

REGULAR MEETING

Oregon City, Oregon, June 1, 1988

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor Kenneth M. Mitchell	Thomas Fender III, City Manager
Commissioner David D. Spear	Jean K. Elliott, City Recorder
Commissioner Thomas F. Lemons	Edward J. Sullivan, City Attorney
Commissioner Carol A. Powell	
Commissioner Wayne G. Wilson	

It was moved by Powell, seconded by Wilson, to approve the minutes of May 12, 1988, as published.

Roll call: Lemons, Aye; Wilson, Aye; Powell, Aye; Spear, Aye; Mitchell, Aye.

This was the opportunity for citizens to present items for Commission consideration on future agendas. James Curtis, 16038 S. Depot Lane, addressed the Commission requesting volunteer annexation of his property and noting the HOPP Association support of annexation of the Parker property in its entirety. He was advised to contact Development Services to start the annexation process. Alayne Woolsey, 812 4th Street, reiterated a September 2, 1987 request of Commissioner Powell's for an update on the City's commitment to the Gateway Project. Commissioner Powell requested that a written statement be obtained from Clackamas County indicating that they would continue honoring the lapsed Dual Interest Area Agreement with the City during the interim renewal period for the agreement. Commissioner Spear requested an update on his prior request regarding parking on Seventh Street between 8th and 10th Streets on Washington. Commissioner Lemons requested a report on the condition of South End Road near Coffee Creek. He further requested that responses to Commission requests be provided all Commission members and that all Commissioners be duly notified of meetings. Commissioner Wilson requested an update on his prior request regarding skateboarding. The Manager advised this was in process. Mayor Mitchell requested a recap of revenues and expenditures regarding the Municipal Parking Lot within the next 60 days.

At this time, Mayor Mitchell presented a Certificate of Service to Theodore J. Peters, Fire Department, 20 years.

At this time, the Manager advised the Commission that he had received information regarding the Forest Grove Transfer Station having an excess of 100 tons per day of space for garbage.

Mayor Mitchell announced that the Commission would recess to convene an Executive Session per ORS 192.660 (1)(b) Litigation at 8:22 p.m. The Commission returned from Executive Session and resumed the regular meeting at 9:00 p.m.

Manager's Report No. 88-98, Proposed Withdrawal of City Annexed Properties from Clairmont and Park Place Water Districts - Public Hearing - Continued from May 4, 1988 Meeting, was presented. The report noted that the City Commission continued the public hearing on the proposed withdrawal from the May 4 meeting to the June 1 meeting, and directed staff to notify each property owner by letter. One hundred and twenty (120) property owners were notified with most of those already using City water and the withdrawal would be of no effect.

Several phone calls were received from property owners notified asking about the effect of withdrawal. They were advised that the withdrawal would bring the City into consistency with recent Attorney General opinion; that the effective date of withdrawal would be July 1, 1989; that if they were not already on City water the City would be providing water service and would reconnect the existing service at no charge to the property owner; and that if the City did not provide service by the effective date of the withdrawal the City would enter into agreement with the water district involved for continued service.

It was recommended that the City Commission approve the withdrawal and have first and second readings of the enabling ordinance. Attached was proposed Ordinance No. 88-1006 which declared and proclaimed the withdrawal of the properties from the Clairmont and Park Place Water Districts.

Notice of proposed Ordinance No. 88-1006 had been posted at City Hall, 320 Warner Milne Road; Courthouse, 807 Main Street; and, Senior Center, 615 5th Street, by direction of the City Recorder. If first reading was approved, second reading should be called and approved for final enactment to become effective June 30, 1988.

Mayor Mitchell opened the public hearing and called for audience testimony and comments. Dave Forsythe, 19231 S. Central Point Road and Margaret Hind, 19071 S. Central Point Road, inquired if this would present a change in their billing and if this would require a separate water line for Oregon City transmission. They were advised the only change would be a billing from Oregon City as opposed to Clairmont and that no water line installation was necessary.

With no further audience participation offered, the hearing was closed.

It was moved by Lemons, seconded by Spear, to approve first reading of proposed Ordinance No. 88-1006.

Roll call: Wilson, Aye; Powell, Aye; Spear, Aye; Lemons, Aye; Mitchell, Aye.

Second reading was called after which it was moved by Lemons, seconded by Wilson, to approve second reading for final enactment.

Roll call: Powell, Aye; Spear, Aye; Lemons, Aye; Wilson, Aye; Mitchell, Aye.

ORDINANCE NO. 88-1006

AN ORDINANCE WITHDRAWING REAL PROPERTY FROM CLAIRMONT AND PARK PLACE WATER DISTRICTS IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, AS HEREIN MORE SPECIFICALLY DESCRIBED.

OREGON CITY DOES ORDAIN AS FOLLOWS:

The City Commission of Oregon City, Oregon, having heretofore by Resolution No. 88-12 duly adopted and approved on the 6th day of April, 1988, fixing Wednesday, May 4, 1988, at the hour of 8:00 o'clock p.m., as the time and date for public hearing. On that date, the City Commission continued the public hearing to Wednesday, June 1, 1988 at the hour of 8:00 o'clock p.m. on the question of the withdrawal of the property hereinafter described from Clairmont and Park Place Water Districts, Clackamas County, Oregon, and all required notices relating to such hearing having heretofore been published and posted as required by the provisions of ORS 222.520 and 222.524, and the public hearing having been held by the City Commission of Oregon City pursuant to such notices;

IT IS HEREBY DECLARED AND PROCLAIMED that the following described territory to-wit:

Property described in Final Orders of Portland Metropolitan Boundary Commission numbered and dated as follows:

BOUNDARY
COMMISSION
FINAL

<u>ORDER NO.</u>	<u>DATE</u>	<u>STREET</u>	<u>WATER DISTRICT</u>
1045	04/06/77	Beavercreek Rd	Clairmont
1414	05/03/79	Warner-Parrott Rd	Clairmont
1471	09/27/79	Warner Milne Rd	Clairmont
1680	03/20/81	Molalla Ave	Clairmont
1732	09/04/81	Molalla Ave	Clairmont
1746	08/24/81	Josephine St	Clairmont
1750	10/02/81	Leland Rd	Clairmont
1651	10/09/81	Beavercreek Rd	Clairmont
1791	02/19/82	Gaffney Ln	Clairmont
1792	02/19/82	Beavercreek Rd	Clairmont
1793	04/07/82	Central Point Rd	Clairmont
1832	06/23/82	Beavercreek Rd	Clairmont
1938	09/28/83	Beavercreek Rd	Clairmont
2026	09/20/84	Meyers Rd	Clairmont
2027	09/20/84	Beavercreek Rd	Clairmont
2044	11/15/84	Molalla Ave	Clairmont
2156	10/17/85	Falcon Dr	Clairmont
2186	01/09/86	Agnes St	Park Place
2336	01/15/87	Holcomb Road	Park Place
2404	07/21/87	Molalla Ave	Clairmont
2442	10/22/87	So. Canyon Ridge Cir	Clairmont
2464	01/14/88	Molalla Avenue	Clairmont
2486	05/18/88	So. End Road	Clairmont
2506	05/18/88	Pope Lane	Park Place

being real property now within the corporate limits of Oregon City, Oregon, be and the same is hereby withdrawn from the Clairmont and Park Place Water Districts, Clackamas County, Oregon.

Read first time at a regular meeting of the City Commission held on the 1st day of June, 1988, and the foregoing was finally enacted by the City Commission this 1st day of June, 1988.

/s/ Jean K. Elliott
JEAN K. ELLIOTT, City Recorder

ATTESTED this 1st day of June, 1988.

/s/Kenneth M. Mitchell
KENNETH M. MITCHELL, Mayor

Manager's Report No. 88-102, Vacation of Unbuilt "Public Road", West of Mt. View Cemetery - Continued Hearing and Ordinance Adoption. The report noted that the City Commission, at its May 4 meeting, continued the vacation hearing to consider a request by Public Storage to receive an easement for storm drainage purposes. The City's engineering staff have reviewed this request and agree that an easement should be reserved.

Since the location of the easement will not be known exactly until Public Storage completes their project design, staff was recommending that a separate easement be accepted after the design is completed. The report continued that as you recall, there was a question of whether a 10 foot width would be adequate, or whether 20 foot would be needed, and whether Cemetery property would be used. All of these questions can be answered after the design is completed.

The main goal of this vacation is to be able to sell the property to the adjoining developer of a proposed retirement project. Staff will make sure that before any sale of property an appropriate easement is obtained. If the City Commission approves the vacation it should have the first and second reading of the attached ordinance.

It was moved by Lemons, seconded by Spear, to approve first reading of proposed Ordinance No. 88-1008.

Roll call: Spear, Aye; Lemons, Aye; Wilson, Aye; Powell, Aye; Mitchell, Aye.

Second reading was called after which it was moved by Lemons, seconded by Wilson, to approve second reading for final enactment.

Roll call: Lemons, Aye; Wilson, Aye; Powell, Aye; Spear, Aye; Mitchell, Aye.

ORDINANCE 88-1008

AN ORDINANCE VACATING AN UNBUILT "PUBLIC ROAD" WEST OF MT. VIEW CEMETERY, IN OREGON CITY, OREGON.

WHEREAS, it appears to the City Commission of Oregon ity, Oregon that on April 6, 1988, RESOLUTION NO. 88-13 was duly adopted initiating action on its own motion pursuant to ORS 271.080 to and including ORS 271.230, for the vacatoin of an unbuilt "public road" west of Mt. View Cemetery, and thereafter the City Recorder caused notice to be given by posting and publication as required by law, and the proof of said posting and publication is on file with the City Recorder, and that the matter of said vacation together with a hearing of any objections or claims to be heard and

considered concerning said vacation would be heard and considered at 8:00 PM on Thursday, May 12, 1988, in the meeting room of the City Commission in the City Hall, 320 Warner Milne Road, Oregon City, Oregon, and said hearing having been held, and it appearing no objections or claims have been filed concerning said vacation, and that the said vacation is in the public interest; now, therefore,

OREGON CITY DOES ORDAIN AS FOLLOWS:

That the following described street within the corporate limits of Oregon City, Clackamas County, Oregon, to-wit:

Part of the William Homes DLC in Section 5, Township 3 S., Range 2 E., of the W.M., in Clackamas County, Oregon, described as follows:

Beginning at the North 1/4 section corner of said Section 5; thence along the north and south center line of said Section 5, South $0^{\circ} 33'$ West, 2,642.70 feet to an iron pipe in the Northwesternly line of Gale's Park, a recorded plat; thence along said Northwesternly line South $61^{\circ} 51'$ West, 129.40 feet to the True Point of Beginning; thence parallel with the Northeastly line of Molalla Avenue, North $28^{\circ} 09'$ West, 322.02 feet; thence North $61^{\circ} 61'$ East, 50.0 feet; thence South $28^{\circ} 09'$ East, 322.02 feet; thence South $61^{\circ} 51'$ West, 50.0 feet to the True Point of Beginning.

be and the same is hereby vacated.

Read first time at a regular meeting of the City Commission held on the 1st day of June, 1988, and the foregoing ordinance was finally enacted by the City Commission on the 1st day of June, 1988.

/s/Jean K. Elliott
JEAN K. ELLIOTT, City Recorder

ATTESTED this 1st day of June, 1988

/s/ Kenneth M. Mitchell
KENNETH M. MITCHELL, Mayor

Manager's Report No. 88-104, Proposed Ordinance No. 88-1007, An Ordinance Improving a Tax on Certain Solid Waste Received for Processing Within the City of Oregon City, was presented. The report noted that for the past five years, the City of Oregon City has worked diligently with the Metropolitan Service District (Metro) to see that the Clackamas Transfer and Recycling Center (CTRC) benefitted the region's citizens. By Intergovernmental Agreement, Metro has agreed to provide protection to the residents of the City from the adverse impacts resulting from the disposal of solid waste. Unfortunately, Metro has failed to support these and other commitments to the community. Further, CTRC is managed by a private contractor who has only limited incentive to comply with the terms of the intergovernmental agreement. As a result, the City and surrounding neighborhoods continue to be burdened by adverse impacts.

Currently, Metro imposes a \$3.00/ton surcharge at CTRC which it uses at its discretion. That fee appears to be used to support Metro administrative costs. Additionally, approximately 80 percent of the solid waste brought into CTRC is transferred to St. John's Landfill where Metro charges an additional \$1.50/ton. Of this fee, 50 cents goes to the community of St. John's to compensate for any impact to the community-at-large; 50 cents is allocated to landfill reclamation; and, 50 cents to support additional landfill siting.

City staff is proposing that all commercial users of CTRC and any other City transfer site, be taxed 50 cents/ton directly to offset the burdens of this nuisance activity. Metro staff has declined to assist the City in the collection process at this juncture. Should this posture continue, the proposed fee could be raised in order to offset administrative costs so the City bears no additional burden for abatement. Appropriate financial analyses are attached for Commission information.

The report concluded that it was recommended that proposed Ordinance No. 88-1007 be adopted and implementing rules be put into place as soon as possible so as to minimize any adverse impact on the hauling community. Notice of proposed Ordinance No. 88-1007 had been posted at City Hall, 320 Warner Milne Road; Courthouse, 807 Main Street; and, Senior Center, 615 5th Street, by direction of the Acting City Recorder.

On discussion, Commissioner Powell asked regarding examination of records with the City Attorney noting they are a matter of public record. Question was asked regarding the charge being an enhancement fee with the Attorney advising this would influence the disposition of the revenue.

It was moved by Wilson, seconded by Spear, to approve first reading of proposed Ordinance No. 88-1007.

Roll call: Wilson, Aye; Powell, Nay; Spear, Aye; Lemons, Nay; Mitchell, Aye.

With no unanimous vote of the Commission members present, it was moved by Powell, seconded by Spear to continue second reading and final enactment of Ordinance No. 88-1007 to the June 9, 1988 Commission meeting.

Roll call: Powell, Aye; Spear, Aye; Lemons, Abstain; Wilson, Aye; Mitchell, Aye.

Mayor Mitchell declared the public hearing open to receive testimony.

James Ebert, 16236 S. Hunter Avenue, Secretary/Treasurer of the HOPP Association, addressed the Commission noting that if the tax is on the consumer and not on the hauler, the Association will file a class action suit. He quoted excerpts from ORS 459.005, Definitions; ORS 459.280 (1) and (2) "Disposal Site"; ORS 459.284 Use of Disposal Site Fees; and, ORS 459.320 Disposal site advisory committee; membership; terms. He concluded by reminding of the readiness to file a class action suit.

With no further input, the hearing was declared closed.

Manager's Report No. 88-99, Transfer of Appropriations for Fiscal Year 1987-88 - Resolution No. 88-32, was presented. The report noted that at the May 4, 1988 meeting, the City Commission directed that expenditures for needed items only be returned for City Commission consideration. Therefore, on the June 1, 1988 agenda, there was proposed Resolution No. 88-32 which presented changes to certain appropriations as follows:

Non-Departmental: Increase: Municipal Parking Lot construction and engineering.

Decrease: Contingency for Parking Lot.

Increase: Brush Pickup carry forward which can offset the 1988-89 tax levy.

Decrease: Brush Pickup Contingency and Election Expenses and add to carry forward for 1988-89 which can offset the 1988-89 tax levy.

Increase: To purchase current updates to the existing computer software.

Decrease: Audit expenses and word processor maintenance.

The report concluded that in order to make the transfer of appropriations as needed, it was necessary for the City Commission to approve a resolution. It was moved by Powell, seconded by Spear, to adopt Resolution No. 88-32.

Roll call: Spear, Aye; Lemons, Nay; Wilson, Nay; Powell, Aye; Mitchell, Aye.

RESOLUTION NO. 88-32

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund, and

WHEREAS, the City Commission adopted a budget for 1987-88 and by Resolution No. 87-15 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW THEREFORE BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 1st day of June, 1988.

/s/Kenneth M. Mitchell

Mayor-Commissioner

Commissioner

/s/David D. Spear

Commissioner

Commissioner

/s/Carol A. Powell

Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 88-100, Transfer of Appropriations for Fiscal Year 1987-88 - Resolution No. 88-33, was presented. The report noted that at the May 4, 1988 meeting, the City Commission continued the matter of microfiche records during fiscal year 1987-88. Therefore, on the June 1, 1988 agenda, there is proposed Resolution No. 88-33 which presented changes to certain appropriations as follows:

Non-Departmental - Increase: To microfiche general accounting records within the Finance Department.

The report concluded that in order to make the transfer of appropriations as needed, it was necessary for the City Commission to approve a resolution. It was moved by Spear, seconded by Powell, to approve Resolution No. 88-33.

Roll call: Lemons, Aye; Wilson, Aye; Powell, Aye; Spear, Aye; Mitchell, Aye.

RESOLUTION NO. 88-33

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund, and

WHEREAS, the City Commission adopted a budget for 1987-88 and by Resolution No. 87-15 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW THEREFORE BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 1st day of June, 1988.

/s/Kenneth M. Mitchell
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Wayne G. Wilson
Commissioner

Commissioner

/s/David D. Spear
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 88-103, City Initiated Street Vacation - 10th and Polk Streets - Resolution Setting Public Hearing Date, was presented. The report noted that the City had been requested by a property owner on 10th and Polk Streets to consider vacating a 5 foot unbuilt alley behind his property in order to install a fence. Correspondence on that request was attached for Commission information. City engineering staff reviewed the request and determined the alley is not needed for public purposes and could be vacated. Attached was a map showing the requested vacation.

The report concluded that because the alley could be vacated on both sides of Polk Street, it was recommended the City initiate the vacation process. The vacation meets the criteria the City uses in determining whether a vacation should be considered.

It was moved by Powell, seconded by Spear, to adopt Resolution No. 88-34.

Roll call: Wilson, Aye; Powell, Aye; Spear, Aye; Lemons, Aye; Mitchell, Aye.

RESOLUTION NO. 88-34

WHEREAS, it is the intention of the City Commission of Oregon City, Oregon, as the governing body of said incorporated City, that proceedings should be undertaken for the vacation of an unbuilt partial alley in the vicinity of 10th and Polk Streets in said City hereinafter described pursuant to ORS 271.080 to and including ORS 271.230;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that proceedings be and hereby are initiated upon its own motion for the vacation hereinafter described. The City Recorder is hereby directed to cause notice to be given as provided by law for such vacation. Thursday, July 14, 1988, at the hour of 8:00 PM in the Commission Meeting Room at the City Hall, 320 Warner Milne Road, Oregon City, Oregon, is hereby fixed as the time and place for the hearing of any and all objections or claims concerning said vacation.

That partial alley proposed for vacation is more particularly described as follows:

Parcel I: A portion of the duly recorded plat of "Beatie Addition to Oregon City" situated in Section 32, Township 2 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, being more particularly described as follows:

Beginning at the most southerly corner of Lot 2, Block 3 of said "Beatie Addition"; thence South 35° 30' West along the Northwesternly line of Taylor Street (60 feet wide) a distance of 5.00 feet to the Southwesterly line of said "Beatie Addition"; thence North 54° 30' West along said Southwesterly line a distance of 210.00 feet to the Southeasterly line of Polk Street (60 feet wide); thence North 35° 30' East along said Southeasterly line a distance of 5.00 feet to the most westerly corner of Lot 3 of said Block 3; thence South 54° 30' East along the Southwesterly line of said Block 3 a distance of 210.00 feet to the Point of Beginning. (containing an area of 1,050 square feet, more or less)

Parcel II: A portion of the duly recorded plat of "Beatie Addition to Oregon City" situated in Section 32, Township 2 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, being more particularly described as follows:

Beginning at the most southerly corner of Lot 2, Block 4 of said "Beatie Addition"; thence South 35° 30' West along the Northwesternly line of Polk Street (60 feet wide) a distance of 5.00 feet to the Southwesterly line of said "Beatie Addition"; thence North 54° 30' West along said Southwesterly line a distance of 210.00 feet to the Southeasterly line of Harrison Street (60 feet wide); thence North 35° 30' East along said Southeasterly line a distance of 5.00 feet to the most westerly corner of Lot 3 of said Block 4; thence South 54° 30' East along the Southwesterly line of said Block 4 a distance of 210.00 feet to the Point of Beginning (containing an area of 1,050 square feet, more or less).

That initiating of these proceedings by the City Commission is not to be construed as an approval of the proposed vacation.

Adopted, signed and approved this 1st day of June, 1988.

/s/Kenneth M. Mitchell
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Wayne G. Wilson
Commissioner

/s/David D. Spear
Commissioner

/s/Thomas F. Lemons
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 88-101, Red Soils Industrial Park - Lottery Grant Contract Requirements, was presented. The report noted that the State of Oregon Economic Development Department has notified the City of default of the Financial Assistance Award Contract and gave the City 15 days to correct the deficiencies. As the Commission is well aware, the deficiencies relate directly to availability of the matching funds for the project. Oregon City and Clackamas County were not successful in obtaining all of the funds necessary to improve Beaver Creek Road.

The report continued that the State was advised of the lack of funding in February and asked to approve an amendment to the Contract that would allow Beaver Creek Road improvements to be phased in as additional funding was obtained. The amendment had broad City and County support and the State was notified that construction of the on-site improvements would start immediately and the Beaver Creek Road improvements would be started as soon as the Oregon Department of Transportation never formally responded to the amendment request, but in subsequent conversation said in effect that the May 6 notice denied it.

The City and County discussed the State notice, with the County staff indicating they would attempt to get the State to reverse their position and reconsider the amendment request. Since the 15 days has expired and the State has notified the City that the Justice Department is submitting a demand letter for the \$500,000 in loan funds that were advanced to the City be returned along with the accrued interest. It's recommended that the City Commission approve the return of loan funds and agree to terminate the Financial Assistance Contract.

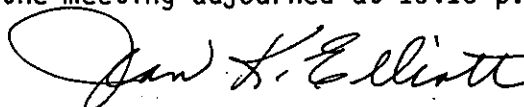
The report concluded that Development Services staff would notify the County of the City Commission's actions and begin looking at other options for the improvement and sale of Red Soils.

It was moved by Wilson to return the lottery funds as recommended in Commission Report No. 88-101. The motion failed for lack of second.

It was then moved by Lemons, seconded by Spear, that the Commission approve returning the lottery funds plus interest as stated in the original contract.

Roll call: Powell, Aye; Spear, Aye; Lemons, Aye; Wilson, Aye; Mitchell, Aye.

With no further business, the meeting adjourned at 10:10 p.m.


JEAN K. ELLIOTT, City Recorder