

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

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**January 5, 2005 -- 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 Barbara Jones  
Councilor Steve Owen  
Councilor James Raze  
Councilor Ken Quinby  
Councilor Jim Trees

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

**II. SWEARING-IN  
CEREMONY**

Caren Huson, City Recorder, swore in newly-elected Council members Jim Raze, Barbara Jones, and Ken Quinby.

**III. CONSENT AGENDA**

Councilors Quinby and Jones indicated that they would be abstaining from the vote on the minutes.

Councilor Trees requested that Item C be removed from the Consent Agenda for discussion.

Councilor Quinby moved and Councilor Owen seconded the motion to approve Ordinance 3-2005, AN ORDINANCE ACCEPTING THE REVENUE SHARING PROGRAM OF THE STATE OF OREGON PURSUANT TO ORS 221.770 FOR THE FISCAL YEAR 2005-2006.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Councilor Cornelius moved and Councilor Owen seconded the motion to approve the Minutes of November 17, December 1, and December 8, 2004.

AYES: 5  
NOES: 0  
ABSTAINED: 2 (Jones, Quinby)

Councilor Trees stated that he had no problem with Ordinance 5-2005, but that he would like to see wording changed in Ordinance 6-2005, Section 15.35-090(H), by adding a sentence to the end that states, "No fee would be charged until the second reinspection."

Councilor Owen moved and Councilor Jones seconded the motion to read Ordinance 5-2005 by title only.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Recorder Huson read Ordinance 5-2005 by title only.

Councilor Owen moved and Councilor Raze seconded the motion to adopt Ordinance 5-2005, AN ORDINANCE AMENDING CHAPTER 15.05 OF THE FAIRVIEW MUNICIPAL CODE AND ADOPTING THE 2004 OREGON STRUCTURAL SPECIALTY CODE.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Councilor Owen moved and Councilor Raze seconded the motion to read Ordinance 6-2005 by title only.

AYES: 6  
NOES: 1 (Trees)  
ABSTAINED: 0

Recorder Huson read Ordinance 6-2005 by title only and indicated that since the vote to read by title only was not unanimous, that adoption of this ordinance would be considered at the next regularly scheduled Council meeting.

**IV. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**

Mayor Weatherby called for citizens wishing to speak on non-agenda items; receiving no response, the session continued.

**V. COUNCIL BUSINESS**

**A. ELECTION OF COUNCIL PRESIDENT**

Councilor Raze nominated Councilor Owen; Councilor Jones seconded the nomination. Councilor Trees nominated Councilor Cornelius; Councilor Quinby seconded the nomination.

Mayor Weatherby asked for the vote for Councilor Owen: 4 (Jones, Owen, Raze, Weatherby).

Mayor Weatherby asked for the vote for Councilor Cornelius: 3 (Cornelius, Quinby, Trees).

Councilor Owen, receiving the most votes, would continue as Council President for an additional two years.

**B. RESOLUTION 2-2005**  
**Market Drive Speed Hump**

Bob Cochran, Public Works Director, reported that before the Council was Resolution 2-2005 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.

Chad Elder, Fairview, stated that he lives on Market Drive half-way between the stop sign and Glisan Street; he works from a home office that faces Market Drive and he views traffic all day, seeing many cars exceeding 40mph. Mr. Elder commented that many traffic

surveys had been done in the area, and that cars had been clocked at 50mph. Mr. Elder mentioned that there was a good turn-out of residents at the Council meeting tonight and that everyone in the Homeowner's Association has been pushing for this for three years. Mr. Elder read a letter from Jeanne LeJeune into the record which is incorporated and attached to these minutes.

Councilor Cornelius stated that he also lives in Fairview Village, on Park Lane, and that his one concern is the bump-outs and asked whether the Homeowner's Association could live without them. Mr. Elder responded no as he did not want to have to come back before Council in a year and request another speed hump as bump-outs actually slow traffic down. In addition, a lot of people use Market Drive who do not live in the neighborhood, and the bump-out will be a choker to inform the people that they are no longer on Glisan Street. Councilor Cornelius commented that his concern with the choker was the rubber marks left on them from vehicles, the concrete being scraped, and the safety of people not even being able to see them at night. The adding of bump-outs may create some other traffic issues.

Councilor Trees indicated that he was in favor of speed control and that he has always been concerned about Market Drive and the area by the Library. Councilor Trees asked if an additional crosswalk could be added without the bump-outs as crosswalk construction would still receive CMAQ funds. Director Cochran responded that the problem would be with the handicap ramp running into the sidewalk without a smooth transition.

Councilor Raze stated that he was the one who had suggested that the speed hump request go back to the neighborhood as Council had several questions, but he thinks all questions have been answered. Councilor Raze asked Mr. Elder if the idea of no bump-outs had been asked of the neighborhood. Mr. Elder responded yes, but those most affected by the speeding traffic want to keep the bump-outs; the speed hump and bump-outs are needed.

Councilor Jones commented that, obviously, the citizens in the neighborhood have really thought about this, and they have looked at what is needed for their neighborhood. If the project meets the guidelines and requirements, then the City should go along with their desires.

Councilor Owen stated that he supports the resolution this evening as Target has donated \$5,000 to fix this problem and they have made other contributions to the City in the past; it was clear that the neighborhood wants this. Mayor Weatherby added that, philosophically, he had a problem with speed humps for emergency vehicles, but the people have spoken and this is what they want.

Garth Everhart, Holt & Everhart Inc., mentioned that the speed hump and bump-outs go beyond the Phase 4/Windstorm Park Homeowners Associations. The bump-out will allow children to cross over going west to school without having to use the crosswalk at Glisan Street; this was a benefit to the Village itself.

Lisa Barton-Mullins, Fairview, stated that the bump-out was important; the neighbors understand that there will be traffic down their street, they just want it to slow down.

Emily Pulliam, Fairview, expressed her concerns regarding the speeding on Market Drive as she is afraid that pedestrians and small children could be hit by speeders and asked the Council to please consider the resolution before them.

Councilor Owen moved and Councilor Raze seconded the motion to approve Resolution 2-2005, A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO ARRANGE FOR THE DESIGN AND CONSTRUCTION OF A "BUMP-OUTS" AND A RAISED CROSSWALK ON MARKET DRIVE IN AN EFFORT TO REDUCE TRAFFIC SPEEDS.

Councilor Cornelius stated that he did not feel the criteria had been met for the speed hump and requested that the criteria for speed humps be reviewed with allowances made for what the neighborhood feels they should have. In addition, traffic patterns are not good in Fairview Village and a review was needed of the entire Village.

Mayor Weatherby called for the vote.

AYES: 7  
NOES: 0  
ABSTAINED: 0

**C. ORDINANCE 1-2005  
Continuing Verizon  
Privilege Tax**

Jan Wellman, City Administrator, reported that in 1994, per Ordinance 6-1994, the City granted a franchise to Verizon Northwest that expired on August 31, 2004. The franchise authorized Verizon's use of City rights of way, provided conditions for that use, and required that Verizon pay to the City 7% of defined gross revenues earned in the provision of telecommunications services in the City as authorized by State law. Since expiration of the franchise, Verizon is currently paying the City under protest stating that they reserve the right to challenge the franchise fee and request a full refund. The issue centers around charging Verizon Northwest Inc based on gross revenues versus the actual cost of managing the right-of-way. Verizon is awaiting the final outcome in the Qwest litigation now on appeal at the Ninth Circuit Court of Appeals before making any

changes in its payments to cities in Oregon.

Administrator Wellman stated that Verizon has indicated that the company will not enter into negotiations toward a renewal franchise agreement with cities in Oregon pending the final outcome of the *Qwest v. Portland* litigation. Ordinance 1-2005 continues the privilege tax collected from Verizon Northwest Inc for use of the City's rights of way, and protects the City both with respect to this revenue and to management of City rights of way in the absence of a franchise agreement.

Pam Beery, City Attorney, indicated that the 7% fee is unchanged and has been in place for some time; it is the maximum allowed by law. Cell phones are not included in these calculations; only hardwire phones.

Councilor Trees commented that he did not understand why Verizon was fighting the fee as they pass it through to the consumer anyway.

Councilor Quinby stated that he has never agreed with the entire process. The City right-of-way is City property and the fee is a pass through from the phone company to the consumer, so basically the citizen is paying the City to run phone lines through their property.

Administrator Wellman indicated that public utilities receive a great benefit in using the City right-of-way; the utilities get a bargain in approaching it in this manner. Attorney Beery stated that there is value in amassing and organizing the route and there is an economy in scale to all taxpayers as it is an efficient way to receive the service. The City and Council is charged with managing these rights of way and we need these regulations to manage construction in the street. Councilor Owen moved and Councilor Jones seconded the motion to read Ordinance 1-2005 by title only.

AYES: 6  
NOES: 1 (Quinby)  
ABSTAINED: 0

Recorder Huson read Ordinance 1-2005 by title only and indicated that since the vote to read by title only was not unanimous, that adoption of this ordinance would be considered at the next regularly scheduled Council meeting.

**D. PLANNING  
COMMISSION  
APPOINTMENTS**

Recorder Huson stated that Council had interviewed six candidates for two Planning Commission vacancies on December 8, 2004. Recorder Huson commented that a ballot was before each Council member and asked them to write their name on the ballot along with their choice of applicants for the two positions; e.g, number 1 being

their first choice, number 2 being their second choice, through to number 6. The two applicants with the lowest total scores would then be appointed to the Planning Commission. After tallying the votes, Recorder Huson read that the two individuals with the lowest score to be appointed to the Planning Commission were Gary Stonewall and Ed Jones.

Councilor Cornelius moved and Councilor Quinby seconded the motion to appoint Gary Stonewall and Ed Jones to the Planning Commission for four-year terms.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Councilor Raze moved and Councilor Owen seconded the motion to appoint the third person with the lowest score as an Alternate to the Planning Commission.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Councilor Owen asked for the name of the third place candidate. Recorder Huson responded that it was Steve Kaufman.

**VI. CITY ADMINISTRATOR REPORT**

Administrator Wellman provided a list of January meetings to the Council and indicated that 13 applications had been received for the Community Development Director position. Once staff has interviewed the candidates, he would like a Council Subcommittee to participate in an interview of the top 2 or 3 candidates.

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

Councilor Cornelius had no reports or concerns, but congratulated the two new Councilors on their election.

Councilors Jones and Quinby had no reports or concerns but thanked the citizens for electing them to Council. Mayor Weatherby and Councilors Owen, Raze, and Trees had no reports or concerns.

**VIII. EXECUTIVE SESSION PER ORS 192.502(9) -Exempt Public Record**

At 8:10pm, Mayor Weatherby adjourned into Executive Session per ORS 192.502(9).

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Mayor Mike Weatherby

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Dated:

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Caren C. Huson Quiniones  
City Recorder