account. Ms. Wilkerson stated that, generally, zoning is not retroactive; you could not make people remove their houses and landscaping. However, there was a voluntary aspect that Metro intends to work on and they would like the City's help to identify incentives to promote voluntary participation in the Streamside CPR Program. Ms. Wilkerson agreed that the initial burden was on new development and redevelopment, but that is what always occurs with zoning.

Mayor Vonderharr stated that Fairview was located along the Columbia River and has properties along the river that one day might want to redevelop, but in redeveloping, they would lose their river access, even though they rely on the river for their business. Mr. Park responded that under the local options plan, there were options in order to provide for those businesses who rely on the river for their livelihood. Mayor Vonderharr commented that Fairview has more problems than other jurisdictions with flooding and runoff because it has many waterways and is located on the bottom of a hill. Fairview requires detention facilities as properties are developed, and also charges a stormwater fee on all properties in Fairview. Mayor Vonderharr stated that there should be a mechanism put into place so that the financial burden can be shared by all. Mayor Vonderharr suggested the scenario of owning property along a waterway and being able to prove that the property did not cause runoff pollution, what would then happen. Mr. Park responded that one did not have to own property along the water to contribute to the problem; in urban areas, due to stormwater systems, basically everyone lived near a stream as runoff goes from the stormdrain to the stream.

Councilor Raze stated that there was a property owner in Fairview, Don Toombs Trucking, who owned land adjacent to the Columbia River; however, his lot was only 200' deep to the river. Councilor Raze asked how that property owner could adhere to the proposed 200-foot setback requirement. Ms. Wilkerson responded that city local options could recognize aggregate functions along the river. Robert Price, a consultant that works for Don Toombs, stated that the Goal 5 issue regarding aggregate resources would not apply as Mr. Toombs does not mine from the river; his property is solely industrial in nature and simply stores aggregate material. A 200-foot setback of any kind would obliterate Mr. Toombs' property. Councilor Raze commented that he did not have a prior discussion on this issue with Mr. Toombs. Mr. Park responded that he understood the issue, however the same problem has been faced with rural properties with small tracts; hopefully, something will come out of Metro's proposed plan to benefit situations such as Mr. Toombs'. Mr. Park stated that if Fairview was not satisfied with Metro's proposed plan, and feels they could accommodate the federal regulations in another manner, that they could take their own proposal to the National Marine Fisheries for their approval.

Corey Pelfrey, 20905 NE Sandy Boulevard, Fairview, asked if there was any plan or a feasible way of looking at the issue instead of using the broad-brush methodology, and also, was there a way to evaluate how much "take" was actually occurring by urban and manufacturing development to justify a different setback requirement. Mr. Moskowitz responded that, in general, the program Metro is proposing has several options; the Regional Safe Harbor option requires a 200-foot setback area, but in the Draft Discussion, Metro does make the statement that the application is very broad in terms of coverage. In addition, the other two options of the Discussion draft contemplate additional options or alternatives. Mr. Moskowitz reminded the Council that Metro was in the very beginning of discussions, and he feels Metro's open houses and discussions with all the jurisdictions will provide additional suggestions and solutions. Mr. Moskowitz added that Metro has a lot of work ahead of them, and the questions and scenarios raised tonight would need to be addressed.

Don Toombs, 20601 NE Sandy Boulevard, stated that the problem he had with Metro was that they did not have a lot of knowledge of what was really going on; they did not know what was right or wrong, only what they have been told. Mr. Toombs commented that Metro really needs to know what they are talking about on these issues. Some properties may be located along a creek that does not even run into a stream or river; Metro must find out exactly what is going on and not just listen to things that a few people tell them.

Councilor Owen questioned how the proposed 200-foot riparian buffer setback would impact the Salish Ponds development in Fairview. John Andersen, Community Development Director, responded that the setback would probably eliminate almost all of the development. Councilor Owen asked if someone had a building permit approved prior to the 4(d) Rule going into effect, would they have to comply with the program. Ms. Wilkerson responded that the 4(d) rule would have a "cooling off" period, and unless it is stipulated otherwise, she believes the requirements would not be retroactive on permits that have been issued. Mr. Moskowitz stated that the Endangered Species Act will issue a specific date for compliance, and if a development is not completed by that date, the property owner would be required to participate in the regulations. Mr. Park commented that Metro was still trying to figure out how to comply with the National Marine Fisheries, deal with the Endangered Species Act, and yet still allow urban development to continue, all without litigation. Metro was trying to figure out how to empower people to continue their business, develop their property, etc; there was no easy answer. Mr. Park added that Metro and the jurisdictions need to continue to work together and work through the issue; it was not acceptable to shut down the Portland metro region until requirements are satisfied.

Mayor Vonderharr stated that the City of Fairview has already set aside one-fourth of the City for open spaces and wetland protection, and that most of the setbacks were determined as needed, without using the broad-brush methodology. Fairview used a common sense approach. Mayor Vonderharr requested that any contact Metro has with Fairview property owners, that they make sure it is very clear that the proposed regulations would have a significant impact on what property owners will be able to do in the future.

Councilor Raze commented that he felt Mr. Park was very sincere in his efforts, and that he was just the messenger in bringing this information to the table; Mr. Park does support the interest of his constituents.

Mayor Vonderharr thanked the Metro representatives for their presentation.

**V. CITY ADMINISTRATOR  
REPORT**

Marilyn Holstrom, City Administrator, stated that the City Attorneys had purchased a beautiful clock and had given it to the City as a "housewarming gift" for the new City Hall.

Administrator Holstrom reminded the Council that Goal Setting would occur on Sunday, February 6th.

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

Councilor Jones reported that the Citizens Noise Abatement Committee had met two weeks prior and that they were about ready to mediate with the Port of Portland regarding noise.

Councilor Quinby stated that the Emergency Management Policy Board meeting had been postponed, and that he would be attending the Solid Waste Citizens Advisory Committee meeting the following Monday.

Councilor Owen stated that he had attended a Regional Air Transportation Task Force meeting on January 18th, with the next meeting to be held on February 15th. The Committee was working on regional growth as it pertains to air transportation.

Councilors Edwards and Raze had no reports or concerns.

Mayor Vonderharr stated that Planning Commission Chairman Jerry Ruff had submitted his resignation, adding that Mr. Ruff had served over 20 years on the Commission. Mayor Vonderharr commented that the City of Fairview owed a great debt to Mr. Ruff for all his years of service.

Mayor Vonderharr reported that he would be meeting with the Mayors of Gresham, Troutdale, and Wood Village on the following Friday morning.

**VII. ADJOURNMENT**

Councilor Owen moved and Councilor Edwards seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:59pm.

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