

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

November 17, 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 Steve Owen
Councilor James Raze
Councilor Larry Cooper
Councilor Jim Trees

STAFF PRESENT: Jan Wellman, City Administrator
Ken Johnson, Chief of Police
Bob Cochran, Public Works Director
Laura Zentner, Finance Director
John Andersen, Community Development
Director
Pam Beery, City Attorney
Caren Huson, City Recorder

**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 Trees requested that Ordinances 12 and 13 be removed from the Consent Agenda for discussion.

Councilor Trees stated that it appears as though there were two parts to the International Building Code: State regulations and local regulations. Councilor Trees commented that he was concerned about the local regulations as written as he feels there were many things that the citizens of Fairview should be aware of and that a public hearing should be held on the ordinance. Councilor Trees read from Ordinance 13-2004, 15.35.090.E.and F. where it states that "the administrative enforcement fee for inspection violations shall be established by Council" and "must obtain a Building Inspection License from Gresham FES and pay a fee for that inspection, as established by Council resolution." John Andersen, Community Development Director, stated that the text was required by the City of Gresham. The City of Fairview contracts with Gresham for fire

services and they are the final say for Fire Code regulations. The Oregon State Fire Marshal actually defers to the City of Gresham. Director Andersen explained that Ordinance 13-2004 was provided by the City of Gresham; Fairview only made one change regarding appointment by City Council instead of Fire Marshal; other than that, the City of Fairview does not have a choice. Councilor Trees asked why Fairview Council resolution is mentioned in the ordinance. Director Andersen responded that the Fairview Council may set the fee for failure to abate Oregon Fire Code regulations. Pam Beery, City Attorney, stated that it does appear by the ordinance that a special business license inspection would occur, but Fairview Council would decide on that fee and provide a public hearing for considering that fee. Councilor Trees stated that he felt the ordinance was not clear and that it does not refer to the fact that Village Street merchants are excluded.

Councilor Cornelius commented that he also was confused when he first read the ordinance; he has some concerns about the same sections that Councilor Trees referred to. Councilor Cornelius questioned what the building inspection license required by Gresham Fire was. Director Andersen responded that the ordinance is referring to the recent process Council approved in which the Fire Marshal and building inspectors review business license requests. City Attorney Beery concurred, adding that she thinks there is an error in the text of the ordinance however; it should read a "business" license inspection, not a "building" license inspection as there is no building license through Gresham required. Councilor Cornelius stated that he would like to compare, side-by-side, Fairview's existing Code and this proposed new language.

Councilor Owen questioned if there was a timeframe of having the ordinances approved. Director Andersen responded that the State of Oregon is enforcing the International Building and Fire Codes currently. Councilor Owen asked if any fees would be determined by Fairview Council or Gresham Council. Director Andersen responded that the Fairview Council would set the fees. Councilor Owen questioned if there would be a problem in viewing the old and new language side-by-side. Director Andersen responded that that was currently before Council; the old language has been struck through. Councilor Owen commented that this was a complex issue and confusing. Director Andersen mentioned that the City of Fairview basically defers to Gresham who provides the service and this is what they were requiring.

Mayor Weatherby asked if Fairview Council could change the wording in Section F. to read three months instead of twelve months.

Director Andersen responded that he would have to talk with Gresham.

Councilor Trees suggested that this topic be covered in a Work Session with Gresham. Council really needs to understand the ordinances before they approve them. Director Andersen commented that the challenge will be Gresham as they have adopted this language for their own city, and the cities that contract with Gresham need to follow their regulations.

Councilor Owen moved and Councilor Cornelius seconded the motion to table this item for a future Council Work Session.

AYES: 7
NOES: 0
ABSTAINED: 0

IV. PUBLIC HEARING

A. RESOLUTIONS 32, 33 AND 34-2004 Rate Increases for Sanitary Sewer, Water and Stormwater

Laura Zentner, Finance Director, reported that on November 3, 2004, the Council held a work session in which rate changes were discussed for sanitary sewer, water and stormwater. Staff and Ray Bartlett of Economic & Financial Analysis (EFA) presented updated utility financial plans and answered Council questions. Director Zentner stated that the City annually reviews its utility rates and charges for sanitary sewer, water, and stormwater services. The City retained EFA to review utility rates. In their report, EFA reviewed the monthly rates currently being charged and recommended a four percent increase in sanitary sewer charges in both January 2005 and January 2006, a three percent increase in both the water and stormwater charges in both January 2005 and January 2006.

Ray Bartlett added that the increase to the average utility customer would amount to about \$1.99 a month.

Councilor Raze commented that no one likes rate increases. Several years ago, the City reviewed rates and had a tremendous increase; it was decided at that point that rates should be reviewed every other year so that any increases were not exceptionally high.

Councilor Trees asked what the increase would amount to a year for the average utility customer. Mr. Bartlett responded that it would be about \$24.00 additional a year. Councilor Trees questioned why the City was increasing its water reservoir capacity since we lost Portland Hospital Laundry which used 15% of our water. Bob Cochran, Public Works Director, responded that the latest reservoir was designed to furnish water to Fairview at build-out. Councilor Trees asked if it would be possible that water rates could decrease in the future. Mr.

Bartlett responded that it was possible.

Mayor Weatherby opened the public hearing; receiving no comments, Mayor Weatherby closed the public hearing.

Councilor Owen moved and Councilor Cornelius seconded the motion to approve Resolution 32-2004, A RESOLUTION REVISING SEWER SERVICE CHARGES RELATING TO THE FAIRVIEW SEWER SYSTEM.

AYES: 7
NOES: 0
ABSTAINED: 0

Councilor Owen moved and Councilor Lillard seconded the motion to approve Resolution 33-2004, A RESOLUTION REVISING WATER SERVICE CHARGES RELATING TO THE FAIRVIEW WATER SYSTEM.

AYES: 7
NOES: 0
ABSTAINED: 0

Councilor Owen moved and Councilor Lillard seconded the motion to approve Resolution 34-2004, A RESOLUTION REVISING STORMWATER SERVICE CHARGES RELATING TO THE FAIRVIEW STORMWATER SYSTEM.

AYES: 7
NOES: 0
ABSTAINED: 0

V. COUNCIL BUSINESS

**A. SELECTION OF
TECHNICAL
ASSISTANCE
Industrial Lands
Master Plan**

Eric Underwood, Fairview Economic Development Specialist, reported that the City was recently awarded a grant from the Department of Land Conservation and Development in the amount of \$40,000 for purposes of developing an industrial lands master plan. The industrial lands master plan project will incorporate concepts regarding best use and design standards for developable and re-developable industrial land within the City. Key elements will include structure design, site design, impact analysis, and public input. The project will identify measures that serve to attract industry and to create a program for sustainable industrial development; it will incorporate the City's desires for a balanced mix among industrial development needs and long-term economic/environmental

concerns.

Mr. Underwood stated that the City received two proposals for technical assistance in developing the Industrial Lands Master Plan: one by ECONorthwest & Group Mackenzie, and the other by the team of Johnson Gardner & Benkendorf. After extensive review of each proposal, staff is recommending the team of Johnson Gardner & The Benkendorf Associates.

Councilor Trees asked who would perform the traffic study associated with the project. Mr. Underwood responded that it would probably be Group MacKenzie.

Councilor Owen questioned what would be the process of public input during the study. Mr. Underwood responded that that is yet to be determined, but he knows that public workshops will be held. Councilor Owen recommended that Mr. Underwood contact the Citizen/Council Alliance Committee to assist in public outreach for the project.

Councilor Cooper stated that he had reviewed both proposals and he agrees with staff's recommendation, adding that Mr. Underwood is to be commended for spending public money wisely.

Councilor Cornelius commented that public and Council involvement was absolutely needed in the process as the Port of Portland is one of the property owners in the industrial lands area of the City and we do not want an intermodal rail facility. Mr. Underwood responded that extensive public involvement would occur in the project. Councilor Cornelius questioned how Measure 37 would affect the project. Mr. Underwood responded that he did not know at this point, but the purpose is to increase property value, not decrease it. Councilor Cornelius stated that he was concerned about residents who live in the lake area and who will be a neighbor to the proposed industrial sites.

Mayor Weatherby asked if any of the project would involve a change in land use designations. Mr. Underwood responded no.

Councilor Owen moved and Councilor Raze seconded the motion to approve the selection of Johnson Gardner & The Benkendorf Associates proposal.

AYES: 7
NOES: 0
ABSTAINED: 0

B. RESOLUTION 35-

Ken Johnson, Chief of Police, reported that the City has two police

**2004
Surplus Property**

vehicles which are no longer usable; the City is required to surplus items by State Law. Chief Johnson commented that should Council approve the surplus of the items as submitted, that he would have the vehicles auctioned. He would then like to use the revenue received from the sale of the vehicles to paint and stripe existing patrol cars so that the department may accelerate the phase-in of the black and white police cars.

Councilor Trees stated that there were two ways to auction: sealed bid or verbal. Chief Johnson commented that the cars would be given to an auction firm to sell and that he could not request a minimum bid. Councilor Trees asked what the year of the cars were that the Chief wanted to paint. Chief Johnson responded that all cars in the fleet which are intended to be on the road in two years will be painted, and that they would start with model year 2000 and above.

Councilor Owen moved and Councilor Raze seconded the motion to approve Resolution 35-2004, A RESOLUTION DECLARING CITY ITEMS AS SURPLUS PROPERTY AND INDICATING INTENT AND METHOD FOR DISPOSAL OF SUCH PROPERTY.

AYES: 7
NOES: 0
ABSTAINED: 0

**C. APPOINTMENTS
Budget Committee**

Caren Huson, City Recorder, stated that Council had interviewed three applicants earlier in the evening for two Budget Committee vacancies; an additional applicant, Carl Malone, was not available for the interview. Recorder Huson asked that each Council member write their name on a piece of paper along with their choice of applicants for the two positions; e.g, number 1 being their first choice, number 2 being their second choice, etc. The two applicants with the lowest total scores would then be appointed to the Budget Committee. After tallying the votes, Recorder Huson read each Councilor's choices and announced that the two applicants with the lowest score to be appointed to the Budget Committee were Michelle Anderson and Lisa Barton-Mullins.

Council requested that the third choice, Teresa Gallucci, be asked if she would like to serve as first alternate for one year, and that Carl Malone be asked if he would like to serve as second alternative for one year.

VI. STAFF REPORTS

A. Police

Chief Johnson reported that Council had received a memo from City Administrator Jan Wellman which stated that a suspect was in custody regarding the recent school vandalism. Chief Johnson commended his officers for their work on the case and acknowledged

Gresham Police for their assistance in providing crime scene investigation. Chief Johnson added that he appreciates members of the Citizen/Council Alliance who assisted in the Police Department while the Police Assistant was on leave. Chief Johnson commented that he received a phenomenal offer from someone who has stated he will match up to \$1,000 in donations for the department to purchase a defibrillator.

B. Public Works

Director Cochran reported that he had signed a small contract with O'Dell Engineering who will perform tests on Well #8; the first test showed high levels of manganese. Director Cochran stated that he had also been working on Phase II of the Plaza at the Community Center.

Councilor Owen commented that Director Cochran had done a great job as Interim City Administrator; he understood that all of staff pitched in, but the burden was on Director Cochran's shoulders.

C. Community Development

Director Andersen reported that building permit activity had dropped in October due to the cooler weather. However, it was a fairly active land use permit month. Director Andersen stated that he continues to work with the Fairview Lake Property Owners Association, and that code enforcement issues were lessening.

D. Finance

Director Zentner reported that the audit for 2003/2004 was on-going and that the audit was complex and time consuming this year due to GASB 34. Director Zentner stated that she was working on the cost allocation plan with the purpose being to ensure the General Fund was not subsidizing Enterprise Funds and vice versa.

Councilor Owen questioned if the audit cost would be within the budgeted amount. Director Zentner responded yes.

E. City Administrator

Administrator Wellman thanked the Council for the opportunity to serve Fairview and he looks forward to assuming his duties. Over the last week, he has been getting a handle on the building inspection contract and has arranged a meeting with Troutdale staff. Administrator Wellman stated that he has been dealing with the fire service issue, and has been working on a job announcement as Director Andersen has indicated his plans to retire. Administrator Wellman commented that the following two days would be spent in labor negotiations with the Teamsters.

F. City Attorney

Attorney Beery stated that her written report was before the Council, and that she would like to provide Council with a brief overview of Measure 37. Measure 37 was approved by Oregon voters on November 2, 2004, and takes effect on December 2, 2004. The Measure authorizes a property owner to file a claim with a local government that enforces land use regulations. The claim must be

on a defined land use regulation and it has to restrict use of land that reduces fair market value of the property. Public nuisances that have been recognized historically are exempt from the Measure. Attorney Beery stated that the biggest job we face right away is the issue of the City being a claim receiving agency. If the City receives a claim, they have 180 days to process it. The Measure also provides for attorney fees, and there are definitions of just compensation. If the City chooses to pay a claim, it must come from funds especially allocated by the City for that purpose. Attorney Beery indicated that she plans to host a forum the following day to review the Measure in great detail, and that she will work on a draft ordinance regarding the Measure. The plan is to bring the Ordinance to Council at their December 1, 2004 meeting. Attorney Beery asked Council to consider whether or not they want to charge a fee for a Measure 37 claim. In lieu of paying a claim, the Council may decide that it wants to waive or modify a claim on a particular property. Council also has to make choices on how much detail they want the claimant to provide up front.

Councilor Cornelius commented that he had concerns on how fast we are moving on the Measure; he does not approve of what Beaverton is planning to do, and he would like to have a work session first before the ordinance is placed on a Council Agenda.

Councilor Trees stated that he would like to have the Council receive a copy of each claim that is filed against the City and what they are filed for.

Councilor Raze agreed that a work session was needed on the issue.

Councilor Lillard commented that her concern was that Fairview was not the only jurisdiction that will receive claims and wondered how jurisdictions will work together on a claim, such as a County issue that affects City properties.

Mayor Weatherby suggested that a Council work session be held on the issue on December 1st, and then a Council vote occurring at the January 5, 2005 meeting.

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

Councilor Cornelius welcomed Administrator Wellman to the City.

Councilor Owen reported that he had attended a Planning Commission meeting to educate them on the role of the Citizen/Council Alliance.

Councilor Trees stated that there will be a holiday tree lighting on December 4, 2004, beginning at 6:00pm. One of the schools will be

providing a choir.

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

Mayor Weatherby stated that he would like to appoint a Public Safety Enhancement Committee to consist of himself and Councilors Owen and Raze. Mayor Weatherby also appointed Councilor Owen and two members of the Citizen/Council Alliance, Diane Fawcett-Ohlson and Linda Vega, to serve on the Fairview Lake Environmental Issues Citizens Advisory Committee.

VIII. ADJOURNMENT

Councilor Owen moved and Councilor Raze seconded the motion to adjourn. Mayor Weatherby adjourned the meeting at 8:30pm.

AYES: 7
NOES: 0
ABSTAINED: 0

Mayor Mike Weatherby

Dated:

Caren C. Huson Quiniones
City Recorder