

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

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**December 1, 2004 -- 7:00pm**

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

Mayor Weatherby called the meeting to order at 7:00pm.

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

ABSENT: Councilor Steve Owen

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

Mayor Weatherby excused Councilor Owen from the meeting and announced that Council Item C (Ordinance 14-2004) would be pulled from tonight's agenda.

**II. CITIZEN  
COMMUNICATIONS**

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

Barbara Jones, Fairview, publicly thanked Fairview voters for electing her to Council. There had been a tremendous turnout of voters, and it was nice to see residents involved.

**III. CONSENT AGENDA**

Councilor Raze moved and Councilor Cooper seconded the motion to approve the Consent Agenda, consisting of the Acceptance of Election Results from the November 2, 2004 General Election and the Minutes of November 3, 2004 .

AYES: 6  
NOES: 0  
ABSTAINED: 0

#### **IV. COUNCIL BUSINESS**

##### **A. 2004 FARMERS MARKET RECAP**

Bob Cochran, Public Works Director, reported that this had been the first year of the annual Farmers Market, held on Village Street, and that it had been highly received. The event was held on Thursday evenings from 4:00pm to 8:00pm, until adjustments were made. There were produce, craft, and food vendors, along with live music. Director Cochran stated that the event was a success, but some fine tuning was needed to make it even better in 2005.

Peter Tuomala, event coordinator, commented that since this was the first year of the Farmers Market, that lessons were learned along the way. One letter of concern was received from one of the Village Street merchants and a solution was developed for next year which would not hinder their business.

Councilor Lillard questioned if WIC cards had been accepted at the market. Mr. Tuomala responded that it was well received within the Market; 4% of sales were paid through senior and WIC coupons. The general atmosphere and attitude of the Market was that the vendors were pleased to attend and be a part of the Market. It was a wonderful family atmosphere, and only two issues had been brought to his attention during the six months of the program. Councilor Trees mentioned that he heard a lot of positive comments about the Market.

Councilor Cornelius stated that he was glad to hear that Mr. Tuomala had resolved one of the issues with a Village Street merchant, and it was his understanding that the vendor spaces next year would stretch between the City Hall driveway on Village Street and go around the corner onto Park Lane. Councilor Tuomala responded that that was correct, but that he would still like to work with the Village Street merchants to see if he could utilize some of Village Street. Councilor Cornelius commented that the City did receive one complaint from an individual that was passing out flyers on the Loaves and Fishes program who felt she had been excluded and escorted out of the Market. Councilor Cornelius made it clear that Village Street was a public street for the public to use and if an individual wants to walk down that street and distribute information, they have a right to do that. People have a right to free speech and access to public streets. Mr. Tuomala explained that other Markets have rules and regulations for distributing materials. Councilor Cornelius once again stated that Village Street was a public street, not private property, and freedom of speech would not be denied.

Councilor Lillard questioned how many vendors lived in Fairview. Mr. Tuomala responded that he knew of six vendors who lived in Fairview Village and 3 vendors who lived in the Old Town area.

**B. RESOLUTION 36-2004  
Market Drive Speed  
Hump**

Director Cochran reported that before the Council was Resolution 36-2004 which would allow the City to proceed with the design and construction of a traffic calming device on NE Market Drive. Director Cochran stated that for several years, the Public Works Department has been in communication with the residents of Fairview Village who live along NE Market Drive. The residents have voiced concerns that the vehicles traveling along Market Drive frequently exceed the posted speed limit of 25mph and pose a safety threat to pedestrians and children. With that, the residents requested that the City's "Implementation Plan for Speed Hump Evaluation" be applied to this street.

Director Cochran explained that to determine the speeds on Market Drive, two traffic speed studies were completed. The first study was completed as a Condition of Approval listed in the Notice of Final Decision for the Target Store. This study was completed by Kittelson and Associates and investigated the traffic speeds in Fairview Village before and after the opening of the Fairview Target Store. The study calculated the 85<sup>th</sup> percentile speed (the speed at which 85% of the vehicles travel at or below) at 26.3mph before the Target opening and 30.8mph after the Target opening (because of this increase, Target Corporation has contributed \$5,000 towards the "solution" of this increased traffic speed issue). In addition to the speed study listed above, the City of Fairview Public Works Department completed a second study. This speed study (from May 30, 2003 to June 10, 2003) showed the northbound 85<sup>th</sup> percentile speed to be 28mph and the southbound speed to be 29mph.

Director Cochran stated that while Fairview's study did not specifically meet the criteria listed in the procedures (i.e, a 85<sup>th</sup> percentile speed of 30mph), the Kittelson report did meet the criteria for speed hump implementation. Using both sets of data, it is apparent that a speed "problem" exists on Market Drive. Mayor Weatherby commented that in addition to a speed hump, that the City would be adding bump outs to Market Drive and asked if the proposed crosswalk would be similar to others in Fairview Village. Director Cochran responded yes.

Councilor Trees suggested two crosswalks and no bump outs. Director Cochran responded that the reason the bump outs were proposed was to slow traffic down and provide a safe haven for people crossing the street. Councilor Trees commented that if the bump outs were eliminated, it would save taxpayer dollars. In addition, it has been brought to his attention that people in wheelchairs can not use the Village crosswalks because they are too rough and asked if "turtles" would be less expensive. Director Cochran responded that "street turtles" are used mainly for major

streets and not neighborhood streets. Councilor Trees requested a cost comparison in having two crosswalks vs. bump outs and would also like to receive some public input on the issue. Director Cochran responded that all criteria had been met by having 90% of the residents affected sign a petition.

Councilor Cooper stated that speeding on Market Drive was significant and that he was pleased to see the proposed design as a start; he imagines that an additional speed hump will be needed near the bridge. Director Cochran commented that staff would study traffic again after the speed hump is placed. Councilor Cooper mentioned that the Village Neighborhood Associations were behind the speed hump request and the residents in the area have been trying to get the speed hump for a long time.

Councilor Cornelius questioned if impact to traffic flows in other areas of Fairview Village had been taken into account as a result of the proposed speed hump design. Director Cochran responded that staff did not consider diverting traffic to other streets in Fairview. Councilor Cornelius commented that he thought the bump outs would divert more traffic onto Park Lane towards 223<sup>rd</sup> Avenue; he was not opposed to the speed hump, but opposed to the bump outs. Councilor Cooper stated that he thought the major forces behind the speed hump request would like to see the bump outs. Director Cochran mentioned that one of the awkward things with the design is that the existing handicap ramp on the southeast corner of the intersection does not allow a sidewalk to be adjacent to it.

Councilor Cornelius stated that he thought traffic patterns throughout Fairview Village need to be reviewed and to encourage that traffic use Halsey Street. Councilor Cornelius added that before he was a Council member, there were residents in Old Town who had petitioned for a speed hump on Cedar Street and testified before Council; they were told they could not get the speed humps because it did not meet the standard of a certain mile per hour limitation. There is some antagonism about people feeling there is favoritism to Fairview Village that other residents do not receive, and he was concerned that the criteria has not been met for the proposed speed hump as the most recent traffic study shows that it is below 30mph. Director Cochran responded that when staff was putting together the criteria, the Kittelson Study had some weight as the study was performed after Target was built. Councilor Cornelius stated that he felt the speed hump standards should be re-examined as any residential neighborhood that feels strongly that they need a speed hump should be considered for one and perhaps even share in the costs.

Councilor Cooper commented that he thought the issue with

speeding on Market Drive is more than what the studies show.

Councilor Lillard mentioned that for several years, residents thought the speed in Old Town exceeded the posted 25mph speed limit, but we discovered that it was actually only a person's perception. Councilor Lillard explained that it was possible to petition the State and have the speed limit lowered below 25mph in residential areas, adding that speed humps were a deterrent for emergency vehicles to drive over. Councilor Lillard stated that she thought the City needed to be very particular in where they place speed humps and that was why we have the criteria of 30mph or above in residential neighborhoods, adding that she thought it would behoove the City to have the speed limits reduced through the State.

Councilor Raze asked if any other applications were in the process for speed humps. Director Cochran responded no. Councilor Raze mentioned that he knew the residents on 213<sup>th</sup> were concerned about traffic speeds and wanted speed humps. Director Cochran responded that the City had not received an application from them. Councilor Raze commented that lowering the speed limit does not slow down a speeder.

Councilor Cornelius moved and Councilor Trees seconded the motion to amend Resolution 36-2004 by eliminating the bump outs from the design. Councilor Lillard stated that she would agree as long as the bump outs were reviewed at a later date. Councilor Raze stated that the Neighborhood Association had requested the bump outs and amending the design should be submitted to them before any vote is taken on Resolution 36-2004. Councilor Cooper mentioned that the design as presented was what the residents wanted. Mayor Weatherby commented that he was not in favor of speed humps, but if the neighborhood wants the design as presented, that he was in favor. Councilor Trees added that a cost comparison should be brought back to Council with the cost difference indicated between two crosswalks vs. the bump outs.

After some discussion, Council concurred that the item should be tabled until Director Cochran reviews the suggested design changes with the residents. Councilor Cornelius moved and Councilor Trees seconded the motion to remove their amendment to Resolution 36-2004.

Councilor Cornelius moved and Councilor Raze seconded the motion to table Resolution 36-2004 to a future date.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**C. RESOLUTION 37-2004**  
**Transfer of Water**  
**Resource Permits**

Director Cochran reported that before the Council was Resolution 37-2004 which, if approved, would transfer two water rights from the Multnomah County Drainage District #1 (MCDD) to the City of Fairview. Director Cochran introduced Dave Hendricks and Bob Eaton of the MCDD and stated that in October of 2001, MCDD completed a report titled "Management Review of Fairview Lake". That report provided information on the District's management of Fairview Lake to their Board of Supervisors, interested parties and the community. The report detailed the MCDD's past and present role and responsibility pertaining to the management of Fairview Lake and examined the water rights for the Lake. The report details the two water rights permits currently held by the MCDD and it was estimated that the annual operation and maintenance cost for the keeper of the permits would be \$6,540. These costs are primarily costs associated with time and materials associated with the cleaning of the outlet structure, operation of the outlet structure, and associated administrative costs. A staff review of the permits shows that the City responsibility would include: 1) reporting lake measurements annually to the Water Resources Department; 2) making the City singled named party responsible for all maintenance and repair of the "dam"; and, 3) coordination of inspection of the dam. Director Cochran stated that in the report, MCDD felt the benefit of the two permits is solely to the 184 property owners adjacent to the lake and not in line with the primary mission of the MCDD as a flood control agency. With that, on February 11, 2004, the City entered into an agreement with MCDD and the Fairview Lake Property Owners Association (FLPOA). The agreement lists the details of transferring the permits to the City and the "phasing out" of the maintenance of the outlet structure by the MCDD. The City agreed to transfer the permits after the construction of the outlet structure for Fairview Lake. This project was completed in November 2004 at a cost of about \$300,000.

Councilor Cooper announced that he would not be voting on this item as he sits on the Board of Supervisors for the Drainage District. Councilor Trees questioned whether the City receives revenue from storm drainage for Fairview Lake from surrounding cities. Director Cochran responded no.

Mr. Hendricks explained that the raising and lowering of Fairview Lake was originally for flood control and provided a history of the lake and the use of impounded water for irrigation. Since Fairview Lake is no longer used for flood control or irrigation, and is currently used for recreation only, it would not fall under MCDD responsibilities.

Councilor Cornelius commented that he thought the homeowners who lived around Fairview Lake were to reimburse the City for the

annual cost to the City for maintaining Fairview Lake. Mr. Hendricks responded that FLPOA sets aside funds for maintenance, but that is basically for log and debris removal or for work on the weir. FLPOA has said that if they don't use part of their funds, they would assist the City. Councilor Cornelius mentioned that it seems in all fairness that the Fairview Lake property owners should pay for maintenance costs as the lake is only a benefit to them. Director Cochran responded that the City is a property owner around the lake and that the public does have access to the lake via Lakeshore Park.

Councilor Lillard asked about assessments that landowners around the lake pay to MCDD. Mr. Hendricks responded that that still occurs for flood control, but they have never been assessed any maintenance costs.

John Andersen, Community Development Director, stated that the FLPOA Board is aware of the maintenance costs and that there is a provision in the agreement that FLPOA would enter into negotiations with the City once we knew what the maintenance costs would be on an annual basis. FLPOA does budget for the cost of the engineer who performs the dam inspection every year and FLPOA is willing to fund additional items if there are funds available to do so.

Councilor Raze moved and Councilor Lillard seconded the motion to approve Resolution 37-2004, A RESOLUTION TRANSFERRING THE WATER RESOURCES DEPARTMENT PERMITS NO. 12301 AND 53272 FROM THE MULTNOMAH DRAINAGE DISTRICT #1 TO THE CITY OF FAIRVIEW.

AYES: 5  
NOES: 0  
ABSTAINED: 1 (Cooper)

**2004**  
**D. ORDINANCE 14-2004**  
**RESOLUTION 38-**  
**Measure 37**

Director Andersen reported that before the Council was Resolution 38-2004 which deals with fees associated with potential claims that may be filed with the City under Measure 37. Council is being asked to adopt the resolution tonight as Measure 37 will go into effect the following day. Director Andersen stated that there are some changes to the language in the resolution as follows: 1) Section 1 should read instead of "fee" that it is actually a "claim expense deposit" and that the cost of the deposit shall be as follows: Claims less than \$10,000=\$250 deposit; Claims between \$10,001-\$50000=\$1,000 deposit; and Claims in excess of \$50,000=\$2,000 deposit. In Section 2 the wording should be changed to state that there will be no pre-filing conference fee.

Councilor Raze moved and Councilor Cornelius seconded the motion to strike the second sentence of Section 1 that reads, "The city may

require an additional fee to cover the cost of a City initiated appraisal if the Administrator determines such an appraisal is needed to clarify the claim.”

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Lillard moved and Councilor Cornelius seconded the motion to approve Resolution 38-2004 as amended.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**V. CITY ADMINISTRATOR REPORT**

Administrator Wellman provided information on upcoming December meetings.

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

Councilor Cooper announced that this would be his last regular Council meeting and thanked everyone for the “great ride”.

Councilor Trees reported that the 2<sup>nd</sup> Annual Fairview Holiday Open House would occur on Village Street on December 4<sup>th</sup> between 1:00pm and 6:00pm.

Councilors Cornelius, Lillard and Raze had no reports or concerns.

Mayor Weatherby reported that at a four cities meeting the previous night, representation for the Joint Policy Advisory Committee on Transportation (JPACT) was discussed. The JPACT bylaws read that a representative and an alternate is needed for the four east county cities, and one of the positions must be from the largest city (Gresham). Mayor Weatherby stated that he felt it was important for Fairview to step up and represent the cities, and the three other cities concurred, requesting that Steve Owen serve as the representative for the four cities. The nominations from the previous evening were: Steve Owen as representative and Dave Shields for alternate; or Dave Shields for representative and Steve Owen for alternate. Each of the four cities is to vote on the nominations..

Councilor Raze encouraged the Council to support Steve Owen in the venture, but wished the Council to know that there will be some costs associated with the appointment. Councilor Cooper stated that the value to the City overshadows the cost as we need strong representation that Steve could provide.

Councilor Trees questioned if the other cities would contribute funds

for costs associated with JPACT. Councilor Raze responded that there was always that possibility, but he could not say for sure. Councilor Raze moved and Councilor Lillard seconded the motion to support Steve Owen as JPACT representative and Dave Shields as alternate, with Steve Owen to also represent the City of Fairview on the East Multnomah County Transportation Committee.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**VII. ADJOURNMENT**

Councilor Lillard moved and Councilor Raze seconded the motion to adjourn. Mayor Weatherby adjourned the meeting at 8:40pm.

AYES: 6  
NOES: 0  
ABSTAINED: 0

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Mayor Mike Weatherby

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Dated:

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Caren C. Huson Quiniones  
City Recorder