

**CITY OF OREGON CITY  
CITY COMMISSION  
MEETING MINUTES  
April 16, 2003**

**Mayor Alice Norris** called the regular meeting of the City Commission to order at 6:57 p.m. on April 16, 2003, at City Hall, 320 Warner Milner Road.

**Commissioners**

**Present:** Commissioners Doug Neeley, Gary Hewitt, Tom Lemons, Bob Bailey, and Mayor Alice Norris.

**Staff Present:** Larry Patterson, City Manager Pro Tem; Ed Sullivan, City Attorney; Leilani Bronson-Crelly, City Recorder; Dee Craig, Community Services Director; Dan Drentlaw, Community Development Director; David Wimmer, Finance Director; Lt. Mike Conrad, Police Department; Bob Cullison, Engineering Manager

**Mayor Norris** led the flag salute.

### **1.3 PRESENTATIONS**

#### **1.3.a Wende Sanchez, Executive Director, Oregon City Chamber of Commerce**

**Ms. Sanchez** mentioned that the Oregon City Chamber of Commerce, established in 1909, was the oldest Chamber of Commerce in Oregon. She said that their purpose statement was to promote the economic vitality and quality in the community of Oregon City. She indicated that a two-person staff and the volunteer Board of Directors managed the organization on an annual budget of \$120,000.

**Ms. Sanchez** noted that the 300 current members included a range of businesses from large manufacturing operations to retail to social services to government to home based businesses to businesses with a history as old as Oregon City. She discussed the three main fund-raising events of the Chamber.

**Ms. Sanchez** mentioned the Chamber's annual dinner at which they awarded the Citizen, Volunteer, Teacher, Businessperson, and Business of the Year honors. She spoke of the annual golf tournament at the Oregon City Golf Club, which was scheduled for June 6 this year.

**Ms. Sanchez** described the Chamber's annual open-air antique fair, in its eighth year, with a statewide reputation for its quality and scope of antiques. She said that this fair, located in historic downtown Oregon City, was the city's largest one-day visitor event, drawing an estimated 25,000 to the city. She mentioned the over 150 antique vendors and over 15 food vendors in the food court. She indicated that the Chamber had sole responsibility for this event.

**Ms. Sanchez** expressed her appreciation to the End of the Trail Interpretative Center for the Chamber's housing at Washington Street between the Center and the new Home Depot. She commented that the logical new location for the Chamber was in the Depot at the new Amtrak Station, where the Chamber could foster economic vitality as the first official greeter of visitors to the city. She noted that the Chamber could also serve as the onsite facility manager.

**Ms. Sanchez** reviewed the agenda of the Chamber, noting that it hosted 10 to 15 events each month. She mentioned the Good Morning Oregon City coffee-networking social, hosted by a different business each month, with 50 to 60 business people attending. She spoke of the monthly educational luncheons, noting that Mayor Norris would present a State of the City message at the May luncheon.

**Ms. Sanchez** mentioned the monthly historic downtown Oregon City meetings, intended to foster community involvement and enhancement of the historic and economic vitality of Main Street and the adjacent local businesses. She described the Leadership Oregon City curriculum. She spoke of *The Chamber Wire*, their monthly newsletter with nearly 100 years of publication and distribution to over 400 businesses.

**Ms. Sanchez** described the Chamber as a fellowship amongst individuals and businesses who truly cared about the direction of the community. She expressed her pride in her association with the Chamber, in the business transactions occurring between Chamber members, and in the cooperative working relationship between the City and the Chamber.

**Mayor Norris** commented that the City was proud to be members of the Chamber. She mentioned that 100 people attended the Good Morning Oregon City coffee this morning. She indicated that the City looked forward to working with the Chamber on economic development in the future.

**Commissioner Bailey** thanked Ms. Sanchez for her report and the good will exchange, which helped to build a bridge between the city officials and the business community. He commented that he has enjoyed the Good Morning Oregon City coffees, and that they were something of which Oregon City could be proud.

**Commissioner Hewitt** expressed his hope that this was a starting point for the two organizations to partner more than they have in the past two years. He mentioned this Commission's understanding that the Chamber was the most valuable forefront to the city.

**Commissioner Hewitt** challenged the Chamber to keep the Commission informed on a more regular basis of the mindset of the business owners regarding the Comprehensive Plan, changes in zoning, and other Commission actions. He indicated that having that kind of feedback from the business community before the Commission took final action would be helpful to him.

**Ms. Sanchez** indicated that the Chamber's monthly meetings with the historic merchants would be the appropriate mechanism for obtaining comments on Commission actions. **Commissioner Neeley** observed that that was an open meeting. He mentioned that Mr. Drentlaw has presented some of the initial drafts of the Comprehensive Plan to that group, which meant that the core people who attended the meeting had some understanding of the Comprehensive Plan process.

### **1.3.b Proclamation: Edwin Markham Day, April 23, 2003**

**Mayor Norris** read the proclamation proclaiming April 23, 2003, Edwin Markham Day. She explained that April 23 was the 150<sup>th</sup> anniversary of the birth of Edwin Markham, a former Oregon poet laureate, who was born in Oregon City in 1852. She indicated that Mr. Markham wrote a poem "The Man with the Hoe," which became the focal point for debate about a variety of social issues, including labor, poverty, the oppression of women, urbanization, concentration of wealth, and the necessity of reform.

**Herb Beals, Atkinson Memorial Church representative to the Heritage Coordinating Committee**, said that former Mayor Williams had suggested that the Committee look into a commemoration of Mr. Markham's birthday. He mentioned doing an Internet search on Mr. Markham, and his surprise at the wealth of material that it produced.

**Mr. Beals** commented that Mr. Markham only lived in Oregon City for nine years but, as the son of pioneers who came across on the Oregon Trail, his time here made an impression on him. He mentioned that Mr. Markham returned to Oregon City in the 1920s to try to find the house in which he was born but it had been destroyed by a flood.

**Mayor Norris** commented that Mr. Markham's world famous poem had been inspired by a French painting of a laborer whose face reflected his struggle and poverty. She read an excerpt

from the poem. She encouraged people to read it in its entirety. She invited the public to the celebration at the Carnegie Center at noon on April 23.

**Commissioner Neeley** mentioned that he looked for the plaque commemorating Edwin Markham as Poet Laureate at 11<sup>th</sup> and Moss but it was missing, as was the Abernethy plaque that used to be at the post office before the Abernethy Center located at that site. He spoke to locating those two missing plaques, which might have been turned over to the City during the course of redevelopment.

## **2. CITIZEN COMMENTS**

- **Dean Walch, 516 Madison Street, Co-chair of the McLoughlin Neighborhood Association**

**Mr. Walch** recalled that, at the last Commission meeting, they had shared the neighborhood's concern about the pornography shop installed at 7<sup>th</sup> and Monroe. He reiterated that their statements were not directed against Mr. Kim's right to own a business but rather against the inappropriateness of their neighborhood as the location for a business featuring pornographic materials. He referenced a quote from Mr. Kim in the *Oregon City News*: "I understand how everyone feels. If it was reversed, I would feel the same way."

**Mr. Walch** recalled that the Commission told the neighbors at the last meeting that the City would look into the legal options for dealing with this situation. He mentioned the Commission's encouragement of the citizens doing whatever they could do legally to get their message heard. He stated that, since then, the neighborhood, including local businesses and churches, have worked collaboratively to inform the community of the situation, and the neighborhood's feelings about it.

**Mr. Walch** referenced a comment made by Mr. Gross, the landowner of the pornography shop location, that he wanted to see how the neighbors felt about it. He presented a petition with 1,274 signatures so far against the sale of pornographic materials at 7<sup>th</sup> and Monroe, which then neighborhood association started circulating last Friday. He mentioned the community's picketing of the business every hour the business has been open, from 10 a.m. to 2 a.m. since it began operation Thursday evening.

**Mr. Walch** said that people have gone door-to-door distributing flyers to inform the neighbors. He mentioned prayer vigils at the site held by neighborhood churches. He asked the Commissioners and Mr. Gross if this was sufficient evidence that the neighbors did not want this type of business in their neighborhood.

**Mr. Walch** thanked the people who helped with this cause by signing the petition, stopping to say thank you, and volunteering to picket the business day and night, regardless of the weather, to show how strongly they felt about this issue. He expressed their confidence, that with help from everyone, they would find a positive solution to this issue.

**Mr. Walch** expressed his hope that tonight the City would step forward and show its commitment to removing this business from their neighborhood, and to developing a proactive plan to adopt ordinances to prevent this from happening again.

- **Tim Powell, 819 Sixth Street, Co-Chair of the McLoughlin NHA**

**Mr. Powell** mentioned that the people with whom they have been interacting during their picket came from Oregon City, Lake Oswego, West Linn, Gladstone, etc., which was the larger community outraged at this situation. He said that the most consistent comment they heard was that people moved to this community because it did not have these types of businesses located here. He indicated that the people asked them to bring this matter forward to the City.

**Mr. Powell** presented some statistics given to him by a gentleman who came by the picketing site. He noted that, based on land use studies conducted by the National Law Center for Children and Families, there was evidence of a correlation between adult businesses and crime. He cited the information that, in Phoenix neighborhoods where adult businesses were located, the number of sex offenses was 506% higher than in areas without such businesses, property crimes were 43% greater, and violent crimes were 4% greater.

**Mr. Powell** commented that, as citizens and taxpayers in this community, they expected protection from this type of activity. He urged the Commission to make every effort to change the status quo regarding the zoning for this type of business in Oregon City.

**Mayor Norris** commended Mr. Walch and Mr. Powell, and all who signed the petition, as citizens concerned enough about the community to step forward. She indicated her belief that by citizen action, they could control the destiny of our community.

**Mayor Norris**, with the consent of the Commission, moved up Agenda Item 5.1, a report on a memo by Assistant City Attorney William Kabeiseman on the regulation of adult oriented businesses in the city.

- **Linda Orzen, 14943 Quinalt Court**

**Ms. Orzen** invited the Commission to attend the 16<sup>th</sup> Annual First City/SOLV Clean Up and Enhancement Day. She reviewed the clean up activities occurring at this annual event that brought together community volunteers, businesses, and social groups to help maintain the beauty and vitality of Oregon City.

**Ms. Orzen** invited the Commission to join the volunteers at a luncheon following the clean up as well, where they thanked the community volunteers who have helped make this a continuing success for 16 years. She presented each Commissioner with a T-Shirt.

**Mayor Norris** expressed her regrets that she would be out of town during this event, describing it as one of the most terrific volunteer events happening in the community.

**Ms. Orzen** indicated to **Commissioner Hewitt** that the Commission members could come whenever they wished. She confirmed that they would have breakfast treats as well as the luncheon provided by Haggen's Food and Pharmacy.

**Commissioner Bailey** asked for more information on the clean up voucher. **Ms. Orzen** said that the vouchers would be available at 8:30 a.m. on April 26 at Clackamette Park. She mentioned needing to show proof of Oregon City residency in order to pick up the one voucher allotted to each household.

**Ms. Orzen** noted that, this year, instead of providing open-ended vouchers, they elected to receive more vouchers from Metro by going with a stated dollar amount of \$25. She directed citizens to the Oregon City website for the complete list of what they could take to the station for that dollar amount. She mentioned that they could also receive credit for recyclables.

**Ms. Orzen** indicated to **Commissioner Hewitt** that the vouchers were good from April 26 through May 3. She noted that if someone had extenuating circumstances and could not use the voucher during that week, he/she should contact the Committee, who could extend the time period.

**Mayor Norris** moved up Agenda Item 4.3 with the concurrence of the Commission.

### **3. CONSENT AGENDA**

**Mayor Norris** pulled Item 3.4 for changes. She noted the walk on for the consent agenda, Item 3.5, to consider the approval of employment actions taken by the City Manager Pro Tem.

Mayor Norris indicated to Commissioner Neeley that Item 3.2 was only the request for the easement.

Commissioner Hewitt moved for the adoption of the consent agenda, pulling Item 3.4 and adding Item 3.5, to consider approval of employee actions. Commissioner Neeley seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

**3.1 Commission Report No. Approval of Regular Meeting Minutes of March 5, 2003.**

**3.2 Commission Report No. 03-067, Temporary Blanket Utility Easement from Clackamas County on Red Soils Property for new County Public Services Building and Vacation of Kaen Road**

**3.3 Commission Report No. 03-068, Private Sanitary Sewer Easement through Singer Creek Park for the Property, a Single-Family Residence located at 470 Mountain View Street (E-Misc 02-02)**

**3.4 Commission Report No. 03-070, Intergovernmental Agreement with Clackamas County Providing Supervised Corrections Work Crews to perform General Labor at Sites in Oregon City (Agreement NO. 03-103)**

**3.5 To consider approval of employment actions taken by City Manager Pro Tem for a period of April 2 through April 16.**

• **ITEMS REMOVED FROM THE CONSENT AGENDA**

**3.4 Commission Report No. 03-070, Intergovernmental Agreement with Clackamas County Providing Supervised Corrections Work Crews to perform General Labor at Sites in Oregon City (Agreement NO. 03-103)**

Ed Sullivan, City Attorney, reported that he found only one issue with this IGA with Clackamas County for handling supervised corrections personnel at city sites. He reported that the County representative notified him today of the County's approval of his suggested change, as outlined in the memo to the Commission. He indicated that staff would bring forward a new form of the agreement for the Mayor's signature but otherwise it was a fine agreement.

Commissioner Lemons discussed his concern with the language in Section A, No. 1 (page 1), where it spoke of maintenance in 'Clackamas County.' He asked if that reference should be to Oregon City. He spoke to making sure that the City did not pay for projects done outside the city limits. Mr. Sullivan noted that the agreement related only to Oregon City but they could clarify it to say Oregon City, Clackamas County.

Mr. Sullivan indicated to Commissioner Neeley that Oregon City should have had this formal legal requirement in place before using corrections people on projects.

Dee Craig, Community Services Director, suggested that they leave the language as 'Clackamas County,' instead of restricting it to Oregon City. She explained that, while the City did not own property in the county at this moment, a year ago Wesley Lynn Park lay in the county, and the City did use corrections work crews out there. She cautioned against limiting the agreement to properties within the city limits, given that the City was looking at purchasing other properties within the USB but outside the city limits.

Commissioner Bailey acknowledged Commissioner Lemon's concern but concurred with Ms. Craig that they needed to allow the opportunity to use corrections work crews at future acquisition sites in the county. He noted that the crews worked at the direction of the City.

Commissioner Lemons indicated that that was fine, as long as the work was on Oregon City projects.

**Commissioner Hewitt moved to adopt of Report 03-070, with the understanding of the memo from the City Attorney, Mr. Sullivan. Commissioner Neeley seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]**

#### **4. COMMISSION BUSINESS**

##### **4.1 Commission Report No. 03-066, Proposed Resolution No. 03-14, Consenting to Vacation of a Portion of Kaen Road by Clackamas County for Red Soils Public Services Building**

**Bob Cullison, Engineering Manager**, asked the Commission to consent to the vacation of a portion of Kaen Road by Clackamas County. He indicated that the County Board of Commissioners has already taken action to vacate a portion of this county road located in the city, but would like the City's consent.

**Mr. Cullison** mentioned staff's concern that the County actually build the new road to the jail before it tore down the existing road. He explained that the County had to build a new Kaen Road before they could tear down the old road and build the new public services building on top of it. He indicated that the City Attorney proposed an IGA with the County to address that concern.

**Mr. Sullivan** indicated that the agreement laid out the City's concerns regarding site circulation, access, and safety, and how the County would meet them. He said that County staff would present the same IGA to the County Board tomorrow morning. He explained that the IGA was the basis for the consent of the City to the partial vacation.

**Mr. Sullivan** noted that a previous action by the Commission tonight addressed the City concerns regarding utility locations. He recommended adopting the resolution concurrent with the IGA.

**Mayor Norris** commented that this was the technical result of a previous Commission discussion of the philosophy of vacating the road.

**Mr. Cullison** indicated to **Commissioner Hewitt** that the IGA said that the City Engineer and the Public Safety Director had to approve the completion of the new road before the County could demolish the old road. **Mr. Sullivan** commented that the County agreed to this after looking at alternatives.

**Commissioner Neeley moved to adopt Resolution 03-14. Commissioner Bailey seconded the motion.**

**Commissioner Hewitt** asked if the new road would be completed and ready for traffic before the County tore down the old road. **Mr. Cullison** indicated that the agreement stipulated that the road be 'passable.' He noted that the definition of 'passable' was at the discretion of the City Engineer and the Public Safety Director. He mentioned that, to him, the minimum standard for 'passable' would be compacted gravel, but reiterated that he could not speak for the City Engineer.

**Mr. Sullivan** pointed out that the IGA referred to safe ingress and egress. He said that the City Engineer had to make a judgment call regarding what was 'safe.' **Mr. Cullison** commented that staff was not trying to slow down the process but rather to look out for the interests of the City.

**Commissioner Hewitt** commented that he could see safety concerns with a police car leaving the area at a high speed but he questioned requiring a hard surface paved road 32 feet wide. **Mr. Cullison** concurred that safety was a concern. He cited the need to get a 50,000-pound fire department vehicle to the site in the event of an emergency.

**Mayor Norris** invited **Steve Rhodes, Project Manager for Clackamas County**, to comment on the IGA. **Mr. Rhodes** mentioned that the City and the County have been discussing this issue for some time with the County finally agreeing to it in order to keep the project moving forward. He commented that they did not see the need for it, as the County would not cut off access to its own facilities. He pointed out that the vacation became effective as soon as the IGA was signed, and not when the road was built.

**Commissioner Lemons** mentioned his concern that this IGA was redundant because the County would not cut off its access to its own facilities by shutting down the old road before it built the new one.

**Dan Drentlaw, Community Development Director**, clarified that City staff was asking for the opportunity to review and determine whether the interim access road was safe during the interim period between when the County removed the old road and built the new road.

**Mr. Rhodes** disagreed. He argued that the new road was separate from the old road. He noted that the County was already underway building the new road to meet its needs, including a 20-foot section to connect the new road to the old road before demolishing the old road.

**Mr. Rhodes** stated that the access would be continuous, save for a short period when they made the physical connection of the new road to the old road. He emphasized that there would be no interim road but rather the old road would be used until the County moved the traffic to the new road.

**Commissioner Neeley** acknowledged Mr. Rhodes' comments but pointed out that Mr. Rhodes has misunderstood the City. He stated that it was imperative for the City to look at this County project in the same way that it looked at any other project and development in Oregon City. He observed that a different developer might not be as concerned with maintaining access on the old road.

**A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]**

#### **4.2 Commission Report No. 03-065, Approve Access Easements in Singer Creek Park (Byron and Debra Zirkle and Derek Zirkle)**

**Ms. Craig** recalled that staff brought this matter to the Commission over a year ago when it became evident that two homes at the end of Mountain View relied on access across a portion of Singer Creek Park to get to their garages and the back part of their property where they owned a shop. She mentioned that two brothers happened to own the houses located across the street from each other.

**Ms. Craig** noted that, last November the citizens approved the necessary easement, which staff put on the ballot on the advice of the City Attorney. She indicated that staff has been working since then on obtaining a written easement to which all parties could agree. She reported that staff has finalized two easements, one for each brother, but only Byron and Debra Zirkle have signed theirs; staff was still waiting on Derek Zirkle.

**Ms. Craig** said that Byron and Debra Zirkle wanted to expedite this matter, as they were in the process of selling their home. She mentioned that the City still did not have insurance from the Zirkles for that portion of the easement nor have the Zirkles performed some of the conditions of the easement. She reported that Mr. Kabeiseman notified the Zirkles by letter that the City expected compliance in the next 15 days, and that it would not file the easement until it had compliance.

**Ms. Craig** indicated that the same would hold true for the other piece of property. She mentioned the condition requiring the owners to install a fence along the easement in order to

delineate clearly for the public which area of the park contained the easement, and which did not.

**Ms. Craig** indicated to **Commissioner Neeley** that she asked Mr. Kabeiseman the question raised by the Commissioner of why not wait to bring this to the Commission until after staff obtained the agreements. She said that the attorney felt it was preferable to send the requests through at the same time on parallel tracks, so that staff could move forward upon receipt of the signed easements without having to wait two weeks for another Commission meeting.

**Ms. Craig** confirmed to **Mayor Norris** that tonight's action approved the language and authorized the City Manager to sign all the documents.

**Commissioner Hewitt** indicated that it made sense to him to allow staff to move forward on this matter when the Commission was not around.

**Ms. Craig** clarified to **Commissioner Lemons** that the insurance was to indemnify the City for that portion of the easement.

**Commissioner Neeley** moved to approve the access easement in Singer Creek Park. **Commissioner Hewitt** seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

#### **4.3 Commission Report No. 03-071, OLCC: Liquor License Application – Greater Privilege Requested by Oregon City Coney Island Tavern located at 1413 Washington Street – Continued from April 2, 2003**

**Mayor Norris** recalled that the Commission has asked business owners applying for a different liquor license to come and talk to the Commission about their business and their future plans.

**Mike Reed, attorney representing Cary Anderson, Owner/Manager of Coney Island Tavern**, stated that over the past two years Mr. Anderson has built the business into a nice, clean, friendly place for Oregon City residents to get a drink and have a reasonably priced meal. He mentioned that Mr. Anderson sold five times as much food as his predecessor did at this location. He reviewed the breakfast, lunch, and dinner menus in detail.

**Mr. Reed** explained that Mr. Anderson intended to expand his menu significantly, and hoped to serve distilled spirits as well as beer and wine. He mentioned that Mr. Anderson has been losing customers because he could not offer distilled spirits, and he would like the chance to compete for those customers. He referenced Mr. Anderson's excellent reputation as a liquor license holder. He asked for a favorable recommendation to the Liquor Commission.

**Commissioner Bailey** asked how the business did during the Washington Street work. **Mr. Anderson** said that it slowed down but the construction workers coming in for lunch helped to offset that.

**Mr. Anderson** mentioned that he has held an OLCC license of some type or another for 25 years. He recalled that he has had only two violations in all that time at a convenience store he owned for 22 years, and none at a Portland area tavern he owned for five years. He stated that he did not like liquor violations, and he clearly posted his establishments with signs indicating no second chances.

**Commissioner Hewitt** commented that the Commission simply wanted to get to know the business owners coming into town. He mentioned the City's partnership with businesses, mentioning the Chamber in particular. He suggested that Mr. Anderson, as a business owner in the historic downtown, check with the Chamber regarding owning a business in that area.

**Commissioner Lemons** commented that he had not been aware of the tavern's menu; he and his wife would be down for dinner some night. **Mr. Anderson** mentioned that he bought the place from a man and his wife who owned it for seven years, and had bought it from a man who

owned it for 11 years before that. He said that that first owner had a special recipe for Coney Islands, which gave this establishment a reputation for the best Coney Islands in the Portland area.

**Commissioner Neeley moved for approval of Report 03-71, in support of the request for a greater privilege to the Coney Island Tavern. Commissioner Lemons seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]**

**The Commission considered Agenda Item 3, the Consent Agenda, at this time.**

**4.4 Commission Report No. 03-069, Oregon Watershed Enhancement Board – Watershed Improvement Grant Agreement for Holcomb Creek Culvert Replacement Project at South Redland Road (Agreement No. 03-600)**

**Mr. Sullivan** indicated that he has raised three issues with this acceptance by the City of State money to help fish pass through a previously limited area. He described them as matters of judgment on the part of the Commission.

**Mr. Sullivan** directed the Commission to Section C (page 1) where the first paragraph indicated that the State could reduce the grant if the State received reduced money during this biennium. He explained that he interpreted the language to mean reducing the grant proportionately, as would happen to all other grants of a similar nature.

**Mr. Sullivan** noted that if the City did not spend the money by the end of June 2003, then it had to go through whatever new requirements passed by the legislature. He clarified to **Mayor Norris** that the City spent the money and the State reimbursed it with the grant.

**Mr. Sullivan** indicated that staff has agreed to the 30 days notice termination clause of the grant (K3, page 3). He mentioned that, while the City indemnified the State, the State did not indemnify the City (page 4). He described it as a minor issue but noted that usually these agreements involved mutual indemnity.

**Mr. Sullivan** reiterated that these issues were judgment calls, in which the Commission accepted the risk that the funds might be reduced or cut off.

**Commissioner Lemons** questioned why the cost estimate for the culvert replacement project was \$763,316, while the three funding sources showed only \$362,581. **Sharon Zimmerman, Senior Engineer**, explained that the agreement between the City and the County would finalize the funding, as the County actually owned the culvert. She mentioned her hope to present at the next Commission meeting the completed IGA, which documented who was paying for how much.

**Ms. Zimmerman** indicated to **Commissioner Lemons** that Oregon City already paid its portion of the funding, which was for the consulting and design work. She mentioned submitting grant application to US Fish and Wildlife for another \$58,230.

**Commissioner Lemons** said that he has similar concerns to those raised by Mr. Sullivan. He mentioned the lack of shared indemnity, which was common to most agreements. He indicated that he needed more information before he could vote on this item.

**Commissioner Bailey** commented that if the lottery funds were not sufficient this biennium, and if they were not dispersed within the biennium, then the grant bore the risk that the legislature might re-appropriate it. He cited his professional position in stating that the language was boilerplate language that the State put into any contract under advice from the attorneys

**Commissioner Bailey** pointed out that the State funded the Oregon Watershed Enhancement Board with several tens of millions of dollars of lottery funds. He confirmed that those funds needed to be spent by the end of June but argued that the legislature would not take the funds

back at this point. He noted that these funds were also M66 funds dedicated to this kind of project; the legislature could not spend them on something else.

**Commissioner Bailey** said that he had no problem with the language or the issues raised by Mr. Sullivan. He commented that jurisdictions routinely requested grant extensions with proper notice. He held that the State put in a 30 days notice termination clause as a matter of course.

**Commissioner Bailey** reiterated that the point was that OWEB needed to spend the money on this kind of project, which was to replace a major fish passage. He mentioned a meeting he had today with ODOT, in which ODOT talked about replacing the 4,000 culverts on the Oregon Coast. He indicated that some individual culverts would take more than \$2 million to replace.

**Commissioner Bailey** noted that this was a substantial culvert, and therefore it would cost a significant amount of money. He described this as a good project. He reiterated that he had no concerns with the boilerplate language.

**Commissioner Neeley** recalled that, in obtaining MTIP funding for the Hwy 213/Beavercreek intersection, the City had an understanding with Metro that the project would include fish passage improvements. He cited that as the reason why the project made the 100% cut list. He mentioned that a subsequent study showed that the onsite culvert had limited fish passage potential, and therefore the City took on this culvert project in order to meet its obligation.

**Commissioner Bailey** moved adoption of Report 03-069, authorizing the City to enter into the grant agreement with Oregon Watershed Enhancement Board for a replacement of the culvert. **Commissioner Hewitt** seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

**The Commission** expressed its appreciation to Ms. Zimmerman for her working in trying to find grants. **Ms. Zimmerman** thanked Mark Mouser at the County for his teamwork efforts with the City to find funding. **Commissioner Lemons** thanked Ms. Zimmerman in advance for filling out the Oregon Watershed Restoration Report form.

#### **4.5 Commission Report No. 03-072, Proposed Resolution No. 03-15, Establishing and Authorizing the Use of the General Records Retention Schedule**

**Larry Patterson, City Manager Pro Tem**, indicated that this City records retention schedule was the first step towards the City implementing a general records management program. He noted that staff developed the schedule in a cooperative effort with the Oregon State Archives and the Oregon Association of Municipal Recordors.

**Leilani Bronson-Crelly, City Recorder**, indicated to **Mayor Norris** that the City has not had such a schedule in the past.

**Commissioner Hewitt** recounted his experience in going with Ms. Bronson-Crelly and the former City Manager to the archives to find some information. He mentioned the brittle yellowed paper in books and the filing cabinets full of paper. He held that the City desperately needed this schedule in order to start the process, while conceding that it was an expense.

**Commissioner Bailey** moved adoption of Report 03-072, establishing a records retention schedule. **Commissioner Lemons** seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

**Commissioner Bailey** commented that this was an excellent governmental item.

## **5. DISCUSSION ITEMS**

## **5.1 Commission Report No. 03-073, Memo by Assistant City Attorney William K. Kabeiseman on Regulation of Adult Oriented Businesses in the City.**

**Mayor Norris** asked Mr. Sullivan to lead the Commission in a discussion of the rights and opportunities that the City had in helping to regulate and zone, as well as create nuisance laws, that might assist the community with this type of business in the future.

**Mr. Sullivan** referenced the memo from Mr. Kabeiseman, which reviewed the precedents for dealing with this situation. He noted that Article 1, Section 8, of the Oregon Constitution did make it more difficult for Oregon to deal with businesses of this nature than other states. He mentioned the *Portland v. Tidyman* case, which was a challenge to the Portland ordinance requiring adult uses to be separated from schools, churches, and other adult uses, in order to avoid their concentration in any one area.

**Mr. Sullivan** mentioned the 'Boston Combat Zone' ordinance, which restricted these uses to one area in order to provide opportunity for these businesses. He noted that that opportunity was limited.

**Mr. Sullivan** noted that, while the US Supreme Court approved Portland's attempt to disperse businesses, the Oregon Supreme Court did not because of the 1859 Constitution, which provided that no law shall be passed restraining the free expression of opinion or restricting the right to speak, write, or print freely on any subject whatever but every person would be responsible for the abuse of this right.

**Mr. Sullivan** explained that the Oregon Supreme Court decided in the 1988 *Tidyman* case, and in subsequent cases, that one could not stop a use before it had an existence and a history. He said that if the history of the business included violations of the City ordinances or State laws, then the City could deal with that. He indicated that the Oregon Supreme Court case law did not appear to allow jurisdictions to separate out adult material, whether books, paraphernalia, or otherwise, from other books and paraphernalia.

**Mr. Sullivan** recalled his suggestion at the last meeting that freedom of expression was a two-way street. He commented that, while Mr. Kim could have his shop, the people who disliked what Mr. Kim expressed could have their say, whether in the Commission chambers or in front of Mr. Kim's shop, as long as no law was broken. He indicated that the neighborhood has been admirable in its way of dealing with these uses.

**Mr. Sullivan** noted that now they had to settle in. He said that if there was a violation, then the City would act, but if there were no violation, then the neighbors would have the opportunity to express their concern by continuing their vigils as they have done in the last few days. He stated that the City would monitor the situation, and take care of any violations.

**Mayor Norris** mentioned that, in her Internet research, she found that the City of Springfield had created zoning specifying that certain businesses could go in particular zones. She asked if there were ways to tighten up Oregon City's zoning ordinances and nuisance laws.

**Mr. Sullivan** said that he would feel more comfortable in advising the Commission to tighten up its nuisance laws than in changing its zoning. He indicated that zoning based on the content of the material offered would be a difficult case to make. He commented that he thought that the City could do something based on nuisance for what was done at the site.

**Mr. Sullivan** described Portland's approach, which was to acknowledge that it could not do anything about adult businesses if they wanted to move into a regular retail/commercial district but it could close down the site if it saw a number of violations, and make sure that no one rented it for a certain period of time. He noted that Oregon City did not have that procedure but he would be happy to look at a similar ordinance.

**Mr. Sullivan** mentioned that the Oregon Supreme Court found the Portland method valid, even under Article 1, Section 8, of the State Constitution. He observed that Article 1, Section 8, was far more liberal than the First Amendment to the US Constitution.

**Mayor Norris** asked about Oregon City's nuisance ordinance. **Mr. Sullivan** indicated that Oregon City's ordinance was weak because it was so vague that any one could bring a civil rights claim against it under both the First Amendment and Article 1, Section 8. He observed that the City drafted this old nuisance ordinance to deal with issues other than adult businesses. He commented that they could tighten it up.

**Mr. Sullivan** said that he hesitated to bring a case against this use based on the general principle that the business was creating problems. He mentioned that the closer he could get towards a specific problem, such as an increase in the crime rate directly attributable to this use, then better chance he had of making a case using that connection.

**Commissioner Lemons** mentioned that the courts upheld Beaverton's solution to its problem, which was to restrict the hours of operations within a zone. **Mr. Sullivan** indicated that the City could do that, although it would have to restrict hours of operation across the board.

**Commissioner Lemons** spoke to looking at the whole picture in deciding what the City could and could not do legally, while taking all precautions possible to prevent this type of thing from coming up in the future.

**Commissioner Bailey** mentioned his personal skepticism at Mr. Kim's comment in the paper. He suggested taking Mr. Kim at his word and inviting him to come before the Commission to explain how it was that if he were in the same situation as the neighbors, he would feel the same way. He noted the question of how could Mr. Kim continue to impose this business in this neighborhood based on that comment. He held that discussing the suitability of this kind of shop in this location would be a good conversation with Mr. Kim, if Mr. Kim himself did not believe that it was suitable.

**Commissioner Bailey** encouraged the Commission to work vigorously with staff and the City Attorney on an ordinance to address this situation. He commented that sometimes it took a horror story, such as a Triple X superstore in a commercial zone on Molalla Avenue, to stir people to action. He described this small example of what could happen as the beginning of a situation that the Commission needed to take a hard look at and prepare for.

**Commissioner Bailey** commented that the neighbors and the community were doing an outstanding job of putting pressure on in the way it should be under the City's current legal framework. He argued that that did not mean that the City needed to be unprepared for the future, as this situation would happen again.

**Commissioner Neeley** referenced the Beaverton example of a restriction on the hours of operation. He pointed out that most of the businesses next to a residential area would operate within the same hours of operation as the adult business. He indicated that he had major concerns that restricting the hours of operation would not address the City's problem.

**Commissioner Neeley** asked if there were ways, in terms of zoning, that other jurisdictions have not used, that might not land Oregon City in the same predicament. **Mr. Sullivan** indicated that there were two possibilities that he thought would work, and, at the Commission's direction, he could search out other possibilities and return with a menu of options.

**Mr. Sullivan** commented that, in his conversations with other city attorneys, he found that they faced the same dilemma in dealing with this problem: Article 1 Section 8, the Tidymen case, and the subsequent cases. He observed that if a jurisdiction took a wrong step, it could receive a civil rights suit, pay someone else's attorneys fees, and look very badly.

**Commissioner Neeley** indicated his interest in Mr. Sullivan doing so. He commented that the Commission has seen as much residential response on this issue as it has for any issue it has heard. He said that he wanted to see all the alternatives open to the Commission. **Mayor Norris** noted that the Commission concurred with Mr. Sullivan looking at nuisance codes and zoning possibilities in developing a menu of options for the Commission.

**Commissioner Hewitt** commented that, while he agreed with everything said this evening, he did not see any immediate response from a legal standpoint to the neighbors' concerns. He mentioned that when one went into a store, one was not supposed to be able to see a questionable magazine. **Mr. Sullivan** indicated that the nuisance ordinance was so vague that Mr. Kim possibly could display questionable items in his windows for passersby to see.

**Commissioner Neeley** commented that his reading of the ordinance found it over-general in the sense that it could prevent the display of a Playboy in any commercial outfit. **Mr. Sullivan** clarified that what he meant by vague was that the ordinance was so broad that anybody could decide what was good or bad. He indicated that the courts did not like that.

**Commissioner Hewitt** indicated that he would prefer to see the store windows boarded up so that no one standing outside could see anything inside the store. He stated that he did not want the general youth population exposed to the pornographic materials. He commented that if there were some way that the City could get at that, even with a vague nuisance ordinance, he would be happy to look at it.

**Mayor Norris** said that she was pleased that the City would take action and have a report at its next meeting.

## **6. PUBLIC HEARINGS**

### **6.1 Commission Report No. 03-074, Appeal of the Planning Commission Denial of a Variance (VR 02-10) to increase the maximum cul-de-sac length allowed in a subdivision (AP 03-02)**

**Mr. Drentlaw** asked the Commission to continue this appeal to its May 7 meeting. He mentioned that staff, after consulting with the attorney, felt it was safer to notice everyone on the petition that the City received from a neighborhood organization, and not merely the neighborhood.

**Commissioner Neeley** moved to continue the appeal of the Planning Commission's denial of a variance (VR 02-10). **Commissioner Lemons** seconded the motion. A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

## **7. COMMISSION/CITY MANAGER INFORMATION**

### **7.1 City Manager's Report**

**Ms. Craig** recalled that two years ago the City received a \$164,000 state grant for the Hillendale Park expansion. She reported that today she had a sign put up at the park acknowledging that the City finished the project, and that State Parks provided lottery funds for it. She read the sign.

**Commissioner Bailey** congratulated staff. He pointed out that that was the companion to the Measure 66 funds, just mentioned during the Holcomb Street culvert discussion.

**Ms. Craig** advised the Commission unofficially that Oregon City received the largest single grant award (\$180,000) from the Oregon Outdoor Recreation Committee, which distributed federal funds for the Land and Water Conservation Department. She explained that she participated in the jury reviewing the 28 projects submitted for the \$831,129 available. She indicated that the City would use the grant towards the first phase of Wesley Lynn Park.

### **7.1.a Review of Decision on Hiring In-House Legal Counsel**

**Mr. Patterson** recalled that the Commission had authorized the City Manager to begin looking into hiring a staff attorney. He indicated that he wished to make sure that the Commission had all the information it needed in making this decision, and to verify that this was the course desired by the Commission.

**Mr. Patterson** referenced his memo, which he described as a follow up to the information he had provided before in regards to a number of concerns that he thought the Commission needed to think through. He noted the additional cost items but pointed out that he did not include the costs of providing clerical support. He observed that the City as an organization had very little clerical support, and a staff attorney needed clerical support.

**Mr. Patterson** noted that simply renting office space, as he did not deem the space set aside for an in-house attorney to be adequate, would push the annual costs of the office up to between \$160,000 to \$170,000. He commented that the City might see some cost savings if it laid the entire workload on a single attorney but noted the trade-off of a longer process for items, as there was only so much one individual could do in a given year.

**Mr. Patterson** referenced the historical data on the legal costs over the last three to four years. He noted the substantial amount in 2001, which was a busy year with a number of different issues. He speculated that the City would see rising City Attorney costs, as it needed assistance on various issues in the future.

**Mr. Patterson** said that he would proceed with the search for a staff attorney, if that was the Commission's direction. He reiterated that he had wanted to make sure that this was the direction in which the Commission wanted to go.

**Mayor Norris** expressed her appreciation of revisiting the issue, as Mr. Patterson provided the Commission with information that it did not have before.

**Commissioner Lemons** recalled that he voted against an in-house attorney, which he would still do.

**Commissioner Neeley** commented that he appreciated that this might be a good idea but the wrong timing in terms of upcoming Commission budget decisions. He said that, before he changed his vote, he wanted to review the logic of the first decision to pursue a staff attorney.

**Commissioner Neeley** recalled the Commission discussion of the fact that its list of legal issues was proceeding slowly under the City's current process. He held that that was the primary justification for seeking an in-house attorney. He mentioned looking at contracts and other legal items more effectively with a staff attorney.

**Commissioner Neeley** commented that neither the Commission nor the staff asked questions about clerical support for the position or office space the first time staff presented the issue. He recalled that they had focused on the costs of the attorney position itself. He acknowledged that they were shortsighted in that area.

**Commissioner Neeley** suggested that the Commission postpone hiring for this position and table the issue until the City was in a fiscally better position, as opposed to killing it outright. He spoke to revisiting these issues one day, and looking at what the City might be able to do more efficiently with an in-house attorney that did not work as well with contract services. He observed that pursuing all the City's legal issues could cost more with contract services than with an in-house attorney.

**Commissioner Neeley moved to table indefinitely the effort to seek in-house legal representation, and that it come back at a later date when the City perhaps had some funds to look at and see what the relative benefits would be at that later date.**

**Mayor Norris** noted that, under *Robert's Rules of Order*, a motion to table caused the immediate cessation of discussion. She indicated to **Commissioner Neeley** that if he wanted to postpone the issue, as opposed to tabling it, than Robert's did not apply.

**Commissioner Bailey** seconded the motion on postponement for discussion.

**Commissioner Hewitt** said that he would not change his vote for the very reasons raised in Mr. Patterson's memo. He argued that, with contract services, the City hired more than one attorney; it hired a firm with expertise in each individual area, and expertise in support services. He commented that the only downside to not having an in-house attorney was immediacy of access.

**Commissioner Hewitt** concurred with Mr. Patterson that one person could only do so much. He argued that a firm could do more with a broader table from which to work. He spoke to setting this aside for a staff discussion after the new City Manager came on board, rather than the Commission not making a decision indefinitely.

**The Commission** discussed postponing the motion until the Commission or City staff brought it back up for discussion.

**Commissioner Bailey** spoke of the budget process as the responsible opportunity coming forward for the Commission to make this decision. He pointed out that the Commission balanced the pros and cons of issues along with the cost against everything else on the City's plate. He emphasized that the budget process was the appropriate context for making this decision.

**Commissioner Bailey** pointed out that, after the budget process, the Commission would understand whether the City could afford an in-house attorney, and what the peripheral issues were. He mentioned that the process would provide guidelines for the new City Manager.

**Commissioner Bailey** clarified that he was talking about postponing the issue through the budget process. He indicated that he would not set a date certain because they did not know how that would play out yet, although it should become obvious as they went through the process.

**Commissioner Hewitt** noted that last year the attorney costs were \$127,000, while the year before that they were \$133,000 in comparison to the \$160,000 to \$170,000 mentioned to hire an in-house attorney and support staff. He reiterated that, in hiring a firm, they hired professionals in each individual area of law expertise and the support staff. He argued that the City, which was in dire financial straits, would be paying almost \$40,000 a year more and not receive the same level of expertise.

**Mayor Norris** concurred with the prior statements. She indicated that, based on the new information, she would like to look at the issue in future.

**The Commission** discussed the wording of the motion.

**Commissioners Neeley and Bailey** agreed change the wording to "move to postpone the seeking of an in-house legal attorney but to return when the City had funds."

A roll call vote was taken, and the motion passed with Commissioner Neeley, Hewitt, Lemons, Bailey, and Mayor Norris. [5-0]

#### **7.1.b. Comparative Cost for Municipal Court Indigent Defense and Prosecution**

**Mr. Patterson** indicated that Chief Huiras was out of town, and they needed to roll this item over to the next meeting.

#### **7.1.c Work Session**

**Mr. Patterson** asked to schedule a joint City Commission/Planning Commission work session on May 21 at 5:30 p.m. He indicated to **Commissioner Neeley** that it included dinner.

**Commissioner Hewitt** expressed his concern with the Commission meetings that started at 5:30 p.m. and ran to whenever the regular meeting ended. He indicated that, after an eight-hour workday, he stopped thinking after about five to six hours of meetings. He asked to hold off the 5 p.m. meetings before a regular Commission meeting for special circumstances or emergency meetings.

**Mayor Norris** suggested that the Commission discuss the issue, as the Commission indicated at its goal setting that it wanted fewer meetings that went a bit longer, as opposed to more meetings occupying additional nights.

**Commissioner Neeley** said that he agreed with Commissioner Hewitt. He cited one of the difficulties as gathering all five Commissioners together on a night other than the regular Wednesday meeting night, given the Commissioners' obligations to attend other meetings. He observed that adding in the schedules of the five Planning Commissioners made it challenging to set up a meeting.

**Commissioner Lemons** concurred with Commissioner Hewitt. He asked why the Planning Commission wanted this meeting. **Mr. Drentlaw** indicated that the Planning Commission wanted to discuss their goals and projects with the City Commission as a reality check. He said that they felt the need to communicate with the City Commission on some things that they felt were important.

**Mayor Norris** mentioned that the Planning Commission chair, Linda Carter, talked to her about this meeting. She said that Ms. Carter's concern had been about the timing of the Comprehensive Plan and other matters of mutual concern.

**Commissioner Bailey** commented that, during his tenure on the Planning Commission, he had found it helpful to get a political reality check by talking with the City Commission. He pointed out that the City Commission relied on the Planning Commission for an important part of the City's business. He described it as an extension of the Commission's work.

**Commissioner Bailey** acknowledged the time commitment factor and the 'glassy-eyed' effect after 9 p.m. He indicated that he was willing to accommodate the Planning Commission's need to check in with the policy makers.

**Commissioner Lemons** said that he had no problem with that but he agreed with Commissioner Hewitt that they seemed to be meeting all the time. He recalled raising this issue when he discussed the Commission expenses situation. He indicated that he did not mind meeting the extensive time and meetings commitment of the Commissioners beyond the two regular Commission meetings per month, but he felt that they needed to draw the line somewhere.

**Commissioner Neeley** indicated that he would be available at 5:30 p.m. on May 21.

**Commissioner Hewitt** commented that he had not been talking about meeting with the Planning Commission specifically but rather the general idea of meetings starting at 5:00 or 5:30 p.m. He spoke of implementing a limitation. He indicated that he did not have a problem with a 5:00 p.m. meeting once a month but it seemed like they had a meeting before every City Commission regular meeting.

**Commissioner Hewitt** emphasized that he was talking about the longevity of the Wednesday night meetings. He acknowledged Commissioner Neeley's point that staff scheduled these meetings for Wednesdays because they could not find another mutually acceptable date. He reiterated that perhaps they could limit it to once a month instead of every single City Commission meeting.

**Mayor Norris** asked if Commissioner Hewitt preferred scheduling another night for meetings. She noted that the Commission did need to sit down together to discuss issues.

**Commissioner Hewitt** said that he would prefer to have a clear mind at a City Commission meeting. He indicated that if something were important enough to hold a meeting, then he would like to schedule it on another night, sufficiently early in the evening to avoid late night meetings. He suggested meeting with the Planning Commission at its monthly Wednesday work session, which occurred on a non-City Commission meeting night.

**Mayor Norris** indicated that she did not hear a clear consensus on whether to hold more meetings or longer meetings.

**Commissioner Neeley** noted that the Commission already met the Monday before the first Commission meeting of the month. He suggested scheduling an additional meeting before the second Commission meeting for work sessions with other City Commission advisory boards and commissions.

**Mr. Patterson** suggested that the Commission discuss this topic during its upcoming Monday meeting. He mentioned that the trend in local governments was not towards fewer meetings but rather towards more and more time commitment on the part of elected officials. He observed that, as the issues became more complex in Oregon City, the more demands there would be on the Commission's time.

**Mr. Patterson** indicated that he could provide suggestions to the Commission at the May 21 study session on how to handle the situation. He acknowledged that the Commission might not find his suggestions agreeable, as many people would demand face-to-face meetings with the Commission. He mentioned that he could also make suggestions on how to shorten the Commission meetings, based on his observations.

**Mayor Norris** commented that a study session was the best opportunity to discuss a variety of options on how to handle meetings.

## **7.2 Commissioner Communications**

### **7.2.a Mayoral Appointments**

**Mayor Norris** reported that they have held one interview for the Urban Renewal Budget Committee. She indicated that she would bring those appointments to the next meeting.

### **7.2.b Reports of regional and intergovernmental committees**

- **Oregon Convention Center Opening**

**Mayor Norris** encouraged all citizens to participate in the free activities and entertainment offered this weekend at the Convention Center, which was now the largest convention Center in the Pacific Northwest and the biggest ballroom in Portland. She indicated that she attended the opening this morning and found the building stunning, and likely to become an economic engine for the surrounding communities, as advertised.

**Mayor Norris** mentioned that Metro President David Bragdon gave a plug to Oregon City this morning by stating in his opening remarks that people did not come to Portland simply to attend conventions but also to come to places like Oregon City to shop for antiques.

- **Clackamas County Tourism Development Council (TDC) Grant Proposal**

**Mayor Norris** referenced the copy of the grant proposal that the City has submitted to the TDC for an Oregon City Tourism plan. She explained that the TDC has hired a consultant; cities making application would have two meetings with the consultant and receive some funds. She mentioned the preliminary list of 20 to 25 citizens to involve in developing the tourism plan. She asked the Commission for any other appropriate names.

Mayor Norris indicated that she would serve as the Commission liaison to the committee while Ms. Craig would do the staff work. She observed that Oregon City already had several pieces of a tourism plan developed, and it should not take too much to put a plan together. She mentioned that the TDC wanted a plan from Oregon City in light of the historic Oregon City work, and the future discussion on consolidating the historical facilities in Oregon City.

**Mayor Norris** described the plan as giving a goal and a direction citywide. She said that she would let the Commission know when the consultant meetings would be held. She indicated to **Commissioner Neeley** that the City has made this request alone. She confirmed that she included the people involved in the visioning process on the list but if anyone was missing, to let her know.

- **County Commissioner Retirement**

**Mayor Norris** reported that the Commission received an invitation to the send off for retiring County Commissioner Michael Jordan. She said that she could not attend but she hoped some of the Commissioners could do so. She indicated that she would send a letter of thanks to Commissioner Jordan for his service and to wish him well in his new position.

- **Metropolitan Policy Advisory Committee (MPAC)**

**Commissioner Neeley** advised the Commission that Metro was giving priority to submissions to for MTIP funding to projects emanating from regional centers and from industrial areas. He suggested that Oregon City keep that in mind for future submissions.

**Commissioner Neeley** mentioned that the MTIP 150% cut list was actually a 180% cut list, as Metro staff could not decide to cut some projects, and added them to the list. He commented that, while Oregon City's two projects stood high in the relative rankings, that could change. He encouraged anybody interested to testify at the Metro Listening Post at the Pioneer Community Center on April 21 from 5 p.m. to 7 p.m.

**Commissioner Neeley** indicated that Oregon City's two projects were the funding for Phase 2 of the Amtrak station, and the funding for the actual construction of the McLoughlin project. He mentioned that the City was in the planning process for the McLoughlin project now, and had a grant for the engineering piece that would come forward next year. He said that the City did not want to have to wait to do the construction years after the engineering, and therefore was pursuing a grant for the construction.

*Commissioner Neeley* spoke of a non-mandated Metro requirement for jurisdictions to look at affordable housing. He noted that the requirement was not part of the formal Functional Plan but it did have a reporting process that cities were supposed to go through to say what they intended to do in the area of affordable housing. He said that Mr. Drentlaw would know what the three reports involved were.

**Commissioner Neeley** indicated that Oregon City has missed the deadline for the first report, which was due in January 2002, and for the second report, which was due in January 2003. He mentioned that the City did not feel guilty about those reports because two-thirds of the Metro jurisdictions have not completed them either.

**Commissioner Neeley** said that Oregon City was behind on other aspects of the Functional Plan. He indicated that the most critical element was its minimum density plan for the city. He explained that the City did ask for an extension, due to staffing problems in the Planning Department, which gave it until December 2002.

**Commissioner Neeley** noted that, unless Wilsonville has not yet filed its plan, Oregon City was the only city in the Metro area that has not met this Functional Plan requirement. He asked Mr. Drentlaw for an update on the status of the minimum density plan.

**Mr. Drentlaw** said that, while the minimum density issue in and of itself was easy to address, the problem was the Measure 56 requirement to notice every property owner in Oregon City regarding any land use regulation or plan changes that could affect property values. He described his efforts to combine the Functional Plan code compliance changes with the adoption of the Comprehensive Plan revision, the Comprehensive Plan map revisions, and other code amendments implementing the Downtown Community Plan, into one package for a single Measure 56 notice, which would save the City a considerable amount on postage.

**Mr. Drentlaw** said that staff could prepare the minimum density ordinance and bring it to the Commission in a couple of meetings. He emphasized that staff would have to send out a Measure 56 notice on that single item, and a second Measure 56 notice for the other items. He reiterated that a Measure 56 mailing had a large postage bill.

**Mr. Drentlaw** reported that he has remained in constant contact with Metro staff on this issue. He indicated that Metro put Oregon City, by default, into the exceptions process because it assumed that any jurisdiction not yet reporting would say that it did not intend to do it at all. He emphasized that he told Metro that that was not Oregon City's position. He stated that his latest discussions with Metro staff indicated that Metro did not intend to make Oregon City file an exceptions application.

**Mr. Drentlaw** expressed his hope that the City could move along the Comprehensive Plan soon, so that he could do a Measure 56 notice on the single package of several items. He reiterated that the Commission did have the option of considering the minimum density ordinance by itself.

**Commissioner Neeley** commented that he thought it made sense to hold the Commission discussions on the Comprehensive Plan simultaneously with the discussion on minimum density, even without the money concern. **Mayor Norris** concurred.

**Commissioner Neeley** asked for an estimated date for when the Commission would see the Comprehensive Plan. **Mr. Drentlaw** indicated that, given the Planning Commission's work schedule, he thought it unlikely that the Planning Commission would hold public hearings on the Comprehensive Plan before June. He speculated that the City Commission might see the Plan in the fall.

**Mr. Drentlaw** indicated to the Commission that he would provide the members with copies of the Comprehensive Plan draft with the Planning Commission's latest revisions.

#### **7.2.c Commission President Tom Lemons to provide Commission Goal Achievement Report**

**Commissioner Lemons** directed the citizens' attention to the Commission's 2003 goals listed on the wall. He discussed the Commission's work on creating a strategy for Oregon City economic recovery. He mentioned that the bid has been let to build the platform and parking for the South Metro Amtrak Station, in addition to the application for Metro MTIP funds for Phase 2. He urged all citizens supporting the project to testify at the Metro Listening Post on February 21 at the Pioneer Center.

**Commissioner Lemons** noted the work on the McLoughlin Blvd Enhancement Plan. He mentioned the Commission's recent approval of the Clackamette Trail project, and of the bus rapid transit improvements to Oregon City through the adoption of the South Corridor Metro project. He reported that some of the bids let out for the improvements at Glen Oak Road and Hwy 213, and at Beavercreek Road and Hwy 213, were awarded to local Oregon City construction companies.

**Commissioner Lemons** mentioned the City's work in bringing to Metro's attention that it would like to see the potential light rail projects going to Clackamas Town Center and Milwaukie continue on down to Oregon City.

**Commissioner Lemons** mentioned the Governor's visit to Oregon City last month. He indicated that there was a good turnout. He expressed his hope that, when Oregon City asked for things, the Governor would remember that he visited Oregon City and promised a whole bunch of things.

**Commissioner Lemons** referenced the goal of building partnerships to promote efficiency and accountability. He mentioned the City's agreement with the County regarding the Red Soils project. He spoke of the City's work in building a better working relationship with Metro and the City's newly elected representative, Councilor Brian Newman. He noted the City's commitment to working cooperatively with all agencies.

**Commissioner Lemons** commented that it took time to find solutions for the downtown. He cited the past 20 years during which the community has discussed what to do about the downtown. He referenced the development of the Downtown and Waterfront plans.

**Commissioner Lemons** noted the goal of providing quality customer service. He mentioned publishing the City Commission agenda in the *Oregon City News* and the *Oregonian*, as well as the more friendly agenda format.

#### **7.2.d. Other**

**Commissioner Neeley** referenced the Park Place Neighborhood Association and development occurring in the area. He noted that the ordinance stated that the developer "may" speak with the neighborhood association. He asked that the developer definitely talk with the neighborhood.

**Commissioner Hewitt** indicated that, while he did not object to the developer contacting the neighbors, he did think that requiring the developer to hold a meeting with the neighborhood association was too much. He spoke against forcing this.

**Commissioner Neeley** asked the City Attorney about the question. **Mr. Sullivan** mentioned Goal 1, citizen participation. **Commissioner Hewitt** reiterated that the matter should not be forced. He asked to put the issue on a later agenda for discussion.

### **8. ADJOURNMENT**

**Mayor Norris** adjourned the regular meeting at 9: 04 p.m.

### **9. EXECUTIVE SESSION**

**Mayor Norris** convened an Executive Session at 9:04 p.m. pursuant to ORS 192.660 (1)

LEILANI BRONSON-CRELLY  
CITY RECORDER