

**MINUTES
FAIRVIEW CITY COUNCIL WORK SESSION
FAIRVIEW CITY HALL
1300 NE VILLAGE STREET
FAIRVIEW, OREGON 97024**

November 7, 2001 -- 6:00pm

**I. CALL TO ORDER/
ROLL CALL**

Mayor Vonderharr called the meeting to order at 6:05pm.

PRESENT: Mayor Roger Vonderharr
Councilor Ken Quinby
Councilor Sherry Lillard
Councilor Steve Owen
Councilor Len Edwards
Councilor James Raze
Councilor Barbara Jones

STAFF PRESENT: Mary Jo Briggs, City Administrator
John Andersen, Community Development
Director
Caren Huson, City Recorder

**II. DISCUSSION -
Fairview Lake**

John Andersen, Community Development Director, provided a brief history of Fairview Lake and the Multnomah Drainage District (District). Director Andersen explained that the Management Review of Fairview Lake Document (Document), prepared by Drainage District Management, describes how the Lake was managed and modified over the years. The District maintains that they do not need to dredge the Lake any longer for flood storage capacity, although they have dredged the Lake for 30 years.

Director Andersen stated that there are ten property owners in the Blue Heron Shores Subdivision which own part of the Fairview Lake Dam. The dam structure must be maintained and property owners are required to place armoring along the dam. The District contends that since the City owns the bridge crossing, then the City must have an interest in the headwaters. Director Andersen commented that the City does own the bridge, but that the District owns the headwaters; the City had assisted the District during the past summer, but that was in order to maintain our bridge.

Director Andersen reported that there were inconsistencies in the District's Document. In 1996, the District sent a letter to Fairview Lake property owners stating that they wanted to get out of Lake management and were interested in transferring their Lake property to property owners. However, in the Document, the District contends

that since they do not own the Lake, that they should not maintain it. The bottom of the Lake (Tax Lot 5) belongs to adjoining property owners, but it has not been determined if they own that in common or if each property owner's parcel extends to the middle of the Lake. The Boundary Commission recognized Fairview's annexation from the south side of Fairview Lake to the center of the Lake. Director Andersen commented that the Document is also inconsistent in that it states that the Drainage District could not afford to maintain the Lake as it costs \$6500 a year, yet they receive \$9200 a year in property owner assessments for that maintenance.

Director Andersen stated that the Document's bottom line seemed to be that the District did not want to be responsible for any water quality problems which may be associated with the sediment in the Lake, that they do not need the Lake for flood management, that they do not want any potential liabilities, and that they are concerned about management responsibilities and liabilities associated with day-to-day activities. The bottom line for the City is that we are not Lake managers; we do have land use responsibilities in the Fairview planning area around the Lake, we have code enforcement responsibility under federal and state regulations to manage the edge of the waterways through riparian regulations, and we do manage some parks in the Lake area. The District's Document basically states that they would like the City to take responsibility for the water management of Fairview Lake.

Mayor Vonderharr stated that since the Lake is private property, that no State agency could ever get involved in providing funds for maintenance of the Lake. Director Andersen responded that there may be grants available, but you would need agreement from all property owners around the Lake. Mayor Vonderharr commented that the Oregon Department of Fish and Wildlife had stated that they could not provide any funding for the Lake as it was private property. Director Andersen mentioned that he did not think there was any way in which the City would escape certain responsibilities of the Lake, and that that may include responsibility for the NPDES Permit.

Councilor Jones questioned what would happen if the District returned the permits to the State. Director Andersen responded that there would no longer be legal authority to maintain the structure of the dam and there would not be any authority to raise the water in the Lake in the summertime.

Councilor Raze commented that he did not understand how the District could legally give up maintenance of the Lake when it is a State mandate that they maintain it. Director Andersen stated that staff has asked the District to continue discussions at least until February 2002 so that the City could perform more research on its own.

Mary Jo Briggs, City Administrator, stated that two things make the Lake viable: it is a natural failsafe and a natural viaduct; no matter who owns the Lake, it is part of a stormwater system.

Mayor Vonderharr mentioned that the District maintains that they take assessments from all their partners to pay for the maintenance of Fairview Lake, but if they take that maintenance away, those partners would still have to pay their assessments while the other entity would have to take over management of the Lake would not receive those assessments and still have to pay for it.

Henry Pelfrey, 20905 NE Sandy Blvd, Fairview, commented that a Homeowners Association could not afford to pay for liability insurance on the Lake as the State mandated agency can; whoever takes over maintenance of the Lake may also have the liability of the sedimentation at the bottom of the Lake, should it be polluted.

Councilor Owen stated that at the Drainage District meeting the previous evening, property owners around the Lake had offered to pay for the maintenance of the Lake, but the District did not seem interested in further maintenance of the Lake. Councilor Owen asked if a study had been prepared on what is at the bottom of the Lake. Director Andersen responded that his guess would be yes and that staff has requested that they be informed by the District when the Sediment Report was available.

Councilor Lillard inquired as to who maintains Blue Lake. Director Andersen responded that Metro has a portion that they manage, and the property owners around Blue Lake also manage it; however, Blue Lake has no inlet or outlet as Fairview Lake does.

Administrator Briggs stated that the City needs to ask who is in the best position to maintain the Lake; the second question is what is the City's responsibility in maintaining the Lake (meaning all residents of Fairview). Mayor Vonderharr commented that the best suited agency to manage the Lake is the Drainage District. Administrator Briggs added that the City could argue legalities to the fact that the Drainage District is responsible for the stormwater maintenance of the Lake, but what seems to be the biggest factor was the fear of what was in the sediment. All interested parties should get together and work out a solution on that aspect rather than trying to turn over maintenance of the Lake. The various parties have a vested interest in this turning out well; we should all be brought together and come to a table in a solution mode, knowing we all will have to give up something to make this work. Participants should include Multnomah County, the Drainage District, the Interlachen PUD, property owners, and the City. The Drainage District should maintain their responsibilities and the City should not be the default entity that responsibility falls upon. Administrator Briggs stated that she would try to bring all groups together to discuss the issue.

Councilor Raze suggested that legalities be reviewed and it be determined whether one attorney needs to represent all entities against the Drainage District.

III. ADJOURNMENT

Councilor Owen moved and Councilor Quinby seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 7:30pm.

AYES: 7
NOES: 0
ABSTAINED: 0

—

Mayor Roger Vonderharr

—

Dated:

Caren C. Huson Quiniones
City Recorder