

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

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**SEPTEMBER 20, 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:** Gilbert Jackson, Chief of Police  
Jeffrey Sarvis, Public Works Director  
Roy Wall, Finance Director  
John Andersen, Community Development  
Director  
Caren Huson, City Recorder  
Tammy Shannon, Office Assistant
- II. CONSENT AGENDA** Councilor Quinby moved and Councilor Edwards seconded the motion to approve the Consent Agenda, consisting of a Vehicle Purchase for the Public Works Department and the Minutes of September 6, 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. ORDINANCE 16-2000  
AND ORDINANCE  
17-2000  
Cable Franchises** Caren Huson, City Recorder, reported that on February 2, 2000, the Council had adopted Resolution 1-2000 which authorized the Mt. Hood Cable Regulatory Commission (MHCRC) to develop and negotiate franchise agreements for competitive cable and broadband communication services in Fairview, with the understanding that the City of Fairview would reserve full authority to accept, reject, or modify proposed franchise agreements recommended by the MHCRC.
- Recorder Huson stated that on July 17, 2000, the MHCRC recommended that the City of Fairview approve the issuance of separate franchise agreements to RCN and Western Integrated Networks (WIN) to provide competitive cable and communications services to residential subscribers in Fairview. Rapid developments in technology and competition in the

communications marketplace have hastened the growth of, and demand for residential access to, high-speed or "Broadband" services, including Broadband Internet services.

In a memo to the Council dated September 6, 2000, City Attorney Pam Beery agreed with the recommendation of MHCRC; however, she advised that one condition be included in the ordinances:

"the grant of franchises as to telecommunications services is subject to all of the terms and conditions of the City's Municipal Code, specifically including Chapter 12.35. The City reserves its right to separately authorize the use of its rights-of-way for the provision of telecommunications services, to regulate those rights-of-way, and to receive compensation for their use in the provision of telecommunications service, until such time as any future amendment to the MHCRC IGA grants such authority to MHCRC or another entity approved by the City Council by Resolution."

In conclusion, Recorder Huson reported that staff was recommending approval of first and second readings of Ordinance 16-2000 for Western Integrated Networks, and first and second readings of Ordinance 17-2000 for RCN.

Rich Goheen, Fairview's representative on the MHCRC, stated that the MHCRC had put together the franchise agreements for WIN and RCN and presented them to the City's legal counsel, who suggested some additional changes as noted previously by the City Recorder. Mr. Goheen reported that in order to get to this point, the MHCRC had to be sure that all jurisdictions involved specifically authorized the MHCRC to add two new companies, and two public hearings were held and televised. Mr. Goheen commented that quite a bit of public input was received regarding the two franchises, with the result of added terms applied to each franchise agreement. Mr. Goheen stated that both RCN and WIN had projected an investment of \$500,000,000 in Multnomah County alone, and having analyzed the financial strength of the companies, MHCRC knows that RCN and WIN can do the job; MHCRC feels comfortable with the companies' commitment and financial strength.

Mr. Goheen mentioned that new competition would be provided to AT&T and Qwest, and with the competition, citizens could look forward to more competitive packages, pricing, and selection. Mr. Goheen stated that work should be completed by the two companies by the year 2006, and that high-tech, state-of-the-art hard wiring would be done. Mr. Goheen commented that there was not really a down-side or risk to granting the two franchises, and that the term of the franchises would be for ten years plus a three year extender if construction was completed on time. In addition, the new service must be provided county-wide to all MHCRC jurisdictions, and franchise payments to the City will be the same as those currently paid by AT&T.

Jeff Condit, Attorney for RCN, introduced Mike Abrams and Jim Coppedge of RCN, and stated that because of the reorganization that RCN was presently going through, the new franchise entity will accept all the terms and conditions of the proposed ordinance.

Councilor Raze questioned if all of the work required for the two companies would be undergrounded. Mr. Goheen responded no. Dave Olson of the MHCRC staff added that the technical facilities of the companies would track everything as it is now with existing equipment.

Councilor Raze asked if both franchises would be undergrounding where undergrounding currently existed, and would they perform their work simultaneously if a trench is open. Mr. Olson responded that the MHCRC has encouraged that joint trenching be performed and that both companies cooperate so as to provide the least possible disturbance; any inconvenience would be minimized and hopefully everything would go smoothly. MHCRC will do everything possible to monitor and encourage cooperation between the two companies. Mr. Abrams of RCN commented that they would try to joint trench, but their intent was to use trenchless technology as much as possible. Joel Paisner, Attorney for WIN, stated that it was WIN's intent to work as cooperatively with RCN as possible, even though there was a fierce competition between the two companies, and that, hopefully, they would receive advance notice of any trenches planned to be open.

Councilor Owen stated that the Council appreciated Mr. Goheen's efforts in working on behalf of the City, and asked if the franchises would provide telephone, internet and cable television services. Mr. Goheen responded yes. Councilor Owen asked if there was any information as to what the consumer might expect with the increased competition. Mr. Olson responded that results in other cities have shown that where competition has emerged, that rates either stabilize or decreased by as much as 10%, and customer service has improved; in addition, there will be more bundling packages which include one bill for cable television, phone, cell phone, internet service, etc. Councilor Owen questioned how the \$50,000 guaranteed annual fee from each franchise would impact Fairview. Mr. Olson responded that the \$50,000 fee covered all six Cable Regulatory Commissions in the Metro area, so Fairview would only receive a portion of that for the MHCRC, who in turn would address the City funds in their budget which the Council must approve.

In response to a question regarding timelines, Mr. Olson responded that the companies would be building towards the east, starting at the Willamette River, so he would expect construction in Fairview to begin sometime around the year 2004.

Councilor Quinby stated that competition was always good, but asked what the chance was of either of the two companies being bought out by AT&T. Mr. Goheen responded that the only thing he knew, if mergers were to occur, was that Council would have to approve any merger as they control the franchises.

Councilor Jones questioned if citizens in a higher density housing area would be charged less than those in low density areas. Mr. Olson responded no, as the companies could not assess a higher rate in a low density area and a lower rate in a high density area. Pam Beery, City Attorney, clarified the paperwork she had presented the Council, and added that there is some regulation at the federal level to prevent monopolies and that the agreements contain a prohibition of different rates for different people. Councilor Jones asked if an estimate could be given as to how many jobs would be created between the two companies. Mr. Paisner responded that the Council packet contained an organizational chart and that WIN was looking for about 500 employees from the Portland area; RCN responded that they would have a similar structure with a staff of a few hundred.

Councilor Owen moved and Councilor quinby seconded the motion to read Ordinance 16-2000 by title only.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Recorder Huson read Ordinance 16-2000 by title only.

Councilor Owen moved and Councilor Quinby seconded the motion to adopt Ordinance 16-2000, AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO WESTERN INTEGRATED NETWORKS OF OREGON OPERATING, LLC TO PROVIDE BROADBAND, CABLE, INSTITUTIONAL AND TELECOMMUNICATIONS SERVICES IN THE CITY OF FAIRVIEW.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Owen moved and Councilor Edwards seconded the motion to read Ordinance 17-2000 by title only.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Recorder Huson read Ordinance 17-2000 by title only.

Councilor Owen moved and Councilor Quinby seconded the motion to adopt Ordinance 17-2000, AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO RCN TELECOM SERVICES OF OREGON INC. TO PROVIDE BROADBAND, CABLE, INSTITUTIONAL AND TELECOMMUNICATIONS SERVICES IN THE CITY OF FAIRVIEW, with the recommended changes as submitted by the City Attorney.

AYES: 6  
NOES: 0  
ABSTAINED: 0

## V. DEPARTMENTAL REPORTS

### A. Police

Gilbert Jackson, Chief of Police, reported that Fairview Officers had arrested 41 people in Fairview on warrants since January 1, 2000. Chief Jackson stated that Gresham Police had caught two kids who were setting fires in the Salish Ponds Wetlands Park. Chief Jackson reported that Fairview had sworn in a new Reserve Officer, Joshua Day, and that Fairview Officers had attended the Academy graduation of two new Fairview Officers, Greg Stevens and Doug Asboe.

### B. Public Works

Bob Cochran, City Engineer, stated that a citizen had attended the previous Council meeting and had requested speed limit signs in their neighborhood; those signs have been placed. Engineer Cochran reported that Gresham's draft revision to the Solid Waste Ordinance had been forwarded to the City Attorney for review. Engineer Cochran commented that the core area stormwater improvements had been completed, and that the anti-vandalism committee had held their first meeting the previous evening. Engineer Cochran reported that staff was pursuing a Source Option Study and that CH2M Hill was working with staff on that project and that a City Council

work session would be planned before the end of the year. Engineer Cochran stated that projects for the following summer include a new waterline to Sandy Boulevard, sanitary sewer improvements to replace old pipes with new pipes, and storm drainage improvement design and construction on Creekside Terrace and Shaw Street.

Councilor Owen questioned if the new Wood Village development would need to install additional sewer lines to accommodate the development. Engineer Cochran responded that the intent of Wood Village was to construct a parallel sewer line down 223rd Avenue to Sandy Boulevard.

Councilor Edwards requested additional information on the truck which was approved for purchase earlier in the evening for Public Works. Stephen Richards, Public Works Supervisor, responded that the truck was more heavy duty than usual so that staff could handle more sand, but the County would still be in charge of the street sweeper. Supervisor Richards added that staff decided to go with a truck that used gasoline, as diesel trucks needed to run longer and were not good for short trips.

### **C. Community Development**

John Andersen, Community Development Director, reported that the Parks Committee was getting close to completing a review of the City's Parks Master Plan and were in the process of creating a new development code for the City which is planned to be before Council by the end of the year. Director Andersen stated that staff had applied to the State of Oregon for a small grant to hire a consultant to complete the City's Periodic Review project.

Councilor Edwards asked if there was any information on the construction of the Fairview Library. Director Andersen responded that the permit fees had been calculated and that the building permits were ready to be issued once the fees were paid.

Councilor Owen questioned if any information had been received from the County on improving the intersection of 223rd Avenue and Sandy Boulevard. Director Andersen responded that staff has been working with Multnomah County and stressing the importance of those intersection improvements based on the Walmart traffic study which projected 12,000 auto trips to be generated by that store. Director Andersen commented that the County has listened to staff's concerns, but he did not think they had an answer yet. Mayor Vonderharr stated that he had informed the County that the intersection situation was intolerable, and that if the County wished to keep their roads, that they need to keep them up to service levels. Mayor Vonderharr commented that he would continue to lean on the County in regards to the issue.

Councilor Edwards questioned what Wood Village would do with the water runoff which will occur from the Walmart construction. Director Andersen responded that Wood Village had developed a runoff plan for the development, but that he did not have the details. Mayor Vonderharr stated that he understood that Wood Village would require detention systems.

### **D. Finance**

Roy Wall, Finance Director, provided an update to Council regarding utility bills and the various options available to pay them. Director Wall reported that the City had established a 24-hour anti-vandalism hot line, and that the phone number was 503-674-6250. Director Wall reminded the Council that Oregon was changing to ten-digit dialing for local calls beginning October 1, 2000. Director Wall stated that the City's annual audit was underway, and that at the next Council meeting he would provide a briefing on the

various measures which were on the November 7, 2000 ballot.

**E. Legal**

Ms. Beery stated that her written report was before the Council.

Councilor Jones questioned how the defection of Gresham from the agreement regarding Fire District 10/PERS litigation would affect the City.

Ms. Beery responded that legal staff for the Cities of Fairview, Wood Village, and Troutdale would move forward with a formal recommendation that will insure our interests were being adequately protected. The manner in which the action was taken was not ideal, as no advanced warning was received that Gresham would defect from the agreement. Mayor Vonderharr asked how much more the three cities would have to pay in legal fees since Gresham would no longer be involved. Ms. Beery responded that the cost will go up, but that legal staff would work toward economies as much as possible.

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

Council members had no reports or concerns.

Mayor Vonderharr reported that he would be attending a trip to Coos Bay to look at the functions of that city and how they were affected by tax cuts similar to Fairview; other elected officials would also be in attendance.

**VII. ADJOURNMENT**

Councilor Owen moved and Councilor Quinby seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 8:55pm.

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