

## MINUTES

Eugene City Council  
McNutt Room—City Hall

November 25, 1996  
5:30 p.m.

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

**COUNCILORS ABSENT:** Kevin Hornbuckle.

The meeting of November 25, 1996, of the Eugene City Council was called to order; Her Honor Mayor Ruth Bascom presiding.

Ms. Keller asked for the council's agreement to accept an application for contingency funds from the Homeless Action Coalition, and also to schedule a discussion of the group's request to use Skinner Butte Park for a camping event on the evening of December 21. The council agreed to both.

Mr. Laue said The Register-Guard writer Joe Kidd asked him to apologize to the council for any misinterpretations of this morning's editorial headline and explained that he did not write it.

Mr. Torrey stated, for the record, that City Manager finalist Vicki Elmer had applied after the deadline and the issue was addressed by the council in its executive session.

Ms. Nathanson arrived at the meeting.

### I. APPROVAL OF THE AGENDA AND TIME ESTIMATES

The council accepted the agenda and time estimates by consensus.

### II. FACILITY CONDITION REPORT—PHASE III

Doug Eveleth, Public Works, provided the staff presentation and briefly reviewed options before the council. He noted that staff had revised its report, given post-election results, by adding two more options: funding/planning for city hall and funding/planning for the aquatics program. He explained that city hall was chosen because it is a complicated facility that is salvageable and has great potential. Funding/planning for the aquatics program, he added, has already begun with the near-completion of a master-planning process for Amazon Pool, so it makes sense to continue with the other facilities since the aquatics program is a high priority for that department.

Ms. Swanson Gribakov expressed appreciation for the staff's work and asked what would be lost in sequencing the effort by addressing city hall and the aquatics program and postponing the others. She acknowledged that staff has recommended moving forward with the entire project. Mr. Eveleth responded the entire project would take about 18 months to complete and the report back to the council would ask for its direction on what to do with the balance of the inventory.

Ms. Keller suggested postponing the entire project until the ramifications of Ballot Measure 47 are better known. She said she might be able to support an option related to the aquatics facilities given the level of capital investment and the department's wishes.

Mr. Laue said sequencing usually adds to ultimate costs. He supported proceeding with a full report to insure the council had all the information it needed to make important, long-term decisions now.

Mr. Boles suggested a ranking of what is the most important asset change, and funding that portion of it, pending receipt of the full report to decide on how to address the rest of the inventory.

Mr. Torrey said it was necessary to proceed with the report, but agreed that it was prudent to postpone projects until the ramifications of measure 47 were better understood.

Ms. Nathanson said she supported getting a report from staff on potential sources for the funds under several conditions, adding that if serious cutbacks are required, the information will help the council make informed decisions. She asked for an explanation of the \$180,000 expenditure. Mr. Eveleth responded that the funds are for contracts with architectural firms and also include staff hours, which will be funded out of the professional services fund. Addressing a follow-up question from Ms. Nathanson, Doug Miller, Public Works, said that approximately 20 to 25 percent of the figure would be for staffing. Ms. Norris added that staff saw the following as priorities: city hall; police services; community senior centers; and swimming pools.

Ms. Swanson Gribakov asked for a time line and more detail about how the money would be spent.

In response to a question from Mr. Laue, Mr. Eveleth said the marginal ending fund balance (MEFB) was a potential source of funding.

Ms. Keller objected to using the MEFB for that purpose. She said nothing should be spent until the council decides how to address measure 47 and the MEFB should be held as a resource for addressing those issues.

Mr. Boles said Ms. Keller was correct but part of the resources the council would need for addressing the measure was information. Mr. Boles wondered if there were a way to have non-general fund users of the space contribute non-general fund funds toward the study rather than having the costs all come from the MEFB. Mr. Eveleth said that the facilities under discussion were all GF facilities. He reiterated his suggestion for sequencing the work as a way of preserving both capital and capital assets.

Addressing a question from Mr. Farr, Ms. Norris said the MEFB balance was about \$11 million.

Mr. Torrey said he did not sense council consensus and suggested staff research other funding sources and report back.

Ms. Norris said as an alternative, staff could change the scope to address issues that will likely surface in the council's deliberations about Ballot Measure 47.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to direct staff to proceed with Phase III of the Facility Condition Report, including bid alternates for priority items and report back to the council before the contract is let.

Mr. Boles moved, seconded by Ms. Nathanson, to extend the discussion by 5 minutes. The motion passed 4:3; with councilors Keller, Laue, and Swanson Gribakov opposed.

Ms. Nathanson expressed concern that the results of the research would not be available for the next budget, but they must be available for the FY99 budget cycle at least.

Ms. Norris said that was a reasonable request.

The motion passed, 6:1; with Ms. Keller opposed.

### III. GROWTH MANAGEMENT STUDY UPDATE

Jim Croteau, Planning and Development Department, gave the staff report and asked for the council's direction.

Mr. Torrey summarized the discussion of the Planning Commission and council liaisons regarding the topic.

Mr. Boles said he had hoped for closure by the current council and that now seems impossible. He said he was supportive of the revised time line provided that Mayor Bascom and the retiring councilors are invited and allowed to participate in the deliberations. He expressed his willingness to continue working with the Planning Commission on the project.

Ms. Swanson Gribakov suggested allowing Council Officers to schedule a review of the citizen involvement data and analysis report, likely in February.

In response to concern expressed by Ms. Keller, Mr. Croteau said the Growth Management Study budget had not been overspent.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to schedule review of the citizen involvement data and analysis for February, to involve current councilors and Mayor Bascom in that process, to allow the current council liaisons to the project to continue their work, and to invite additional analysis from Mr. Boles. The motion passed unanimously, 7:0.



#### IV. WORK SESSION/DIRECTION: COUNCIL COMMITTEE ON ENVIRONMENT AND ECONOMICS (CCEE) ISSUES—FIRE AND BUILDING CODE

Mary Walston, Administrative Services Department, provided the staff report and introduced Chuck Solin, Loss Control and Environmental Manager, representing Deputy Fire Chief Dave Nuss.

Mr. Solin reviewed the four remaining CCEE Fire/Building Code issues for council discussion. He distributed copies of an Environmental Protection Agency (EPA) requirement for risk management plans that meets the threshold established by the EPA. He said the council will need to decide if the threshold quantity is what it had in mind for the local area.

Ms. Keller suggested that the Toxics Board be asked to review the concerns in Issues 1, 3, and 4, and make recommendation to the council. She said Issue 2 should be addressed separately.

In response to a question from Mr. Farr, City Attorney Glenn Klein said the request could be made but the board might decline.

Ms. Nathanson wondered if the board allowed for citizen input in developing recommendations.

Mr. Boles said the council itself could schedule a public hearing after receiving the recommendations.

Addressing a question from Mayor Bascom, Ms. Walston said the Toxics Board would be staffed by the Fire Marshal's office.

Ms. Swanson Gribakov said she was hesitant to assign additional tasks to an as yet unappointed, unconvened group.

Ms. Keller said her suggestion offered the City an opportunity to receive technical information inexpensively.

Mr. Boles noted that the suggestion addressed a concern from members of the regulated community that they are excluded from the discussion. He said their input may prove to be valuable as they are in the best position to say what are good incentives and disincentives.

Mr. Farr agreed with comments made by both Ms. Keller and Mr. Boles.

In response to a question from Mayor Bascom, Ms. Walston said no applications for the Toxics Board have been received.

Mr. Torrey expressed support for Ms. Keller's suggestion. He asked how the work would be funded. Mr. Klein said any costs associated with the council's request would be general fund money.

Ms. Swanson Gribakov said any addition to the Board's charge will be at an additional cost to the City. She said the City should not spend any resources until it determines if this will be redundant to something the EPA is doing.

Ms. Nathanson agreed with Ms. Swanson Gribakov on the redundancy issue and asked for more information.

Mr. Solin said if the research is done by the Toxics Board, all four options should be referred to the Board. If the point is a right to know, it will be derived directly from the implementation of Measure 20-75.

Ms. Nathanson suggested adding to 3, either requiring a reduction plan or creating incentives for reducing the use. Mr. Solin said toxic use reduction plans are required by the State from any hazardous waste generator that exceeds the definition of a small quantity generator.

Mr. Farr moved, seconded by Mr. Boles, to refer items 1,2,3, and 4 to the yet-to-be-appointed Toxics Board for a recommendation to the City Council.

Mr. Laue agreed with Ms. Swanson Gribakov.

The motion passed, 5:2; with Mr. Laue and Ms. Swanson Gribakov opposed.

Mr. Torrey left the meeting.

#### V. DIRECTION TO PLANNING COMMISSION: WETLANDS PLAN AMENDMENTS

Jan Childs, Planning and Development Department, requested council direction regarding the Wetlands Plan Amendments Plan, which has been sent back to the Lane County Planning Commission for further hearings by the Board of County Commissioners because of new information received after that commission's review. She noted that Eugene's Planning Commission was willing to participate in the County Commission's hearing.

Mr. Boles recommended sending Eugene Planning Commissioners to participate in the December 17 public hearing, where he intended to provide testimony as a private citizen.

Ms. Keller said the council's only option was 2, adding that it was important to emphasize the points made earlier.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to proceed with option 2: to ask the Eugene and Lane County Planning Commissions to hold a joint public hearing. The motion passed, unanimously 6:0.

#### VI. WORK SESSION/DIRECTION: HOUSING CODE STAFFING AND FUNDING

Dick Gassman, Planning and Development Department, provided the staff presentation and reviewed options available to the council, noting that option 5 was added after the passage of Measure 47.

Department Advisory Committee (DAC) Chair Marshall Kandell discussed the committee's progress and the reaction of the public to the work of the committee, which was generally in opposition to the establishment of a new housing code. He pointed out that the City Manager had the ability to act in the case of an unsafe habitat, and suggested that, absent the demonstrated demand for such a code and the City budgetary limits, the DAC was unlikely to recommend one to the council. Mr. Kandell said the DAC has begun to explore alternative, less costly approaches to reducing habitability abuses. He asked for council direction.

Ms. Keller suggested that the DAC did not "buy into" the council's charge to the committee: to produce a housing code. She asked for an explanation of Option 2. Mr. Gassman said the problem was created by the effects of Ballot Measure 47, e.g., if the program were to be funded by fees, it would be extremely costly if the City were required to put the fees to a vote of the people. An additional problem was that the funding for start-up costs was unclear.

Ms. Swanson Gribakov agreed that the context of the staff's work had changed with Measure 47. She suggested as Option 6: "A trained volunteer pool for people with complaints to get help through the legal aid process." Or, perhaps, support for Legal Aid to help people through that process.

Ms. Nathanson expressed surprise at Mr. Kendall's revelation by the committee about the need for such a code but said she was pleased that the committee remained committed to habitability abuses. She noted that behavioral problems were a large component of the problem and said this might be tied to the City's inadequate abatement process. She said the City might consider contracting with Legal Aid.

Addressing a question from Mr. Boles, Mr. Kendall said that the tenant advocates were consistent in their support for a housing code.

The Housing Policy Board Chair, John Van Landingham, said he was not comfortable with adding resources for Legal Aid, noting that type of intervention usually results in the tenant moving rather than upgraded housing. He said that there was not a huge need for the code, but there were pockets in the community where a housing code would be of benefit. He added that he was quite surprised in the Growth Management Study public forums to hear from many that a housing code was needed.

Mr. Boles echoed Ms. Keller's concern with the committee's failure to carry out its charge. He asked that the council continue to work toward implementing a housing code.

Mayor Bascom said she was not sure that the council explicitly asked for a housing code.

Mr. Kendall said the committee at the very beginning was told it had a "clean slate."

In response to a question from Mr. Farr, Mr. Klein said he was unsure if the proposed fees for the housing code would be affected by the restrictions brought forth on Measure 47. He said the measure prohibits the City from shifting services from property tax support to fee support. It is unknown how the Attorney General is going to influence the legislation or how the legislation is going to be drafted. In its opinion, the Attorney General's Office said that if any property tax dollars went into the general fund (GF), and the GF supported, in any way, to any extent, a service, then we will presume that a



service has been supported by property tax dollars, which then implicates Measure 47. Mr. Klein said that, here, the GF has been supporting work related to the abatement of dangerous buildings and that is tied to housing and enforcement of some kinds of standards. If the legislation is drafted broadly enough, these fees could be covered by Measure 47--the result of which is that there is an offset against property taxes. The City Attorney's Office believes the Attorney General's Office is wrong, but it is unknown how the legislature is going to craft those definitions. Mr. Farr said the only option the council had was 5, which was to postpone any decision.

Ms. Norris said that if a draft ordinance was requested, staff needed direction on the options it wished pursued.

Mr. Laue suggested the committee be allowed to continue its work and report on how it went about seeking information. He asked the committee to follow-up on the issue of tenant behavior, noting the possibility that many units with absentee owners are managed locally and managers may feel they are not paid enough to monitor tenant behavior. He favored Option 4.

Recognizing the varying age of the housing stock, Ms. Nathanson suggested structuring inspections to occur at regular intervals. She also suggested considering fines as support for the program rather than assessing a fee per unit.

Mr. Gassman noted that the City of Portland used fines entirely to fund its program, but Eugene's program could not be supported by fines.

Ms. Keller suggested pursuing Options 2 and 4, allowing for implementing a code while the committee explores the issue of tenant behavior, a time-consuming project that may require code revision at a later date. She reviewed the council's previous discussion, saying there was consensus around the following: adopting the State code; inspections on a complaint-basis; and a fee structure to pay for the program. Ms. Keller said she would later introduce a motion moving to move forward with the code as planned and with the provision that the DAC will amend the ordinance at a later date following its research.

Mr. Farr questioned the prudence of moving forward with any further work until the implications of Measure 47 is clarified.

Mr. Boles suggested that councilors develop and present their preferences to the committee, adding he was supportive of a combination of Options 2 and 4. As money tightens, he said, it becomes more and more important to have protection for those who are at the bottom of the economic scale.

Mayor Bascom recalled that the previous housing code was discontinued for budget reasons and this council now finds itself in the same position. She said she hoped to continue using the DAC process to resolve the problem of serious deterioration of the housing stock in parts of the City but not by asking the DAC to do something its research has indicated is not the best way to address the problem.

Ms. Swanson Gribskov said she could not support option 2. She made the following suggestions: postpone the item to a date certain after the conclusion of the legislative session; and have the DAC continue from an education standpoint, noting that maintaining the committee sends the message to the

community that the council is working on the problem. She added that it was not clear to her what tenant behavior meant and was concerned about including that in the ordinance.

Mr. Gassman noted that most of the sample codes have systems that monitor the number of calls that go to the police department; and when the calls reach a certain number, the landlord is asked to evict the tenant. Other sanctions include requiring the landlord to keep the unit vacant for specific periods of time, or indefinitely.

Ms. Norris pointed out that this is one of those times where the council can supplement its police force with better code enforcement.

Ms. Nathanson asked for an explanation of how option 4 differed from the current abatement. She said she was not ready to vote until the committee finished its work around other options. Mr. Marshall responded that the committee still believes there are other things that can be done and it is committed to finding the best possible solution, including "tweaking" the State code for local application.

Ms. Keller moved, seconded by Mr. Boles, to ask staff to draft an interim ordinance adopting State code with provision for complaint-driven inspections, with inspections to start August 1, 1997; and request the DAC to either amend the interim code or provide some mechanism for reaching the same end, and to explore the potential for behavior code amendments outlined in Option 4.

Ms. Norris said she anticipated increased costs as a result of the motion.

Mr. Farr said he was unsupportive, given the unknown ramifications of Measure 47.

Mr. Boles said he supported the motion as a stopgap measure, adding that this was an attempt to protect the health, safety, and welfare, particularly of those who are unable to do that. He noted this would be funded by the tenants as a pass-through cost from the landlord.

Citing the DAC's work and its wish to explore other options, Mayor Bascom said she would not support the motion if called upon to vote.

Ms. Nathanson said it was not clear to her who would bear the costs. She pointed out that there were missing cost estimates—for an election (should this be needed) and for a public process. She said what she heard the council saying is "we just don't know exactly how to move ahead and make this work."

Mr. Laue said while there was a need for the code it was not an overwhelming need. He expressed concern that the council was moving too fast, and considering the organized opposition, imposing a code at this time invited a lawsuit.

The motion failed, 2:4; with Ms. Keller and Mr. Boles voting in favor.



Mr. Laue moved, seconded by Ms. Swanson Gribskov, to extend the discussion by 10 minutes. The motion passed, 4:2; with Ms. Keller and Ms. Nathanson opposed.

Mr. Boles asked those who favor the code in principle, but against it in practice, what they intend to do instead. If the intent is to do nothing, he said, the DAC should be disbanded.

Ms. Keller moved, seconded by Ms. Boles, to disband the DAC and let the new council decide in a planning session if it wishes to proceed with a housing code.

Councillors Laue, Swanson Gribskov, and Farr expressed support for option 4.

Mr. Boles argued that part of the problem was an ambiguous charge to the DAC and the council might be better served by appointing a new DAC to proceed with whatever option is favored by the majority of the incoming council.

Ms. Nathanson said she saw no reason to discontinue a DAC and go back to the drawing board—losing invaluable time and expertise.

The motion failed, 2:4; with Ms. Keller and Mr. Boles in favor.

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to proceed with Option 4.

Ms. Keller pointed out that option 4 expands the DAC's mandate and she is not sure what the DAC is being asked to do. The least the council should do, she added, is suspend the DAC until it had a clear idea of how it wanted to spend its money.

Mr. Boles moved, seconded by Mr. Farr, to extend the discussion by five minutes. The motion passed, 4:3; with councillors Laue, Nathanson, and Keller opposed and Mayor Bascom breaking the tie by voting in favor.

Mr. Boles said it was a waste of the public's money to send a committee away without a clear charge.

Addressing a question from Mr. Laue, Mr. Marshall said the DAC was given an "open slate" from staff at the outset.

The motion to proceed with option 4 passed, 4:2; with Mr. Boles and Ms. Keller opposed.

Ms. Norris clarified that the charge given to the committee was taken from the council's motion to adapt the habitability standards of the State code.

## VII. APPROVAL OF CITY COUNCIL MINUTES

Mr. Farr asked to pull the minutes of October 14, 1996, so he could review the audiotape. Council concurred.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to approve the minutes of September 9, 1996, Dinner Work Session; September 30, 1996, Special Work Session; and October 9, 1996, Lunch Work Session, as submitted. Roll call vote. The motion passed unanimously, 6:0.

Mayor Bascom noted that a memorandum on the Ward 5 vacancy recruitment process was distributed to the council and asked if it was satisfactory. The council agreed it was.

Respectfully Submitted,

*Linda H. Norris*

Linda H. Norris  
City Manager pro tem

(Recorded by Yolanda Paule)  
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