

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

February 2, 2005 -- 5:45pm

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

Mayor Weatherby called the meeting to order at 5:45pm.

PRESENT: Mayor Mike Weatherby
Councilor Darrell Cornelius
Councilor Barbara Jones
Councilor Steve Owen
Councilor James Raze
Councilor Ken Quinby
Councilor Jim Trees

STAFF PRESENT: Jan Wellman, City Administrator
Caren Huson, City Recorder

**II. INTERVIEWS
Municipal Court Judge**

Council discussed the questions they would ask of the two Municipal Court Judge candidates.

Jim Jennings

Mayor Weatherby questioned how Mr. Jennings would feel about raising fines to the maximum allowed and what his philosophy was in reducing fines, especially as it relates to DUIs and repeat offenders. Mr. Jennings responded that the Fairview Municipal Court does not hear DUIs. Reductions in fines should be applied sparingly, but should be applied when someone has a good driving record or if there is good justification for reducing the fine. If someone works towards making amends and rectifying what they did wrong, then Mr. Jennings philosophy was to give them a break. Jailable offenses are not heard in Fairview Municipal Court.

Mayor Weatherby asked what Mr. Jennings criteria would be for continuing a case. Mr. Jennings responded that he hardly ever does, but illness would qualify or if one or the other of the parties does not show up.

Councilor Quinby asked for clarification of the quoted cap of \$500 per month. Mr. Jennings explained that the cap of \$500 is the absolute maximum he would charge a month for his services. If his fees came out less one month, the City would be billed the lesser amount. If his

fees went over \$500 a month, he would only bill the City the cap of \$500. Mr. Jennings hourly rate was \$95/hour.

Councilor Cornelius questioned what would happen if someone came before Mr. Jennings when he is acting as judge, but he had previously represented the person as an attorney in Gresham. Mr. Jennings responded that he would recuse himself from the trial and ask the City to use the services of a judge pro tem. Councilor Cornelius asked what weight Mr. Jennings gives to witnesses. Mr. Jennings responded that it was pretty easy to get the facts that he could use vs. the information that is not usable in court. Also, he was a great believer in radar. Councilor Cornelius questioned how Mr. Jennings would handle nuisance citations. Mr. Jennings responded that he does not see a lot of nuisance citations, but when he does, they take up a lot of court time. Councilor Cornelius commented that it seems that nuisance cases are continued time after time. Mr. Jennings responded that that was because of the way the City's Nuisance Code was designed; fines are levied for nuisance cases and they can be very expensive. Councilor Jones questioned how Mr. Jennings felt about sending nuisance violations to mediation. Mr. Jennings responded that he would like to see mandated mediation by someone and not paid by the City.

Sam Asbury:

Mayor Weatherby asked for Mr. Asbury's philosophy regarding fines in terms of the maximum limits allowed. Mr. Asbury responded that he would only reduce fines on a case-by-case basis; he was hesitant to say that everyone should get the maximum fine allowed by law, and yet he was hesitant to say that everyone should receive a reduction. The first-time offender could be granted some leeway in the amount of the fine. The City of Gresham has delegated the authority to the Court Clerk to reduce fines by a certain amount of first offenders which saves the City money in terms of what they must pay their judge.

Councilor Cornelius questioned if Mr. Asbury saw a conflict of interest in serving on the Fairview Planning Commission. Mr. Asbury responded that he did not see a conflict; however, if some type of land use or code enforcement issue had been before the Planning Commission and then was going to Municipal Court, he would recuse himself from that item. Councilor Cornelius asked how Mr. Asbury felt about witnesses in Municipal Court. Mr. Asbury responded that his determination would be made on a case-by-case basis.

Councilor Owen stated that in Mr. Asbury's proposal, he states an hourly charge of \$80.00 and asked if Mr. Asbury would consider placing a monthly cap of \$500.00. Mr. Asbury responded that he

would consider it; however, if for some reason he was required to spend extra time in court than usual, that he would hope Council would discuss reimbursement.

Councilor Jones commented that Mr. Asbury may see nuisance code issues in Municipal Court and asked if he would consider mediation for those cases. Mr. Asbury responded that he would need to know if mediation was required and he would need to know what leeway he would have in referring a case to mediation; his nature was to deal with things directly and not pass the buck.

Councilor Quinby asked if Mr. Asbury spoke Spanish. Mr. Asbury responded that he does speak some Spanish, but not fluently. He would not be comfortable in handling a case without an interpreter.

III. ADJOURNMENT

Mayor Weatherby adjourned the Work Session at 6:50pm.

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Mayor Mike Weatherby

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Dated:

Caren C. Huson Quiniones
City Recorder