

MINUTES

Eugene City Council
McNutt Room—City Hall

August 7, 1996
11:30 a.m.

COUNCILORS PRESENT: Tim Laue, Laurie Swanson Gribakov, Shawn Boles, Pat Farr,
Kevin Hornbuckle, Barbara Keller, Nancy Nathanson, Jim Torrey

I. APPROVAL OF THE AGENDA AND TIME ESTIMATES

Mr. Laue moved, seconded by Ms. Swanson Gribakov, approval of the agenda and time estimates. Roll call vote; the motion passed 5:1, with Ms. Keller voting in opposition and councilors Farr and Nathanson away from the table at time of vote.

II. ITEMS FROM THE MAYOR, CITY COUNCIL, AND CITY MANAGER

A. Speed Reader Board

Ms. Nathanson said she was pleased about the speed reader board. She requested information from staff as to where the City was in relation to the purchase option and added that she wanted to ensure that all departments were being kept abreast of developments.

B. Hiring of Eugene Department of Public Safety (DPS) Officers

Ms. Nathanson mentioned that she had spoken with Dave Whitlow and Chief Leonard Cooke, DPS, about the issue of timely hiring of DPS officers. She said that while the council had authorized a certain number of positions, those positions have not been filled. She requested that, during the fall, staff provide the council with information regarding the following: 1) the status of police officer recruitment and hiring; 2) information on the progress toward filling vacancies; 3) how the additional personnel analyst position is being used; and 4) how the department is taking action to reduce the number and duration of vacant authorized positions throughout the year.

C. G. Willicker's

Mr. Torrey reported that after having spoken with the owners of the property, Dr. and Mrs. Roberts, he was assured that there would not be a topless-bottomless facility at G. Willicker's.

Ms. Swanson Gribakov thanked Mr. Torrey and staff for their efforts in handling this situation.

D. Public Safety Budget

Mr. Torrey requested that the Chair of the Public Safety Committee ensure that the committee review the current Public Safety Budget with the intention of finding areas of efficiency wherein cuts could be implemented.

E. Citizen Patrols

Mr. Boles expressed his increased interest in the tactic of citizen patrol. He said that he wanted more information about how they were utilized, how they were managed, how they were supervised, and what kinds of responsibilities they had.

F. Benefits of Growth to Tax Payers

Mr. Boles stated that regarding the Chamber of Commerce's Cost of Services Study he had continued hear that there were benefits of growth to taxpayers. He requested that the Chamber of Commerce generate an analysis that indicated the benefits of growth for taxpayers.

G. Staff Acknowledgment

Ms. Keller thanked staff for the courteous help they had offered Tim Ream with his television program that he broadcast from the Council Chamber. She said that staff worked in a facilitative mode and she had appreciated the help.

H. *The Register-Guard* Misprint

Ms. Keller stated that the *The Register-Guard* printed that the City Council was scheduled to adopt the dogs and skateboards law, rather than it was scheduled to consider the law. She said that, unfortunately, citizens took at face value the things that were printed in the paper, and she assured the general public that the council would consider adoption of the law today.

I. Field of Dreams

Mr. Farr said he had received an invitation to the Field of Dreams Affordable Home Ownership Development open house. He said that it was a wonderful development and invited the councilors to attend the grand opening on Friday, August 9, 1996.

J. Construction on Barger Drive

Mr. Farr said that the construction on Barger Drive and Beltline Road was progressing rapidly, but that he had received a number of comments from Bethel residents concerning the lack of courtesy of some of the construction workers. He requested that that feedback be passed along to the project contractor.

K. Local Street Plan

Mr. Farr, reminding the councilors of their previous action concerning the Local Street Plan, stated that while he had voted against passage of the Street Plan, he was impressed with the plan itself because it did a great deal to allow for flexibility of development while maintaining a necessary control over development.

L. Admission to Public Parks

Mr. Hornbuckle, reminding the councilors that he had requested information regarding the City's policy of charging admission to public parks, stated that he had received a memorandum from Jim Johnson, Library, Recreational, and Cultural Services, which he believed confirmed his opinion that the City was allowing for a circumvention of the law. He said that Mr. Johnson had essentially stated that it was acceptable for groups to put up signs asking for suggested admission to the parks because some people know that a donation is required. He said it was his opinion that the City was taking advantage of citizens' naivete about the current laws. He requested that the administrative rule or ordinance be changed or that the use of the parks be brought into compliance with the existing ordinance.

M. Point of View

Mr. Hornbuckle reported that he had watched the movie, "Point of View," on the Oregon Public Broadcasting network. He said that movie dealt with the "systematic dismantling" of the fixed rail public transportation system conducted by big businesses during the 1930's and 1940's.

N. West Eugene Parkway

Mr. Hornbuckle said that a few years ago he had stated that there needed to be a supplemental environmental impact statement that would cover the three phases of the West Eugene Parkway, but staff had said then that it was unnecessary. He reported that the Oregon Department of Transportation (ODOT) was now indicating that it was necessary. He expressed his frustration over having lost time and money in the delay.

O. DPS Diversity Goals and Pending Retirements

Ms. Swanson Gribakov requested that in the fall report to council requested earlier in the meeting, DPS staff include an update on its diversity goals. She also requested that DPS staff provide the councilors with information regarding pending retirements.

P. Regional Forum Meeting

Ms. Swanson Gribakov stated that the meeting entitled, "Youth Out of the Educational Mainstream," was excellent. She said that it focused upon youth who were suspended or expelled from school or those who reenter school from the juvenile justice system and noted that she had gained some information that would be helpful as the three jurisdictions worked to create a better, stronger criminal justice system.

Q. Festival of American Music

Mayor Bascom reported that the Festival of American Music would be held the last part of August at the Hult Center and the Cuthbert Amphitheater.

R. Acknowledgment of Lane County

Mayor Bascom thanked Lane County for its willingness to contribute funding to the Valley Rail Passenger Service.

S. "Pre" Movie Set

Ms. Norris requested that if any of the councilors received calls concerning street closures or movie sets, they should route them to the Public Service Officer. She added that Mary Walston from the City Manager's Office was helping to coordinate information dissemination.

T. November Ballot

Ms. Norris stated that staff would be conducting an analysis of Ballot Measure 47 during the council break.

III. ACTION: ORDINANCE PROHIBITING DOGS AND SKATEBOARDS IN THE UNIVERSITY AREA

CB 4588—An ordinance concerning dogs and skateboards; adding section 4.427 to the Eugene Code, 1971; amending section 5.450 of that Code; and declaring an emergency.

Lt. Becky Hanson was available to answer questions.

Mr. Torrey asked, in response to public hearing comments from several citizens, why the City could not make the laws that were already in place work more efficiently. Further, he asked if the City could develop a special permit for the people who work in the area, but did not reside in the area of 13th Avenue. He expressed his interest in extending the area in question to High Street.

Lt. Hanson responded by saying that DPS officers had been enforcing the existing laws within the last year. She noted that the existing laws were not managing the congestion of the area and added that this ordinance would help simplify enforcement in the area and help officers to better manage the drug traffic in the area.

With regard to developing a special permit, Lt. Hanson stated that the City could create a permit, but she questioned whether it was a good choice to create another bureaucratic procedure that dealt with such a small area.

Regarding the extension of the area to High and Ferry streets, Lt. Hanson suggested extending the area for a period of six months and then reevaluating the ordinance and the staffing constraints.

Responding to Mr. Hornbuckle's question, Lt. Hanson said that it was illegal to ride a skateboard in the bike lane for purposes of transportation. She added that the banning of skateboards in the area was, in part, to mitigate the sale of drugs.

Answering Ms. Nathanson's question, Lt. Hanson stated that DPS had developed this strategy for this specific area and the only expansion she could envision would be further west. She added that the same strategy was currently working in the downtown mall.

Ms. Swanson Gribakov stated that review of this ordinance would not come back to the council until July 1997 and noted that date was too distant for her to feel comfortable. She added that she wanted to see how the ordinance worked before expanding the area of coverage and noted that she would like the review to be earlier than July 1997. She remarked that it was time for the City to consider creating more skateboarding opportunities within the City park system.

Ms. Norris noted that the Amazon Skateboard Park had been provided for by a number of parents, clubs, individuals, as well as the City. She said that staff could look into the possibility of creating more such facilities. Ms. Nathanson stated that she had a preliminary conversation with the principal at Churchill High School about the possibility of creating more skateboard areas.

Lt. Hanson stated that she would not want to have the review any earlier than six months because there would be a drop off in activity during the fall and winter months and that would not give a realistic picture of the ordinance's effects.

Mr. Boles stated that when the West Side Work Group was proposed, he was not supportive of it because he was afraid that it would create ad hoc strategies that would not meet the problems in the area. He said he was struck by the lack of integration of this proposal. He asked for a description of an integrated plan. Lt. Hanson stated that this process began about one year ago when Community Response Team (CRT) officers experienced problems in enforcing current laws in the area. She said that the CRT officers were given instructions to speak with neighbors, business owners, and people in the area to assess what DPS could do best to assist in eradicating the problems.

Responding to Mr. Boles' question, Lt. Hansen stated that this ordinance would probably push the problem out into some other area, but she stressed that the main attraction was 13th Avenue. She thought that the impact in other areas would be minimal, but if that proved to be wrong, then DPS would reevaluate the decision and design strategies for the affected areas.

Mr. Farr said that the previous evening he had witnessed a drug deal in the area in question and commented that when he witnessed the deal, there were no skateboarders or dogs in the area to confuse the situation. He expressed his opinion that in absence of such confusion, DPS would be better able to help resolve the drug trafficking in the area.

Responding to Mr. Farr's question regarding citations, Lt. Hanson stated that when a person is cited and they do not appear for their arraignment, a bench warrant is issued for their arrest. She said the practice would be to cite and release the people who broke the law. With regard to allowing people to police themselves, Lt. Hanson stated that that practice was not working in the area.

Mayor Bascom expressed her wish to extend the area of coverage to High Street during the trial period. She asked if the ordinance could be constructed to sunset after the pattern of behavior had been eradicated. Lt. Hanson stated that she would be hesitant to recommend sunsetting the ordinance because 13th Avenue had become known as the "Berkeley of Oregon" throughout the United States, and she feared that the battle would be constant in the area. Ms. Norris stated that the council could always repeal the ordinance if at some point it decided that this was not the strategy to follow.

Lt. Hanson, responding to Ms. Keller's question, stated that there would be signage in the area denoting the new law. She added that if the council chose to allow dogs in the area at night, then that could be denoted on the signage as well.

Ms. Keller remarked that it made sense to review the success of this ordinance in September 1997 rather than July 1997. She added that she was excited about the possibility of creating a skateboard park in Eugene, and noted that it would take courage on the part of the council to move forward with the idea because it would be a "hard sell" in the community. Ms. Norris stated that, if the council so directed, staff would review the issues involved with creating a skateboard park in the community.

Mr. Laue said he was not in favor of extending the area of coverage further to the west because he wanted to see the effects of the ordinance before expanding its restrictions. He added that he wanted an initial report before July 1997 and added that the City needed to assess: 1) if it had an impact in the fall when the students returned to the area; 2) what impact it was having on residents of the area; and 3) its effectiveness. He noted that while there was a congestion problem in the area, he was ambivalent about the use of this ordinance to solve the problem.

Ms. Norris suggested that staff could give the council a status report in March 1997 and give a more detailed evaluation in September 1997.

Mr. Hornbuckle remarked that he would not support the ordinance given that it was a complicated issue and the council did not have sufficient time to discuss all the pertinent information. He agreed that there were problems in the area regarding lack of civil behavior and customer access to businesses, but the problem needed to be described and explained. He noted that the problem was alienation and often manifested in uncivil behavior. He said that the council had not discussed the genesis of the problems and was moving toward addressing the symptoms rather than the causes of the problems.

Mr. Laue moved, seconded by Ms. Swanson Gribkov, that the bill, with unanimous consent of the council, be read the second time by council bill number only, and that enactment be considered at this time.

Mr. Torrey moved to amend the main motion that Section 4.427(1) and Section 4.450(2)(e) be amended by deleting the phrase "eastern sidewalk of Ferry Street," and inserting the phrase "eastern sidewalk of High Street," in lieu thereof. The motion died for lack of a second.

Mr. Boles said that he would not support the motion because 1) it did not represent an integrated plan; 2) there were current laws that could be utilized to solve some of the problems of the area; and

3) the problem would be pushed to other areas of the city. He said that when people were in his way he dealt with them as citizens and he also dealt with their lack of civility as a citizen.

Mr. Hornbuckle listed attempts, which he believed represented council action that resulted in encroachment on civil liberties. These included 1) the ordinance regarding blocking of the sidewalks; 2) the ordinance on aggressive panhandling; 3) the closure of West University Park; 4) the proposed temporary closure of Scobert Park; and 5) problems being pushed to other parts of the city. He said that the council did not deal with the social problems, rather it dealt with behaviors and he believed that led to a sort of "police statism."

Mr. Hornbuckle moved that skateboarding be made legal for the purposes of transportation in bike lanes. The motion died for lack of a second.

Mr. Boles encouraged Mr. Hornbuckle to raise the issue separate from the main motion.

Mr. Farr said he was inclined to support the motion because he wanted to help alleviate the confusion and congestion for the people who resided in the area.

Ms. Keller, referring to the use of skateboards for transportation, noted that, while people riding skateboards could use them for transportation in other areas, the ordinance would require skateboarders to carry their boards through the areas and become pedestrians. She said that many of the people creating the problems in the area were coming to Eugene from throughout the United States and added that the council would not solve the social problems of the United States by attempting to deal with the problems as they related to 13th Avenue. She said that the ordinance would deal with the specific behaviors that were causing problems in the area and allow the City to better deal with the underlying social problems.

Ms. Keller moved that Section 4.427 be amended by adding a new subsection (3) thereto to provide: "(3) The prohibition of subsection (1) of this section applies only between sunrise and sunset. The motion died for lack of a second.

Roll call vote; the first reading of the main motion passed 7:1, with Mr. Hornbuckle voting in opposition.

Mr. Torrey asked Mr. Hornbuckle to reconsider his vote for purposes of procedure. Mr. Hornbuckle stated that he represented many constituents who relied upon him to vote in opposition to such measures, so he declined.

Mayor Bascom asked if any councilor requested that the ordinance be read in full. There were no requests.

City Attorney Glenn Klein stated that the council had finished the first reading, it now needed to schedule a subsequent meeting for the second reading.

The council scheduled a meeting for Monday, August 12, at 10:30 a.m.

IV. COUNCIL DIRECTION: WHITEAKER REMAND

Teress Bishow, Planning and Development, reported that the Whiteaker Plan Update was started in August 1992 with council direction that it be done quickly and efficiently; within one year the Whiteaker Planning Team forwarded a draft plan to the Planning Commission (PC). She noted that the council had also directed that any public hearing items required by the council be considered concurrent and that challenge had been met. She noted that in comparison with the 1978 Whiteaker Plan, the new plan had been broadened in scope to address new and emerging issues including an entire element dedicated to public safety and a section devoted to social services and education. She added that the economic and housing policies were contained in the land use element. Ms. Bishow emphasized the extensive public involvement in the plan update process.

Ms. Bishow referred councilors to their staff notes that contained the key actions taken by the City Council. She said that the entire set of actions were appealed as one package to the Land Use Board of Appeals (LUBA). She added that the staff notes also included a summary of council and court actions since August 1993 and noted that Mr. Klein could answer any questions regarding the process.

Ms. Bishow stated that staff was requesting, from the council, clear direction on how to proceed. She said that if the council wished to retain its commitment to the August 1993 Plan then it simply needed to confirm that and direct staff to proceed with preparing supplemental findings. She said if the council wanted to have the plan reconsidered then staff would come back to the council to repeal the ordinance that adopted the August 1993 Plan and any related final orders, and at a future session with the PC, staff would identify a new project of revisiting the Whiteaker Plan Update.

Ms. Norris suggested as a third alternative to have the council appoint Mr. Boles and Scott Meisner, PC President and City Councilor Elect, to meet with all sides on this issue to resolve some of the outstanding issues. She said it was important for the council to give direction to staff to prepare supplemental findings.

Ms. Swanson Gribskov declared a potential conflict of interest in that she and her husband were partners in a piece of property at the corner of 4th Avenue and Lincoln Street, which was within the boundaries of the Whiteaker Refinement Plan.

Mr. Klein stated that Ms. Swanson Gribskov could fully participate in the discussion, but if there was an action regarding a particular zoning order for that piece of property she would need to recuse herself and leave the table.

Mr. Boles moved, seconded by Ms. Keller, to direct staff to prepare supplemental findings addressing Goal 9 and Goal 10 remand, and direct Councilor Boles and Planning Commission President Meisner to seek a resolution on outstanding issues.

Ms. Nathanson stated her appreciation of the approach suggested by Ms. Norris because she did not like the "all or none" approach to the problem outlined in the staff report. She added that she wanted to move toward a solution without undoing all the work that the council had accomplished.

Ms. Swanson Gribakov said she did not think that staff should be moving forward with preparing supplemental findings while there was discussion occurring about how to resolve outstanding issues. Mr. Klein explained that whatever action the council decided to take, it would need additional data based on the court cases and that was the purpose for beginning the process.

Mr. Boles and Ms. Keller agreed to change the motion to read (additions in bold and deletions in strike-through): "to direct staff to prepare- begin preparing supplemental findings addressing Goal 9 and Goal 10 remand, and direct Councilor Boles and Planning Commission President Meisner to seek a resolution on outstanding issues."

Ms. Keller expressed her appreciation for the approach. She added that one of the most promising things of the Whiteaker Plan was the call for mixed use designation, and she said it was very important to continue supporting mixed use designation.

Mr. Torrey said it was important to move ahead economically, efficiently, and accurately. He said that it was important to include the appellants in the discussion.

Mr. Laue expressed his support for the idea of finding a mediated compromise. He noted that he had had some concern expressed to him about the way in which the issue was handled before the appeals court and said he wanted to discuss that further.

Mr. Hornbuckle said he supported the development of the additional findings and he was committed to voting his conscience on the veracity of the findings.

Mr. Farr said he was unwilling to support the proposal unless the petitioners were involved in the process of negotiations.

Mr. Farr moved, seconded by Mr. Torrey, to table the motion until such time that the petitioners have had a chance to review the process. Roll call vote; the motion failed 5:4, with councilors Farr, Torrey, Swanson Gribakov, and Nathanson voting in favor and Mayor Bascom breaking the tie by voting in opposition.

Ms. Keller requested that the council move forward with the process. She asked for a report regarding the change of attorneys during the process.

Mr. Boles called the previous question. Roll call vote; the motion failed 4:4, with councilors Keller, Boles, Hornbuckle, and Farr voting in favor.

Ms. Norris stressed the importance of creating a joint process by which the problems were resolved.

Mr. Torrey moved, seconded by Mr. Farr, to amend the main motion by adding interested parties to be selected by the President of the Planning Commission and Councilor Boles that represented the view of the appellants to the committee.

Ms. Swanson Gribakov stated that the appellants would be represented at the table given Mr. Boles original motion. Ms. Norris stated that she had suggested that she, Mr. Boles, and Mr. Meisner meet

with the petitioners, interveners, and the neighborhood group to see if some type of compromise was possible.

Mr. Boles stated that was the intent of his motion, but if that needed to be formally stated he would add it to his motion.

Mr. Boles and Ms. Keller accepted the friendly amendment. The amended main motion read as follows: direct staff to begin preparing supplemental findings addressing Goal 9 and Goal 10 remand, and direct Councilor Boles and Planning Commission President Melsner to seek a resolution on outstanding issues including meetings with interested parties.

Ms. Nathanson said that it would be wise for the council to consider recommendations from the PC of any proposed solutions. She said she wanted to ensure that the PC's broader perspective was included in the discussions.

Ms. Norris said that it would be appropriate for the PC to review any agreements made on the smaller issues. She added that Jan Childs, Planning and Development, had assured her that there would be time during the fall for the PC to review the agreements.

Ms. Keller called the orders of the day. Roll call vote; the motion failed 7:1, with Ms. Keller voting in favor.

Ms. Swanson Gribakov stated her support for the motion.

Mr. Farr stated his support of the motion.

Mr. Farr moved the previous question. Roll call vote; the motion failed 5:3, with councilors Boles, Farr, and Keller voting in favor.

Mr. Hornbuckle stressed that this was not a committee, rather it was Mr. Boles and Mr. Melsner meeting with appellants to possibly negotiate. He noted that there were several points of contention among the appellants and advocated for the appellants speaking directly to Mr. Boles and Mr. Melsner to make their issues known.

Ms. Norris, responding to Mr. Hornbuckle's question, stated that she had met with the appellants without notifying Mr. Boles because she wanted to have a clear understanding of the issues before they came to the council.

Responding to Mr. Laue's question, Mr. Boles stated that the process should be done publicly and that he was attempting to find resolution so that the council could eliminate the possibility of going back to court.

Roll call vote; the motion passed unanimously, 8:0.

**V. CONTINUATION OF JULY 31 TRIMESTER ACTION: COUNCIL COMMITTEE
COMMITTEE ON ENVIRONMENT AND ECONOMICS (CCEE)
RECOMMENDATIONS**

Mr. Laue moved, seconded by Ms. Swanson Gribkov, to direct staff to schedule a work session to consider initiating work on the remaining CCEE recommendations listed in the trimester planning session materials. Roll call vote; the motion passed unanimously, 8:0.

VI. WORK SESSION/ACTION: I-105 SOUND WALL

Ms. Keller moved the orders of the day. Roll call vote; the motion failed 2:5, with councilors Keller and Hornbuckle voting in favor and Mr. Boles being away from the table.

Dave Reinhard, Public Works, stated that 1/8 of the project would be funded by Lane County through its Capital Improvement Program (CIP), the residents north of I-105 have agreed to be assessed for up to 1/8 of the cost, and the Metropolitan Policy Committee (MPC) had recently asked ODOT to give serious consideration to funding 5/8 of the project cost. He said that staff was suggesting that the best way for the council to decide its level of support for this project was to act in the context of the CIP update. He noted that the draft document would be available for public review in the fall. He said that staff believed it was important to give the other funding partners an indication of the council's level of support for the project.

Ms. Swanson Gribkov moved, seconded by Mr. Farr, to direct staff to include the I-105 sound wall, from Coburg Road to I-5, in the draft 1998-2003 Capital Improvement Program for fiscal year 1998, with the City share not to exceed 12.5 percent and the balance of the funding to come from State and County sources and the benefitting property owners.

Ms. Swanson Gribkov stated that this project was in her ward and she believed it was a prudent approach to allow the conversation to continue. She said that this was not a final decision, but it would give the necessary support to keep the project going.

Ms. Keller expressed some trepidation about this project and said she did not want to move forward before additional information could be brought before the council. She said that she wanted to know what other CIP projects were being considered and what the deficit projections for other road projects were for the year. She added that it was important for her to know the history of the City's participation in the construction of I-105, how many properties were being included in the project, how much the average property owner would pay under the current proposed structure, and how many of the current owners owned their property before the highway was built. She added that she would like to see a map of all the properties and where the wall would be built.

Ms. Keller left the meeting at 1:35 p.m.

Mr. Terrey said he hoped the council would support the measure knowing that the council would have another opportunity to review the project. He said that if the council decided not to show preliminary support then the project could be "killed," because the MPC did not give it a high priority as a highway project, compared to other State highway needs.

Mr. Boles stated that if it were framed that the council was looking to solve the consequences of growth and increased traffic on those who live by limited access highways, then he would support the project, but he said it appeared to be a "one shot deal." He said that the council should decide how this issue was going to be addressed in the community, as a whole, rather than creating ad hoc solutions that did not have any integration.

Mr. Hornbuckle stated his support of the project and noted that it could be the first step in developing an integrated solution for the community at large. He added that he would like to have Ms. Keller's concerns addressed before the council decided its final position of support.

Roll call vote; the motion passed 6:1, with Mr. Boles voting in opposition.

The meeting adjourned at 1:40 p.m.

Respectfully submitted,

Linda H. Norris

Linda H. Norris
City Manager pro tem

(Recorded by Jennifer Self)
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