

**MINUTES  
FAIRVIEW CITY COUNCIL REGULAR MEETING  
FAIRVIEW CITY HALL  
300 HARRISON  
FAIRVIEW, OREGON 97024**

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**JANUARY 7, 1998 -- 7:30pm**

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

Mayor Vonderharr called the meeting to order at 7:30pm.

PRESENT: Mayor Roger Vonderharr  
Councilor Sherry Lillard  
Councilor Mike Weatherby  
Councilor Dave McCutcheon  
Councilor Len Edwards  
Councilor James Raze  
Councilor Steve Owen

STAFF PRESENT: Marilyn Holstrom, City Administrator  
John Pettis, City Planner  
Caren Huson, City Recorder

**II. CONSENT AGENDA**

Councilor Edwards moved and Councilor Raze seconded the motion to approve the Consent Agenda, consisting of: Ordinance 1-1998, AN ORDINANCE ACCEPTING FOR THE CITY OF FAIRVIEW REVENUE SHARING PROGRAM OF THE STATE OF OREGON PURSUANT TO ORS 221.770 FOR THE FISCAL YEAR 1998-99, AUTHORIZING THE CITY TO COMPLY THEREWITH AND TO RECEIVE STATE REVENUE THEREUNDER; an Intergovernmental Agreement regarding the Clackamas County Boundary Issue; and, the Minutes of December 17, 1997.

AYES: 7  
NOES: 0  
ABSTAINED: 0

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

Mayor Vonderharr called for persons wishing to speak on non-agenda items. As there was no response, the session continued.

Marilyn Holstrom, City Administrator, informed the Council that the City Attorney, Pam Beery, had left the firm of O'Donnell Ramis Crew and formed a new law firm; since Fairview's contract is with the old law firm, the Council must decide which law firm they wish to use. Administrator Holstrom stated that a proposal was before the Council from the firm of Beery and Elsner, and that basically it was worded the same as the prior contract, except for an added list of the professionals they would contact in specialty fields. Administrator Holstrom apologized for the late notice in bringing this request before Council, but hoped Council could conduct any discussion and resolve any issues so that a decision on a law firm could be made tonight.

Councilor McCutcheon questioned how O'Donnell Ramis Crew felt about terminating the City's contract with them, should we choose to go with Beery and Elsner. Administrator Holstrom responded that the City received a formal letter from

O'Donnell Ramis Crew indicating three choices: stay with them, go with the new firm, or recruit for new attorney services. Administrator Holstrom thought that the firm was unhappy that Beery and Elsner were leaving as they are very knowledgeable, but she did not think they were very concerned about Fairview leaving as we initially chose their firm because of Beery and Elsner.

Councilor Edwards asked what the cost difference was between the two firms. Administrator Holstrom responded that the cost is the same, and any work that Beery and Elsner would have to distribute out would be billed to the City at the same rate. Administrator Holstrom added that if the Council wishes to continue using Beery and Elsner, that a new contract would be brought before Council at their next meeting.

Councilor Lillard questioned how the other cities felt which were using Beery and Elsner. Administrator Holstrom responded that the larger cities would have the item before their Councils soon, but the smaller cities have already decided to go with Beery and Elsner.

Councilor Owen asked if there were any contractual issues the City has regarding the new proposal. Administrator Holstrom responded no, as the City simply pays at an hourly rate which will remain the same as the current contract.

Mayor Vonderharr stated that his concern was that the past contract was for one year and would expire in June 1998, and he would like the new contract to be for one year from the new start date. Councilor Edwards commented that he has been very pleased at the representation the City has received from Beery and Elsner, and he thought that going out on their own will only expand their knowledge.

Councilor Edwards moved and Councilor Weatherby seconded the motion to terminate the City Attorney contract with O'Donnell Ramis Crew and enter into a new contract with Beery and Elsner, with a new one year contract to come before the Council at their next meeting, with a discussion to occur on an amicable contract.

AYES: 7  
NOES: 0  
ABSTAINED: 0

#### IV. PUBLIC HEARING

##### A.COMPREHENSIVE PLAN AMENDMENT - Sandy Boulevard

John Pettis, City Planner, presented the staff report, stating that the purpose of the public hearing was to consider a proposal by Jeff Payne to change the Comprehensive Plan Map designation and Zoning Map designation of a 14-acre property located at 20918

NE Sandy Boulevard. Planner Pettis reported that the applicant recently developed the Silent Creek manufactured housing park in Fairview (2600 NE 205th Avenue), and would like to develop another manufactured housing park of about 76 units, on a nearby property.

Planner Pettis stated that the property was presently designated by the Comprehensive Plan Map and Zoning Map for light industrial type development. Since residential development is not allowed by these designations, the applicant requests the City change them to designations which would allow a manufactured housing park use on the site. If both map designations were changed, a park could be constructed on the site after a Design Review permit was approved at a later time for the design layout. The property was presently classified by the Comprehensive Plan Map as Light Industrial. Light Industrial classified land on the

Plan Map can only be zoned M-3, Light Manufacturing. A Medium Density Residential Plan Map designation is requested. Medium Density Residential classified land on the City Plan Map can then be zoned: A-2, Apartment Residential; or A-1B, Apartment Residential/Offices; or R-4, Duplex; or, MH-2, Manufactured Housing Park.

Planner Pettis reported that the property was presently zoned, as shown on the City Zoning Map, as M-3, Light Manufacturing. M-3 zoning primarily allows light (environmentally clean) assembly, manufacturing, office development, product distribution, and warehousing. M-3 uses are also allowed in the City's heavier industrial zones (M-1 and M-2). The M-3 zoning, because it allows relatively "low impact" industrial development, is considered by the Zoning Ordinance (Section 3.421) to be appropriate for properties next to residential and commercial zoned land. The requested MH-2, Manufactured Housing Park zoning designation restricts development to: "mobile home park use in a medium-density residential environment" (Section 3.261). Currently, there are two manufactured housing parks in the City which are zoned MH-2: Quail Hollow and Blue Lake Village.

Planner Pettis concluded by stating that the Planning Commission reviewed this proposal at their December 2, 1997 meeting. After a motion to deny the request failed on a 3-3 tie vote, the Commission voted unanimously not to make a recommendation to the City council in regard to this matter.

Mayor Vonderharr opened the public hearing and stated that the public hearing would consist of the following: the applicant would make a presentation, followed by comments from his attorney; the audience would then be asked to testify, first those in favor and then those who were opposed to the proposal. Mayor Vonderharr asked that each audience participant limit their testimony to three minutes and stated that if one's testimony was identical to those before them, it was not necessary to repeat the same testimony.

Jeff Payne, P.O.Box 69253, Portland, stated that he was the applicant of the proposal and that he had grown up in the Fairview area, graduating from Reynolds High School. Mr. Payne commented that Fairview staff had been great to work with, and that he would like to develop the Willowbrook Manufactured Housing Park. Mr. Payne stated that he knew of one Fairview City Councilor who opposed manufactured home parks, but that there were residents present tonight who had the opposite opinion. Mr. Payne stated that he did believe the manufactured home park (MHP) was the right plan for the proposed property, and that there were no legal, statewide, or Metro regulations to deny his request. At this time, Mr. Payne distributed an aerial photo packet to the Council along with two letters which are attached as part of these minutes.

Mr. Payne commented this his goal was to change the City's Comprehensive Plan to allow his proposal and asked Council to keep an open mind when hearing his request. Mr. Payne stated that the staff report failed to note the 28-acre MacDonald townhouse project, the Portland/Fairview RV Park, and Kings Garden Apartments, all of which give the subject area of the City a residential neighborhood. Mr. Payne stated that the staff report indicates that his proposal is contrary to Criteria 1 of the Comprehensive Plan (Comp Plan), but there are 11 elements total in the Comp Plan and it seemed to him that those other elements would apply to his proposal. Mr. Payne mentioned that Policy 8 of the Comp Plan states that, where possible, access to industrial uses should be prohibited to residential streets, and that in regards to the Housing Element, on page 39 of the Comp Plan it states that multi-family development should occur adjacent to arterial streets and public transportation

routes. Policy 2 of the Comp Plan encourages multi-family housing on Sandy Boulevard, and in regards to the Transportation Element, his proposal meets that goal. During his report, Mr. Payne referred to the following Oregon Rules and Statutes as they apply to Manufactured Housing Parks: 197.296, 197.303(1)(c), 197.307, 197.475, and 197.480(1).

Mr. Payne reported that he had spent two hours at LCDC reviewing Fairview's file, and also engaged a law firm to reduplicate his work which he submitted in the Council's packet. Mr. Payne stated that the City originally changed the proposed site to industrial to entice the landowner to annex into the City. Mr. Payne added that since there was no directive from Metro or the State, it was in the City's ability to approve the proposed amendments.

Mr. Payne commented that he thought the City's Comp Plan was out of date and that inappropriate zoning was assigned to the proposed site; the Council should consider Goal 9 which pertains to designating enough land to meet forecasted needs as the proposed site is sandwiched between two residential areas who, he believed, did not want an industrial use between them. Mr. Payne added that the site has limited egress site lines which would be awkward for large trucks to negotiate. Mr. Payne stated that at 205th Avenue and Sandy Boulevard, there is a 40-acre parcel zoned light industrial which has been sitting on the market for six months, and reiterated the fact that his application is for immediate use of the property. Mr. Payne mentioned that he did not understand the staff's vision for the proposed site in maintaining it as industrial since it is surrounded by residential properties and manufactured housing parks. In conclusion, Mr. Payne asked the Council to approve his request.

Attorney Steve Morasch of Schwabe Williamson & Wyatt approached the podium and stated that he represented the applicant; Mr. Morasch submitted a letter into the record which is attached as part of these minutes. Mr. Morasch reported that LCDC had received notice of Mr. Payne's proposal 45 days in advance of tonight's public hearing and that he would have received a letter of objection if LCDC had had a problem with the proposal affecting Goal 9. Mr. Morasch stated that, in 1991, LCDC was concerned with Fairview's Goal 5 issues, but they were not relevant to the current proposal. Mr. Morasch quoted ORS 197.307 and 197.480(1) as they provide for "needed housing" and "providing for MHPs as an allowed use", and stated that Fairview does not have any buildable land on which MHPs could be constructed. Mr. Morasch eluded to the fact that Fairview was in violation of the above ORS chapters and that that could be remedied by approving the proposed Comp Plan designation and Zoning Map change for the Schmautz property. Mr. Morasch added that public need has been shown for additional MHPs and requested the opportunity to rebut any public opposition.

CJ Lindsay, 21100 NE Sandy Boulevard #142, approached the podium and stated that he was a homeowner in Quail Hollow Mobile Home Park. Mr. Lindsay commented that most members of the City Council had visited their park, and that the residents of the park were very proud of it as it is well managed. Mr. Lindsay mentioned that residents of the park had received word that one of the Councilors had referred to their residences as "those dam mobile homes", but the Quail Hollow homeowners take pride in their residences and park, and invited the Council to once again visit their park and see how nice a MHP could be. Mr. Lindsay stated that Fairview was growing in leaps and bounds, and that he felt the Schmautz property would be a good location for a MHP, as he would not like to see heavy industry and machinery located next door to him, with large trucks coming and going.

Sandy Bronkema, 21100 NE Sandy Boulevard #104, stated that there were 15 residents of Quail Hollow present, have lived in Fairview quite a while, and have some knowledge of traffic; their concern is to keep Fairview as nice as possible, and that there were other areas in Fairview that could be used for light industrial besides the Schmautz property. Ms. Bronkema commented that Fairview Village would contain business sites which would provide jobs, and that she would rather see another nice MHP in the Quail Hollow area. Ms. Bronkema added that she did not think light industrial would be appropriate for the subject site because of the additional traffic it would add on Sandy Boulevard and the loss that would occur of the natural beauty of the site and area.

Don Kilpatrick, 11830 SW Kerr Parkway #385, Lake Oswego, stated that he was one of the owners of the Portland/Fairview RV Park and that he was familiar with the Schmautz property. The natural terrain of the property favors, and would enhance, a residential development more so than industrial, and that it would be more appropriate to rezone the south side of Sandy Boulevard as residential to be more consistent. Mr. Kilpatrick commented that the proposed Wood Village developments would have a large impact on business and light industrial, which will interconnect with the Fairview community.

As there was no further public testimony, Attorney Morasch commented that 35 people in the audience raised their hands as being residents of the Quail Hollow MHP; however, the City Recorder counted a total of 15.

Mayor Vonderharr stated that the residents of Quail Hollow had been misled in regards to a comment from one of Fairview's Councilors regarding MHPs; Fairview has more high density development than any other City around, and are continually bombarded with developers wishing to put in high density residential. Mayor Vonderharr added that the "comment" from a City Councilor had nothing to do with the Quail Hollow MHP, but simply the fact that Fairview needed a mix of all types of development.

Councilor Weatherby stated that his concern was traffic noise from the freeway affecting a residential project on the proposed site. Mr. Payne commented that it was his intention to construct a soundwall on the property and extend it all the way to 207th Avenue. Councilor Raze commented that a representative from ODOT had stated that more is expected from a soundwall than what is actually filtered. Mr. Payne responded that an ODOT acoustical engineer had told him that soundwalls were more effective when the property slopes away from the noise, such as with the proposed parcel. Councilor Raze requested clarification regarding the original Schmautz property rezoning. Arnie Schmautz, 20918 NE Sandy Boulevard, stated that he was the owner of the property, and that quite a few years ago when Fairview wished to annex some property, a real estate friend of his recommended that he should annex into Fairview and request a zone change of his property to Light Industrial. Mr. Schmautz added that he was not enticed by the City to rezone his property to Light Industrial, and that it was he himself who had requested that zoning designation.

Councilor McCutcheon commented that Mr. Payne had eluded to the fact that Fairview could be a "bedroom community". Councilor McCutcheon stated that arterial streets are congested now, and that what was needed was more industrial zoning so that Fairview residents could live and work in the same community, without having to commute, and that a bedroom community would not work for anyone's benefit.

Councilor Owen questioned how traffic would flow from Sandy Boulevard to the proposed project, especially making a left-hand turn from Sandy Boulevard into the MHP. Mr. Payne responded that he was not sure what the plans were for Sandy Boulevard, but he would accommodate the entrance as best as he could; also, he would like to offer a Tri-Met a bus shelter on Sandy, but had not discussed the issue as yet with Tri-Met.

Councilor Edwards stated that he was the individual who had made the "comment" regarding MHPs, and apologized if he had offended anyone present, but his "comment" had nothing to do with any current MHP, but simply the need for business and industry to locate in Fairview. Councilor Edwards stated that he did not blame Mr. Payne for wanting to construct a MHP, but it was important for Fairview residents to know that it did not matter what he personally liked or not, as his decisions on the Council are based solely on the betterment of Fairview, and that all biases are set aside when he votes. Councilor Edwards commented that Mr. Morasch had stated that LCDC was not concerned with what was built on the Schmautz property, but the Council was, and nothing would stop other developers asking for the same type of rezoning. Councilor Edwards also mentioned that Mr. Morasch had stated that Fairview was illegal because we currently do not have any property zoned especially for MHPs; Fairview does not have any land currently zoned for MHPs as we have already met and exceeded the City's goal. Councilor Edwards stated that his vote would be based on whether the proposal is good for Fairview and whether it was good for Fairview to give up industrial land for a MHP, which he currently felt Fairview had its quota. Councilor Raze commented that Councilor Edwards votes for what is best for Fairview; he speaks from the heart when he talks about putting the City before his personal feelings.

Attorney Morasch commented that Councilor Edwards was correct in his comment that, if Fairview were to rezone the property, that they could be asked to again rezone industrial designated land for MHPs, but he thought that would likely take several years to happen. Mr. Morasch stated that demands change, and he did not think it was a conclusion that Fairview could end up with excess residential and not enough industrial zoned land to be in violation of the Comp Plan two to three years down the road; that issue could be addressed at that time, should it occur.

Councilor Lillard stated that a light industrial zoning designation could mean a veterinary clinic or smaller business, and not necessarily large pounding machinery; in addition, when any project is proposed, it will go before the Planning Commission who would review the proposal and then allow or disallow placement of a business. Councilor Lillard added that a comment had been made that it has taken so long to sell the proposed property as industrial, but she did not see that as a reason to amend the City's Comp Plan and Zoning Ordinance simply because a buyer is ready to purchase. Councilor Lillard commented that she did not think it would be a bad thing for the property to remain light industrial as jobs are needed in Fairview, and that she would rather live and work in Fairview instead of having to drive into Gresham for employment; Fairview needs balance.

Councilor Weatherby stated that Quail Hollow was a great MHP, and that MHPs in general are fine; the only issue before the Council is whether the proposed parcel is appropriate for rezoning.

Mayor Vonderharr reported that development in Fairview, even before the economy changed, was high density housing. Currently, Fairview is now receiving its single-family and lower density housing; industrial and service areas are occurring slowly, but are beginning to arrive. Mayor Vonderharr mentioned that almost every citizen

he speaks to in Fairview says that they are tired of going to Gresham for everything they need. Mayor Vonderharr stated that he disagreed with the comment that Fairview was out of compliance in regards to any of its zoning; LCDC does not care about providing jobs, but Fairview does, and Council decisions are based on what is best for Fairview as a whole. Mayor Vonderharr added that the Council cares about the quality of life of Fairview citizens, and that the Council decisions are based on what is best for the City as a whole; the Council would never destroy someone's neighborhood by placing an inappropriate use next door to them. Mayor Vonderharr stated that the Council is looking for a balance in Fairview, and that they have nothing against one type of housing over another.

Councilor McCutcheon moved and Councilor Raze seconded the motion to deny the proposed Comprehensive Plan Map amendment and zone change per the staff report findings.

AYES: 7  
NOES: 0  
ABSTAINED: 0

At 9:12pm, the Council took a five minute break.

## V. COUNCIL BUSINESS

### A. STATE OF CITY ADDRESS

Before he presented his State of the City Address, Mayor Vonderharr acknowledged the students present from Reynolds High School and welcomed them to the Council meeting.

Mayor Vonderharr gave the following State of the City Address:

"Growth has been the driving factor in almost all activity in the City of Fairview in 1997, much as it was the previous year. Our population exceeded five thousand two hundred (5,200) citizens, an increase of 11% over 1996. Much of the construction has been multiple-family units. As a result, most of the areas zoned for high density in our Comprehensive Plan are developed, and the areas zoned for single-family are now receiving the most activity. Commercial and industrial development has been slower, but are picking up with the completion of the Fairview freeway exit. The retail and commercial areas on Halsey Street are also seeing new development, and will start providing much needed local services and products. The NACCO Research Center expansion was the most significant development in light industrial.

Development has created a demand for expansion and improvement of all infrastructure and services in the City, and has provided much of the financial resources necessary to make those improvements; the most obvious of these being the upgrade of most of the major thoroughfares and a freeway exit into the City. Other projects included: construction of a two million gallon water storage tank; bringing another well on line; a Local Improvement District (LID) formed to construct the last sewer main necessary to complete the City sewage transmission system; and, increasing sewage treatment capacity to meet the needs of the City at buildout.

This expansion is at the Gresham Treatment Plan and is in conjunction with a Gresham construction program.

Planning the growth, development, and delivery of services, and providing needed government have put tremendous pressure on present staff. Recent budget constraints have not allowed us to increase staff levels commensurate to work loads

and growth. However, we were able to fill an administrative position in the Police Department and add one of the two planned officers for Public Safety needs. We added an Associate Planner in the Planning Department and upgraded a position in Public Works to City Engineer.

Citizen involvement has been an on-going goal of the City and increased significantly in 1997. An effective Library Committee demonstrated a strong need for library services and has secured a financial commitment from the County to meet those needs. A Parks Committee has developed a comprehensive program for park development, updated our Parks Master Plan, and continues to oversee design and construction. Finally, a Renaissance Committee developed a plan to maintain the flavor of "Old Town", but upgrade quality of life amenities such as walkways, traffic speed control, and streetlighting.

In order to continue to meet the service needs of the citizens, improve transportation, maintain livability, and enhance the education of our children, we embark on three new projects for 1998:

- °First, to build a City Hall large enough to meet the needs of today, with the ability to expand to meet future needs at minimal cost to the citizens. This will allow us to return the present City Hall building to a Community Center status.
- °Second, a push for the timely completion of the 207th Avenue Connector to Glisan Street and a push for the much overdue replacement of the Railroad Bridge on 223rd Avenue.
- °And lastly, to develop a wetlands/open spaces educational program in conjunction with the Reynolds School District and the Holt & Haugh Development Company. This project will enhance and support the environmental programs the new Woodland Elementary School is emphasizing in their curriculum. The project also is intended to develop an educated appreciation of the expansive wetlands and greenspaces the City of Fairview has preserved for the present and future generations.

Future demands which will soon require planning are the completion of any infrastructure voids, and a structure to house another fire fighting crew for areas north of Sandy Boulevard."

## VI. CITY ADMINISTRATOR REPORT

Administrator Holstrom reported that the lawsuit with Gulf Insurance regarding the waterline had been settled, with the City receiving the claim amount of \$65,000. Administrator Holstrom stated that an agreement had been reached with the Post Office regarding delivery of mail in Fairview Village, and that a letter would be sent which accepts the Post Office proposal.

Administrator Holstrom reported that under tonight's Consent Agenda, the Council had approved the Intergovernmental Agreement for the Clackamas County Boundary Change project. As part of that agreement, the five jurisdictions agreed to share the cost of contracting with consultants to complete an analysis of both the general services and financial considerations of such a change. A Steering Committee was established to guide the process, and the firms of McKeever/Morris and RFA Financial were chosen as the consultants. Administrator Holstrom commented that a formal motion was needed to accept those two firms.

Councilor Raze moved and Councilor Weatherby seconded the motion to approve the selection of the consultants of McKeever/Morris and RFA Financial as chosen

by the Clackamas County Boundary Change Steering Committee.

AYES: 7  
NOES: 0  
ABSTAINED: 0

Administrator Holstrom reported that in regards to the Clackamas County Committee, city managers had met with the consultants and established the Task Forces in which all staff would participate.

Administrator Holstrom reminded the Council that their Goal Setting session had been scheduled for January 10th at 10:00am, and that a Street Faire had been scheduled for the Quail Hollow MHP on January 28th from 6:00pm to 8:00pm.

Administrator Holstrom reported that she had made the decision to give Public Works Engineer Bob Cochran the title of City Engineer, instead of allowing CH2M Hill to retain that title.

Administrator Holstrom reminded the Council that a representative was needed to serve on the Solid Waste Citizens Advisory Committee. Mayor Vonderharr stated that he had discussed the position with Councilor Owen who had agreed to fill the liaison position; however, at Goal Setting, Mayor Vonderharr intended to discuss Committee assignments with all Council members.

Administrator Holstrom stated that at the previous night's Planning Commission meeting, a variance for Fairview Village was on the agenda. The original Village plan stated that only every other house could have a garage facing the street; the variance request intended to have seven homes in a row having the garage face the street. Administrator Holstrom reported that all neighbors were notified and were present; they opposed any change by the Planning Commission to the rules and regulations in place for Fairview Village as they like the character and quality of the homes presently built, and that they were not allowed to make changes to the plan and others should not have that ability.

## VII. MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

Councilor Lillard reported that at the last East Multnomah County Transportation Committee meeting, County Commissioner Sharron Kelley was selected as the new presiding officer and the Troutdale representative was selected as second in command. Councilor Lillard stated that Multnomah County had made a presentation regarding the funding of new road additions vs. maintenance of existing roads. The County provided an updated priority list for new road construction, and the one thing that is on the list as a priority are the railroad bridges; \$60 million is needed for the project list, but only \$1.4 million is currently available.

Mayor Vonderharr and Councilors Weatherby, McCutcheon, Owen, Raze, and Edwards had no reports or concerns.

## VIII. ADJOURNMENT

Councilor Weatherby moved and Councilor McCutcheon seconded the motion to adjourn. Mayor Vonderharr adjourned the meeting at 9:45pm.

AYES: 7  
NOES: 0  
ABSTAINED: 0

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Mayor Roger Vonderharr

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Dated:

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Caren C. Huson Quiniones  
City Recorder