

**REGULAR MEETING**

Oregon City, Oregon, August 5, 1992

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 Daniel W. Fowler  
Commissioner Suzanne VanOrman  
Commissioner Robert M. Light  
Commissioner James R. Ebert

Charles Leeson, City Manager  
Edward J. Sullivan, City Attorney

The flag salute was lead by Mayor Fowler, after which he called for approval of the minutes. It was moved by light, second by Ebert, to approve the minutes of July 15, 1992.

Roll call: VanOrman, Aye; Light, Aye; Ebert, Aye; Fowler, Aye.

On the call for citizen presentations and future agenda items, Mayor Fowler presented Certificates of Appreciation to the 1992 Girls Basketball State Champions, 12 and Under B-Team. Coach Bob Kelly addressed the Commission and outlined the team's activities for the past year.

Rick McClung, Public Works Director, addressed the Commission and provided an update of the mural project for the Elevator. He presented color pictures of the proposed murals and advised that with funding approved by the Trust, the project could begin tomorrow.

Commission Report No. 92-157, Consideration of Remonstrances to Formation of Drainage Improvement District 92-02 - Resolution No. 92-41 - Public Hearing, was presented by the Manager. The report noted that on the August 5, 1992 agenda was a public hearing to consider remonstrances to the formation of a Drainage Improvement District to construct storm drainage improvements in the Fir Street area. Attached was the authorizing resolution, Amendment No. 2 to the Engineer's Report, public hearing notice and posting affidavit for Commission review.

The report continued that the District petition has been signed by five of the six affected property owners. These owners represent 83 percent of the affected property owners, 70 percent of the total area, and 83 percent of the frontage on the proposed improvement.

The project has met the local improvement district formation requirements of City Code and was being recommended for approval. Staff was unable to reach the one unsigned property owner, so it was not certain if there would be any written remonstrances filed.

The report concluded that following public hearing testimony and consideration of any written remonstrance, the Commission should consider if any modifications to the project were warranted and adopt Resolution No. 92-41.

John Block, Development Services Director, presented the staff report and advised that it was hoped the project could get underway as soon as possible.

Mayor Fowler called for abstentions. With none, he declared the public hearing open and called for testimony. He called for written objections. None were received and the hearing was declared closed.

It was moved by VanOrman, second by Light, to adopt Resolution No. 92-41.

Roll call: Ebert, Aye; Light, Aye; VanOrman, Aye; Fowler, Aye.

#### RESOLUTION NO. 92-41

#### A RESOLUTION TO CREATE A LOCAL IMPROVEMENT DISTRICT FOR THE CONSTRUCTION OF DRAINAGE IMPROVEMENTS TO SERVE THE FIR STREET AREA.

WHEREAS, a petition requesting formation of a local improvement district to construct storm drainage improvements in the Fir Street area was filed with the City Recorder on April 27, 1992, and by motion of the City Commission on July 1, 1992, referred to staff for preparation of an Engineer's Report; and

WHEREAS, at its July 15, 1992 meeting, the City Commission adopted Resolution No. 92-38, a resolution of intent to create a local improvement district. The resolution accepted the Engineer's Report and an amended report, set August 5, 1992 as the public hearing date, and directed that notices be provided to property owners; and

WHEREAS, said project to be known as Storm Drainage District No. 92-2; and

WHEREAS, a notice of the City Commission's intent to make such improvements was mailed on July 23, 1992, to the owners of properties to be assessed for the costs of such improvements; and

WHEREAS, two copies of the notice were posted within the local improvement district boundary; and

WHEREAS, a public hearing was held on August 5, 1992, for presentation of written remonstrances to formation of said district and preliminary assessments; and

WHEREAS, the requirements of the Oregon City Municipal Code, 1991, Chapter 3.08, Local Improvement District, for creating a local improvement district have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City, Oregon, that the local improvement district, known as Storm Drainage District No. 92-2 for the construction of storm drainage improvements to serve the Fir Street area is hereby created as depicted in Exhibit "A" and "B" attached hereto.

AND IT IS FURTHER RESOLVED that City staff are hereby authorized and directed to retain consulting engineers to prepare plans and specifications and final cost estimates and to proceed with the improvement as set forth in the aforesaid engineering reports.

Adopted, signed and approved this 5th day of August, 1992.

/s/Daniel W. Fowler  
Mayor

/s/James R. Ebert  
Commissioner

/s/Suzanne VanOrman  
Commissioner

/s/  
Commissioner

/s/Robert M. Light  
Commissioner

Comprising the City Commission  
of Oregon City, Oregon

Commission Report No. 92-159, Proposed Advance Finance District - Red Soils Industrial Park - Resolution No. 92-33 - Informational Hearing, was presented by the Manager. The report noted that on the August 5, 1992 agenda was a continuation of the information hearing to consider establishing an advance finance district for the Red Soils Industrial Park. The hearing was continued from the July 15 meeting because of concerns from Clackamas County.

The report continued that City staff met with County officials and are recommending some changes to the authorizing resolution. The resolution now sets a zero percent interest rate and limits the term of the district to 10 years.

The City has authority to set any interest rate and has Code authority for up to a 20-year term. Previous interest rates have been nine percent annual simple interest with no limits on term.

Because of the unique nature and circumstances of the project, staff is supportive of the changes. Attached was a copy of the July 15 Commission Report, Engineer's Report, and revised resolution for Commission review.

The report concluded that following testimony from the informational hearing, it was recommended that Resolution No. 92-33 be adopted to establish the Red Soils Advance Finance District.

The Manager advised that a letter had been received from the Director of General Services for Clackamas County indicating County objection to the formation of the District. He advised that County Counsel was in the audience.

Mayor Fowler declared the informational hearing open and called for testimony.

Scott Parker, County Counsel for Clackamas County and owner of the property known as Red Soils. He recalled that the County has been struggling for a number of years to develop the property. For the record, he advised that he had approved the letter from General Services based upon information that this was not just an informational hearing but there was an intention for adoption of the District this evening. Also for the record, he advised the County objected to the adoption of the District. He requested that the matter be continued to provide time to finish the negotiations with the Urban Renewal Agency staff.

He recounted the agreement of about two years ago to purchase four lots and an option to purchase another four lots by the Urban Renewal Agency with the Agency funding and constructing a road from Molalla Avenue to Kaen Road within three years from the date of closing. That was an important part of the consideration for the County, the City agreed and the transaction went forward. Because of reasons beyond control of either, that transaction did not occur prior to

Measure 5. All Urban Renewal Agencies are contesting the taxation limitation. That decision will be presented probably by the middle of September. Because of the lack of a court decision and the problems with an errant soils investigation, the transaction did not occur. After negotiations between the County and City, this Advance Finance District was presented.

After further City/County discussions, language was sent to the Urban Renewal Agency which set forth what the City and County thought was the deal. This was sent to the City with the City sending and objection to some of the language. Discussions are now down to Paragraph 14 in the proposed Option Agreement. He noted that the County wants the project to go but the road has been important. There is no objection to the Advance Finance District if it is set forth in the terms that staff has agreed upon.

With no further testimony, the informational hearing was declared closed.

It was moved by VanOrman, second by Ebert, to continue the hearing to August 19, 1992.

Roll call: Light, Aye; VanOrman, Aye; Ebert, Aye; Fowler, Aye.

Commission Report No. 92-160, Park Place Sewer Loan From State Revolving Fund Through the Department of Environmental Quality - Resolution No. 92-42, was presented by the Manager. The report noted that on the August 5, 1992 agenda was proposed Resolution No. 92-42 which would approve a loan from the State Revolving Fund through the Department of Environmental Quality for construction costs related to the Park Place Sewer. At the time of preparation of this report, Resolution No. 92-42 was not available but was distributed at the meeting.

The report continued that the Park Place health hazard annexation required a sewer system to correct the existing hazard. Financing of this project could be obtained by borrowing from the State Revolving Fund (SRF) which, in this instance, was managed by DEQ. Staff completed all conditions to qualify the City for this loan which would be repaid by local improvement district assessments charged to benefitted properties.

Approval of the loan was needed prior to commencement of construction which was scheduled to begin on August 3, 1992 thereby creating a necessity to authorize the loan to not further delay the project. Details of the loan agreement have not been settled; however, the loan would not exceed \$4,000,000 with interest of 3 percent and payments spread over a 20-year period.

The report concluded by noting that other funding sources for this project were a deferral loan through DEQ in the amount of \$500,000; an EPA grant of \$430,000; and, City Sewer Funds of \$200,000. If the Commission concurs that the SRF loan was in the best interest of the project, Resolution No. 92-42 should be adopted.

VanOrman referred to Section 2 regarding the loan not being issued as a tax-exempt obligation, loan shall not be secured as a general obligation of the City nor charged upon the tax revenues upon the City and asked for an explanation. The City Attorney responded that the General Fund was not liable with liability through the various LIDs.

It was moved by Ebert, second by Light, to adopt Resolution No. 92-42.

Roll call: VanOrman, Aye; Ebert, Aye; Light, Aye; Fowler, Aye.

## RESOLUTION NO. 92-42

**A RESOLUTION OF THE CITY OF OREGON CITY, OREGON, AUTHORIZING AND APPROVING OF A STATE REVOLVING FUND LOAN TO FINANCE COLLECTOR SEWERS FOR THE HOLCOMB-OUTLOOK-PARK PLACE HEALTH HAZARD ANNEXATION AREA**

WHEREAS, the City of Oregon City, Oregon (the "City") has applied for a State Revolving Fund loan between the State of Oregon Department of Environmental Quality (the "DEQ") and the City as the "Borrower" for the financing of collector sewers for the Holcomb-Outlook-Park Place Health Hazard Annexation Area Project (the "Project"); and

WHEREAS, the Finance Director has received from DEQ a draft "S R F Loan Agreement and Term Sheet" (the "Loan Agreement") wherein the DEQ agrees to loan the City funds to pay the costs of the Project (the "Loan").

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Oregon City, Oregon as follows:

**Section 1.** The City does authorize and approve of the Loan from DEQ in an amount not to exceed \$4,000,000, including capitalized interest and a debt service reserve, for the financing of collector sewers for the Holcomb-Outlook-Park Place Health Hazard Annexation Area Project. The Loan shall bear interest at three percent (3%) per annum and shall be payable in substantially equal payments commencing within one year of completion of the Project with the final payment due within twenty (20) years of the completion of the Project.

**Section 2.** The Loan shall not be issued as a tax-exempt obligation. In addition, the Loan shall not be secured as a general obligation of the City nor a charge upon the tax revenues upon the City. The City pledges to repayment of the Loan the Holcomb-Outlook-Park Place Local Improvement Assessments including all payments, prepayments and foreclosure proceeds. The City covenants with the DEQ and any assignee of the Agreement that the City shall not issue any obligation which will have a pledge or lien on the Holcomb-Outlook-Park Place Assessments which is superior, equal to or on a parity with, or subordinate to the pledge herein set forth.

In addition, in the event the Holcomb-Outlook-Park Place Assessments are insufficient to repay the Loan, the City pledges the unobligated net revenues of the city sewer system; provided however, that the City reserves the right to pledge, on a parity lien, the net revenues of the City sewer system to pay the debt service of sewer bonds, if issued, to provide funds for improving the City sewer system.

**Section 3.** The City covenants with the DEQ to charge fees in connection with the operation of the sewer system which are adequate to permit the City to collect net revenues in each fiscal year which are at least equal to the sum of 105 percent (105%) of the payments due under the Loan Agreement in that fiscal year.

**Section 4.** The City does authorize the Finance Director, acting for and on behalf of the City, to negotiate the terms of the Loan Agreement consistent with the provisions of this resolution and to execute the Loan Agreement and such other and additional documents as may reasonably be required for the consummation and closing of the Loan Agreement.

**Section 4.** The City does designate the law firm of Rankin, Mersereau & Shannon as counsel to the City in connection with the Loan Agreement.

Adopted, signed and approved this 5th day of August, 1992.

/s/Daniel W. Fowler  
Mayor

/s/James R. Ebert  
Commissioner

/s/ Suzanne VanOrman  
Commissioner

Commissioner

/s/Robert M. Light  
Commissioner

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Commission Report No. 92-163, Resolution No. 92-43 - Request for Annexation - Properties on the north and south sides of S. Lazy Creek Lane, west of Molalla Avenue, was presented by the Manager. The report noted that petitions for annexation were received from William and Digna Baker, Robert and Sonja Nichols, Harold and Betty Mitchell, Bernard Hwang, and Loretta Matulich for properties on both north and south sides of S. Lazy Creek Lane, west of Molalla Avenue. The proposed annexation includes three residences and one vacant lot. The tax lot owned by Mr. and Mrs. Baker also includes the 50-foot easement known as Lazy Creek Lane. Following annexation, the easement would be dedicated as a public right-of-way. Annexation was requested so that the properties could obtain City services and partition and subdivide. The properties total 4.71 acres (including the road easement). There were no non-consenting properties in the proposal.

The report concluded by noting that attached was proposed Resolution No. 92-43, which recommended approval of the Lazy Creek Lane Properties as a double-majority annexation. Following Commission action, the proposal would be forwarded to the Portland Metropolitan Area Boundary Commission for public hearing and final action.

John Block addressed the Commission noting that there were four ownerships involved with one ownership controlling the Lazy Creek Lane Road which is a private track and not a public road. This was one of the reasons for annexation with part of the agreement with the City would be that that area would be dedicated as road right-of-way subject to improvement. Currently, there are no sewers but on the south edge of the properties is the C-Trunk sewer currently under construction. There is a two-inch water line serving the area with inadequate fire protection. This annexation would help to bring this area to urban standards. Other properties that were contacted and expressed no interest in annexation at this time, can show up at the Boundary Commission and request to be included with the Commission having authority to include them.

Light expressed having a problem with postage stamp annexations because of providing services in this manner. He asked if Lazy Creek Lane would then become a City street. This was answered affirmatively. Block noted that City desire was to get almost island annexed to the City. The City controls all the water to island, sewers are under construction and roads need improvement. Under the current annexation laws, the City has to wait until a majority of the property owners want to be annexed. Fowler asked if, once Lazy Creek Lane is dedicated for road right-of-way, improvements would be advance financed on the properties that are not currently in the annexation. Block advised that that would be recommended for an equitable share of the costs.

It was moved by VanOrman, second by Ebert, to adopt Resolution No. 92-43.

Roll call: Light, Aye; VanOrman, Aye; Ebert, Aye; Fowler, Aye.

**RESOLUTION NO. 92-43**

**A RESOLUTION INITIATING A DOUBLE-MAJORITY ANNEXATION REQUEST TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION FOR PROPERTIES ON THE NORTH AND SOUTH SIDES OF LAZY CREEK LANE, WEST OF MOLALLA AVENUE.**

WHEREAS, the City Commission is authorized by ORS 199.490 (2)(a)(B) to initiate an annexation upon receiving consent in writing from a majority of the electors registered in the territory proposed to be annexed and the written consent from owners of more than half the land in the territory proposed to be annexed; and

WHEREAS, the City Commission has received the necessary "consents" in sufficient numbers to meet so-called "double-majority" annexation requirements listed above and has set the boundary of the territory proposed for annexation as authorized by ORS 199.490 (2)(a)(B); and

WHEREAS, the territory proposed to be annexed is presently within the Clackamas County Fire District No. 1, and would, by operation of ORS 199.510 (2)(a), be automatically withdrawn from that district immediately upon consummation of the annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Oregon City, as follows:

Section 1. That the Commission by this Resolution approves the proposed annexation with the boundaries as depicted in Exhibit "A" and directs staff to prepare a legal description for the property recommended for annexation.

Section 2. That the City Recorder is hereby directed to file certified copies of the statements of consent and this resolution with the Portland Metropolitan Area Local Government Boundary Commission at once.

Adopted, signed and approved this 5th day of August, 1992.

/s/Daniel W. Fowler  
Mayor

/s/James R. Ebert  
Commissioner

/s/Suzanne VanOrman  
Commissioner

/s/  
Commissioner

/s/Robert M. Light  
Commissioner

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Commission Report No. 92-161, Pavement Management System (PMS) - Personal Services Agreement, was presented by the Manager. The Manager requested that this item be removed from the agenda for the redrafting of the request for proposals. This was approved by consensus.

Commission Report No. 92-156, Oregon City-Metro Enhancement Committee Recommendation - Phase 1 River Access Trail Project, was presented by the Manager. The report noted that on the August 5, 1992 agenda was a recommendation from the Oregon City-Metro Enhancement Committee for \$95,000 in additional funding for the \$120,000 construction of the Phase 1 River Access Trail Project.

The report continued that the project was originally approved for approximately \$25,000 in 1990. That project could not be constructed as planned because of right-of-way issues. The project has been revised as part of a much larger four-phase project extending along both the Clackamas and Willamette Rivers from the old 82nd Drive Bridge to 5th Street.

The project includes a 10-foot wide multi-purpose concrete path 1,650 feet long, a parking area for up to 25 vehicles, and includes a day use park area. All right-of-way for the project has been obtained, project design is completed and was now ready for authorization to bid. Attached was the project cost estimate and schedule for Commission review. Plans for the project would be available at the meeting for review.

The report concluded by recommending approval of the \$95,000 of additional funding and authorizing bidding of the project.

John Block presented the staff report. Ebert requested that recognition be provided for Jim Curtis who presented the original concept some time ago. Block suggested inviting him to the dedication.

It was moved by VanOrman, second by Light, to approve the \$95,000 additional funding and authorize bidding of the project.

Roll call: Ebert, Aye; VanOrman, Aye; Light, Aye; Fowler, Aye.

Commission Report No. 92-158, Clackamette Drive Improvement - Bid Award, was presented by the Manager. The report noted that on the August 5, 1992 agenda was an Engineer's Report on the results of bidding for the Clackamette Drive Improvement Project. The report recommended that the low bid of Parker Northwest Paving in the amount of \$168,405 be awarded.

The report continued that the project would construct storm drainage, curbs, sidewalks and road widening between McDonald's and the Clackamette Park bridge and would extend and complete improvements started at McDonald's and at the entrance to the Park.

The report concluded by noting that funding was available in the Street Capital Improvement program. It was recommended that the bid be awarded to Parker Northwest Paving in the amount of \$168,405 and authorize the City Manager to execute the contract documents.

Block noted that this was part of four phases of improvements to both Clackamette Drive and Main Street. The main part of this project widens Clackamette Drive and continues the improvement that was cost-shared with McDonalds, creates a turn lane into Clackamette Park and a new entrance to the Park, constructs sidewalks, installs a drainage system to solve drainage problems at the entrance to the park and at the northerly ramp into the Oregon City Shopping Center, and sets the stage for the next phase of work which will continue on Main Street around the Shopping Center.



It was moved by Ebert, second by Light, the award to bid to Parker Northwest Paving in the amount of \$168,405 and authorize the Manager to execute the contract.

Roll call: VanOrman, Aye; Ebert, Aye; Light, Aye; Fowler, Aye.

Commission Report No. 92-162, Kelly Field Management Agreement - The Oregon Trail Foundation, Inc., was presented with the Manager requesting continuance of this matter.

Added as a late item to the agenda was Commission Report No. 92-164, Warner-Parrott Realignment Project - Right of Way Agreement. The report noted that added to the August 5, 1992 agenda was a right-of-way acquisition agreement for property along Leland Road. Right-of-Way Associates appraised the property and conducted negotiations with Lloyd E. and Larry Wagner and Vivian Brandt for a \$4,400 settlement. It was recommended that the Commission accept the agreement and authorize the Mayor and City Recorder to execute.

Block noted that this was one of two remaining rights-of-way needed for the realignment project; however, today the last right-of-way was received without condemnation. The seven properties have now been negotiated and the project was now under construction.

It was moved by Ebert, second by VanOrman, to accept the agreement and authorize the Mayor and City Recorder to execute.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

With no further business, the meeting adjourned at approximately 9:15 p.m.



CHARLES LEESON, Recording Secretary