

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

December 1, 2004 -- 5:20pm

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

Mayor Weatherby called the meeting to order at 5:20pm.

PRESENT: Mayor Mike Weatherby
Councilor Darrell Cornelius
Councilor James Raze
Councilor Larry Cooper
Councilor Jim Trees

ABSENT: Councilor Steve Owen
Councilor Sherry Lillard

STAFF PRESENT: Jan Wellman, City Administrator
John Andersen, Community Development
Director
Caren Huson, City Recorder

**II. DISCUSSION
Measure 37**

Jan Wellman, City Administrator, stated that Measure 37 was passed by Oregon voters on November 2, 2004. With that, the City is looking at drafting an ordinance that sets out the process the City will follow on Measure 37 claims.

John Andersen, Community Development Director, commented that the City was not looking at many potential claims; the areas where there could be some potential for claims are the Old Town area, 207th to 201st, and along Sandy Boulevard. Councilor Cornelius questioned the Alcoa site. Director Andersen responded that he would have to research the property record and history as right now it is zoned Agricultural. Councilor Cornelius asked if the City could deny a zone change request for that property. Director Andersen responded that, on the surface, yes.

Director Andersen reported that the proposed ordinance before the Council had been crafted to clarify that the City would need to research the history of a parcel. Councilor Raze questioned if someone could possibly have a claim if they owned a parcel which Metro recently placed an environmental overlay on. Director Andersen responded that it would seem like the claim would be against Metro, not the City. Councilor Trees thought that Fairview might be responsible since they adopted Metro's recommendations. Director Andersen commented that the Attorney General has offered

an opinion which indicates that the claim would probably go to Metro as they created the regulation; however, Metro is saying that a city is responsible if they deny a proposal. Councilor Cooper mentioned that Metro's argument would be that they only administer State regulations. Director Andersen stated that no one really knows what will happen; everything is speculation at this point; the City Attorney feels that the ordinance they have drafted is in the best interest of Fairview. Administrator Wellman commented that the City is trying to set up a protective framework to protect public funds and that the City needs to protect that taxpayer dollar. There needs to be a process and a claim must be legitimate. The proposed ordinance only requires that certain information be provided to the City so that we may determine if it is a valid claim. City staff will have to glean through all information submitted to ensure it is correct. We do not know what City costs will be. A framework is needed that spells out exactly what a claimant needs to bring to the City and a fee needs to be set to cover staff's cost in reviewing all information submitted. Administrator Wellman continued by stating that if staff only requires \$1,000 to perform the research, and the fee was \$2,000, that the City would refund the difference back to the claimant.

Councilor Raze stated that a fee, required up front, will discourage frivolous claims and added that he did not see how Council could review the entire ordinance tonight without the City Attorney present. Administrator Wellman responded that the reason the ordinance was before the Council tonight was on the advice of the City Attorney that we have an ordinance in place before Measure 37 claims are submitted. This is a leap of faith by moving forward on advice of legal counsel to adopt the proposed base ordinance and fee. When the State Legislature gets involved with Measure 37, modifications may have to be made to our ordinance. Case law will come out as a result of lawsuits; the City can either wait to see what happens with the Legislature, or Council could put an ordinance in place now and fine tune it at a later point.

Councilor Trees commented that his preference would be to put off any ordinance until we see what happens; he also would like to see the deposit fee be \$200. Administrator Wellman mentioned that the \$2,000 fee being proposed was consistent with other cities in east county. Councilor Trees suggested that a special Council Work Session be held on January 12th, with the City Attorney present, to discuss the ordinance and then place the ordinance on the Council's January 19th agenda.

Councilor-elect Ken Quinby asked if there was just one fee or a pre-conference fee also. Administrator Wellman responded that they are separate fees.

Discussion ensued regarding the charging of fees and/or deposits and what the fee or deposit should be.

III. ADJOURNMENT

Mayor Weatherby adjourned the Work Session at 6:45pm.

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Mayor Mike Weatherby

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Dated:

Caren C. Huson Quiniones
City Recorder