

**CITY OF OREGON CITY  
CITY COMMISSION  
MEETING MINUTES**

**September 3, 2003**

**Mayor Alice Norris** called the regular meeting of the City Commission to order at 6:56 p.m. on September 3, 2003, at City Hall, 320 Warner Milner Road.

**Roll Call:** Commissioners Gary Hewitt, Tom Lemons, Doug Neeley, and Mayor Alice Norris were present

**Excused:** Commissioner Bob Bailey

**Mayor Norris** introduced **Ryan Kruger, Cub Scout, Oregon City Pack 501, Den 6**, who led the flag salute.

## **1.0 CALL TO ORDER**

### **• PRESENTATIONS:**

**Mayor Norris** announced that she and **Ryan Kruger**, who designed and carved a pinewood covered wagon derby car, represented Oregon City for the Mayors' Pinewood Derby, which took place last Friday at Pioneer Square in Portland. She said that they did not win in any category, although they hoped to place in the People's Choice Awards.

**Mayor Norris** mentioned that she issued a challenge to Mayor David Dodds of West Linn in Grudge Match but Oregon City lost. She reported that she and Oregon City Pack 501 would pay the agreed upon stake to West Linn: sweeping the front steps of the its City Hall, wearing a sign saying 'We love West Linn.'

**Mayor Norris** welcomed the new members of the OCPD. She administered the oath of office to **Officer Brad D. Edwards** and **Reserve Officer Jeffrey Jackson**. **Chief Gordon Huiras** introduced the new members of the Police Department and gave background information on each officer.

- **Reserve Officer Jeff Jackson**, a Beaverton High School graduate who attended Portland Community College and served previously as a reserve officer in Oregon City from 1992 to 1994. He has worked as a reserve officer and regular officer with the City of Sherwood
- **Officer Brad D. Edwards**, a North Marion High School graduate, began his law enforcement career in 1997 with the Aurora Police Department. He then transferred to Mt. Angel Police Department where he has worked for the past four years before coming to Oregon City.
- **Chief Huiras** introduced **Lt. Lisa Nunes**, a former Detective Sergeant, who would take over management of the Support Division from **Lt. Mike Jarvis**, who was retiring. He announced Lt. Jarvis' retirement ceremony on September 20.

**Mayor Norris** relayed that Dick Newman, Acting Superintendent of Oregon City School District, complimented **Officer Bob Downing** and two volunteers, who made the flow around OCHS run smoothly as students arrived at the new facility. She reported that Mr. Newman also complimented **Building Official Guy Sperb** for his help in building the new high school.

## **2.0 CITIZEN COMMENTS**

- **Don Miller, 16170 South Apperson Blvd.**

**Mr. Miller** stated that, for a year and a half, he has tried to resolve a problem with the Building Division and Code Enforcement Division regarding his neighbor, Mr. Bradley at 16171 S. Apperson Blvd., who painted cars. He provided a chart detailing what has happened.

**Mr. Miller** said that, on August 28, 2001, the Building Officer granted Mr. Bradley permits to build four buildings on his property but Mr. Bradley built a fifth building without a permit (1,700 square feet). He contended that this was the only case in the history of Oregon City where someone built five buildings in an R-8 area. He alleged that City staff never asked Mr. Bradley what he intended to do with these buildings.

**Mr. Miller** reported that Mr. Bradley installed a paint flume in one building in order to paint cars, as he taught a class on the subject at Clackamas Community College. He stated that Mr. Bradley painted cars daily for two weeks at a time.

**Mr. Miller** said that he was the only neighbor using land adjacent to Mr. Bradley's paint buildings on the east side of the property. He explained that he was retired, and spent time restoring his 100-year old Victorian home and working in his garden with his wife. He registered a complaint about having to breathe in the paint fumes that wafted over from Mr. Bradley's paint building.

**Mr. Miller** acknowledged that Mr. Bradley did not have a production paint operation but rather used the building as a workshop for his students who would work on one car at a time. He mentioned that Mr. Bradley has painted fewer than seven cars over the past year and a half. He reiterated that the chemical odors from painting and paint removal drifted over to his property.

**Mr. Miller** pointed out that Mr. Bradley's activities violated the City's intent to control this use. He asked the Commission to direct staff to terminate Mr. Bradley's automobile painting practices.

**Mayor Norris** asked Mr. Patterson to look into this matter. **Commissioner Hewitt** suggested that Mr. Patterson investigate whether this use violated the zoning laws. He asked if the Code allowed this type of activity without a home occupation or a conditional use permit.

- **Sha Spady, 17855 Alden Street, Oregon City**

**Ms. Spady** commented that her observations over the past decade of development applications for steep slopes and water resource areas have found that they have not improved (and sometimes worsened), despite the City's work on a water resources ordinance, a steep slope ordinance, and storm water management.

**Ms. Spady** expressed her frustration and her hope that development applications would better reflect the vision of community members for what happened 'on the ground.' She asked the City Commission, the Planning Commission, and the staff to convene a work session to look at the City's vision regarding sensitive developments on steep slopes, and at the practical application of the vision.

**Mayor Norris** asked **Dan Drentlaw, Community Development Director and Nancy Kraushaar, City Engineer and Public Works Director**, to discuss the Holcomb Ridge development at this time.

**Mr. Drentlaw** reported that he, Ms. Kraushaar, and other staff members visited the Holcomb Ridge subdivision in response to concerns expressed by Commissioners Neeley and Bailey. He said that he checked on wetland delineation, stream delineation, implementation of the submitted tree plan (removed and remaining), and steep slopes.

**Mr. Drentlaw** explained that the majority of the proposed lots on the approved plat had 20% to 25% slopes, and therefore did not fall under the City's steep slope ordinance. He reported that the developer did treat the small area with slopes over 25% according to the City ordinance.

**Mr. Drentlaw** acknowledged the question of whether this was the kind of development that the City wanted to see more of in the future. He raised the issue of whether the City wanted to look at the Code language in terms of more sensitivity to steep slope sites. He stated that, on the face of it, staff found that the developer has acted in conformance with Code requirements.

**Ms. Kraushaar** reported that her review of the steep slope ordinance found that the intent of the Code was to provide more protection than a literal reading of a Type II Land Use application provided. She commented that there were gaps that needed filling in. She mentioned that the City last reviewed its steep slope ordinance four years ago with the Canyon Ridge subdivision, which had also been a steep slope development. She concurred with Ms. Spady that a joint work session would be a constructive meeting.

**Ms. Kraushaar** indicated that she wanted to ensure that the Holcomb Ridge development and construction was safe from a structural and geo-technical standpoint, as that was a goal of the Code. She said that the geo-technical report showed that the developer was compacting the fill properly. She mentioned needing documentation of ancient landslides, which the developer excavated. She reported that the developer was constructing the pond (designed to the City's current storm water design standards) for detention and water quality purposes.

**Ms. Kraushaar** assured the Commission that, while the site looked disheveled, the developer had the project under control in terms of erosion requirements. She mentioned the developer's grading and utilities work. She reported that the City's Erosion Control Officer was working with the developer, as the permit required the developer to cover the site by September 30.

**Larry Patterson, Administrative Consultant**, pointed out that, although this met the letter of the ordinance, there were gaps in terms of intent, which needed clarification. He invited the Commission to take a site inspection tour.

**Mayor Norris** considered this timely, as the City was about to address its Comprehensive Plan review. **Mr. Drentlaw** pointed out that the intent of the proposed update was general policy review, while changes to ordinances took specific action. **Ms. Kraushaar** offered to provide proposed language changes to the ordinance.

**Commissioner Neeley** asked to participate in the upcoming site inspection of Holcomb Ridge. He asked to have on hand a predevelopment topographical map. He stated that, when he looked at the steepest slopes in that graded area, he saw no vegetation. He admitted that he was surprised when staff stated that the over 25% slope area met the requirement because of the restriction on what could happen on a 25%-35% grade.

**Commissioner Neeley** posed a question to **City Attorney Edward J. Sullivan**: Were steep slopes specifically defined in the ordinance to be 25% or greater? **Commissioner Neeley** read Section 17.44.060 (a) and (b), which specifically addressed his question. He noted that this was a general statement, which preceded the provisions detailing what could happen on 25% to 35% slopes.

**City Attorney Sullivan** read the definitions of "hillside," "landslide," and "unstable slopes" (Section 17.44.020). He pointed out that only "hillside" referred to any area with a slope of 25% or more, while the others referred to maps. **Commissioner Neeley** expressed his discomfort in seeing six-foot vertical cuts exposing ridges and roots.

**Mr. Drentlaw** pointed out that one of the biggest problems was that developers preferred flat building pad lots for single-family homes fronting local streets; the truth was that not all lots were nice and flat. He discussed the difficulties involved with getting developers to work more with the natural topography, instead of having flat building pads. He suggested that staff consider narrower streets during street design review for those areas not straight on a grid.

**Ms. Kraushaar** spoke to firming up what happened with slopes at less than 25%.

**Commissioner Lemons** asked why Holcomb Ridge was such an eye-sore development, as this is not the City's first steep slope subdivision. **Mr. Drentlaw** explained that it was due to the sheer size of the development, and to the developer deciding to do the entire site at once, instead of phasing it in.

**Commissioner Neeley** reminded his peers that four years ago, the City Commission turned down the Canyon Ridge subdivision, which involved areas with steep slopes (25% to 35%). He recalled that the developer challenged the Commission, and then decided to develop a different design. He stated his opinion that a degree of citizen input has disappeared from the Title III review process.

**Commissioner Neeley** recalled suggesting three years ago that the developments on steep slopes, which were within water resource overlays, go to the Planning Commission for review. He spoke to implementing citizen review of special areas with resource overlays. He commented that the neighborhood association process did not yield the citizen concerns that it could because the developers did not ask for neighborhood input.

**Commissioner Neeley** speculated that the Park Place Neighborhood Association Land Use Committee, if the developer had asked it, would have strongly objected to the Holcomb Ridge project due to the steep slopes. He reiterated that the City should require development applications occurring in special natural resource overlay areas to go to the affected neighborhood association for review.

**Commissioner Hewitt** disagreed with Commissioner Neeley. He argued that, with the right ordinance in place, staff had the ability to make a judgment call on the information submitted by the applicant. He cited other jurisdictions with steep slope developments, such as the one on the south slope of Mt. Scott in the county. He noted that other jurisdictions had a site-specific design review process set up in their ordinances.

**Commissioner Hewitt** spoke to staff checking out Gresham's site-specific design review process as a model. He suggested that staff define at what slope the process would start, which would allow staff to require specific topographical survey maps. He mentioned that Clackamas County's process started at 20%.

**Mayor Norris** asked Commissioner Hewitt if he was arguing against a Planning Commission review. **Commissioner Hewitt** said yes, as he thought that the Planning Commission had sufficient review work. He spoke to making it a staff review process for now.

**Mayor Norris** directed Mr. Patterson to schedule a Commission work session to discuss the matter. **Ms. Kraushaar** suggested looking at retaining wall design limitation and requirements at the same work session.

### **3.0 CONSENT AGENDA**

**Mayor Norris** pulled Item Nos. 3.2 and 3.5 from the Consent Agenda.

**Commissioners Hewitt/Lemons m/s to approve Consent Agenda Item Nos. 3.1, 3.3, 3.4, and 3.6. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting 'aye.' 4:0**

**3.1 Approval of Regular Meeting Minutes of August 20, 2003.**

**3.2 Commission Report No. 03-190, Public Utility(s) and Sidewalk Easements (Permanent), Utility Pole Relocation on Washington Street at the Amtrak Entry.**

**3.3 Commission Report No. 03-191, OLCC, Liquor License Application for Change of name from Perfect Pizza & Deli to Thai Chef Restaurant, Located at 2262 Molalla Avenue, Oregon City.**

**3.4 Commission Report No. 03-188, Public Storm Easement for the Holcomb Ridge Subdivision (City File No. TP02-04).**

**3.5 Commission Report No. 03-188, Public Storm Easement for the Holcomb Ridge Subdivision (City File No. TP02-04).**

**3.6 Commission Report No. 03-189, Public Water Easement for the Oregon City School District #62, Moss Campus Project (City File No. SP01-06).**

• **ITEMS PULLED FROM THE CONSENT AGENDA**

**3.7 Commission Report No. 03-190, Public Utility(s) and Sidewalk Easements (Permanent), Utility Pole Relocation on Washington Street at the Amtrak Entry.**

**Commissioner Neeley** asked for a project status report in terms of the map. **Ms. Kraushaar** said that the City needed to move the PGE pole back a bit within this small easement in order to construct the sidewalk. She explained that this required first a temporary easement, and then a permanent public utility easement for the PGE pole.

**Commissioner Neeley** asked whether the sidewalk would extend to the other side of the road. **Ms. Kraushaar** said that the project involved constructing the sidewalk, making repairs related to the movement of the utility pole, and providing a handicapped ramp. She explained that staff had to stretch the project somewhat onto the adjacent property.

**Commissioners Hewitt/Neeley m/s to approve Consent Agenda Item 3.2. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting ‘aye.’ 4:0**

**3.8 Commission Report No. 03-188, Public Storm Easement for the Holcomb Ridge Subdivision (City File No. TP02-04).**

**Commissioner Neeley** asked if it was standard to provide an easement after the storm drainage system was almost all in place. **Bob Cullison, Engineering Manager**, indicated that it was not uncommon, as it took time to get the request to the City Commission level for approval. He mentioned that the developer has obtained the adjacent property owner’s approval.

**Commissioner Neeley** asked what would happen to the storm drainage system if another City Commission decided to oppose the easement. **Mr. Cullison** pointed out that the City approved the project with the easement and storm drainage system.

**Commissioners Hewitt/Lemons m/s to approve Consent Agenda Item No. 3.5. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting ‘aye.’ 4:0**

**4.0 COMMISSION BUSINESS**

**4.1 Commission Report No. 03-186, Proposed Resolution No. 03-31, the Proposed Vacate of the East ½ of the Rear Yard Ten-Foot Public Utility Easement and Both Side Yard Five-Foot Public Utility Easements (City File No. EV03-003).**

**Mayor Norris** noted typographical errors in the resolution: the second ‘whereas’ clause should read, “...namely a shed and a gazebo...,” and the third ‘whereas’ clause should read, “the City Engineering Division staff has determined that there is no impact...”

**Mr. Cullison** stated that the City no longer established public utility easements (PUE) with front, back, and side yards in subdivisions, as it once commonly did. He explained that the homeowner wanted to build in his backyard, and has requested that the City vacate the PUE shown on the plat of this older subdivision.

**Mr. Cullison** recalled that the Commission had directed staff to vacate all PUEs in a subdivision if the City did so for one PUE in the subdivision. He asked that the Commission waive that direction in this particular situation, and to allow a partial vacation because there was development potential to the rear of the property.

**Commissioners Neeley/Hewitt to adopt Proposed Resolution No. 03-31, to Vacate the East ½ of the Rear Yard Ten-Foot Public Utility Easement and Both Side Yard Five-Foot Public**

**Utility Easements. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting ‘aye.’ 4:0**

#### **4.2 Commission Report No. 03-192, Draft Proposal Ordinance No. 03-1012, Requiring Neighborhood Meetings for Development Applications.**

**Commissioner Neeley** asked the Commission to re-institute the City’s practice from five years ago of requiring developers to present Type III subdivisions to neighborhood associations. He argued that the practice fell by the wayside because the ordinance said that a developer “may” present to a neighborhood, instead of the “shall” that the City Attorney said would be necessary to require the contact.

**Commissioner Neeley** asked that staff invite neighborhood representatives to participate in the discussion, and to address each of the eight points raised by the Community Development Director in his report.

**Mr. Drentlaw** asked on which specific applications would the Commission set this requirement, as Type III applications encompassed conditional use permits, subdivision permits, and sign permits. He mentioned the logistical considerations of taking these applications to neighborhood groups, as not all met on a regular basis or always had a quorum. He asked how would this review affect the application process timeline.

**Mr. Drentlaw** encouraged the Commission to hold a work session to discuss this matter in depth. He indicated that the current process worked well. He cited an example of a neighborhood showing up in force at a Planning Commission hearing on a planned unit development (PUD), and making a convincing argument against the proposal, which led to the Planning Commission denying the application.

**Mr. Patterson** suggested that the Commission discuss roles at the work session, and how to avoid duplication by the staff, the Planning Commission, the City Commission, and the neighborhood associations.

**Commissioner Hewitt** conceded that it was a good idea but pointed out that adding on to an already cumbersome process would make it even more difficult to develop in Oregon City. He mentioned hearing comments discouraging development in Oregon City because of the “hassle.” He complimented Guy Sperb, Building Official, for turning that perception around to a great degree.

**Commissioner Hewitt** argued that the process was already duplicative. He mentioned that neighborhood associations received notice of these projects. He reiterated that it would belabor the process to require developers to meet with the neighborhood associations.

**Mr. Drentlaw** indicated to **Commissioner Hewitt** that the average timeline for a development from start to finish varied. **Commissioner Hewitt** held that it took 18 months on the average. He strongly discouraged adding another level of requirement on the developer.

**Commissioner Neeley** argued that the neighborhood associations were included as a group falling within the statewide goals. **Mary Palmer, Public Affairs Manager**, confirmed that originally she had been a staff member in the Planning Department. He contended that the City originally conceived of neighborhood association as primary participants in the planning process. Ms. Palmer confirmed that that concept has changed.

**Commissioner Neeley** reiterated that, five years ago (when the City had a 5% plus growth rate), the Planning Staff told developers to contact the neighborhood associations. He disagreed with Mr. Drentlaw’s assessment that the current process worked fine.

**Commissioner Lemons** commented that the existing City process worked effectively to some extent. He said that he received notices of developments in his neighborhood, which he knew

meant that he could argue his position before the Planning Commission. He questioned why they should add another layer to the process.

**Mayor Norris** referenced the preamble to the neighborhood associations' section in the Comprehensive Plan, which clearly outlined the associations as land use partners in the process. She invited the neighborhood association chairs to address the Commission on this issue.

- **Julie Hollister, Co-chair of Hillendale Neighborhood Association and Interim Chair for Citizen Involvement Committee Council (CICC),**

**Ms. Hollister** said that her group was in the process of drafting a letter to the City Commission on this subject. She recalled that the City used to ask developers with variance, conditional use, and subdivision applications to meet with the affected neighborhood association.

**Ms. Hollister** said that the process worked well with most neighborhood associations establishing land use committees to address development. She mentioned commonly calling emergency meetings of the land use committee to meet with the developers, which meant that the developer did not have to wait for the general membership meeting. She spoke of providing meeting minutes to the general membership, which either the developer or the land use committee provided.

**Ms. Hollister** mentioned that she had been on the Planning staff under Tammera DeRitter during that time. She stated that the process worked well. She held that involving the neighborhoods in the review process saved time for both the staff and the Planning Commission.

- **Kathy Hogan, Hazel Grove – Westling Farm Neighborhood Association**

**Ms. Hogan** reported that a recent meeting that her association had with a developer worked out well. She stated that she received little notification of development applications in their area but her diligence discovered a recent application at Rose Road. She said that she invited the developer to the association meeting. She observed that it was easier to hear a developer's pre-application plan.

- **Ralph Kiefer, Land Use Chair of Park Place Neighborhood Association (PPNA)**

**Mr. Kiefer** informed the Commission that his neighborhood has had seven sizeable subdivisions either recently completed, in progress or in planning. He said that PPNA gave the Land Use Committee authority to act on these applications, if it was not possible to have a full neighborhood meeting.

**Mr. Kiefer** pointed out that these developers might be able to save money if they met with the neighborhood associations. He cited the example of Oak Tree Terrace, which had to re-design its plans following the neighborhood association's arguments before the Planning Commission. He commented that the second design was much better than the first version.

**Mr. Kiefer** assured the City Commission that the land use committees of various neighborhoods were keeping their eyes open for these matters.

**Ms. Hogan** said their committee was going to meet to correct a problem from a previous land use decision that was developed three or four years ago, involving a wet land area; the water was not all being caught on site.

**Ms. Hollister** confirmed to **Commissioner Neeley** that she was the Acting Chair of CICC. She agreed to raise these concerns at the next CICC meeting.

**Commissioner Lemons** asked Ms. Hollister for an example of how the process worked "very well." **Ms. Hollister** cited the example of the Red Soils buffering and road alignment, which affected Hillendale. She said that the developer accepted a change proposed by the neighborhood with regard to a retaining wall.

**Commissioner Lemons** mentioned his concern that a developer meeting with associations before meeting with staff might come to some conflicting decisions, which could burden the overall process. **Ms. Hollister** pointed out that developers knew what their options were going into the process, and that the association did its research to make sound land use decisions, which complied with the Code.

**Commissioner Lemons** reiterated that he did not want to extend the existing development process timeline. **Ms. Hollister** assured him that it would only take the developer one evening to meet with the land use committee. She described it as a courtesy. **Commissioner Lemons** asked to receive the CICC's comments on the questions raised in the staff report.

**Mayor Norris** asked why the City moved away from involving the neighborhood associations in the reviews. **Ms. Hollister** referenced the ordinance language of 'may,' instead of 'shall.' She indicated that previous planning managers encouraged the practice of neighborhood association/developer meetings but current staff interpreted the Code language of 'may' differently, and did not encourage the meetings.

**Commissioner Hewitt and Commissioner Neeley** engaged in a dispute over when a staff member involved in the process was on staff. **Mayor Norris** directed the Commissioners to focus on the process. **Mr. Patterson** encouraged additional discussion at the September 15, 2003, study session. He commented that a variety of factors probably influenced the change in practice, including economics.

**Commissioner Neeley** held that the discussion was on process. He indicated that he felt more comfortable with the current planning staff than with previous ones. **Mr. Patterson** agreed the current planning staff was good to work with. He expressed his hope of finding a process that worked for the neighborhoods and the staff, while acknowledging that it would take some work to find it.

**Mr. Kiefer** referenced number 6 on the Oregon City application submittal checklist (on the City's website), which stated "*Meet with neighborhood associations affected by proposed development, provide a meeting summary that shall include a list of people who attended, where and when held and a summary and conclusion of issues discussed.*" He reported that the Planning Division admitted to him that a neighborhood meeting was on the checklist, and that they thought it was a good idea, but they did not require it. He observed that the idea of the developer meeting with the neighborhood association was not 'coming out of the blue.'

**The City Commission** agreed to revisit this matter at the September 15, 2003, study session.

#### **4.3 Commission Report No. 03-193, Proposed Resolution No. 03-32, Adoption of Tourism Development Plan.**

**Dee Craig, Community Services Director**, recalled that, earlier this spring, the Tourism Development Council (TDC) agreed to fund a consultant to work with a group of Oregon City residents interested in tourism to develop a tourism action plan for the City. She indicated that a principal recommendation in the Tourism Action Plan was to move forward with Historic Oregon City. She said that staff would send the top two proposals (of the six received) to the Steering Committee for consideration.

**Mayor Norris** complimented Linda Bell of the TDC for her efforts. She congratulated Oregon City as the first city to develop its Tourism Action Plan. She commented that it was important for the City to promote both its historical and natural resources.

**Mayor Norris** quoted the City's tourism positioning statement, "*Oregon City, immersed in a spectacular natural setting of falls and rivers, is the first storyteller of Pacific Northwest cultural heritage.*" She continued by reading the vision statement for the City in 2012: "*At the confluence of two great rivers and the mighty Willamette Falls, Historic Oregon City is the nationally recognized End of the Oregon Trail and the acknowledged interpretive center of the*



*American westward migration of the 1800's with links to the history of the entire Pacific Northwest."*

**Mr. Patterson** observed that the TDC plan folded nicely into the City's economic development efforts. He pointed out that the City needed product development in order to prosper with this economic development effort. He suggested further discussion at the Commission's upcoming study session, and at the Urban Renewal Commission meetings.

**Mayor Norris** expressed her hope that the Oregon City Chamber of Commerce would adopt the plan, along with the organizations involved in its development, in order for it to carry more weight.

**Commissioner Neeley** spoke of looking at other opportunities for cooperation with historical entities outside of Oregon City that sat along the Oregon Trail. He held that many activities outside of Oregon City were not threats but rather collaborative opportunities.

**Commissioners Neeley/Lemons m/s to adopt Proposed Resolution No. 03-32, Adoption of the Tourism Development Plan. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting 'aye.' 4:0**

#### **4.4 Commission Report No. 03-1974A, Third Addendum to Professional Services Agreement – Patterson Parks LLC.**

**Mayor Norris** explained that Mr. Patterson asked the International City and County Managers' Association (ICCMA) if entering into a contract to serve as the permanent Oregon City City Manager violated the Association's ethics. She reported that the ICCMA sent Mr. Patterson its opinion that, in order to avoid the appearance of impropriety, the City should conduct a new city manager recruitment process, as Mr. Patterson served as the Interim City Manager and his firm, Patterson Parks LLC, conducted the recruitment process.

**Mayor Norris** indicated that the ICCMA further recommended conducting an open recruitment process, in which Mr. Patterson was not involved.

**Mayor Norris** referenced the third addendum to the professional service agreement with Patterson Parks, LLC, as proposed by the City Attorney to cover the interim and to expire on December 31, 2003. She informed the Commission that Mr. Patterson told her that he would not hold the City to the full term, should it find a different City Manager, but he did want a 30-day notice from the date of the Commission's decision.

**Mayor Norris** suggested discussing the recruitment process in depth at the September 15 study session.

**Commissioner Neeley** described the process that the City Commission went through earlier with the city manager recruitment. He recalled that, of the six candidates selected for interviews, three pulled out before the interviews, and the Commission did not feel comfortable with any of the remaining three it did interview. He said that the Commission did not choose to ask Patterson Parks, LLC, to open up the process again. He indicated that the Commission asked Larry Patterson, Interim City Manager, to apply for the permanent position.

**Commissioner Neeley** pointed out that Mr. Patterson never intended to apply for the position of City Manager and was never an applicant in the first process. He informed the public that the next recruitment, like the last one, would be a transparent, competitive, and objective process. He stated that if Mr. Patterson applied for the position, the Commission would interview him in the same fashion as anyone else. **Commissioner Neeley** stated there was no guarantee that Mr. Patterson would get the job.

**Commissioners Lemons/ Neeley m/s to approve the Third Addendum to Professional Services Agreement with Patterson Parks LLC with Term to Expire on December 31, 2003.**

**A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting ‘aye.’ 4:0**

#### **4.5 Commission Report No. 03-195, Possible Appeal of Planning Commission’s Decision to Deny Modification of Glen Oak Meadows PUD.**

**Ms. Kraushaar** presented the staff report. She indicated that both she and the City Attorney advised the Commission to authorize filing an appeal in order to hold a hearing and to consider the Planning Commission decision. She referenced ORS 227.180, which allowed the City Commission to review a Planning Commission decision on its own motion. She asked the Commission to waive the appeal fees.

**Ms. Kraushaar** informed the City Commission that leaving the Planning Commission’s decision in place would result in an unsafe intersection, and a diminishment of capacity on Glen Oak Road, as well as an unnecessary stream crossing of Caufield Creek.

**City Attorney Sullivan** indicated that the City as an initiator of the proceedings was one of the two grounds in OCMC 17.50.190 that allowed for any appeal to which the City was a party. He said that the normal appeal deadline was September 11, 2003.

**Commissioner Neeley** asked why staff asked to waive the fees. **Mr. Sullivan** explained that he did not want anybody to say the appeal was not perfected because the City Commission did not pay the permit fee. **Commissioner Neeley** indicated that, while he did not have a problem authorizing the appeal, he did have a problem waiving the appeal permit fees. **Mr. Patterson** recommended the City Commission pay the fee.

**Commissioner Hewitt** asked Ms. Kraushaar if she thought that the Planning Commission would have an open mind about this issue if the City Commission remanded it back to them. **Ms. Kraushaar** could not say. She indicated to **Mayor Norris** that the matter came before the Planning Commission on August 25, 2003. She informed **Commissioner Hewitt** that the vote had not been unanimous but rather a tie vote of 2:2.

- **Linda Carter, 1145 Molalla Avenue, Planning Commissioner**

**Ms. Carter** stated that she was not speaking for the whole Planning Commission. She discussed her opinion that the Planning Commission failed to give the application a full hearing. She explained that many neighbors attended the meeting, and that the meeting deteriorated due to the content of the neighbors’ comments. She held that the Planning Commission did not do a good job of providing a fair and equitable hearing, nor did it go through the complete process in a satisfactory manner.

**Ms. Carter** encouraged the City Commission to hear this appeal on its own motion or to remand it to the Planning Commission for a second hearing.

**Commissioner Hewitt** said that, while he normally preferred to honor the Planning Commission’s resolution to an issue, the tie vote demonstrated that the Commission had been missing a member. **Ms. Carter** confirmed that Ms. Mengelberg had been absent.

**Mr. Sullivan** advised the City Commission that the Planning Commission’s decision stood unless the City Commission decided to send it back. He noted that the developer was a co-applicant, which triggered the 120-day rule. He explained that the developer could independently take a 120-day *mandamus* against the City, if it went beyond the 120 days. He cautioned the Commission to be careful about the timeline.

**Commissioner Neeley** spoke to hearing the appeal before the City Commission. He noted that the Planning Commissioners could testify at that hearing. **Mr. Sullivan** advised the Commission that this was an appeal on the record with no new evidence or testimony allowed.

**Commissioner Neeley and Mayor Norris m/s to bring forth the appeal to the City Commission, and not to waive the appeal fees.**

**Ms. Kraushaar** clarified that the Planning Commission vote had been a 3:1 vote. She noted that the 10-day appeal deadline was Friday, September 5, 2003.

- **Robert Pouriea, 14409 S Cambria Terrace, Oregon City**

**Mr. Pouriea** said that his neighbors did not want to see an exit on to Glen Oak Road.

**Mr. Sullivan** advised the Commission not to listen to the merits of the case. **Mayor Norris** clarified to Mr. Pouriea that tonight the Commission was deciding on whether or not to hear the appeal.

**Mr. Pouriea** continued to discuss the merits of the case in describing the situation with school.

**Mr. Sullivan** assured **Mayor Norris** that the Commission could hear all the merits of the case on appeal. **Mayor Norris** stopped Mr. Pouriea's testimony at this time.

**Mr. Sullivan** indicated to **Commissioner Neeley** that the City Commission could not send this matter back to the Planning Commission without first holding an appeals hearing.

**Mr. Patterson** indicated to **Commissioner Lemons** that the Community Development fund or the General Fund would pay the appeal fee. **Commissioner Neeley** argued that the appellant should pay the cost of the appeal, although officials could waive it later on.

**Commissioner Lemons** contended that the City Commission waived too many fees as it was, including for neighborhood associations. **Commissioner Neeley** pointed out that neighborhood associations did not have to pay fees.

**A roll call was taken, and the motion failed with Commissioners Neeley and Mayor voting 'aye' and Commissioners Hewitt and Lemons voting 'nay'. 2:2.**

**Mr. Sullivan** suggested that the Commission call a special meeting before September 5, 2003, in order to allow Commissioner Bailey an opportunity to break the tie vote.

**Commissioners Lemons/Neeley m/s to approve the staff report and waive the appeal permit fees. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting 'aye.' 4:0**

## **5.0 COMMISSION CITY MANAGER INFORMATION**

**5.1 City Manager's Report:** No report was provided.

### **5.1a City Attorney's Report**

**Mr. Sullivan** reported that, on August 26, 2003, the Oregon Supreme Court denied the Linda Lord's petition for reconsideration. He indicated that the one avenue left was a petition for *certiorari* to the United States Supreme Court.

## **5.2 Commissioner Communications**

### **5.2.a Mayor Norris**

**Mayor Norris** reported that the Legislature approved funding for two Cascade trains but not the \$10 million for construction required by Union Pacific to put two trains on the track. She mentioned the confusion over the source of the \$10 million. She said that the Governor's Office has assured the City that the money would come but right now, it was a 'wait-and-see' situation. She noted that one of the trains would stop running at the end of September if the funding did not arrive.

**Mayor Norris** noted that the time schedule for the funded train was not a good commuters' schedule: leaving 5:55 a.m. from Eugene, arriving in Portland at 9:30 a.m. with a 9:30 p.m. return.

**Mayor Norris** announced the cities of Oregon City and West Linn would hold a memorial ceremony on Patriot's Day (September 11, 2003), starting at 10:00 a.m. with the mayors hanging a large flag in the middle of the Highway 43 Bridge. She said that the ceremony would continue at 12 p.m. on the steps of the Court House on Main Street.

#### **5.2.b Commissioner Hewitt**

**Commissioner Hewitt** asked for an update on the train station. **Ms. Kraushaar** reported that staff has currently shut down the project. She expressed her confidence that Amtrak and Union Pacific would continue to work with the City in developing a letter of understanding regarding the maintenance of the platform. She explained that Union Pacific had to authorize a flagger whenever the City worked within 25 feet of the train tracks. She mentioned that the platform was under construction but not in place yet.

**Ms. Kraushaar** informed **Commissioner Hewitt** that 17<sup>th</sup> Street would be closed to through traffic as soon as the trains begin making their stop at the platform, which should start in November. She confirmed that staff would post notices in advance of the imminent closing of 17<sup>th</sup> Street.

**Commissioner Hewitt** thanked **Ms. Kraushaar** for posting the reminder signs for the new stop sign at Abernethy Bridge at Washington and Abernethy. He suggested that a sign with an A-frame design, which indicated an intersection change ahead, would be more visible.

#### **5.2.c Commissioner Neeley**

**Commissioner Neeley** reported that MPAC did not meet this month.

**Commissioner Neeley** recalled the Mayor's comment from the last meeting that the regional lands under consideration by Metro as industrial were those lands with 50-acre parcels. He clarified that that stipulation did not apply to the lands across from the college but rather to the land for new study areas for the new expansion for industrial areas within one and a half years. He stated that any lands already within the UGB could be considered for regional industrial lands.

**Commissioner Neeley** suggested including on the Joint Planning Commission/City Commission meeting agenda a staff presentation on Metro's draft restrictions that applied to regionally significant lands. He commented that knowing the restrictions would help people determine whether they wanted these lands to be considered as significant.

#### **5.2.d Commissioner Lemons**

**Commissioner Lemons** asked for a status report on the C4 work on the Transportation User Fee. **Mayor Norris** indicated that the County Commissioners were divided on the issue, and it was 'hovering.' **Commissioner Hewitt** reported that, at a recent meeting he attended, Commissioner Neeley was the most vocal opponent to having the City's name involved in the process. He said that the Commissioner also asked the County to move forward, to do the educational piece, and to take the brunt for the City.

#### **5.2.e Railroad ties replacement**

**Mr. Patterson** reported that the City would be required to replace the railroad ties along the platform, at a cost of \$100,000 (funded by Urban Renewal Commission funds). **Commissioner Neeley** asked Mr. Patterson and Ms. Kraushaar to negotiate this for the City. **Ms. Kraushaar** explained that Union Pacific held the 'trump card' in terms of allowing trains to stop in Oregon City.

**Commissioner Neeley** pointed out that the ties over the Abernethy Bridge had dry rot and needed addressing. **Ms. Kraushaar** explained that the only ties needing replacement at this time were those abutting the length of the 1000-foot platform. She pointed out that Oregon City was not in a good position to make Union Pacific replace the ties over the creek.

**Ms. Kraushaar** reported that the Union Pacific blindsided the City at the pre-application meeting by placing the burden to replace the ties on Amtrak. She said that Amtrak needed the City's help to get it done.

#### **7.0 RECESS TO EXECUTIVE SESSION at 8:58 p.m.**

**Mayor Norris** recessed the Regular Meeting to Executive Session Pursuant to ORS 192.660(e) to Deliberate With Persons Designated by the Governing Body to Negotiate Real Property Transactions.

#### **8.0 REGULAR SESSION RECONVENED at 9:20 p.m.**

**Mayor Norris** reconvened the Regular Session.

(Tape 2 did not record the balance of the proceedings.)

**Commissioners Hewitt/Lemons m/s to approve the sale of the sale of City property at Partlow Road in the amount of \$92,5000, with the City taking responsibility for a listing broker's commission of \$2,775 and closing costs. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting 'aye.' 4:0**

According to the report provided:

- The City purchased this property for the South End Fire Station on July 2, 1998, for \$85,000, using fire bond monies.
- The City obtained an appraisal on the property on January 7, 2002 in the amount of \$75,000 - \$85,000.
- The City declared the property surplus on February 6, 2002, and directed Staff to market the property.

**Commissioners Neeley/Lemons m/s to approve obtaining an appraisal on the Oregon City Plumbing property on 7<sup>th</sup> Street to be paid by the General Fund and reimbursed by Urban Renewal Commission. A roll call vote was taken, and the motion passed with Commissioners Hewitt, Lemons, Neeley, and Mayor Norris voting 'aye.' 4:0**

#### **9.0 ADJOURNMENT**

**Mayor Norris** adjourned the regular meeting at 9:38 p.m.

Respectively Submitted by,

LEILANI BRONSON-CRELLY, City Recorder