

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

September 1, 2004 -- 7:00pm

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

Mayor Weatherby called the meeting to order at 7:04pm.

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

STAFF PRESENT: Bob Cochran, Interim City Administrator
John Andersen, Community Development
Director
Caren Huson, City Recorder

Mayor Weatherby informed the Council and public that a Fairview family had been burned out of their home, and asked for donations for the family. There was a box at City Hall where donations could be placed and that everything was needed, from bedding to school clothes and food.

**II. CITIZEN
COMMUNICATIONS**

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

Brenda Ziegler, Fairview, stated that she understood that in Council's Executive Session earlier in the evening that the Fact Finder and Architect Reports were submitted for the Village Street Businesses and asked when the business owners might expect to receive their copy of the report. Mayor Weatherby responded that the reports would be hand-delivered the following day to all business owners on Village Street.

III. CONSENT AGENDA

Councilor Owen moved and Councilor Lillard seconded the motion to approve the Consent Agenda, consisting of: Resolution 23-2004, A RESOLUTION DESIGNATING THE CITY'S INTENT TO PERMIT USE OF ALL CITY PARKS CONSISTENT WITH AREAS GENERALLY REGARDED AS OUTDOOR RECREATIONAL AREAS UNDER ORS 105.682; an Intergovernmental Agreement with Metro for Year 15 Waste Reduction Residential Program; an Intergovernmental Agreement with Metro for the Business Assistance

Program Commercial Technical Assistance Program; and, the Minutes of August 18, 2004..

AYES: 7
NOES: 0
ABSTAINED: 0

IV. COUNCIL BUSINESS

A. WOOD VILLAGE TOWN CENTER Modification of Memorandum of Understanding

John Andersen, Community Development Director, reported that in 1997, the Cities of Fairview, Gresham and Wood Village, as well as the Multnomah Kennel Club, signed a Memorandum of Understanding (MOU) setting certain standards for the development of the Wood Village Town Center. The MOU assured compliance with the Regional 2040 Urban Growth Management Plan, as well as consistency with the plans of Fairview and Gresham. In 1999, the MOU was amended to allow for the addition of 37,000 square feet to the Fred Meyer store, which had been limited to 100,000 square feet. Director Andersen stated that the developer of the Wood Village Center has tried diligently, without success, to attract several small or medium size businesses to locate next to the Fred Meyer site to complete the approved master plan. Wood Village has coordinated with the City of Fairview on the review of several applications, including the most recent consideration of a change to the zoning for the office area of the Center. In all of these recent instances the two cities have worked together and agreed on the recommendation and ultimate decision reached by the City of Wood Village.

Director Andersen stated that Wood Village was now requesting a new amendment to the MOU that would allow a third big box (commercial retail use larger than 60,000 square feet) to be located in the Town Center. The 1997 MOU allowed only two "big box" stores. Working with the developer and the two cities, the project has been designed to fit within the original footprint and with the same overall appearance as approved in the original plan. The City of Gresham has raised concerns that the addition of a third big box would create problems; recent negotiations involving the Mayors of the three cities appears to have resolved those concerns for now. A revised MOU was before the Council based upon those discussions.

Director Andersen reported that Fairview staff has worked with Wood Village staff, and has received assurances regarding standards that would be met and sees in the MOU amendment that there is no change to the overall amount of commercial retail area to be allowed in the Town Center, and the big box development is required to stay within the site footprint and general appearance as approved in the original development. The original plan does not refer to a two-story building, nor is that typical of a Town Center. Since the proposed Kohl's would fit within the existing site footprint, the real effect is having one large-scale retail, rather than several medium to small-

scale retail. In the last five years, there has been little success in attracting medium to small scale development to the Center and Fairview has had its own demonstration that large scale development (Target) can be beneficial in creating the necessary commercial anchoring effect. Fairview would, in fact, benefit from more commercial retail sales in the area including an expanded retail anchor in the eastern portion of the Town Center.

Director Andersen stated that Fairview has received assurances that Wood Village will require an adequate traffic analysis and additional facilities constructed as required; such as the Wood Village Boulevard extension to Halsey. Further, they have demonstrated by their requirement that Kohl's stay within the site footprint and approved architectural design that it is their intent to honor the approved plan. And, finally, the City of Wood Village should notify all parties that no further amendments would occur without the early and continuing involvement of the other cities. Director Andersen concluded by stating that the question on how to proceed with the proposal was up to the Council.

Councilor Owen questioned why the original MOU was written. Director Andersen responded that his understanding was that in 1997 there were concerns about the character of the development and the overall design of the Town Center; Fairview had planned for their portion of the Town Center and wanted everything to be consistent between the two cities. Also, there were infrastructure concerns (sewer, water, streets) and the mechanism to be used in the decision making as Fairview wanted to be involved. Director Andersen added that since 1998, he knows that the relationship between the two cities has improved greatly. One on-going concern is the potential impact on infrastructure and the overall character of the development; however, it should be noted that the Fairview portion of the Town Center has required flexibility.

Councilor Raze commented that another reason for the original MOU was the concern of the impact on the Fairview Police Department. Councilor Raze stated that his personal feeling was that business gets business, and if there is an opportunity to gain more shopping locally for both Fairview and Wood Village citizens that he was for it.

Councilor Cornelius mentioned that he had read the original MOU and reviewed some of the records at Fairview and that it seems to him that what was supposed to happen in the Wood Village Town Center has not occurred, such as residential development, and he would like to know why.

Greg Mickelson, Wood Village Center developer, responded that a residential proposal was currently being processed on Lot 20 at the northeast end of the property. Mr. Mickelson distributed exhibits to the Council which depicted the proposed layout for Kohl's and

reported that he had been involved in the 1997 MOU and that back then, everyone had a vision for what the Town Center would look like.

In order to mitigate some of the issues, he was proposing that the exterior of Kohl's would not look like a big box building, but actually look like four smaller stores. In addition, Kohl's would fit within the original building footprint. In addition, four smaller stores are proposed around Kohl's. The "village" feel will still be maintained.

Wood Village Mayor Dave Fuller stated that the area proposed for Kohl's was originally designed for four smaller stores, such as an Old Navy, Pet Smart, etc, which has not come to fruition. Times have changed and conditions have changed since 1997; there are certain businesses that need to operate on a big box basis, and he thought those were the businesses that wanted to locate in the Town Center and that they are businesses we want. Mayor Fuller commented that Kohl's is a department store, similar to what a Meier and Frank is, and he thought East County needs it and that our citizens would rather shop locally then travel to Lloyd Center or Clackamas Center.

Councilor Owen again asked what the original reason was for the 1997 MOU. Wood Village City Administrator Sheila Ritz responded that the Wood Village zoning code, at the time, was viewed as too flexible by Fairview and Gresham and they did not like that. Currently, the Wood Village zoning code does not allow flexibility. Councilor Lillard questioned if another traffic study was needed since the Kohl's use is different than the original four retail uses. Mr. Mickelson responded that a new traffic study was currently being performed. Councilor Lillard stated that her biggest concern was traffic. Mr. Mickelson responded that the access plan originally designed works along with the circulation plan; they have maintained the same number of ingress and egress routes, and are convinced that the existing pattern works.

Councilor Raze commented that the project was market driven and he agreed with Mayor Fuller that the relationship between the two cities is improving all the time. Councilor Raze mentioned that he hoped Fairview could count on Mayor Fuller's support when it came to a new north/south arterial. Mayor Fuller stated that he believes in quality of life and people who have existing homes and businesses should be able to depend on that and not have a government agency come in and change their lives. Mayor Fuller added that he does not agree with the proposed north/south arterial plan and that he hoped that issue and the Kohl's department store could be separated. Mayor Fuller added, however, that he was always open to new ideas.

Councilor Cooper stated that the proposed project was needed for the area and that he was in favor of it.

Mayor Weatherby indicated that he supports the proposal and feels it is important for the area; he was concerned about traffic and the

extension of Wood Village Boulevard needs to occur sooner than later, and Arata Road needs to dead-end at NE 223rd Avenue. Administrator Ritz commented that those were County owned roads and the County would have to be asked as to when the work would occur.

Councilor Cornelius stated that the results of the traffic study were needed before they consider amending the MOU. Administrator Ritz mentioned that the MOU amendment was requiring the updated traffic study; there is currently nothing that requires that study to be performed. Councilor Cornelius commented that his concern was that Fairview would not have any control over the element of traffic once this amendment was signed; Wood Village would have total control over that. Mr. Mickelson explained that there would still be the requirement to maintain a Level of Service "D" and that is required for every intersection that affects the development and stated as such in the original MOU; the new traffic analysis will address the two new intersections. Councilor Cornelius stated that Kohl's was not really a department store, just clothing and some housewares similar to Mervyns, and that he would like to see some retail/commercial remain for a bakery, barber, bank, dentist, etc, as only about 30,000 square feet would be left for those retail/commercial uses. Mr. Mickelson responded that all other perimeter space originally planned will remain; all that is being proposed is combining four small to medium scale commercial uses into one larger store.

Councilor Raze stated that small uses follow big uses; big uses don't follow small uses; he felt the larger Kohl's store would attract smaller businesses. Councilor Raze explained that Council Cornelius was referring to "service" uses when he speaks of bakeries, banks, barbers, etc., and that those uses are not classified as a retail/commercial use.

Councilor Trees commented that his concern was traffic congestion on 223rd Avenue. Administrator Ritz responded that that had been considered in the original traffic analysis and the new study will update the 223rd Avenue information. Mr. Mickelson added that the new traffic study will project traffic to the year 2020, whereas the original traffic study only addressed traffic to the year 2015. In addition, the original traffic study did not include the NE 207th Avenue interchange off of I-84.

Councilor Owen questioned when the Wood Village Boulevard extension was to be completed to Halsey Street. Mayor Fuller responded that he thought it was a good idea to get the Planning Commissions of Fairview and Wood Village together to work on that and to also start hounding the County to have that work completed. Councilor Owen asked what Mayor Fuller thought about waiting until the new traffic study results were in before amending the MOU.

Mayor Fuller responded that timing was critical for Kohl's and that if they wait any longer, Kohl's may decide to move to a different location; the new traffic study would take 10 weeks to perform. Mayor Fuller reiterated that whatever the results of the new traffic study are, the developer will have to meet the required Levels of Service as stated in the original MOU.

Councilor Raze questioned if Mr. Mickelson was anticipating mitigating the NE 223rd and Halsey intersection. Mr. Mickelson responded that under the original approvals, they have two ways to solve traffic issues: the widening of Glisan Street and installation of Wood Village Boulevard, which has already occurred, and the payment of Traffic Impact Fees to the County to mitigate any other issues.

Councilor Lillard reminded the Council that Fairview had fought hard to keep Halsey down to a certain size and that we did not want to divide our City up by making Halsey 5 or 6 lanes; we want to maintain the width of Halsey Street as it currently exists. Administrator Ritz commented that that was also Wood Village's desire.

Gresham Mayor Chuck Becker stated that there was plenty of opportunities for all cities to benefit from economic development, but that we need to recognize that we may be changing the character of a Town Center with the additions of big box retailers. When you change the dynamics of four smaller stores for one larger store, you have to consider the change in clientele and where they come from; if you change to a big box store, you will draw people from greater distances. Mayor Becker commented that if you look at Gresham Station, Gresham has been able to retain a tremendous amount of retail dollars in East County and we no longer have the need for our citizens to drive to Lloyd Center or Clackamas Town Center, so he was in favor of providing more services to our citizens. Gresham has not discouraged Kohl's from coming to East County, but if we are going to draw from a larger area we need to assure that we provide adequate access for those patrons that will come to this community and that access needs to be safe. Mayor Becker referred to a 2001 County Resolution which states that the county will continue to work with the jurisdictions in identifying and pursuing improvements to 242nd Avenue and Glisan and 242nd Avenue and Stark Street. Gresham foresee some potential traffic impacts that need to be addressed to facilitate not only this development but any future retail/commercial development that is going to occur in Fairview, Gresham or Wood Village; we need to maintain a good, viable transportation system.

Ed Gallagher, Community and Economic Development Director of Gresham, stated that he has worked with Administrator Ritz on many issues regarding the proposed Kohl's. One primary concern is the future of the Town Center and its impact on infrastructure. In talking

with Wood Village, he was comfortable that the current plan was fine. We want to make it clear that we understood that 242nd and Stark and 242nd and Glisan was added into the traffic study but it would not be exempted from consideration of improvements.

Councilor Trees stated that 242nd is quite a ways from 223rd Avenue, and if you drew a circle around the Kohl's proposal, that includes quite a few intersections and streets that may need improvements. John Dorst, Deputy Director of Environmental Services in Gresham, responded that 242nd and how it relates to the development is an issue as it is an additional exit from the freeway that could be used to reach Kohl's and it will be an impacted intersection. Big box retailers do intend to draw from a longer distance, so that is why Gresham wants to look at those two particular intersections.

Councilor Cooper moved and Councilor Raze seconded the motion to accept Amendment No. 2 to the MOU with Wood Village.

Councilor Owen stated that he was against the motion on the floor and that he would like some discussion to take place on adding the intersection of 223rd and Halsey and 223rd and Glisan to the traffic analysis. Director Andersen responded that 223rd and Halsey was already in the traffic model to be analyzed.

Councilor Trees suggested that re-evaluation occur on all intersections at an equidistance from Kohl's. Director Andersen responded that a larger distance is included in the new traffic analysis to be reviewed. Mayor Weatherby asked if the intersection of 223rd and Sandy Boulevard was included in the traffic analysis. Director Andersen responded that he was not sure; a traffic analysis covers a broad distance to determine any impacts. In the Walmart Traffic Analysis, they included 207th avenue to the west, so all traffic analyses cover a large area.

Councilor Cornelius stated that he has nothing against Kohl's; his concern is about the other services that are needed in Fairview and Wood Village. Also, he was concerned that the cart is before the horse, and that the traffic analysis should be received before any decision is made on amending the MOU. If Fairview signs the MOU tonight, we will lose control over determining what can be done in respects to traffic mitigation.

Councilor Raze commented that a 10-week delay can be a deal killer and that all cities have a stake in this. Bringing on a good, new retailer to our area is important to Fairview and Wood Village; our citizens deserve to have a place to shop where they don't have to drive all the way to Gresham. Councilor Raze added that he hated to see a governing body stand in the way of progress and that he hoped Fairview could give them the support they need and move forward.

Councilor Owen stated that he has some real concerns about the 223rd and Halsey intersection and traffic impacts. He supports Kohl's, but feels they are moving too quickly on this issue. The original MOU came into play many years ago for some very good reasons and he still wants to know the reasons why the MOU occurred.

Councilor Raze mentioned that economic development is important to every city and he hated to see the Council talk out of both sides of their face; on the one hand we want economic development, yet on the other hand we want to delay it. He was confident that 223rd and Halsey would be included in any traffic study.

Councilor Lillard commented that she felt Fairview's relationship with Wood Village was tremendously important, adding that she would be voting no as she has looked at what has been happening to the area with the arrival of other big box retailers, and that there are some issues that need to be looked at and she prefers to have the traffic analysis data before voting on the amendment to the MOU.

Mayor Fuller commented that the traffic study was inherent in the MOU and the area of study is very wide. As far as delay is concerned, Kohl's has been delayed since June 2004 when Wood Village first heard that they were interested. The delay and controversy that has transpired has created some problems with Kohl's. Mayor Fuller stated that traffic studies would be performed, because if it affects Fairview, it affects Wood Village. He could not tell the Council what the results of the traffic study will be. If he was Kohl's, he wouldn't want to pay for a traffic study if he did not have support. Mayor Fuller stated that he did not see a major reason to delay the amendment and go through the process again; he asked Council to put their trust in Wood Village and that we will work together. Tonight is a demonstration that one jurisdiction should not have ultimate control over another; if Fairview had a project that they wanted to move forward on, would they give Wood Village an opportunity to veto their decisions?

Mayor Weatherby called for the vote.

AYES: 3 (Raze, Cooper, Weatherby)
NOES: 4 (Cornelius, Lillard, Owen, Trees)
ABSTAINED: 0

Motion failed.

At 9:15pm, Mayor Weatherby called for a ten minute recess.

B. RESOLUTION 24-2004

Bob Cochran, Interim City Administrator. Stated that Resolution 24-2004 was before Council, and reported that the Cities of Wood

**Wood Village Sewer
System Use and
Maintenance
Intergovernmental
Agreement**

Village and Fairview utilize common sewer lines to convey sewage to the Gresham Wastewater Treatment Plant. The two cities currently have an existing intergovernmental agreement (IGA) that addresses the common lines and the operations and maintenance of those lines; that agreement was approved by the City Councils in 1991. The Public Works Directors of both Wood Village and Fairview have realized that the agreement does not adequately address current issues, volumes, and cost sharing. With that, the Directors have drafted a new IGA to replace the 1991 IGA.

Administrator Cochran stated that the primary changes to the 1991 IGA include: 1) maintenance and capital repair to shared lines will be based on actual usage; the actual usage will be calculated using in-line flow meters placed throughout the system; and, 2) the discussion of an inflow and infiltration program that, when complete, will reduce the total flows to the treatment plant, thereby providing additional capacity in the shared sewer lines.

Councilor Cornelius questioned if there was any downside for Fairview with the proposed agreement. Administrator Cochran responded no.

Councilor Owen asked if the proposed IGA has anything to do with the development at the Wood Village Town Center. Administrator Cochran responded yes, that it has a lot to do with the 82 homes proposed and the complete build-out of everything at Wood Village Center.

Councilor Raze moved and Councilor Owen seconded the motion to approve Resolution 24-2004, A RESOLUTION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF WOOD VILLAGE FOR JOINT SEWER SYSTEM USE AND MAINTENANCE.

AYES: 7
NOES: 0
ABSTAINED: 0

**V. CITY ADMINISTRATOR
REPORT**

Administrator Cochran provided Council with a list of meetings for September and October 2004.

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

Councilor Owen commended the Citizen/Council Alliance for a successful Street Faire.

Councilor Cornelius stated that he might be able to attend the Forest Grove Fire Department tour on September 9th.

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

VII. EXECUTIVE SESSION

At 9:40pm, Mayor Weatherby adjourned into Executive Session per

ORS 192.660(2)(h) - Litigation or Litigation Likely to be Filed, and
ORS 192.660(2)(a) - Employment of Public Officers, Employees and
Agents.

Mayor Mike Weatherby

Dated:

Caren C. Huson Quiniones
City Recorder