

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

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**February 18, 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 Steve Owen  
Councilor James Raze  
Councilor Larry Cooper  
Councilor Jim Trees

ABSENT: Councilor Sherry Lillard

STAFF PRESENT: Mary Jo Briggs, City Administrator  
Ken Johnson, Chief of Police  
Bob Cochran, Public Works Director  
Laura Zentner, Finance Director  
John Andersen, Community Development  
Director  
Caren Huson, City Recorder

Mayor Weatherby announced that Councilor Lillard was excused from the meeting. Mayor Weatherby welcomed a Boy Scout Troop to the meeting and asked them to introduce themselves.

**II. CITIZEN  
COMMUNICATIONS**

Mayor Weatherby called for persons wishing to speak on non-agenda items. As there was no response, the session continued.

**III. CONSENT AGENDA**

Councilor Owen asked Councilor Trees if he was satisfied with the December 17, 2003 meeting minutes as he had concerns about two items. Councilor Trees responded that the minutes were not verbatim, but the intent was the same.

Councilor Cooper stated that he would be abstaining from the vote for the minutes of December 17<sup>th</sup> and January 5<sup>th</sup> as he was not yet a member of the Council at that time.

Councilor Owen moved and Councilor Raze seconded the motion to

approve the Minutes of December 17, 2003 and January 5, 2004.

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

Councilor Owen moved and Councilor Raze seconded the motion to approve the Minutes of February 4, 2004 (2 sets).

AYES: 6  
NOES: 0  
ABSTAINED: 0

Mary Jo Briggs, City Administrator, asked the Council to consider one more item for the agenda, an Award of Contract for the Community Center Plaza. Bob Cochran, Public Works Director, reported that a staff report was before the Council regarding Benge Construction of Tualatin, Oregon who had submitted the lowest base bid (\$135,902.75); their bid for Alternatives A and B was \$34,938.45 and \$13,340, respectively. The total bid (\$184,199.20) exceeded the City's budget for the Plaza, so Alternatives A and B will be removed from the project and re-bid in summer 2004 under the next (2004/2005) CDBG request.

Councilor Owen questioned if \$100,000 of the funds were from Community Development Block Grants. Director Cochran responded yes.

Councilor Owen moved and Councilor Raze seconded the motion to approve Resolution 4-2004, A RESOLUTION OF THE COUNCIL FOR THE CITY OF FAIRVIEW.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Raze reminded staff to pursue obtaining some of the rose bushes from the Bonita Jenkins' Estate for the Community Plaza, since the Plaza will be dedicated to her.

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

##### **A. Request for Appeal Fee Refund**

Councilor Trees recused himself from this item; not due to bias, but due to appearances.

John Andersen, Community Development Director, reported that with

the adoption of Land Use Fees in 2003, the City Council had established a rule that “all appeal fees are refundable upon request by the applicant if the decision body overturns the original decision. The decision body must indicate that they determine that the fee should be returned.” Director Andersen stated that on November 19, 2003, Holt & Everhart appealed a Planning Commission decision on a mixed use building proposed for construction at the corner of Park Lane and Market Drive; they are now requesting the return of \$2,512 that was paid to the City to process the appeal of the Planning Commission decision on this project. In their appeal, Holt & Everhart cited their reasoning for why Planning Commission Finding 3 was incorrect, and five reasons for reversal and one reason for modification of Planning Commission Condition 1. Council held a public hearing on November 19, 2003 and affirmed the Planning Commission’s original decision in part, and reversed their decision in part. Director Andersen commented that in the spirit of compromise, staff did suggest to Holt & Everhart that a portion of the fee could be refunded since a portion of the decision was modified somewhat. Holt & Everhart rejected this compromise, partially based upon their attorney’s advice and indicated they believed the entire appeal fee should be refunded. Staff was asking for Council’s guidance in how to proceed.

Councilor Raze asked if only 2 of the 7 items were modified, which would represent about 30%. Director Andersen responded yes. Councilor Raze stated that he could support refunding 30% of the fee, but not a 100% refund.

Councilor Cornelius questioned if the language changes made due to the appeal were the result of discussions between staff and attorneys for both sides before Holt & Everhart even came before Council with the appeal. Director Andersen responded yes. Pam Beery, City Attorney, clarified that the appeal papers were filed and then discussions occurred which resulted in the revised language. Councilor Cornelius commented that there were 7 parts to the appeal; only two were modified and the remaining 5 were abandoned. The hearing was held in November 2003, and it is now 3 months later. Shouldn’t the request of refund have been made part of the appeal instead of coming to Council 3 months after the fact? Attorney Beery responded that it would have been appropriate to consider a refund at the same time as the appeal, but the language is written in the City’s fee schedule that there is no deadline for requesting a refund. Councilor Cornelius suggested that that language be added to the fee schedule.

Mayor Weatherby stated that staff had previously suggested that a portion of the fee could be returned, but Holt & Everhart refused, and they have no representative here tonight. Mayor Weatherby

commented that he did not think the City should give them any money back and that perhaps they should seek the money from their own attorney.

Councilor Owen asked if Holt & Everhart was asking for all or nothing. Director Andersen responded yes. Councilor Owen stated that he would compromise with a 30% refund.

Councilor Raze moved and Councilor Owen seconded the motion to refund 30% (\$753.60) of the appeal fee to Holt & Everhart, and that language should be added to the Land Use fee schedule which speaks of a deadline in submitting refund requests.

Councilor Cornelius commented that, from a legal standpoint, the person asking for a refund must be the prevailing party and win by 51% or more; if not, they are not entitled to a refund; perhaps that is a policy the City should follow. Attorney Beery concurred that the courts do operate by that method, but that statute does not apply in this case.

Councilor Raze stated that the Council was within City guidelines to refund 30%. Councilor Cornelius mentioned that should Council approve the 30% refund, that they were then setting a precedent; the City should adopt the same standard that courts use, and he does not believe a refund should be given.

Mayor Weatherby stated that he appreciates the compromise, but he was not inclined to refund one dime. Mayor Weatherby called for the vote.

AYES: 2 (Owen, Raze)  
NOES: 3 (Weatherby, Cornelius, Cooper)  
ABSTAINED: 0

Motion failed.

Councilor Cornelius moved and Councilor Cooper seconded the motion to deny the refund.

AYES: 3 (Weatherby, Cornelius, Cooper)  
NOES: 2 (Owen, Raze)  
ABSTAINED: 0

Councilor Trees returned to his place on the dais.

**B. Ordinance 2-2004 and  
Resolution 3-2004  
Amending Fire and  
Building Code**

Melissa Slotemaker, Associate Planner, reported that the Fire Code and Building Code Sections of the Fairview Municipal Code were last amended in 1992 and 1989 respectively. The proposed amendments would bring the FMC up to date with current state requirements and

are consistent with Gresham Fire and Emergency Services and the Troutdale Building Inspection Program. Chapter 15.36, False Fire Alarms, is a new chapter, which governs fire alarm systems and provides for penalties and fines for excessive false alarms. Staff was recommending approval of Ordinance 2-2004 and adoption of Resolution 3-2004.

Councilor Raze asked if false fire alarms were an issue. Gus Lian, Fire Marshall, responded that they do, in fact, have a large problem with false fire alarms. They always research what the actual alarm call was for; if it was for a burglary, then the owner is not fined for a false fire alarm. Emergency phone lines need to be kept open, and with the institution of this fee, they have reduced the number of false fire alarms.

Councilor Trees questioned whether fees currently exists for false fire alarms. Planner Slotemaker responded no, but by adopting Resolution 3-2004 this evening, it would allow the City to place those fees; Gresham will prepare the paperwork for false alarms, but Fairview would receive the money.

Councilor Owen moved and Councilor Cornelius seconded the motion to read Ordinance 2-2004 by title only.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Caren Huson, City Recorder, read Ordinance 2-2004 by title only.

Councilor Owen moved and Councilor Cornelius seconded the motion to adopt Ordinance 2-2004, AN ORDINANCE AMENDING IN PART AND DELETING IN PART ORDINANCE 4-1989 (3) AND ORDINANCE 9-1992; AMENDING TITLE 15 OF THE FAIRVIEW MUNICIPAL CODE, AND CREATING A NEW CHAPTER 15.36 FIRE ALARMS SYSTEMS; AND DECLARING AN EMERGENCY, along with the inclusion of the amendments as presented to Council.

AYES: 6  
NOES: 0  
ABSTAINED: 0

Councilor Owen moved and Councilor Raze seconded the motion to adopt Resolution 3-2004, A RESOLUTION ADOPTING SCHEDULE OF PENALTIES FOR VIOLATION OF FMC CHAPTER 15.36, FOR FIRE ALARMS SYSTEMS INCLUDING FINES FOR EXCESSIVE FALSE ALARMS.

AYES: 6  
NOES: 0  
ABSTAINED: 0

**C. Citizen/Council  
Alliance Evaluation**

Lisa Barton-Mullins, Chair of the Citizen/Council Alliance, reported that this was their first annual report to the Council. The Alliance was formed in April 2003 and has 12 members (2 representatives from each of the six regions of Fairview). Currently, there were 3 vacancies on the Alliance, but they hoped to have those filled within the next month. Ms. Barton-Mullins stated that this had been an informative year for the Alliance; they mapped out their goals, accomplished two neighborhood street faires, and hope to have 2 more this year. The Police Chief had asked all members of the Alliance to participate in ride-alongs. The Alliance formed sub-committees which focus on the following areas: research reader boards/information signs in order to better inform the public of activities in Fairview; assist the City with code enforcement; research TriMet bus service in the City to determine if it was adequate; and look into creating a community garden. In addition, many Alliance members are interested in helping out in obtaining public input for the Comprehensive Plan. Ms. Barton-Mullins reported that reader boards were too expensive, so perhaps wooden cases could be constructed around the City to post notices. Ms. Barton-Mullins concluded by stating that the Alliance would like to continue as a committee; they felt their time was very well spent and were excited about the sub-committees. One of their biggest frustrations in the beginning was the lack of direction as they thought Council was supposed to give them directions and they were to follow through. Ms. Barton-Mullins added that the committee was available to be used by the Council.

Councilor Raze asked what the Alliance thought was their best accomplishment in the past year. Ms. Barton-Mullins responded that it would be a toss up between the successful street faires and the formation of the sub-committees. Councilor Raze questioned what the Alliance would most like to accomplish in 2004. Ms. Barton-Mullins responded that she would like to see the Alliance make progress with their sub-committees. Councilor Raze commented that the community garden was a great idea and already in the works. Councilor Trees asked if the Alliance meetings were open to the public so that they could bring issues forward. Ms. Barton-Mullins responded yes. Councilor Trees questioned if the Alliance Committee would be interested in assisting the City's anti-graffiti committee. Ms. Barton-Mullins responded that she would take that topic back to the committee.

Councilor Cooper stated that the concept of the Alliance was a good

idea and he likes the projects that they will be pursuing. Councilor Cooper suggested that the City Newsletter might be a good avenue to use in placing more emphasis on the Alliance.

Council concurred that they would like to see the Citizen/Council Alliance Committee continue to meet.

## **V. STAFF REPORTS**

### **A. Police**

Ken Johnson, Chief of Police, reported that the armed robbery that had occurred at Five Star Storage had been cleared; an arrest had been made and the individual has been linked to 20 robberies in the Portland region. Chief Johnson stated that the Police Department was in the process of taking over the responsibility of Code Enforcement; they hope to meet with each Councilor in the future to discuss their concerns regarding Code Enforcement. Chief Johnson added that the Department was looking into phasing in black and white police cars as a study was conducted where a police department received complaints from the citizens that they never see the police on patrol; black and white cars simply provide more recognition. Chief Johnson reported that two new Reserve Officers had been sworn in.

### **B. Public Works**

Director Cochran reported that staff was working to develop some restroom facilities at Salish Ponds. Two construction projects will occur in the City within the next two months: Reservoir #3 on Halsey Street and the Community Center Plaza. The Community Garden will be located in the southeast corner of Park Cleone where the old horseshoe pits currently are. Spring Clean-up will take place on May 5<sup>th</sup>, and the Alliance Committee might be helpful at that event.

Councilor Raze stated that he hated to see a part of Park Cleone be destroyed for the Community Garden and that perhaps under the power lines would have been a better location. Councilor Raze asked how the water for the Community Garden would be handled. Director Cochran responded that the water would be metered but not charged.

### **C. Community Development**

Director Andersen reported that staff was working on the following items: completion of the Type I code interpretation process (23 applications had been received out of 34), with all but two interpretations showing that there was no parking problem, and the remaining two issues were easily accommodated through the shared parking facility that is available, and there is parking capacity for a new building; worked with Fairview Lake Property Owners Association which has decided to use the Council Chamber for their annual meetings and in which we have a good working relationship; the Governor's Office and the Oregon Department of Economic and

Community Development have been meeting with staff and the owners of the proposed Townsend Business Park and are actively involved in a variety of activities which we hope will bring new business to our community; working on the Fairview Marine Supply site code enforcement issues (currently in talks with property owner and have sent a letter stating they must be in compliance within a couple weeks or the City will take legal action).

Councilor Raze asked if part of the problem at Fairview Marine Supply was contamination of the creek. Director Andersen responded that they have not found that to be a concern, but DEQ would be contacted and asked to perform a test on the creek water.

**D. Finance**

Laura Zentner, Finance Director, reported that most of her time has been spent working on the budget. Staff has completed a reference check on a new telecommunications provider with all feedback being positive; the City will save \$12,000 over the next year with the new provider. Director Zentner stated that one of her goals when she joined the City was to take the Finance Department to the next level with several projects already being completed: purchase of a signature plate for the City Administrator, new strong internal controls put in place, and a Leave Request form was prepared for staff so that all leave is pre-approved.

**E. City Administrator**

Administrator Briggs reported that County Commissioner Maria Rojo de Steffey would present the County Roads Study to the Council on March 5th. Key Bank and the West Gorge Chamber of Commerce will be sponsoring an East County Economic Summit on Friday, March 5th, and Council should contact Recorder Huson if they are interested in attending.

**F. City Attorney**

Attorney Beery stated that their written report was before the Council, and that they have been working with staff on new stormwater regulations which will be very comprehensive. In addition, code enforcement continues to be an area where they are working with staff.

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

Councilor Cooper reported that he had attended a program at the Fairview-Columbia Library for children which was excellent, and that the Columbia Corridor Association would be holding a networking fair in the near future. Director Andersen commented that the City would participate in that fair.

Councilor Raze stated that the renovation of the Heslin House was moving slowly this time of year, and that a Boy Scout going for Eagle status was looking for building materials.

Councilors Cornelius, Owen, and Trees had no reports or concerns.

Mayor Weatherby reported that he had attended a meeting with the Governor of Oregon.

**VII. ADJOURNMENT**

Councilor Owen moved and Councilor Raze seconded the motion to adjourn. Mayor Weatherby adjourned the meeting at 8:23pm.

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