

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

June 5, 2002 -- 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 (arrived 7:40pm)
Councilor Steve Owen
Councilor Len Edwards
Councilor Barbara Jones

ABSENT: Councilor James Raze

STAFF PRESENT: Mary Jo Briggs, City Administrator
Bob Cochran, Public Works Director
John Andersen, Community Development
Director
Melissa Slotemaker, Assistant Planner
Caren Huson, City Recorder

**II. CITIZEN
COMMUNICATIONS**

Mayor Vonderharr called for persons wishing to speak on non-agenda items.

Casey Kliew, a student at Reynolds High School, stated that many students were present tonight for a school project and to learn more about local government. Mayor Vonderharr welcomed the class.

George Olsen, 120 Cedar Street, Fairview, asked why residents did not receive a public notice in the mail for the rezoning hearing to be held later in the evening. Pam Beery, City Attorney, responded that the public hearing was actually opened by the Council at their March 6, 2002 meeting, was continued to a date certain and stated such in the public session, which is allowable per State law. Mr. Olsen questioned if a manufactured housing park was planned at the corner of 223rd and Halsey. John Andersen, Community Development Director, responded that the parcel was zoned Commercial and that no applications had been submitted to the City.

As there was no further testimony, Mayor Vonderharr continued the session.

III. CONSENT AGENDA

Councilor Owen moved and Councilor Jones seconded the motion to reappoint Rich Goheen to represent the City for a three-year term on the Mt. Hood Cable Regulatory Commission

AYES: 5
NOES: 0
ABSTAINED: 0

Councilor Quinby moved and Councilor Owen seconded the motion to approve the May 1, 2002 Work Session minutes as written.

AYES: 5
NOES: 0
ABSTAINED: 0

Councilor Quinby moved and Councilor Owen seconded the motion to approve the May 15, 2002 Work Session minutes as written. Councilor Jones stated that she would be abstaining from the vote as she was not present at the May 15th meeting.

AYES: 4
NOES: 0
ABSTAINED: 1 (Jones)

Mayor Vonderharr stated that the May 1, 2002 regular meeting minutes would be moved to the Council meeting of June 19, 2002.

IV. CONTINUED PUBLIC HEARING

A. George Rezoning Request

Mayor Vonderharr stated that he would be excusing himself from this item as he had previously testified at the March 6th public hearing. Mayor Vonderharr asked Council President Owen to chair the meeting for this item.

Director Andersen stated that the applicant, David George, was proposing a Comprehensive Plan Map Amendment and Zone Change for the old post office property at 110 Cedar Street. The applicant's proposal is to change the Comprehensive Plan Map Designation from "Public to Medium Density Residential and to change the zoning from "Residential" to "Residential Multi-Family". With these changes, the Comprehensive Plan and zoning would be consistent in allowing multi-family development.

Director Andersen reported that a public hearing was held on February 5, 2002 before the Planning Commission. The Planning Commission heard testimony and recommended a Comprehensive Plan Map Amendment from "Public" to "Low-Density Residential", instead of the applicant's request of "Medium Density Residential". In addition, the Planning Commission recommended denial of the zone change request to "Residential Multi-Family", keeping the existing zoning of "Residential". With this recommendation, the Comprehensive Plan and zoning will be consistent in allowing only single-family residential development.

At the March 6, 2002 City Council meeting, the Council granted the applicant's request to continue the public hearing until the June 5th City Council meeting, in order for the applicant to complete additional research and review other development options. The applicant is now requesting an additional 90-day continuance in order to further pursue other options for the site. He would like to wait and see the outcome of the City's visioning process. If granted, the hearing would be continued until the September 4, 2002 City Council meeting. The City Attorney was consulted as to whether this second continuance may be granted. The City Attorney stated that there is no limit to the number of continuances that may be granted; however, it is up to the City Council to determine whether to grant the continuance or act upon the land use application.

David George, P.O.Box 69334, Portland, reported that many things have happened since he started this project; his father passed away but had indicated that if a continuance was not granted that the building be boarded up for 40 years until new neighbors move in. Mr. George asked the Council to continue his request so that he could come up with a solution that would satisfy the neighbors. Mr. George commented that he had attended the City's Visioning Workshop and wanted to look at some other possibilities for the site.

Councilor Quinby asked what the other options were that Mr. George was exploring. Mr. George responded that he was waiting to hear what the neighbors wanted to have on the property; he knows they do not want rental units or commercial uses, and that they would like to see the current building demolished. Mr. George added that he was hoping to have an alley vacated so that he could place two single-family residential units on the site. Councilor Quinby stated that, if Council agreed, that he did not see why this could not be continued for another 90 days.

Councilor Lillard mentioned that by stating the house would be boarded up for 40 years, it felt like Mr. George was threatening the Council to do something; however, Mr. George did have the option of selling the parcel to someone who would like to place a single-family

home on the site. Mr. George responded that he did not mean it to sound like a threat, it was just something his father mentioned to his attorney before he died. Mr. George commented that he was more than willing to place single-family residential homes on the site.

Director Andersen commented that he thought it would be unlikely that residents of the core area would want the zoning change on the subject property, and that the Renaissance Plan actually speaks to the possibility of having a park or historical site on the property.

Pam Beery, City Attorney, reminded the Council that the application before them was for a zone change and not for a specific use; the Council needed to take into consideration all the uses that could be placed in a new zone. Also, it is Council's decision on whether or not they want to grant a continuance to the applicant.

Councilor Jones clarified that the alley vacation would be a separate request, and that it was not related to the rezoning request. Director Andersen responded that that was correct.

Councilor Quinby moved and Councilor Lillard seconded the motion to continue the item to September 4th. Mr. Olsen called for a point of order as the motion was being made on a one-sided testimony.

AYES: 2 (Quinby, Lillard)
NOES: 3 (Jones, Edwards, Owen)
ABSTAINED: 0

The motion failed and the continuance was denied.

Director Andersen again described the rezoning request. Mr. George stated that he had nothing to add.

Council President Owen opened the public hearing on the requested zone change.

Mr. Olsen stated that the neighbors on Cedar Street were not in favor of vacating the alley for Mr. George as those on Cedar street use the alley to access their yards and garages. Mr. Olsen added that he would like to see a single-family home on the subject property.

Roger Vonderharr, 180 Second Street, Fairview, stated that the City's Comprehensive Plan was opposed to spot zoning and that is exactly what would happen if Mr. George's rezoning was approved. The core area is zoned R7.5, and if the Council approves a spot zoning for Mr. George, then every resident in the core area could come forward with a rezoning request. Mr. Vonderharr added that the character of every neighborhood is different, but the character should

remain the same as what the neighbors bought into

Mr. George commented that Multnomah County had already informed him that he would not need to vacate the alley to achieve his desired 12,000 square foot lot, and that County property could be vacated to achieve the 12,000 square feet. Mr. George added that no one who testified tonight lived on NE 223rd, which is adjacent to his property, and no one has objected to adding a third lane to 223rd Avenue.

As there was no further testimony, Council President Owen closed the public hearing.

Councilor Edwards questioned how the “public” overlay would be removed from the parcel. Ms. Beery responded that it would be removed should Council approve the proposed ordinance as presented tonight..

Councilor Edwards moved and Councilor Jones seconded the motion to read Ordinance 2-2002 by title only.

AYES: 5
NOES: 0
ABSTAINED: 0

Caren Huson, City Recorder, read Ordinance 2-2002 by title only.

Councilor Edwards moved and Councilor Jones seconded the motion to approve Ordinance 2-2002, AN ORDINANCE AMENDING THE CITY OF FAIRVIEW COMPREHENSIVE PLAN, which would uphold the Planning Commission decision to deny the rezoning request.

AYES: 5
NOES: 0
ABSTAINED: 0

Mayor Vonderharr resumed his place on the dais.

V. COUNCIL BUSINESS

**A. Update -
July 4th Fireworks**

Bruce Tarbet thanked the Council for their support of the July 4th Fireworks event over the last three years, and added that this was a huge undertaking for the law enforcement of Fairview. The Fireworks Display is sponsored by local and area companies, in cooperation with Metro, Fairview, Gresham, Troutdale, and Multnomah County. Live music will begin at Blue Lake Park at 4:00pm, and the fireworks display would occur at 10:00pm.

Mayor Vonderharr asked if the fireworks display was fully funded this

year. Mr. Tarbet responded yes, but that contributions were always welcome.

Councilor Quinby stated that he had always envisioned a water ski show at Blue Lake Park on July 4th. Mr. Tarbet responded that Metro was concerned about getting people in and out of the park on July 4th and that it would be too difficult to have two large events on that day.

B. Generator Purchase

Bob Cochran, Public Works Director, reported that on March 20, 2002, the Public Works Department had brought to Council a request to purchase a back-up generator for the Interlachen Pump Station. Council had denied the request and asked Public Works to develop detailed specifications for the generator and its installation. This was to ensure that all bidders had the same information on which to base their quotes. A detailed specification package was created and resubmitted to the bidders. In addition to the specifications for the 125kW generator, alternatives were requested which included: an increased sound attenuator, an enhanced warranty, and an upgrade to a 150kW generator. The quotes were received and evaluated; based on the quotes received, the Public Works department was recommending selection of Halton Engine Systems as the provider of the Interlachen Pump Station generator for a total cost of \$36,299.00.

Councilor Owen commented that he felt much more comfortable since a specification package was sent to bidders and they all had the same information to base their bids on.

Councilor Owen moved and Councilor Lillard seconded the motion to approve the purchase of a 150kW generator from Halton Engine Systems for the Interlachen Pump Station for a total price of \$36,299.00

AYES: 6
NOES: 0
ABSTAINED: 0

**C. Ordinance 5-2002
Vending Machines
and
Amusement Devices**

Recorder Huson reported that Fairview Municipal Code Chapter 5.05 was amended by Council in December 1999, changing the City's Business Licensing Program from regulatory to one which is non-regulatory and revenue raising only. With this change, staff was relieved of the obligation to ensure that all licenses were complying with other City regulations before a Business License could be issued. Recorder Huson stated that the City currently collects only \$90.00 a year from vending machine fees, and Council recently heard public testimony regarding those fees being a hindrance to potential businesses. In light of the fact that staff was unable to police vending and amusement device licensing, and along with the

fact that those fees may discourage potential businesses, staff was recommending that Council approve Ordinance 5-2002 which would repeal Chapter 5.55 of the Fairview Municipal Code, pertaining specifically to vending machines and amusement devices.

Councilor Lillard questioned whether this would affect fees which the City charges on lottery machines. Recorder Huson responded that the City did not charge fees on lottery machines.

Councilor Edwards commented that \$90.00 a year would not pay for staff to police vending and amusement device fees.

Councilor Edwards moved and Councilor Quinby seconded the motion to read Ordinance 5-2002 by title only.

AYES: 6
NOES: 0
ABSTAINED: 0

Recorder Huson read Ordinance 5-2002 by title only.

Councilor Edwards moved and Councilor Jones seconded the motion to approve Ordinance 5-2002, AN ORDINANCE REPEALING CHAPTER 5.55 OF THE FAIRVIEW MUNICIPAL CODE RELATING TO AMUSEMENT DEVICES AND VENDING MACHINES.

AYES: 6
NOES: 0
ABSTAINED: 0

D. Riparian Buffer Exceptions

Director Andersen reported that during 2001, the City increased its riparian enforcement activities as development of lands adjoining Fairview Lake continued. While significant success was achieved, there was considerable debate and a growing public hostility towards the City's enforcement standards and efforts. To address these concerns the City established a Riparian Consensus Committee and process to arrive at a consensus that could be supported by the City and a majority of the property owners as allowing reasonable use of their lands while protecting the important environmental resources of the area.

Director Andersen stated that the Riparian Consensus Committee (composed of property owners, state-regional-state agencies, experts in biological and riparian landscaping issues, and City staff) met and over the course of several meetings and tours of home sites, arrived at a recommendation for approval by the City Council.

The City Planning Commission met March 5, 2002 and, after

consideration of the Committee's work, recommended to the City Council approval of a new exception through an Administrative Type 1 decision process. City Council referred this back to the Riparian Committee and Planning Commission for further review. The Committee and all littoral property owners were invited to a review meeting and to the Planning Commission consideration.

The Fairview Planning Commission considered the information presented by staff, committee members and property owners at their May 7, 2002 meeting and have forwarded their recommendation for adoption by the City Council.

Councilor Quinby noted that on page 9 of the Recommendation that it states that flowering annuals could not be placed in zones 1 and 2. Director Andersen responded that staff would work with a property owner if they wished to place a basket of annuals on a garden hook in a riparian area.

Councilor Owen moved and Councilor Edwards seconded the motion to approve the Planning Commission recommendation. Councilor Quinby asked if any negative comments had been received on the latest document. Director Andersen responded no. Mayor Vonderharr called for the vote.

AYES: 6
NOES: 0
ABSTAINED: 0

George Lingelbach, 4048 NE Fairview Lake Way, Fairview, noted that 12 lots on the dam at Fairview Lake would have a low turf. Director Andersen concurred, adding that Phase I of Blue Heron Shores was not eligible for riparian exceptions as they have regulations imposed on them from the State.

**E. Community Center
Use YMCA Day Camp**

Mayor Vonderharr stated that a Council Work Session had occurred prior to the regular session where discussion was held on this topic.

Melissa Slotemaker, Assistant Planner, reported that the YMCA Child Care Division has proposed use of the lower floor of the City Community Center for a Day Camp for 11 weeks this summer. The YMCA has already started the process necessary to obtain the licensing from the State. Planner Slotemaker added that on May 14, 2002, the Parks Advisory Committee had reviewed the proposal and recommended approval of the use of the lower floor of the Community Center for the Day Camp. The Day Camp will provide a service to the Fairview Community that does not currently exist, and the upper floor would still be available for rental by the community.

Councilor Quinby agreed with staff's decision that the YMCA be charged \$160 a week to use the Community Center as that keeps it in line with what Council previously required for the Community Center usage fee.

Councilor Owen commented that he would personally like to see the weekly rental fee reduced to \$120 a week as proposed by the YMCA since they have guaranteed that they would use it for 11 weeks; however, he concurred with denying the \$150 cleaning deposit waiver.

Councilor Jones agreed that the cleaning deposit should be required, and that \$120 a week was fine as it would be a long-term tenant who was providing community service.

Councilor Lillard questioned how many children would be allowed in the facility. Planner Slotemaker responded that the YMCA was looking at a maximum number of 30 children.

Mayor Vonderharr commented that his concern was that if the City started to make exceptions for some, that they would have to take every use into consideration for an exception; in addition, the YMCA did not think \$160 a week was unreasonable.

Councilor Owen moved and Councilor Edwards seconded the motion that staff enter into an agreement with the YMCA for use of the lower floor of the Community Center for Summer Day Camp at a rate of \$120 a week plus \$150 cleaning deposit. Councilor Quinby stated that he would support the reduced rate because the YMCA had initially been told by staff to propose any rate. Mayor Vonderharr called for the vote.

AYES: 6
NOES: 0
ABSTAINED: 0

F. Update - City Facility Usage

Director Andersen stated that the City has seen a significant increase in the use of the Fairview Community Center. Activities during the first four months have already been double all of last year. Increasing awareness of the facility continues to attract more interest and staff expects possible collaboration with the YMCA will further improve our services to the citizens of Fairview.

VI. CITY ADMINISTRATOR REPORT

Mary Jo Briggs, City Administrator, reported that on April 1, 2002, the Budget Committee had approved the City's proposed 2002/03 budget, which was forwarded to the Tax Supervisory and Conservation Committee who had no comments or concerns and only praise for Finance Director Roy Wall.

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

Councilor Edwards asked Planner Slotemaker to report on the Fairview Summertime Festival. Planner Slotemaker stated that things were moving along well and that the Committee was currently working on parking issues. Three bands had been booked for the event, along with art and food vendors and a children's activity center. Planner Slotemaker mentioned that the Committee was looking for volunteers to help on the day of the event.

Councilor Lillard reported that she had attended the East Multnomah County Transportation Committee meeting the previous Monday and that the only real issue was that TriMet was looking at a six month evaluation of increased service in the Fairview area. Councilor Lillard had suggested that TriMet consider providing transportation to Blue Lake Park.

Councilors Jones, Quinby and Owen had no reports or concerns.

Mayor Vonderharr reported that the Fairview Business Association seemed to be moving ahead well, and that he has been involved with the cities of Gresham and Portland in terms of wellfield protection along the Columbia River shore; it was crucial that City wells be protected from pollution. Mayor Vonderharr stated that he has been working with Multnomah and Washington Counties on economic development.

VIII. ADJOURNMENT

Councilor Owen moved and Councilor Lillard seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:30pm.

AYES: 6
NOES: 0
ABSTAINED: 0

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Mayor Roger Vonderharr

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Dated:

Caren C. Huson Quiniones
City Recorder