

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

May 18, 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
Ken Johnson, Chief of Police
Bob Cochran, Public Works Director
Laura Zentner, Finance Director
Tamara DeRidder, Community Development
Director
Paul Elsner, City Attorney
Caren Huson, City Recorder
- II. PLEDGE OF ALLEGIANCE** Mayor Weatherby led the Pledge of Allegiance.
- III. CITIZEN
COMMUNICATIONS** Mayor Weatherby called for persons wishing to speak on non-agenda items. As there was no response, the session continued.
- IV. CONSENT AGENDA** Councilor Cornelius requested that Items B and C be removed from the Consent Agenda.
- Councilor Owen moved and Councilor Quinby seconded the motion to approve the amended Consent Agenda, consisting of the Reappointment of Rich Goheen to the Mt. Hood Cable Regulatory Commission and the Minutes of April 20, 2005.
- AYES: 7
NOES: 0
ABSTAINED: 0
- Mayor Weatherby announced that Items B and C from the Consent Agenda would be moved to Council Business.

Councilor Owen requested that Item B from Council Business be removed from the agenda as he had spoken with the City Attorney who assured him that the word “present” in Council Rules would provide for Council to participate in person or electronically at Council meetings.

V. PUBLIC HEARING

**A. ORDINANCE 7-2005
Increasing PGE
Franchise Fee**

Jan Wellman, City Administrator, reported that Portland General Electric Company (PGE) has been providing electrical power service within the City of Fairview pursuant to an existing franchise agreement that runs through December 31, 2013. The City has been considering whether to increase the franchise fee being charged to PGE; the City currently charges 3.5% for the use of its rights-of-way. Pursuant to state law, ORS 221.450, the City is authorized to levy an additional privilege tax for use of its rights-of-way up to an additional 1.5%, for a total of 5%. Pursuant to Oregon Administrative Rule, OAR 860.022-0040(6), PGE could pass the cost of this additional tax on to Fairview residents, and would separately state the amount on customer bills. Administrator Wellman stated that staff was asking Council to consider increasing the compensation due from PGE for operating within the City of Fairview. The 1.5% increase is estimated to generate an additional \$60,000 per year and is proposed to become effective July 1, 2005. The City will give PGE 60 days notice as required by law. The additional revenues generated by this privilege tax will be dedicated to Public Safety expenditures. In addition, the revenues also may help to offset the loss of PGE franchise revenue which may occur from direct access purchases as the City develops its industrial lands. Large electricity users have the option of going direct access to purchase their energy. Administrator Wellman added that Ordinance 7-2005 would come before the Council again on June 1, 2005 for a second reading and adoption. Administrator Wellman stated that a revised Ordinance 7-2005 was before Council as the copy in their packet had an incorrect date listed.

Councilor Quinby asked if the City was required to provide 60 days notice to PGE, how could Ordinance 7-2005 take effect on July 1st. Administrator Wellman responded that PGE was previously notified of the City’s intent to increase the franchise fee; if the Ordinance were not to pass, staff would rescind the notice.

Councilor Trees questioned if the fee increase would not be passed through to Fairview residents. Administrator Wellman responded that

it was PGE's choice as to whether they would pass it through to the consumer. Administrator Wellman added that if the Ordinance does not pass, it would have no effect on the current Public Safety Budget or next year's budget; however, there could be problems in future years. Councilor Trees questioned if the Ordinance could be considered at a later date. Administrator Wellman responded yes.

Councilor Owen asked if the Ordinance did not pass and the City did not receive the additional \$60,000 the fee increase would generate, would some expenditure other than public safety be reduced by \$60,000. Administrator Wellman responded yes.

Councilor Cornelius commented that during Budget Committee meetings, it was determined that there was a \$750,000 increase in revenues this year and that \$33,000 in additional funds would be picked up by the City from Troutdale for inspection fees. In addition, as a result of labor negotiations, the City will see a reduction in employee health care costs by \$50,000, yet those two items just mentioned do not appear in the 2005/2006 budget as revenue for the City. Administrator Wellman responded that that was correct, but the City also has unknowns in terms of increases to health insurance during open enrollment in January 2006, which might be a hefty increase. Also, there is an unknown cost associated with the fire services contract; to be prudent, it would be better if the savings were in place. Councilor Cornelius commented that Administrator Wellman indicated that the funds from the increase would be dedicated to public safety but he did not see that stated in the ordinance; it would be pretty easy to allocate to public safety and reduce the General Fund portion of department expenses for public safety. Administrator Wellman responded that on page 2 of the Ordinance, Section 3, it states that the fee increase would be dedicated to the provision of public safety services. Councilor Cornelius stated that he did not see how Administrator Wellman could lock the fees in place for public safety. Administrator Wellman responded that any future Council could adopt an ordinance amending Ordinance 7-2005.

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

Councilor Owen moved and Councilor Jones seconded the motion to read amended Ordinance 7-2005 by title only.

Councilor Quinby mentioned that he was not in favor, as a general rule, of increasing fees, but he does understand the increase in fire services and that needs to be paid for somehow. Councilor Quinby stated that he was in favor of the franchise fee increase; Councilor Raze concurred.

AYES: 7
NOES: 0
ABSTAINED: 0

Caren Huson, City Recorder, read amended Ordinance 7-2005 by title only.

Councilor Owen moved and Councilor Quinby seconded the motion to adopt the first reading of Ordinance 7-2005.

Councilor Cornelius stated that he was opposed to Ordinance 7-2005 as public safety was a red herring and the timing was not right for this increase. There is a chance that a Fire District could be formed with its own taxing authority. The City has projected a \$750,000 increase in revenues for 2005/2006 and the increased franchise fee was an unfair tax and not necessary at this time.

Councilor Trees commented that the franchise fee increase could be considered at another time and that he was concerned about those citizens on fixed incomes.

Councilor Raze mentioned that he was in favor of the ordinance and that the fee increase could be negated in the future if a Fire District was formed.

Councilor Owen stated that a Fire District is only a discussion topic at this time; the reality is that even if a Fire District is formed, it will take a couple years before it is functional; in the meantime, fire services for those two years still need to be contracted out at an unknown amount. Councilor Owen added that he was in favor of the ordinance.

Mayor Weatherby called for the vote.

AYES: 5
NOES: 2 (Cornelius, Trees)
ABSTAINED: 0

Councilor Raze left the meeting at this time.

Mayor Weatherby indicated that he would allow public testimony at the June 1, 2005 Council meeting when Ordinance 7-2005 is on the agenda for a second reading and final action.

VI. COUNCIL BUSINESS

A. RESOLUTION 11-2005

Laura Zentner, Finance Director, reported that the Cities of Fairview, Gresham, Troutdale and Multnomah County received a grant in the

**Accept and
Appropriate Grant
Proceeds**

amount of \$750,000 from the State of Oregon. The grant award will be used to establish a combined operational law enforcement team to reduce the impact of criminal street gangs on the citizens, schools, businesses and neighborhoods of the cities of Fairview, Gresham, Troutdale, Wood Village and the adjoining unincorporated areas of east Multnomah County through law enforcement presence, operational strategies and tactics, and to conduct a thorough coordinated approach designed to enhance community livability. The City of Fairview will send an officer to this team for a period of 18 months and temporarily fill this vacancy by hiring a replacement police officer. The cost of the replacement officer will be paid for by the grant. Director Zentner stated that the General Fund would appropriate \$17,667 for fiscal year 2004-05 in Revenue, and \$17,667 in Personnel Services relating to a grant received from the State of Oregon. The grant will pay for an additional police officer for an 18 month period. The estimated expenditure for the period April 1, 2005 through June 30, 2005 is \$17,667.

Councilor Owen moved and Councilor Quinby seconded the motion to adopt Resolution 11-2005 and Exhibit A to maintain an accurate budget in compliance with Oregon Budget Law.

AYES: 6
NOES: 0
ABSTAINED: 0

**B. LABOR CONTRACT
AGREEMENT -
Teamsters Local 223**

**MEMORANDUM OF
AGREEMENT -
Fairview Police**

Officers

Association.

Councilor Cornelius stated that he had requested that the Labor Contract and Memorandum of Agreement be pulled from the Consent Agenda as he believed it was important for the citizens of Fairview to know what their employees will be compensated for. Councilor Cornelius asked Administrator Wellman to provide a synopsis of the contract and agreement.

Administrator Wellman stated that after several negotiation meetings, a tentative agreement was reached between the City and Teamsters Local 223. The tentative agreement provides for a 2% cost of living increase retroactive to July 1, 2004; that increase has already been budgeted for in the Budget Committee's Approved Fiscal Year 2005-06 budget. In the out years, the cost of living adjustments would be: 3% on July 1, 2005, 2.5% on July 1, 2006, and 2.5% on July 1, 2007.

In addition, the tentative agreement includes a change in health/dental/vision insurance coverage to the Oregon Teamsters Employers Trust G/W Plan with Dental 6, Vision 4, and the Kaiser option. The Fairview Police Officer's Association Collective Bargaining Agreement will be amended, by Memorandum of Agreement, to include reference to the same health/dental/vision insurance plan.

Councilor Cornelius moved and Councilor Owen seconded the motion to approve the City Administrator to enter into a Memorandum

of Agreement (Police) and Collective Bargaining Agreement (Teamsters) - with an expiration date of December 31, 2006 with the Fairview Police Officer's Association, and December 31, 2007 with Teamsters Local 223.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Cornelius commended the employee bargaining team and the City bargaining team for their efforts in putting together the contract; the compensation package is fair to both sides. Councilor Cornelius added that the City has good employees and they are entitled to be compensated properly.

VII. STAFF REPORTS

A. Police

Chief Johnson announced that the City reached its goal of enough money to purchase an automatic external defibrillator and added his thanks to the City Attorney who pledged \$750. Chief Johnson stated that last year, all entities worked out an agreement that each jurisdiction would receive the fine amounts for false alarms; last year the City received \$1,051, but with the new agreement, the City has received \$5,075 so far this year with three months to go. Chief Johnson reported that patrol officers were working hard to keep Fairview citizens safe, and that our two newest officers were in the Academy in Monmouth and doing great so far.

Councilor Jones requested more detail on the Bicycle Safety Program. Chief Johnson responded that the program has been very successful. Officers will reward those wearing bicycle helmets with a gift certificate from a local business, and stop children who are not wearing bicycle helmets and explain the importance. If a child's family can not afford a helmet, they are given a gift certificate for a free helmet.

Councilor Cornelius asked what the law was in regards to motorized scooters. Chief Johnson responded that the current law was very confusing as to what was legal and not legal. Chief Johnson stated that he believed the law requires individuals to wear a helmet, and that basically the same law applies to motorized scooters as it does to bicycles.

B. Public Works

Bob Cochran, Public Works Director, reported that the dedication of the Bonita Jenkins Plaza would occur on June 4th, that Reservoir #3 was almost complete, and that he has been working with CH2M Hill on water quality issues associated with Well #8. Project reviews have included the Townsend Farms Industrial Park. Mayor

Weatherby questioned what the water table was at Townsend Farm. Director Cochran responded that he did not know, but in the City's Wellhead Protection language, it is listed as Zone 1.

Councilor Quinby asked about a possible Well #9. Director Cochran responded that Well #9 would replace Wells #3 and #5 which are old and losing their capacity for water supply; Well #9 was listed in the City's Capital Improvement Plan.

C. Community Development

Tamara DeRidder, Interim Community Development Director, distributed a written departmental staff report to the Council, stating that the department had issued 240 permits since January and 39 land use applications were processed. Elise Scolnick has been hired as the permanent Associate Planner. Thermo King Northwest and Knight Transportation are very excited about coming into the City. Director DeRidder announced that the Townsend Business Park Transportation Mitigation Plan had been signed by Fairview, the County and the Townsends.

Mayor Weatherby asked if a traffic signal will be placed at 223rd and Sandy Boulevard this summer. Director Cochran responded yes, but that lane improvements would occur at a later date.

Councilor Cornelius questioned what would happen on 223rd Avenue with the impact of truck traffic from Knight Transportation. Director DeRidder responded that that would be a topic of discussion at the Council's next work session on June 1st. Councilor Cornelius requested that any information regarding traffic on 223rd north of Sandy also be provided at the Work Session.

D. Finance

Director Zentner reported that the 2005-06 Budget, approved by the Budget Committee, had been submitted to the Tax Supervisory and Conservation Commission for their review, who in turn has notified us that they will certify the budget. On June 1st, the budget will be before Council for adoption. Director Zentner stated that the Accountant I job announcement has been posted, and that the application deadline is May 27th; interviews will take place in June.

E. City Administrator

Administrator Wellman reported that the Lodges at Lake Salish would hold a "Meet the Mayor and Council" event on June 4th from 9:00am to 10:00am, and then the Bonita Jenkins Plaza dedication ceremony would occur at 11:00am. Administrator Wellman stated that the City of Troutdale Council will consider the Building Inspection Program Memorandum of Understanding at their May 24th meeting, and that we did not know what will happen after July 1st in terms of the Program. The next East Metro Cities Regional Issues Forum will be held on June 16th in the Fairview Council Chamber, with the City of Wood Village as the host. Administrator Wellman indicated that the City of Gresham was coming forward with some revised numbers in

terms of the fire services contract, and that they were now talking about a two-year ramp up with figures coming in significantly lower than the original three-year ramp-up proposal, and then applying a cost of living increase for each additional year of the contract; the contract is proposed for a 10-year period.

F. City Attorney

Paul Elsner, City Attorney, stated that their written report was before the Council, and that work with the City included code enforcement, lien apportionment, sanitary sewer, utility billings, etc.

Councilor Cornelius asked for Mr. Elsner's legal opinion on telephonic attendance at Council meetings. Mr. Elsner responded that under the terms of the public meeting law, it is recognized that telephonic conferencing is legal; there was no difference between being physically present and present technologically. Councilor Cornelius questioned whether the Council could place limitations on that as he has seen it used in other places, but a lot of rules applied in using that format. If a Councilor is not physically present at a meeting, they would not be privy to documents that are distributed during that meeting. Councilor Cornelius asked if the Council could adopt restrictions and rules as to when a Councilor may be present via telephone. Mr. Elsner responded yes, and suggested amending the Council Rules of Order.

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

Councilor Cornelius stated that he and Councilors Jones and Quinby were interested in having a work session on Council Rules in the near future.

Councilor Jones reported that the Summer on the Green event, to be held July 30th, was coming together. Quite a few vendor applications had already been received, and the headliner for the day will be Nokie Edwards. The Committee was looking for volunteers to help out on the day of the Festival and that they could contact her or the City Recorder. Councilor Jones added that the Committee was trying to make the Festival a community based event as the City has been the major sponsor for the past few years.

Councilors Owen and Trees had no reports or concerns.

Councilor Quinby reported that he had attended the East Metro Economic Alliance meeting the previous week, and that there was a good group of high-powered people around the table. Councilor Quinby stated that he had also attended a grass roots meeting in regards to the Port of Portland's proposed intermodal rail facility; Mayor Fuller of Wood Village would be putting together a presentation and flyer about how intermodal rail would affect everyone in East County. Councilor Quinby added that he had also attended a Troutdale Council Workshop where they received a presentation from Bob Bachman of the Forest Service on air pollution

and air quality.

Mayor Weatherby stated that he hoped everyone on Council could attend the June 4th "Mayor and Council Meet and Greet" at The Lodges at Lake Salish. The next meet and greet would be at Fairview Oaks/Woods.

IX. ADJOURNMENT

Councilor Owen moved and Councilor Quinby seconded the motion to adjourn. Mayor Weatherby adjourned the meeting at 8:34pm.

AYES: 6
NOES: 0
ABSTAINED: 0

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Mayor Mike Weatherby

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Dated:

Caren C. Huson Quiniones
City Recorder