

MINUTES

Eugene City Council
McNutt Room—City Hall

September 9, 1996
5:30 p.m.

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

The regular meeting of September 9, 1996, of the Eugene City Council was called to order; Her Honor Mayor Ruth Bascom presiding.

I. APPROVAL OF THE AGENDA TIME ESTIMATES

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to accept the order of the agenda, including the time estimates. The motion passed unanimously, 7:0.

Mr. Hornbuckle arrived at the meeting.

II. WORK SESSION: RESEARCH ON LEAF BLOWER ORDINANCES AND RESTRICTIONS

Mary Walston, Administrative Services, introduced the topic, saying her research focused on the west coast states, as the climates and vegetation are similar to Eugene. She found no Washington or Oregon cities which have ordinances or restrictions on leaf blowers, but several in California. She noted that the meeting packet included 12 example ordinances, most restricting leaf blowers based on hours of operation and noise level standards.

Ms. Walston said the City uses leaf blowers on bikepaths, sidewalks, parking lots, and the like. Banning their use, she said, would increase labor costs for the City. She also mentioned that since January 1 of this year, the City's Public Services Officer had received 31 calls or letters on the subject of leaf blowers, which were evenly split, for and against.

Ms. Keller said an outright ban might not be the appropriate first step and added that the sample ordinances in the packet provide good models.

Ms. Nathanson wondered how the number of calls compared to those received by the City on other issues. Ms. Walston said that, in her opinion, it was on the low side. In response to a follow-up question she added that she did not discuss with the communities surveyed what happened to the debris blown by the equipment. Ms. Nathanson said she favored reviewing the City's noise

ordinance more generally. City Manager Linda Norris said a review of the ordinance is planned for after the first of the year.

In response to questions from Mr. Farr, Ms. Norris said there had been no violations of the noise ordinance attributed to leaf blowers and she did not know their sound level.

Mr. Boles asked for a breakout of interest in the topic from commercial users and others. He suggested council officers establish whether there is sufficient interest to proceed with some regulation, adding that his position of banning the technology was not likely to get majority support.

Addressing a question from Mayor Bascom, Ms. Walston said only two of the communities researched have an outright ban on leaf blowers, Beverly Hills and Santa Monica. She called attention to information from a manufacturer distributed to the council on technology that muzzles the sound. Ms. Walston noted that the City of Davis, California, implemented restrictions in June and included an educational and community outreach program.

Mr. Torrey agreed with Ms. Nathanson that the entire noise ordinance should be reviewed, adding that he was not inclined to implement an ordinance that would be difficult to enforce. He reported on the many calls he has received, mostly from elderly citizens concerned about loud noise levels early in the morning, and being forced to hire out their yard work.

Mr. Hornbuckle described a "leaf sucker" that is currently available and much quieter. He supported restrictions on the use of leaf blowers and an outreach program.

Ms. Keller supported Mr. Boles' suggestion to ballot the council for interest in the issue, adding she was particularly interested in restrictions on the disposal of debris.

Mr. Boles asked that the ballot include the following: should there be an outright ban; restriction option with respect to time, location, and decibel level; and the question of whether there is interest in reviewing the entire noise ordinance around these issues. Ms. Keller added that the disposal of the debris should also be included in the ballot questions.

Mayor Bascom asked for information on the City's alternatives and their costs.

In response to a question from Mr. Farr, Ms. Walston said approximately 20 staff hours had been spent researching the issue.

III. STATUS UPDATE: FERRY STREET BRIDGE

Dave Reinhard, Public Works Transportation, presented the update report. He said the City had secured the necessary procedural approval from Federal and State agencies, including environmental clearance, which eliminates the need for a full environmental statement. Full funding authorization has also been secured and consultants have been hired, including two local architectural firms. Mr. Reinhard said staff was in the process of finishing up the surveying and mapping of the project and consultants would develop the first of several construction contracts—likely the rehab, safety, and

seismic retrofit work on the Ferry Street span itself and the new bike bridge. He said a project newsletter and a visual display at the Eugene Celebration would provide public information.

Tom Larsen, Public Works Transportation, described the project's major elements, saying that the most noticeable improvement will be the new bike bridge. Mr. Reinhard added that consultants believe the sidewalk widening on the bridge will provide the opportunity for reinforcing the entire bridge seismically, eliminating a massive column treatment underneath the bridge.

Ms. Keller expressed appreciation for the work and said she was very supportive of this particular approach. She asked for assurances that funding was available and secure and said she hoped the new bike bridge could be moved further north closer to the bridge as it obstructed a view of the river. Ms. Keller urged staff to proceed with land acquisition, particularly on the north side. Mr. Reinhard said all the funding is available but it cannot be considered 100 percent safe, as it is subject to Federal rescission, although the City has done as much as it can under the process to "lock-up" the money. He suggested that the location of the new bike bridge could be assessed after viewing the Eugene Celebration display. With regard to land acquisition, he said within the scope of this project there is no justification for acquiring the trailer park site, so the City would have to use some other funds to acquire it.

Mr. Boles cited problems on current bikepath crossings under the bridge on the south side. Mr. Reinhard agreed there were some serious grade and curve issues and that they would be corrected to the extent possible. Mr. Larsen added that the intersection is very tightly constrained but everything possible would be done. Mr. Boles confirmed that the plan called for moving Club Road and reducing it to a two-lane road. He added his support to Ms. Keller's suggestion regarding land acquisition.

Mr. Torrey agreed proceeding with land acquisition was important and asked the council officers to appoint a subgroup to analyze options. He said a letter of thanks should be forwarded to the Lane County Board of Commissioners for its contribution to the project.

Addressing a question from Ms. Swanson Gribkov, Mr. Reinhard confirmed that the project did not include an additional bridge in the vicinity of a mobile home park located nearby and although the Citizen Advisory Committee (CAC) and the council had supported it, it had not been given official standing.

Mr. Hornbuckle added his concern about blocking the view of the river with the new bike bridge. Mr. Reinhard suggested the council view the Eugene Celebration display before discussing relocation of the new bridge, adding that there would be another opportunity to discuss the project at the September 30 council meeting. Mr. Hornbuckle asked that staff be prepared to discuss options for relocating the bridge at that time.

The council extended the discussion by five minutes, by unanimous consent.

Ms. Keller supported revisiting the issue of the location of the new bike bridge at the September 30 meeting. She wondered why Club Road had been retained since the design addressed all of the access

issues. Mr. Reinhard explained traffic movements, pointing out problems with eliminating the road. Ms. Keller asked staff to reconsider the issue.

In response to a question from Ms. Swanson Gribkov, Mr. Reinhard said that mass transit continued to be a priority and more detail could be given at the follow-up meeting.

Mr. Reinhard said the council would have an opportunity to preview the Eugene Celebration display.

Mr. Torrey asked for land acquisition funding options at the next update.

IV. STATUS UPDATE: TELECOMMUNICATIONS

Ms. Nathanson gave the report, noting that the work is being shared with the Intergovernmental Relations (IGR) Committee because there is a large legislative policy component. She said staff has kept the League of Oregon Cities, Portland and other cities, and the Lane Council of Governments (LCOG) Board of Directors apprised of Eugene's activities in the area and what it plans to propose. She announced that she would make a presentation to the League's Legislative Committee on September 13.

Ms. Nathanson reviewed the committee's Work Plan, including 1) legislative issues, 2) developing an ordinance, and 3) needs and options analysis. She emphasized that the work plan was a work-in-progress. Ms. Nathanson called attention to the draft telecommunications policies contained in the meeting packet, saying that the committee continues to modify these and is not yet ready to recommend them to the full council. She noted that the League of Oregon Cities' August newsletter has telecommunications information on the front page, highlighting its importance. Ms. Nathanson reviewed the City's role in the area of telecommunications—that of consumer, provider, landlord, and regulator. She highlighted the importance of collaborating with local jurisdictions.

Ms. Keller commended the committee and staff for their work and urged support of the proposed motion.

Addressing a question from Mr. Torrey, City Attorney Glenn Klein said the City Attorney's Office had not revisited the issue of tower locations since issuing an opinion in 1989 that those applications fell under the conditional use permit process. Mr. Torrey said his main concern was the legislative issues, adding he did not want the City to lose its ability to raise revenue and provide an important service.

Addressing questions from Ms. Swanson Gribkov, Linda Lynch, Council and Intergovernmental Services Director, said that currently the rate at which the City can calculate its franchise is governed by state statute and is written for dial tone providers. One legislative issue is how cities will negotiate with other service providers for such things as uses of rights-of-way. One of the issues faced by the Legislature is whether there will be a statewide franchise structure and cities' ability to regulate access to the right-of-way.

Mr. Laue said, for the record, that he favored maintaining as much local control as possible. Mr. Boles said that the committee has crafted policies with that in mind.

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to direct staff to work with EWEB, local educational institutions, and other appropriate partners to research and analyze options for public ownership and/or operation of a telecommunications systems, and to consider legal, financial, land use, council policies, and other aspects.

Ms. Keller urged that the service be viewed in a broader sense and that it be equitably distributed.

Ms. Nathanson pointed out that telecommunications are becoming an essential service, much like a utility such as streets and water, and the council would be remiss if it did not closely research its role.

Mr. Hornbuckle said public access was unlikely because the Telecommunications Act was exactly contrary to that. He, nonetheless, said he was supportive of the motion because it was contrary to the general direction of the Act.

Ms. Norris said the council needs to consider the following: providing the service as a public utility, including exploring it as a public/private venture; deciding by December or January if the City wants to be in this business; and deciding what legislative issues from the discussion should be taken to the legislature next year.

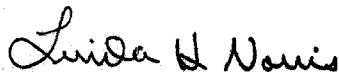
Mayor Bascom wondered how the other jurisdictions fit into the scheme since the City seemed to be proceeding on its own. Ms. Nathanson said she has tried to generate some enthusiasm and the City sponsored a forum in July to spark interest and share information that would lead to collaboration. Ms. Norris added that just as we look at planning in terms of regional transportation systems, we need to also look at telecommunications systems.

Mr. Boles added that the committee is arranging for time on the Springfield City Council agenda.

The motion passed unanimously, 8:0.

The meeting adjourned at 7:10 p.m.

Respectfully Submitted,



Linda H. Norris
City Manager pro tem

(Recorded by Yolanda Paule)
cc53009.096

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Council Chamber--City Hall

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

Her Honor Mayor Ruth Bascom, called the Regular City Council meeting of September 9, 1996, to order.

I. PUBLIC FORUM

Douglas Card, 1272 Jackson Street, stated he was the chair of the Lane County Applegate Trail Committee, a county wide organization dedicated to commemorating the Applegate Trail with historical integrity. He urged the council to allow the Applegate Trail Wagon Train to come through Eugene on October 16. He said that event was of great historical significance and of great community importance. He said that, historically, Eugene was an important stop on the Applegate Trail. He said that the Wagon Train participants needed to know by Wednesday if Eugene would support them or not, so he urged the councilors to discuss the issue at Wednesday's meeting.

Ms. Keller said she was planning on bringing up the issue on Wednesday. She requested that staff provide information, prior to the meeting, on the feasibility of welcoming the Wagon Train to Eugene.

II. CONSENT CALENDAR

- A. Approval of City Council Minutes of July 1, 1996, Meeting; July 8, 1996, Dinner Work Session; July 8, 1996, Meeting; July 17, 1996, Lunch Work Session; and July 22, 1996, Meeting
- B. Resolution Concerning Call for Public Hearing: Proposed Withdrawal of Recently Annexed Properties from Special Districts

Res. No. 4502--A resolution calling a public hearing to consider proposed withdrawal of territories (Heller, EC EU96-10; Hebel, EC EU 96-24; Bires, EC EU 96-23; Cozy Homes, EC EU 96-41; and Knott et al, EC EU 96-44) from River Road Water District and River Road Park and Recreation District; proposed withdrawal of territories (Dukes and Dukes Construction, C EU 96-4; Sturtevant,

C EU 96-6; Berber, C EU 96-5; Smith, C EU 96-15; Burri, C EU 96-17; Mulkey, C EU 96-18; Berge, C EU 96-19; Browning C EU 96-29; St Vincent dePaul, C EU 96-30; Hoover Construction, C EU 96-31; VanderHoff, C EU 96-36; and Still, C EU 96-37) from the Santa Clara Water District; and proposed withdrawal of territory (Gazelle Investments, EC EU 96-11) from the Glenwood Water District and the Willamalane Park and Recreation District.

- C. Ratification of August 6, 1996, Council Officers' Recommendations
- D. Call for Public Hearing: Street and Alley Vacation Request for City of Eugene's Community Development Division (SV 96-4--Broadway/Charnelton)

Ms. Keller and Mr. Farr requested that the July 1, 1996, minutes be removed from the consent calendar to be considered at the end of the agenda.

Mr. Laue moved, seconded by Ms. Swanson Gribkov, to approve the Consent Calendar with the noted exception. Roll call vote; the motion passed unanimously, 8:0.

III. APPROVAL OF INTERGOVERNMENTAL RELATIONS COMMITTEE MINUTES

Mr. Laue moved, seconded by Ms. Swanson Gribkov, to approve the Intergovernmental Relations Committee minutes of July 30, 1996. Roll call vote; the motion passed unanimously, 8:0.

IV. PUBLIC HEARING: ORDINANCE CONCERNING WIRELESS COMMUNICATION FACILITIES MORATORIUM

CB 4587--An ordinance declaring and imposing a moratorium on building and land use permits for telecommunications towers and antennas within the City of Eugene, and declaring an emergency.

Planning Director Jan Childs issued the staff report. She reported that this was a public hearing on an ordinance imposing a moratorium on building and land use permits for telecommunication towers and antennas within the City of Eugene. She noted that in July the City Council directed staff to prepare the ordinance for consideration primarily to provide the City Council and the Council Committee on Telecommunication (CCT) with time to adopt a telecommunications plan and develop implementing ordinances.

Ms. Childs reported that a Federal Court concluded in *Sprint Spectrum vs. City of Medina* that a short-term moratorium is consistent with section 704 of the Telecommunications Act. She added that, in Oregon, ORS 197 provides that "a local government can impose a moratorium based on a demonstration of compelling need." She said that the findings required to meet that standard were attached to the ordinance in the council agenda packet. She noted that the councilors had received,

from staff, 1) a map and list summarizing the recent and pending applications that the City had received for telecommunication towers and antennas, and 2) three letters from the President of Western Wireless, the Offices of Johnson, Close, Sherton, and from the Vida-McKenzie Neighborhood Watch.

A. Public Hearing

Mayor Bascom opened the public hearing.

Keith Nastiuk, 1125-B Valley River Drive, Marketing Manager for AT&T Wireless-Eugene, spoke against the moratorium. He explained that AT&T and its technology benefitted the community by acting as an integral part of the public safety communications system, noting that during the 1996 flooding, many people relied upon cellular communication to maintain contact throughout the community. He added that emergency response personnel relied heavily upon cellular phones to keep in contact with command centers. He noted that AT&T was supportive of the City's current planning process for telecommunications within Eugene, but it was not in the best interest of the citizens of Eugene to implement the moratorium. He expressed AT&T's interest in working cooperatively with the City during the planning process.

Ron Fowler, 1600 SW 4th Avenue, Real Estate Manager for AT&T Wireless-Oregon, stated it was inaccurate to state that one site would fit for all types of telecommunications because all of the technologies were unique. He said that AT&T had only one site in Eugene, but it was important to utilize new sites otherwise there would be some degradation in emergency services within the city. He said that the new sites should be built within a month. He expressed AT&T's interest in working with the City and urged the council to vote against the moratorium.

Spencer Vail, 4505 NE 24th Street, Portland, OR, Planning Consultant for AT&T Wireless Services-Oregon, provided the councillors with written testimony and copies of the applications for a Conditional Use Request. He referred councillors to pages two and three of the application which outlined the needs for the permit. Referring to the draft finding that current City ordinances are not adequate, Mr. Vail said that attached to his letter was a July 24 opinion from the City Attorney that indicated that cellular facilities were now considered conditional uses in all zones. He said that there was already language within the City Code that dealt with telecommunications towers and antennas and urged the council to allow the existing permits to be processed. He said that AT&T would willingly work with the City to create a final ordinance that would meet all expectations.

Tim Ramis, 1727 NW Hoyt Street, Portland, OR, waived his right to speak.

Bill Kloos, 767 Willamette Street #203, appearing on the behalf of Western PCS Corporation, stated that he had entered into written testimony 27 exhibits and he was there to request that the council give the issue more careful consideration. He said that in proposing a moratorium the council was attempting to leap the highest hurdle in Oregon's land use process and he did not believe that the council could legally do it based on the evidence and findings. He said that the Federal Court decision in Medina, Washington, would not provide a shield for the City of Eugene. He said that the City did not have a "compelling need" for the moratorium and as such it would be struck down in

court. With respect to the individual findings, he stated that none of them were adequately supported in the record.

Tung Bui, Western PCS, Director of Personal Communications Services (PCS), stated his opposition to the moratorium from the perspective of the consumer and the businesses in Eugene and from the perspective of the engineers, technicians, and sales staff that would be deprived of timely employment under the moratorium. He said that Western PCS had paid \$34.2 million for the right to operate in the State of Oregon during a Federal Auction of the license. He urged the council in the interest of both the businesses and citizens of Eugene to vote against the proposed moratorium.

Pat Evans, PCS, Real Estate Manager for Western PCS, said that there had been very limited time to testify on an issue that would have a multi-million dollar impact. He said that the perception of tower proliferation was wrong, it was based on bad math, and it was completely inconsistent with the information he had personally provided, on two separate occasions, to City staff. He referred to a chart representing the number of sites PCS was planning for the Eugene-Springfield area. He said that the number of actual proposed sites was 5 rather than the much stated 100. He said that there was no valid public interest to be served by attempting to hold up applications that were already filed.

James D. Silke, 2225 Shields, stated he had been a business owner in Eugene for 27 years and he had recently applied to replace a tower at his place of business with a slightly larger tower. He said that under the moratorium he would not be able to let his business grow with the demand. He noted that cellular companies and the citizens of Eugene would lose money under the moratorium. He urged the council not to pass the proposed moratorium.

Chris Thomas, 7770 SW Mohawk Bldg. F, Director of Engineering and Operations for Sprint-Spectrum, said that Sprint had well over 100 zoning applications approved in Oregon. He noted that Sprint held as primary importance, the idea of blending into the surrounding community and creating "nearly invisible" towers and antennas. He said that Sprint was interested in only four sites in Eugene, two of which had already been built and one of which was not within the city limits. He said that Sprint had already invested over \$100 million in the State of Oregon, which meant jobs and employment for various parts of the state. He urged the council to exempt, from the moratorium, the applications that were already being processed.

Kevin Martin, 7770 SW Mohawk Bldg. F, Land Use Coordinator for Sprint-Spectrum, spoke to the planning efforts of the City of Eugene, noting that Sprint staff had spoken with City staff as early as March 1996. He said that prior to leasing sites, Sprint's site acquisition consultants met with City planners to discuss the permit process. He said that it was disturbing to have the ground rules change in the midst of the planning process. He offered his company's cooperation in working with the council to create appropriate ordinances.

Michael C. Robinson, 900 SW 5th Suite 2300, Portland, OR, attorney representing Sprint-Spectrum, referred the councilors to the criteria in ORS 197.520, the standards by which a moratorium is judged. He emphasized that the City needed to show a compelling need to adopt the moratorium and he stressed that the City had not shown a compelling short-term need. He indicated that the City's conditional use process was adequate to deal with any of the current applications. He urged the

council not to adopt the moratorium and instead work with members of the industry to create better answers to the anticipated problem.

Chris Reid Murray, 1765 West 17th Avenue, representing the radio and television stations in Eugene, stated his opposition to the ordinance and reminded the councilors that all radio is wireless communication. He noted that the moratorium would interfere with installing the Emergency Alert System (EAS) mandated by the Federal Communications Commission (FCC).

Carl Sundberg, 3187 Kentwood Drive, manager of a public radio station, stated that his staff was concerned that they would not be able to broadcast from the Eugene Celebration due to the ordinance. He voiced his concern about the moratorium interfering with some of the new and innovative programming that his radio station was considering. He urged the council to reconsider the term "emergency" and noted that the proposed ordinance did not necessitate an emergency clause.

Christina Simon, 15575 SW Sequoia Parkway, Manager of Construction and Acquisition for Air Touch Cellular, stated that Air Touch seriously valued its role as an emergency service provider. She said Air Touch had been in the market for 10 years and it only had two existing facilities in Eugene. She noted that Air Touch had submitted one application and she projected possibly two more in the next three years. She volunteered her company's participation on a task force to work with the City to create effective and equitable ordinances.

Phil Grillo, 101 SW Main, Portland, OR, attorney representing Air Touch Cellular, focused his comments on the planning and leadership issues involved. He stated that moratoriums in Oregon were a matter of last resort and noted that this was the beginning of the planning process and it did not warrant a moratorium. He noted that moratoriums in Oregon, by statute, were also a matter of state-wide concern. He added that the council had the opportunity to set a leadership pattern that other municipalities would adhere to in the future.

Rick Grosscup, 2540 Lincoln Street, testified that he had been a communications officer in the United States Navy and was associated with the broadcast of many types of frequencies. He voiced his concern about the health issues related to the radiation of any type of wireless wavelength. He urged the council to further research the health-related issues involved with multiple towers and antennas in a given area. He said he supported healthy, equitable planning for the citizens of Eugene.

Brad Myers, 2490 Lincoln Street, spoke in favor of the moratorium. He said that he was concerned about the health issues regarding wireless communication and telecommunication towers. He urged the council to further research the health-related issues.

Gary Papé, 1110 Clinton, testified that earlier in the year when he was preparing to do some work on his property, he was approached by Sprint-Spectrum about the possibility of adding a tower to the property. He said that he and Sprint staff had checked with City staff and had received no indication that the tower could not be built on the property. He said that by June 28, 1996, they submitted a site review and he knew nothing of a proposed moratorium at that time. He said it was not fair or good public policy to change the rules in the middle of the planning process.

Al Johnson, 767 Willamette Suite 203, requested that all of the graphic exhibits and other materials presented to the councilors be made part of the public record and be retained by the council. He voiced his concern that if the council adopted the moratorium on its flimsy basis then it would be spending a good deal of money defending its decision and in doing so would "water down" the public needs standard in the state statute dealing with moratoriums.

Karl Walrod entered, into the record, written testimony.

There being no further requests to speak, Mayor Bascom closed the public hearing.

B. Council Discussion

Ms. Nathanson asked how many applications were submitted before the council's consideration of the motion for a moratorium and for the City Attorney's opinion as to the City's legal position regarding the moratorium.

Ms. Childs noted that 3 of the 14 applications were submitted before the council's consideration of the motion for a moratorium.

City Attorney Glenn Klein said that the City was in untested waters regarding the legality of the moratorium, noting that there were two separate issues: 1) the issue under the Federal Telecommunications Act (FTA); and 2) the issue under the Oregon moratorium statute. Regarding the FTA, Mr. Klein said that staff did not view this differently than the Medina case and would expect a moratorium here to be upheld. However, Washington's land use laws were different and that could affect the analysis under the Oregon moratorium statute. He said that staff had discussed this issue at length with the City's Washington D.C. legal consultant. He said that the Medina case was not binding on the judges in Oregon. In terms of the Oregon statute, Mr. Klein stated that the City was dealing with the compelling need portion of the moratorium statute. He noted that there had been one case that reached the Oregon Court of Appeals out of the City of Bandon in which the court upheld such a moratorium enacted by the City. He said that he had not reviewed all the written materials that had been submitted and requested time to review those materials before rendering a final opinion.

Ms. Nathanson asked if City staff or the Department of Public Safety had received any messages of concern regarding emergency communications and how the moratorium would affect those facilities.

Ms. Norris said that no concerns had been raised and she wanted more information so staff would further discuss the issue with the speakers.

Responding to Ms. Nathanson's question about the existing zoning codes, Ms. Childs stated that staff was using the conditional use process because that was the process available at this time. She said that the criteria for conditional use was very broad and was not tailored to this specific use and this specific review. She noted that the work of the Council Committee on Telecommunications (CCT) could lead to code provisions that the council could enact that would provide more certainty and reduce the conditional use requirement or eliminate it entirely. She reiterated that staff did not believe that the conditional use permit process was adequate when applied to this specific industry.

Mr. Klein reminded councilors that the pending applications would be governed by the existing code notwithstanding any changes the council might make following the moratorium. He noted that what the City could gain, with respect to the pending applications, through the moratorium was more, better, and clarifying information.

Ms. Childs, responding to Ms. Keller's question, stated that City staff maintained a fairly extensive mailing list of companies within the industry and added to it on a daily basis.

Ms. Nathanson, answering Ms. Keller's question, stated that Federal regulations restricted the ability of the CCT to address the issue of health effects of towers and antennas.

Ms. Keller asked if it would be possible to exempt, from the moratorium, the three applications that City received before it first stated its intention to consider a moratorium.

Mr. Klein noted that one of the provisions of the FTA was that a jurisdiction had to treat all similarly situated providers in a similar fashion. He said that if the council exempted out the three that applied before the council adopted the motion, the argument the City would make was that those three would be treated similarly and all the others that were similarly situated were being treated in a similar fashion. He said that it would raise another issue that the other 11 applicants could use to argue that they were not being treated similarly to the three other parties with pending applications.

Ms. Norris, responding to Ms. Keller, stated that City staff could bring to council on Wednesday or Monday, more information regarding the difference between antennas and towers.

Ms. Keller commented that she hoped the council would discuss the issue thoroughly and make its decision on Wednesday.

Responding to Mr. Farr, Mr. Klein commented that the moratorium, as drafted, would cover all towers and all antennas that required building permits or land use permits. He said that mobile antennas would not be covered under the ordinance.

Mr. Farr requested further information, from both staff and the companies represented, on how this moratorium would affect the balance of commerce in the state and the proliferation of these companies in the rest of the state. Ms. Norris stated that staff would compile as much of that information as possible.

Ms. Childs, responding to Mr. Torrey, stated that the conditional use permit criteria did not change from application to application; however, the criteria dealt with evaluation of compatibility and issues that had to be dealt with on a site-by-site basis. She said the council would determine if the City would continue with the use of the conditional use permit process in the event of a moratorium.

Mr. Torrey expressed his concern that the City changed the rules in the middle of the game and voiced his opinion that the council should not vote on the issue, but rather hold further discussion at the Wednesday meeting.

Ms. Swanson Gribkov noted that voting did not make sense given the number of questions that were arising from the discussion.

Responding to Ms. Swanson Gribkov, Ms. Childs noted that City staff had received contacts expressing an interest in cooperating with the City from representative companies after the City had sent out the notice of the public hearing on the moratorium.

Mr. Boles expressed his opinion that the council should take action on Wednesday. He noted that the City was doing its best to respond to a change made by the Federal government. He said he would be interested to know if any of the companies represented at the meeting participated in the activities leading to the FTA of 1996 and if in conjunction with those activities, they ever contacted any of the local jurisdictions that would be affected and cooperated with them at the time of the negotiations.

Ms. Nathanson said she would not be present at the Wednesday meeting, so in the event that the council chose to act at that meeting, she wanted to express her opinions beforehand. She said the moratorium was not about prohibiting new telecom facilities; rather, it was a way in which the City could take a "step back" to review codes that would be applicable to telecommunications. She encouraged the participation of company representatives in the planning process. Regarding the compelling need, she stated that she was taking her lead from newspaper articles from around the country and what had transpired in the wake of the flourishing telecommunications industry.

Ms. Nathanson said she did not view this moratorium as creating losses in money but rather a delay in additional revenues. She expressed concern that if the City continued with what was already in place then the process would continue to take a long time due to its lack of specificity.

Ms. Keller thanked Ms. Nathanson for her efforts and for her well-thought-out opinion. She said she believed the telecommunications revolution was very important to the community to ensure that citizens had access to information and technology that would allow the community to be involved in the future economy. She said the council had begun a process to ensure that the community reaped maximum benefit from the new industries. She reiterated that the moratorium was a necessary step to create the breathing room necessary to engage in a collaborative process to create equitable and adequate legislation.

Ms. Swanson Gribkov requested that the council consider this issue again on Monday, September 16, 1996, because councilors Nathanson and Torrey would not be at the Wednesday meeting.

Ms. Swanson Gribkov moved, seconded by Mr. Boles, that this issue be scheduled for further discussion and action on Monday, September 16, 1996.

Mr. Torrey stated that he would attend the Wednesday meeting, but he would support the motion. He requested that staff look into the health-related issues regarding the radiation from towers.

Mr. Boles said he intended to support the motion and asked that, if it passed, the public record be held open until 5 p.m. on Friday, September 13, 1996.

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

V. ORDINANCES CONCERNING REVISIONS TO BUSINESS LICENSE CODE

CB 4586—An ordinance concerning business practices; amending sections 3.005, 3.011, 3.030, 3.041, 3.042, 3.050, 3.055, 3.285, 3.338, 3.344, 3.358, 3.874, 3.876, and 4.990 of the Eugene Code, 1971; renumbering sections 3.882, 3.884, 3.886, and 3.888 to 4.982, 4.984, 4.986, and 4.988 of that code; and adding new sections 4.980 and 4.989 to that code.

Ms. Norris noted that Dick Gassman, Planning and Development, was available to answer questions.

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

Ms. Keller clarified that this ordinance covered everything with the exception of private investigators.

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

Mr. Laue moved, seconded by Ms. Swanson Gribakov, that the bill be approved and given final passage. Roll call vote; the motion passed unanimously, 8:0 and became City Ordinance 20058.

CB 4590—An ordinance concerning investigators; amending Section 3.005 of the Eugene Code; 1971; repealing sections 3.205, 3.207, 3.209, 3.210, 3.211, 3.213, and 3.873 of that code.

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

Ms. Keller stated that she would vote in favor of the first reading, but she urged the council to vote against the change in the ordinance. She said that it was a matter of safety for the citizens of Eugene and she believed it was very important that there be some sort of background check being conducted for private investigators.

Ms. Nathanson left the meeting at 9:25 p.m.

Roll call vote; the motion passed unanimously, 7:0.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, that the bill be approved and given final passage. Roll call vote; the motion passed 6:1, with Ms. Keller voting in opposition and became City Ordinance 20059.

VI. APPROVAL OF FINDINGS AND RECOMMENDATIONS FROM THE HEARINGS OFFICIAL AND PASSAGE OF AN ORDINANCE LEVYING ASSESSMENTS ON ASH STREET

Ms. Norris noted that Paul Klope, Public Works, was available to answer questions.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to approve the Hearing Official's Findings and Recommendations of August 26, 1996. Roll call vote; the motion passed unanimously, 7:0.

CB 4591--An ordinance levying assessments for sanitary sewers on Ash Street from Sycamore Street to 200 feet south; and declaring an emergency. (Contract 95-29) (Job #3376)

Mr. Laue moved, seconded by Ms. Swanson Gribakov, 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. Roll call vote; the motion passed unanimously, 7:0.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, that the bill be approved and given final passage. Roll call vote; the motion passed unanimously, 7:0 and became City Ordinance 20060.

VII. ORDINANCE AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR ACQUISITION OF EASEMENT IN THE SANTA CLARA AREA FOR BASIN "S"

CB 4592--An ordinance authorizing the institution of proceedings in eminent domain for the acquisition of easement interests for sanitary sewers in the Santa Clara Area for Basin "S" and declaring an emergency. (Job #2928)

Jeff Lankston, Public Works, issued the staff report. He stated that since the council passed an ordinance for the acquisition of easements for the Santa Clara Sewer Project, it had been determined that additional easements were required to complete the project. He referred councilors to a map in the agenda packet that illustrated the sewer on north side of Division Avenue that would serve six parcels. He said that the design placed the sewer in an EWEB easement that runs along the north side of the Division Avenue right-of-way. He said that after the plans had been completed and the contracts awarded, EWEB informed staff that the sewer line would be in conflict with a proposed 60" water line. He noted that staff reviewed several alternative designs to replace the sewer line, only one of which was found to be viable and economical and that design would place the sewer line on the south edge of two undeveloped properties to the north of the properties to be served. He said that staff recommended approval of the ordinance.

Mr. Boles stated that he was not prepared to support the motion until he had more information about the proposed EWEB water line.

Ms. Keller suggested delaying discussion until staff presented more information. She asked why Public Works did not know about EWEB's proposed water line until this late into the project.

Mr. Lankston stated that staff had sent the plans to EWEB for preliminary review in January and the final plans were sent to EWEB in May and neither time did staff receive comment.

Mr. Laue moved, seconded by Mr. Boles, to postpone discussion and action on this issue to Monday, September 16, 1996. Roll call vote; the motion passed unanimously, 7:0.

VIII. CONSENT CALENDAR REVISITED

Ms. Keller referred to page 3, paragraph 4, first sentence of the July 1, 1996, minutes and requested that it be rewritten as follows (additions in bold and deletions in ~~strikeout~~): "Ms. Keller thought that the recommended solution did not reflect Eugene's concerns regarding growth was ~~not a Eugene-type solution.~~"

Mr. Farr, referring to page 2, paragraph 7, last sentence, of the July 1, 1996, minutes requested that it be rewritten as follows (additions in bold and deletions in ~~strikeout~~): "Mr. Farr expressed confidence in County staff's integrity and competence that ~~County staff and officials were hard working professionals.~~"

Mr. Laue moved, seconded by Ms. Swanson Gribakov, that the minutes of July 1, 1996, be approved as amended. Roll call vote; the motion passed 6:0, with councilor Boles having left the meeting.

The meeting adjourned at 9:40 p.m.

Respectfully submitted,

Linda H. Norris

Linda H. Norris
City Manager pro tem

(Recorded by Jennifer Self)
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