

MINUTES

Eugene City Council
McNutt Room--City Hall

March 6, 1995
5:30 p.m.

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

The regular City Council meeting of March 6, 1995, of the Eugene City Council was called to order by Her Honor Mayor Ruth Bascom.

I. APPROVAL OF THE ORDER OF THE AGENDA

Mr. Torrey moved, seconded by Mr. Laue, to approve the order of the agenda. The motion passed unanimously, 8:0.

II. RECOMMENDATION: EMERGENCY MEDICAL SERVICES (EMS)/FIRE REDEPLOYMENT

Mr. Laue introduced the topic, saying this was a request for a funding allocation of \$77,000 to complete the Fire/EMS redeployment plan schematic phase (Phase II). He reviewed staff's responses to questions raised at the council's last discussion.

1. Can the project (and elections) be phased? Can Station 6 be constructed first, and Station 2 at a later point?

Ms. Swanson Gribskov said she would be interested in hearing about how all the different phases are linked.

Ms. Keller recalled that the council expressed concern with costs for continued design work and cutting costs in the design itself. She said she did not want a facility that was overly "grand." She added that staff's answer did not address concerns raised with regard to the training facility, noting that a regional training facility was not explored. Ms. Keller said the council should look at revenues other than a general obligation (GO) bond; specifically, SDCs for the River Road area.

4. Are the training facilities an urgent need?
5. Can training be provided by Lane Community College (LCC), another agency, or a regional consortium, rather than be built as part of this project?

Ms. Swanson Gribkov said there needed to be more discussion about training. Ms. Keller added that further study was needed about how regional training might work, including cost and revenue issues. She questioned staff's assertions that 1) costs could be offset by having other entities use the City's facilities, and 2) that the City could not afford to use out of area facilities because it was not cost-effective. She asked for clarification.

City Manager Mike Gleason said the requirements for training for EMS and Fire were part of the statute, which called for periodic training. He said training out of the area required that calls for service be responded to by substitute personnel, at an overtime rate.

Mr. Farr asked for actual cost comparisons between training on-site and sending personnel outside the area for training. Mr. Gleason said that currently no other jurisdiction had a training facility nearby. He added that LCC may not have enough room for a facility.

Ms. Nathanson said that these issues have been discussed by the committee, and the agreements that the City has with LCC have to do with the program and not the facility. Where the training is held is a different issue, she added.

7. What SDC revenues will be generated by this project, and should the charges be higher because of the number of water connections?

Mr. Boies expressed surprise that the estimates have not been changed since the last report. The architect, Mr. Gunderson, said that the sanitary estimate was based on plumbing fixture units and the stormwater on impervious surface area. The consultant said the figure included about \$15,000 for SDCs and \$50,000 for "off-site utilities," utilities that would be public at the conclusion of the project.

8. Can the Tualatin Valley training facility be used by the Department of Public Safety (DPS) (is the net cost less to travel there and incur overtime than to build the facility locally)?

Addressing a question from Mayor Bascom, Mr. Gleason said that the City of Springfield has shown an interest in using a local regional facility in an effort to mitigate overtime costs as well. In response to a follow-up question, Mr. Gleason said that having LCC provide mandated police officer training was still under discussion.

10. Should Station 6 be constructed with less parking? A parking needs analysis needs to be done for this site.

Ms. Keller said there was a need to look at this proactively and creatively, noting that staff responses could be used by other employers as excuses for why their employees needed to drive.

11. Why construct a new Emergency Operations Center (EOC) at Station 6 if we already have a backup EOC at Public Works?

In response to a question from Ms. Keller, DPS Deputy Director Bill Bass explained the difference between the EOC and PSCC, saying the latter was the back-up communications center. Addressing a follow-up question, Mr. Bass said the Public Works (PW) facility was not large enough and has very limited capacity to accommodate all the personnel that are needed to operate an EOC during a major community-wide disaster. Ms. Keller said that digging the basement of the Coburg fire station to house the back-up facility seemed like an expensive proposition.

Mr. Boles said he was puzzled about locating the facility across the Ferry Street Bridge, given the department's concern with seismic activity. He also questioned the City's need to accommodate the media. Mr. Boles recalled that the PW facility was referred to as the only emergency operations coordinating center, and now he finds that it is simply a dispatching center. He asked for a copy of the Budget Committee's discussion of the issue about five years ago. With respect to SDCs and capital costs, Mr. Boles said his question was where will the operations and maintenance costs come from after the stations are built? Mr. Gleason said the City's operating budget included the capacity to operate these stations. When the new stations are built, staffing would be shifted and the costs would be assimilated as part of the budget.

Ms. Nathanson said the committee had discussed using the expense saved as a result of not leasing facilities for operations and maintenance.

13. Since SDCs are not available to help with the capital costs, does this mean that the City will continue to support the cost of growth for future populations?

Ms. Keller said there was a need to do something about SDCs, adding that opponents may use this against the measure.

Addressing a question from Ms. Swanson Gribkov, Mr. Gleason said that bond indebtedness, which is a levy against the value of the community, was one way to spread construction costs to users of the facilities beyond 20 years.

Ms. Nathanson said the proposal calls for relocating one station that is not located very well and combining two older facilities into one. She said it was essential to serve the current population, adding that service is not provided based on geography. People are not tied to one location, she said, and need protection wherever they may be in the area. She said the plan also better distributes staffing to optimal levels.

Mr. Torrey moved, seconded by Mr. Laue, to extend the discussion by ten minutes, to be taken from the Willamette Street reopening item. The motion passed unanimously, 8:0.

14. How much of the bond issue will be paid for by River Road residents?

Ms. Keller said she was appalled to read that capital costs are not part of the current budget, adding that there were current capital needs that the City was having trouble paying for. She said she assumed that before going forward

with the project, the issue would be addressed.

Ms. Nathanson moved, seconded by Mr. Laue, to approve a contingency budget allocation of \$77,000 to complete the schematic phase (Phase II) of the EMS/Fire redeployment plan.

Ms. Keller said was very supportive of the concepts of fire redeployment despite her concerns, adding she assumed the committee would take the other issues raised seriously.

Mr. Hornbuckle said there should be a distinction made between the technical planning of the project and the political plan for paying for it, given the voters' consistent rejection of bond measures. He said if the council was serious about winning, it should develop a political strategy to that effect.

Mr. Boles said he could not support the motion because once a schematic was approved it is very difficult not to move forward and once again 1) the council is asking the community to fund capital without identifying full operations and maintenance costs, 2) the council has not made a clear policy determination about where the costs should be borne.

Mr. Torrey expressed support for the motion.

Mr. Laue said the Public Safety Committee had decided not to recommend a May ballot for fire redeployment, but instead to move forward with the schematic and look at other ways of funding the project. He added that the committee intended to address all the issues raised to arrive at the best approach.

The motion passed 6:2; with Mr. Boles and Mr. Hornbuckle opposed.

Mr. Boles asked the committee to address his concerns about supporting ongoing operations and maintenance of the facilities and structure other ways to diminish the need for these facilities such as changes in construction codes and zoning.

III. ACTION: PARKLAND ACQUISITION CRITERIA

John Etter, Public Works, called attention to his memorandum in the meeting packet providing answers to questions raised at the last discussion.

Mr. Boles noted that on page 3 of the response staff has indicated that the City is not collecting sufficient SDCs and wondered if there was an adopted plan identifying when these would be collected. Mr. Lyle, Public Works, said the rate was adopted in 1991 with the understanding that staff would conduct a three-year review, which would be completed by late summer or fall. Mr. Boles flagged the issue for further discussion, saying it was not necessary to wait three years before adjusting the SDCs. He asked staff to flesh out the differential that the City should be collecting.

Chris Anderson, Public Works Director, said the figures that were used in the

original concept valued acreage too low and those policy pieces could be identified easily, but reviewing the broader issue of changing the criteria would require more time.

Ms. Swanson Gribkov asked for information on the Park SDC Fund. Mr. Etter said the balance was over \$700,000. Mr. Gleason added that the difficulty in developing parks was that operation money had not been identified for maintenance. Mr. Etter said staff was focusing on acquisition at the moment.

Mr. Farr noted that Golden Garden Park would never be fully developed because people appreciate the wilderness aspect of the park, but he encouraged that the park be made more suitable for families. Mr. Etter said staff has identified a parcel at the north end of Golden Garden as a potential neighborhood park.

Mr. Hornbuckle asked for an explanation of how Criteria 9 would be applied to potential parks. Mr. Etter used as an example, an athletic field that brings in revenues that support recreation programs. Mr. Hornbuckle expressed concern that low-income areas would not have a fair opportunity of getting a park developed. He added that using the availability of private donations as a criteria set the stage for privatization of parks and asked that that be changed or omitted as a criterion.

Ms. Keller noted that the council has said that in developing an area, it is not interested if it cannot pay its own operations and maintenance costs. With regard to scholarship programs, she explained that people need only show eligibility for these programs and not necessarily accept public assistance.

Ms. Nathanson moved, seconded by Ms. Keller, to adopt the proposed criteria for setting priorities for parkland acquisition and youth recreation facility development. The motion passed unanimously, 8:0.

Ms. Nathanson said the community can no longer afford to separately acquire and develop public facilities and said the council should explore a way to maximize their use. She asked the council to continue working on developing public properties jointly with other jurisdictions. Ms. Nathanson said parcels that cannot be developed should be sold to buy suitable property.

Mr. Torrey said the public was interested in knowing if the City was going to ensure that there will be professional baseball in the City when the school district trades Civic Stadium for some other property.

Mayor Bascom thanked Ms. Nathanson and Ms. Keller for their work.

Ms. Swanson Gribkov wondered when the issue of the browning of the parks would be addressed. Mr. Gleason said it was a council decision and it would be inappropriate for the issue to go to the Budget Committee (BC). He suggested that council officers schedule the item if the council wished to revisit the issue.

Mr. Boles said Mr. Gleason was right and added that if the council revisited the issue, new council members should be given background information.

**IV. REVIEW AND APPROVAL OF DESIGN OPTIONS AND RESOLUTION REFERRING
REOPENING OF WILLAMETTE STREET TO VOTERS**

Mr. Lyle reviewed the three options presented at the last work session discussion and added that staff recommends Option 1.

Mr. Boles moved, seconded by Mr. Torrey, to approve Resolution 4444 with Option 3, for paving and Option 4 for bicycles.

Ms. Nathanson asked what was the main objective in using asphalt instead of concrete. Mr. Lyle said concrete has a longer life and requires a thinner structure, minimizing problems with underground utilities. He added that it was a much more durable material. Mr. Lyle said coloring could be added to the concrete to give the appearance of asphalt.

Mr. Boles recalled that the council called out something similar to East Broadway and said he was confused because the City does not require concrete anywhere else except for alleys. He added that using asphalt saves approximately \$42,000. Mr. Lyle said the City typically used asphalt and a rock structure for most street projects but the main distinction with this project was the brick crosswalks which would be difficult to support with asphalt.

Mr. Torrey said Olive Street was very bland and asked staff to compare maintenance costs between asphalt and concrete. Mr. Lyle said asphalt required overlaying about every ten years--twice over a 20-year period at a cost of about \$60,000 per overlay.

Ms. Keller moved, seconded by Ms. Nathanson, to amend the motion by substituting Option 1 for Option 3.

Mr. Boles wondered why asphalt is used in many other areas in the city and is a standard if it has increased maintenance costs. Mr. Lyle noted that there was an increase in the cost of the material and that the first cost would be assessed to abutting property owners, and the council needed to decide if that incrementally higher cost should be born by the community or the property owners.

Ms. Nathanson expressed support for the motion, adding she was confused by Mr. Boles' position, given his interest in life-cycle costs and maintenance issues.

Ms. Swanson Gribbskov said she would support the motion, particularly since aesthetic issues could be addressed in other ways.

Mr. Farr said he initially supported asphalt due to aesthetics but was convinced concrete was best suited to the project.

Mr. Boles said if that is the case, the City should consider it for all other areas of the city.

The motion to amend passed, 7:1; with Mr. Boles opposed.

Mr. Laue moved, seconded by Mr. Torrey, to amend the motion by adding installation of ballards at the pedestrian crosswalks at Willamette and Broadway streets.

Ms. Keller objected, saying the council has already said it would not become involved in the final design until after the vote.

Mr. Laue withdrew his motion to amend. Mr. Torrey agreed.

Mr. Boles called for the question. The motion to vote immediately passed, 7:1; with Ms. Keller opposed.

The amended motion passed, 7:1; with Ms. Keller opposed.

Mr. Lyle called attention to Downtown Eugene, Inc.'s letter announcing that it will have an executed agreement with the City by March 31, guaranteeing the \$100,000 in private donations for the project.

Addressing a question from Ms. Swanson Gribkov, Mr. Laue said that he believed that the council could more effectively communicate the issues around the project with a structured political debate without a voter's pamphlet and the marginal costs would be reduced. He said he expected there would be an opportunity for the opposing sides to debate the issue and for the community to make a decision based on the information that is provided.

Ms. Nathanson asked Mr. Gleason to explain how the City might proceed. Mr. Gleason said the City was obligated to prepare neutral information, making sure it met that standard, and to disseminate the information. He added that with or without the voter's pamphlet the council needed to have a public record of its neutral statement because that statement becomes the legislative history for the council and avoids having the history based on the most active participant in the debate rather than the council's actions.

Mr. Hornbuckle disagreed, saying it has nothing to do with legislative history. He said Mr. Gleason was really talking about political influence, and given the City's history with information campaigns, it ought to go back to approving nothing more than a neutral statement on what is being proposed. He added it should be made clear that the statement is not instead of a voter's pamphlet, whose purpose is for some type of deliberation.

Ms. Keller reminded council that in not supporting a voter's pamphlet, it made the political decision not to underwrite the ability of people opposed to the project. This decision had nothing to do with costs.

Mr. Boles said he agreed with Mr. Hornbuckle that the City should do what is minimally required, adding he was not interested in buying space in The

Register-Guard to show the neutral statement and a sketch. He said others in the community should take that responsibility, adding the City could go so far as to make meeting rooms available to opposing sides for the discourse.

Mr. Gleason explained the difference between producing a neutral statement and presenting an issue to the community, which is a structured political debate.

Mr. Laue said he wished to find a different way for structuring a political debate. He said the council could come up with creative ways of giving people the opportunity to debate the project, particularly since both the McNutt Room and the council chamber were wired for metro television. Mr. Laue said that he agreed with Mr. Boles that if the council chose to take a position on the issue, it should be neutral.

The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Michael Gleason
City Manager



(Recorded by Yolanda Paule)
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MINUTES

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Council Chambers--City Hall

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

The regular meeting of March 6, 1995, of the Eugene City Council was called to order by Her Honor Mayor Ruth Bascom.

I. PUBLIC FORUM

Dave Sweet, 2519 Kincaid Street, stated that the City of Eugene government needed to undergo a major housecleaning. He said that there had previously been good government in Eugene, and there could be again. He urged the council to support the citizens of Eugene and their right to vote on important issues.

Michelle Summers-Thompson, 2182-3 Patterson Drive, said that the City Council was charged with the responsibility to allow for low-cost housing within the City of Eugene. She said that the "not in my back yard (NIMBY)" attitude prevailed in the city, and that that attitude fostered the development of three classes: 1) the first class; 2) the second class; and 3) the homeless class. She urged the council to create more low-cost housing within the city. She also said that councilors should be paid for their service because the lack of pay prevented poor people from holding such a position of leadership.

Veracocha Starr, 1430 Willamette Street #556, gave the council a written memorandum and asked it to consider passing a resolution regarding formation of a separate republic. He urged the council to put the issue on a meeting agenda.

John VanLandingham, 335 North Grand Street, stated that he was appearing as the Chair of the Community Development Block Grant Advisory Committee. He raised the issue of the duration of the committee members' terms. He noted that serving on the committee required considerable education, and the members thought that it took at least two years to acquire that education, but by that time their term on the committee had expired. He said that the committee was required to rotate one-third of its members each year, and that did not give the members enough time to be adequately educated and efficient at their jobs. He said that the committee would bring the issue to the Citizen Involvement Committee (CIC), but he wanted to make the council aware of his concerns.

Bill Helm, 341 East 12th Avenue, addressed the issue of writs of quo waranto. He said that these were historic writs in the State of Oregon that make public officials responsible, and if any public official commits any impropriety in office then the citizens can immediately petition for a writ of quo waranto. He asked if the writs of quo waranto were still effect in Oregon, and could they be presented to the City Council. He further asked the council to consider why Eugene had one of the highest suicide rates in the country and what the City would do about it.

II. CONSENT CALENDAR

A. Approval of City Council Minutes of November 28, 1994, Dinner Work Session; November 28, 1994, Meeting; November 30, 1994, Lunch Work Session; December 5, 1994, Dinner Work Session; December 5, 1994, Meeting; and December 9 and 10, 1994, Council Mission Meeting

B. Resolution Concerning Sidewalk Improvement Program

Res. No. 4445--A resolution authorizing staff to proceed with design and bidding of the FY95 and FY96 projects as outlined in the adopted Transportation Improvement Program.

C. Ratification of Council Officers' Recommendations of February 24, 1995.

Ms. Keller requested that the minutes of November 30, 1994, Lunch Work Session be withdrawn for further consideration.

Mr. Hornbuckle requested that item C be withdrawn for further consideration. The withdrawn items were moved to the end of the agenda.

Ms. Nathanson moved, seconded by Mr. Laue, to approve the remaining items on the City Council Consent Calendar. The motion passed unanimously, 8:0.

III. PUBLIC HEARING: ORDINANCE REVISIONS CONCERNING LOW-INCOME HOUSING WITH DENSITY BONUS

CB 4528--An ordinance concerning controlled income and rent housing; and amending Sections 9.015, 9.384, 9.510, and 9.724 of the Eugene Code, 1971.

City Manager Micheal Gleason introduced the topic and said that Jerry Jacobson, Planning Division, would give the staff report.

A. Staff Report

Mr. Jacobson stated that the code amendments dealt with how the City regulates the provisions for low-income housing with density increase. He said that it was called controlled income and rent or CIR, and the density bonus provision was meant to be an economic incentive for developers because it allowed for the development of low-income housing in increased densities beyond what the zoning codes allowed. He said that it was one mechanism intended to increase the amount of low-income housing in Eugene.

Mr. Jacobson stated that the existing regulations were problematic as a result of a 1993 Land Use Board of Appeals (LUBA) decision, which agreed with appealing neighbors that the criterion that requires adequate public facilities was not fully addressed. He noted that the word "adequate" is subject to many interpretations, and can now be an easy target for appeals from opposing neighbors. He said that those appeals delay development of and add costs to the projects. He said that the Planning Commission had made several attempts to fix this problem and broaden its applicability. He said that the ordinance before the council had unanimous support from the Planning Commission and it contained four key elements: 1) it eliminates the standard requiring adequate public facilities and instead requires that public facilities are available to a site; 2) the ordinance provides for the full density allowed for in the

Metropolitan Plan; 3) it allows for density bonus in the R-2 multifamily and the PL public land zones; and 4) it eliminates criteria that are not clear and objective. He noted that Planning Commission President, Adell McMillan, was available to answer questions.

Responding to Mr. Laue's question, Mr. Jacobson stated that if someone was seeking a density bonus the application would still go through a conditional use process.

Ms. McMillan, responding to Mr. Boles' question, said that the Planning Commission had not discussed requiring that facilities be adequate rather than available for all housing developments.

B. Public Hearing

Mayor Bascom opened the public hearing.

Dave Sweet, 2519 Kincaid Street, stated his opposition to the proposed rule changes, specifically section 5, subsection 3, where the City proposed to add language that would prohibit the creation of a subsidized housing project in an area in which more than 50 percent of the people residing in the area had incomes of at least 50 percent of median income or below. He said that the rule changes were discriminatory in nature.

Al Johnson, 767 Willamette Street, Suite 203, representing Lane County Housing Authority and Community Services Agency, stated that his agency had been working with the existing CIR ordinance over the last three years with The Orchards project. He said that the message of that experience was that the reforms that are created by the rule changes are necessary. He said that it was inherently difficult to determine what adequacy is when dealing with soft services such as fire and medical. He urged the council to take action on the issue now because it was an extremely important issue.

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

C. Questions from Councilors

Ms. Keller stated that the proposed amendment would bring the standards for low-income housing more into line with the standards already in place of other types of housing. She said that she was dismayed by Mr. Sweet's comments

because this was an instance in which the council was attempting to maintain some amount of consistency in its housing dispersal policy. She stated that the council did not want to create ghettos within the city or areas that were predominantly low-income housing. She stated her hope that the council would act for the benefit of the continued ability to initiate low-income projects within the community and vote in favor of the proposed amendment.

Mr. Boles stated that the amendment was consistent with the housing dispersal language adopted by council. He said that he was confused about where the concepts of adequacy and availability apply. He asked Planning Director Jan Childs if there are currently differential standards for low-income housing versus other types of housing with respect to adequacy and availability.

Ms. Childs stated that currently the CIR provision is the only one that required the adequacy standard. She said adequacy, as viewed by the courts, was a more stringent standard. She said that the standard considered in terms of other housing reviews was availability. She said that the Planning Commission chose to bring the standards for CIR housing into agreement with those for other housing because the focus of the code amendment was on CIR housing. Adjusting the standard for other types of housing was a broader question.

Mr. Boles stated that his understanding was that the direction that the Planning Commission chose was contrary to council adopted policy that the City did not support construction without adequate infrastructure to support it. Ms. Childs said that she was unaware that that inconsistency was present.

Ms. Nathanson moved, seconded by Mr. Laue, 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. The motion passed unanimously, 8:0.

Ms. Nathanson moved, seconded by Mr. Laue, that the bill be approved and given final passage. The motion passed by a vote of 7:1, with Mr. Boles voting in opposition, and became Ordinance 20001.

Mr. Boles said that he voted no because he felt the council was making the same mistake for low-income housing as it had made for the rest of the community. He said that it was bad policy.

VI. PUBLIC HEARING: APPEAL OF THE HISTORIC REVIEW BOARD'S APPROVAL OF
THE AMAZON FAMILY HOUSING DEMOLITION APPLICATION

A. Declaration of conflicts of interest of ex parte contacts

Ms. Nathanson stated that she worked for the University of Oregon (UO) Library, and although she was not in a policy-making role, she did have a conflict of interest. She excused herself from taking part in the hearing.

Mr. Hornbuckle said that he had spoken to many people in relation to Amazon Family Housing, but most of the substance of his communications was in the record. He asked if "in the record" referred to the contacts or the substance.

City Attorney Bill Gary stated that the requirement regarding ex parte communications was that the members of the council declare any contacts that they have had regarding the substance of the appeal with anyone who is interested in the appeal that does not appear in the record.

Mr. Hornbuckle stated that he was at a meeting of the Homeless Action Coalition (HAC) wherein the peripheral topic of the moving of the Amazon buildings was discussed. He said that he read articles in *The Register-Guard* quoting Dan Williams, Jean Tate, and John Van Landingham. He added that he had read the memorandum from Mike Eyster in the agenda packet.

Mr. Torrey said he had received a number of telephone calls from interested parties, and he stopped them as soon as possible. He said that he had received a number of letters, and he turned them over to City staff.

Mr. Boles stated that he was an officer of instruction at the University of Oregon and he stood recused in conjunction with earlier quasi-judicial hearings regarding Amazon Family Housing, and he stood recused this evening.

Ms. Swanson Gribskov stated that she was a doctoral student at the University of Oregon and received a Federal grant. She noted that the City Attorney had stated that she had no conflict of interest. She added that she had requested to see the Amazon Family Housing complex, and on February 21, 1995, she and four City staff members had toured the complex, accompanied by Frank Gaddini, the Amazon Family Housing Director.

Mr. Farr noted that he had received a number of written communications from citizens. He had turned them over to City staff.

Mr. Laue said that he had received a number of written communications, which he turned over to staff to be included in the record. He said that he had received over 40 telephone contacts, which he had halted by explaining the quasi-judicial process.

Ms. Keller stated that she had a long record of ex parte contacts. She said that she had received many phone calls and letters from citizens. She turned the letters over to City staff. She said that she had participated in a Housing Policy Board subcommittee meeting at which a St. Vincent dePaul proposal to use the Amazon buildings should the University move forward with demolition was discussed. She said that the discussion did not deal with whether or not demolition was a good or bad idea. She said that she supported the proposal. She said that because of the limited parameters of the process, she would be able to be impartial.

Mayor Bascom said that she would be voting in the event of a tie.

Mr. Hornbuckle stated that ex parte contacts were only inappropriate if they were to conflict with a councilors' ability to act impartially. He noted that he wanted to make a decision tonight and not wait until Wednesday.

Mr. Hornbuckle moved, seconded by Mr. Laue, to decide on the appeal tonight.

Mr. Gary stated that the agenda contemplates that the council would make a decision tonight and give staff direction to create findings that would be approved on Wednesday. He said that if council chose to vote on Wednesday then the council would have to schedule another meeting at which to adopt the findings. He said that Mr. Hornbuckle's motion was simply reaffirming the status quo.

Mr. Hornbuckle, with agreement from Mr. Laue, withdrew his motion.

Mr. Torrey stated that the sequence that staff had requested was acceptable to him.

Councilors agreed that it was important to make the decision tonight.

B. Staff Presentation

Teresa Bishow, Planning Division, stated that on March 7, 1994, the City Council upheld a decision rendered by the Historic Review Board (HRB) to designate the Amazon Family Housing Complex as an historic district. On January 19, 1995, the HRB conducted a public hearing on the demolition application submitted by the University of Oregon. On January 26, 1995, the HRB approved the demolition application. She said that the board found that while it did appear economically feasible to rehabilitate the structures on the current site, the University of Oregon had determined that to meet the long-term needs for student housing, a new residential construction at Amazon was the preferred alternative. The HRB concluded that there was no evidence in the record that further delay in the approval of the demolition application would likely result in preservation of the historic property or retention of the historic property at its current site.

Ms. Bishow continued, saying that on December 6, 1994, an appeal was filed by the Save Amazon Coalition (SAC), represented by Daniel Stotter. She said that the Eugene Code provides that an appeal of an HRB decision be based on the record. She noted that the record included two documents: 1) a blue covered document that stated "Record as of January 10, 1995 for the HRB," along with extensive photo documentation of the site submitted by the University; and 2) a mauve covered document of the record submitted before the HRB from January 11-26, 1995. She added that there was one item not included in the documents and it was the large display map that was submitted at the HRB public hearing and again on display in the Council Chamber. She said that City Council's review was limited to the record and issues raised at the evidentiary hearing. Ms. Bishow stated that all written testimony received prior to Thursday, March 2, 1995, 10 a.m., was included in the agenda packets. She entered officially into the record four additional letters of testimony from David Zupan, in support of the appeal; a printed copy of a FAX included in the packets from Celeste J. Doyle, Assistant Attorney General; a letter from James Hamrick, the State Historic Preservation Officer; and a letter from John Saemann, in support of the appeal.

Ms. Bishow read into the record the names of individuals who had given the councilors written testimony. The following is a complete list of individuals who entered written testimony the evening of the meeting: John Jordan Cascade; Christine Helm; Robert M. Dealer; Martha Brill; Office of the Attorney General; John Saemann; Jonathan Pincus; David Zupan; James Hamrick, Deputy State Historic Preservation Officer; Woody Cowan; Wendy Loren; Tom

Bender; Daniel Stotter; Gary Fenerstein; Elizabeth Goldstein; Michelle Thompson; Nancy Forrest; Wayne Ford; and Randy Prince. In addition, a complete copy of the minutes of the Historic Review Board meeting of January 19, 1995, was distributed to the council.

Ms. Bishow said that approval of the demolition application under the historic ordinance allows the site to be cleared for new construction. She said that the permit allowed for the widest range of options for clearing the site because it did not require that the buildings be demolished. She said that there were two options for the council: 1) to affirm the HRB's decision; or 2) to direct staff to prepare findings to reverse the decision of the HRB.

Mr. Hornbuckle asked if the council was legally bound to use either of the two motions. Ms. Bishow stated that the code was clear about what action the council could take. She said that opposing the HRB's decision would merely delay the issuance of the demolition permit until April 8, 1995, 120 days from the date a complete application was received.

Mr. Hornbuckle stated that those were the two options assuming that the UO had submitted a viable application. Ms. Bishow stated that once the application had been determined complete, the processing of that application begins. Mr. Gary stated that the determination of whether or not an application is complete is a decision made by the Planning Director. He said that the council was simply reviewing the decision of the HRB and was presented with only two options under the code. He said the question of whether or not the application was viable was not before the council.

Mr. Hornbuckle stated that there was nothing legally binding that precluded the council from discussing the issue of the demolition applications' viability. Mr. Gary stated that his opinion was that the only choices the council had were to either affirm the HRB's decision or to reverse the HRB and postpone approval of the demolition for a maximum of 120 days.

C. Testimony from the appellant and others in support of the appeal

Dan Stotter, 259 East 5th Avenue, stated that this was a landmark case for the City Council. He said that it was important to review the Historic Preservation Ordinance and its purposes, which he said were two-fold: 1) to maintain preservation options; and 2) to avoid "bulldozer decisions" made about Eugene's historic properties.

Mr. Stotter suggested that there was a "win-win" solution to the problem. He noted that the UO's Endex Engineering report concluded that there was strong support for rehabilitation by a nonprofit organization. He referred councilors to page II-313, in the blue document, that stated that rehabilitation by a nonprofit organization was a viable option. He added that page II-281 of the blue document made it clear that rehabilitation on site was a viable economic and structural option. In addition, Amazon Community Housing had created a strong proposal for onsite rehabilitation. He said that the group had funding opportunities, technical support, and support from national organizations.

Mr. Stotter stated that destroying 90 percent of the complex and saving only 4 out of 48 buildings was not an acceptable outcome for historic preservation. He said that that clearly violated the law. He further added that staff would have the council believe that staff is the decision maker for compliance with the Historic Preservation Act. He said that the City Council could make the decision if it so chose. He referred councilors to Jenny Sirnio's comments in the HRB minutes of January 19, 1995, on page 17. Ms. Sirnio had commented at being distressed that her decision-making authority was being taken away by staff. He added that this issue was important because the applicant had not met the preapplication requirements. He said that the councilors would see a map that indicated that there were no properties within the UO designated areas that meet the requirements of the larger proposal by the UO. He said that UO admits that the requirement in their proposal is impossible to meet. He stated that the UO had made a "bad faith" attempt to sell the property. He said that a precedent was being set, and that was that any historic developer in the future, if he/she did not want to protect a property, could offer an impossible condition.

Mr. Stotter stressed the importance of not allowing the UO to "get away" with offering a "bad faith" attempt to sell the property. He said because the UO did not meet the preapplication criteria, then the application should be considered void. He said there were also some serious concerns regarding other Metropolitan Plan criteria, including noncompliance with housing policies and noncompliance with historic preservation policies.

Mr. Stotter stated that delaying the demolition was the only opportunity for rehabilitation and for a win-win solution. He noted that SAC is currently negotiating with all involved parties and had agreed to a mediation involving the City of Eugene and the UO. He said that delay had a strong benefit for all parties.

Mr. Stotter read a letter from James Hamrick, the deputy officer for the State Historic Preservation Office. The letter stated that the State Historic Preservation Office was ready to express its support of the appeal.

Mr. Stotter requested time for rebuttal and he objected to the UO including new references to House Bill 2124 in their written testimony, which was clearly not before the Historic Review Board.

Dave Sweet, 2519 Kincaid Street, stated his approval of the appeal. He stated that the UO made an illegal offer for sale. He added that the students were the ones who made the UO what it was and without the students, the UO would cease to exist.

Nancy Forrest, 1047 President Street, stated that the Amazon Family Housing district met the criteria for City of Eugene historic status in two categories and met the criteria for listing on the National Register of Historic Places in three categories. She said that the area has been named historic for three reasons: 1) the buildings were released under the Lanham Act Amendment of 1946 and brought to Eugene to house veterans of World War II; 2) the buildings represent an early prototype of prefabricated housing; and 3) the buildings were designed by Pietro Belluschi, an internationally famous architect. She urged the council to reverse the HRB's decision.

Michelle Summers Thompson, 2182-3 Patterson Drive, testified that she had worked hard to get a deal with the UO to buy the Amazon property. She said it was clear that UO did not intend to sell the property. She invited the City Councilors to read the brochure about Pietro Belluschi. She invited the councilors to take a tour of the homes in the Amazon district.

Suzanne O'Shea, 1799 Columbia Street, secretary of the Board of Amazon Community Housing, said she was a former student of civil engineering and physics at the UO, a former resident of Amazon Family Housing complex, had worked for several weeks on compiling estimates for rehabilitation of Amazon, and helped with the preparation of the bid to purchase Amazon. She said that the City Code stated that the "owner of historic property shall attempt to find parties interested in preserving an historic site before the City will grant a demolition permit." She said that the UO did not follow those guidelines because the UO listed the property for trade with impossible circumstances. She referred councilors to the map depicting the area surrounding the UO, and the land which UO would accept in trade. She noted that UO required that the property for trade be 14.125 contiguous acres on public.

undeveloped land. She added that the UO required that the land be within .6 of a mile from the intersection of 13th Street and Kincaid Street.

Wayne Ford, 1019 Filmore Street #1, testified that it was his purpose to demonstrate that the UO and the Eugene City staff had consistently refused to comply with the regulations and statutes that govern use of historically significant properties. He said SAC had challenged the UO on its noncompliance on several occasions. He asked the council to inform the City staff that its actions had tainted and rendered invalid the process of review by the HRB, and inform the UO that it had not met the preapplication criteria. He gave the councilors copies of a section of the City Code, and quoted that "no person may move or demolish an historic property unless a board or council has approved an application to do so." He further quoted that, "a demolition application shall provide proof that the preapplication requirements have been completed." He said that the City staff has stated that only the Planning Director had the authority to determine the completeness of preapplication requirements. He noted that SAC contended that the board has that power as well as noted in the code, "the board shall act upon applications concerning moving or demolition of historic properties."

Karl Sorg, 2222 Willamette Street, stated that he found it incredible that the City staff contended that it alone had the power to determine whether or not preapplication criteria had been met. He urged the council to move to declare the demolition permit null and void because of the UO's failure to meet preapplication requirements.

David Zupan, 2209-B Monroe Street, testified that a delay in granting the demolition permit would enhance the possibility of Eugene's Amazon Historic District being preserved. He referred councilors to a letter in the record by Elizabeth Goldstein of National Trust, in which she strongly encouraged the HRB to "delay the demolition permit because a delay of 120 days would allow for much needed further dialogue." He urged the council to reverse the HRB decision and delay demolition. He noted that when Jenny Sirmio, member of the HRB, questioned whether the preapplication requirements had been completed she was directed by City staff that the board did not have the authority to consider the matter at the public hearing. He stated that demolition was not a "done deal," and urged council to delay the permit.

Stevie Horst, 2232 Patterson Street #4, stated that she was a resident of Amazon Historic District, and said that without the housing facility it would be nearly impossible for her to raise a child and attend school at the UO.

She said that if the housing was destroyed she would most likely have to quit school and get a job or go on welfare. She said that the UO administration was forcing her to quit school without concern for her or her family.

Kathy Ging, 2878 Harris Street, stated that she was appalled how the UO manipulated regulations to be able to move forward with its demolition application. She urged the council to stop the destruction of Amazon.

Carole F. Bruhl, 708 West 4th Avenue, said that fundamental issue was that the property in question was "too valuable to have the likes of poor people living on it." She said that the UO wanted to create a more dense housing structure on that property and make more money from the rents. She noted that students were packed into housing because they could not afford to live in Eugene and go to school. She asked the council to "preserve Amazon."

John Walsh, 751 East 16th Avenue #320, said that the council should reverse the HRB decision. He said that the city needed more low-income housing.

Michael Olmogrosso, 864 West 4th Avenue #3, stated that he was a single father of five children. He said that if it had not been for low-income housing he would not have been able to attend Lane Community College, be the editor of the Denali, be the student body president, nor attend UO. He said that Amazon Housing should be viewed as a cooperative and the City should rehabilitate the area and maintain its low-income housing stature. He urged the council to support the appeal.

Bandy Prince, PO Box 927, distributed a flyer about Pietro Belluschi. He urged the council to reverse the HRB decision.

Ann Leadon, 2206 Patterson Street #4, stated that SAC had been told that there would be no chance for rebuttal.

Mayor Bascom noted that council could decide to allow time for rebuttal.

Ms. Leadon continued stating that because the housing at Amazon was made for transport and long life, it should be preserved. She asked the council to support the appeal.

D. Testimony from the applicant and others in opposition to the appeal

Celeste Doyle, 100 Justice Building Salem, the Assistant Attorney General with the Department of Justice, stated that she was representing the UO in the proceedings. She said that there was no evidence in the record to indicate that a delay in issuing the demolition permit would likely result in preservation of the Amazon Family Housing Complex. She added that she was not aware of any proposals for mediation between the UO and SAC at any time in the future. She said that SAC was the only group to make an offer for the purchase of the Amazon property, and the offer was rejected because it did not meet the financial requirements nor the land exchange requirements.

Ms. Doyle noted that the City, the UO, and St. Vincent dePaul had worked cooperatively to make arrangements for some of the Amazon Housing structures to be relocated, rehabilitated, and used for low-income housing. She reported that there was a phase II of the Amazon replacement project that encompassed half of the units, and it would not take place until the spring of 1996.

Ms. Doyle responded to complaints about the completeness of the demolition application. She said that the City Code restricts the authority of the HRB to either approve the demolition or delay it for 120 days. She added that the council had the authority to review the HRB's decision and nothing more. She added that ORS 227.178 stated that "if an application for a permit is incomplete, the governing body or its designate shall notify the applicant exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information." The UO was not notified within 30 days of submitting the application that any information was missing. She read further, "The application shall be deemed complete upon receipt by the governing body or its designate of the missing information. The application shall be deemed complete if the missing information is not submitted on the 31st day after the governing body first received the application." She said that under State law the application is deemed complete for purposes of the council's review no later than 31 days after it was first submitted, unless the applicant was notified that something was missing.

Responding to criticisms of the UO's conditions regarding solicitations for offers, Ms. Doyle stated that she had agreed that as now exists, there is no parcel of land that meets the requirements set by UO. However, she noted that the potential purchaser would have been required to gather together contiguous parcels that met the acreage requirements, clear those parcels, make sure they had the appropriate zoning, and ensure they had proper public facilities and utilities. She said that that was not anything less than the UO would have to do if it sold Amazon in order to continue to provide student housing.

Ms. Doyle said that the appellants had stated that the demolition of Amazon violated the City Code and State law. She said that the UO has complied with every requirement that it had been told it needed to meet. She said that the UO had met all the requirements under Federal, State, and City law. She added that the council did not have the authority nor the jurisdiction to review those issues.

Mike Eyster, University Housing, offered his support of the HRB's decision. He noted that the UO had met with many of the citizens from SAC, and its proposal had been given long consideration before it was declined. He said that every time that the UO was delayed in a construction season, the cost went up \$1 million over the 30 year period of the bond. He said that by delaying the permit the council would be increasing the likelihood of the UO missing another construction season. He added that by getting started with the demolition, there was a greater chance of saving a high proportion of the Amazon units for low-cost housing at an alternative site.

Patricia Hadley Saisi, 2154 Patterson Street #1, stated that she had spent many heart-rending hours changing her position from that of wanting to save Amazon to that of supporting the demolition of the complex. She said that it was a victory if 120 units could be saved from the complex. She commented that it was time to put energy toward ensuring that the UO built new low-income housing on the Amazon land.

David Hinkley, 1308 Jefferson Street, spoke to the defense of the ordinance itself. He said that the ordinance offered a fair and reasonable procedure that protected historic properties. He said the effectiveness of the ordinance depended on it being properly enforced and, based on the news reports and the testimony he had heard, he did not feel that it was being properly enforced. He stated that he did not think the demolition permit should have been issued.

Jon Pincus, 2855 Floral Hill Drive, stated that he was quoting from a letter that had been distributed earlier in the meeting. He reiterated his understanding that the members of the HRB that had voted in the minority had been instructed not to testify at the City Council meeting. He added that delaying the demolition permit would more than likely lead to more discussion and conversation about this issue, and could lead to preservation of Amazon. He urged the council to reverse the HRB's decision.

Rick Gold, 907 River Road #58, stated that his comments were directed to the record. He said that the record was incomplete and that there were many documents that were not included in the record. He referred council to the memorandum dated December 9, 1994, from the University (page II-24 of the blue document), and noted that it said the UO had completed the procedures for preapplication requirements for demolition. He noted that earlier in August and September, the UO was advertising to sell the land before it even owned it.

Bill Helm, 341 East 12th Avenue, urged the council to reverse the HRB's decision.

Mr. Hornbuckle requested a five-minute recess. The council took a five minute recess at 9:55 p.m.

E. Staff Response

The meeting reconvened at 10 p.m.

Mr. Gary commented that this meeting was dealing with an appeal, which meant that under the City Code all consideration and comment was limited to those facts and information within the record. He said that council could consider legal arguments about how to view the record, but it could not consider any new facts not contained within the record.

Mr. Gary, responding to the appellants' request for time for rebuttal, stated that in a quasi-judicial hearing on appeal, time for rebuttal was permitted but was not required.

Mr. Gary stated that with regard to the adequacy of the demolition application, City Code Section 9.212, Subsection 2, imposed certain preapplication requirements on someone applying for a demolition permit. He noted that the structure of the code was such that it did not limit what a property owner could do, but simply stated some procedural requirements that the owner must go through. He commented that the code does not require that the owner of the property offer it for sale; rather, it requires that the owner of the property solicit purchase offers. He said that the code allowed for "impossible requirements," such as "I'll sell you my land if you give me the Eiffel Tower." He said if a requirement was imposed that a historic property owner had to sell their property upon receiving an offer, then the designation of the property as historic would raise "taking" questions.

Mr. Gary reiterated his opinion that the Planning Director decides if an application is complete because City Code Section 9.212, Subsection 3, stated "An application shall be submitted in a manner prescribed by the planning director. A demolition application shall include sufficient proof that the preapplication requirements listed have been completed." He said that beyond that, the HRB was required by City Code Section 9.212, Subsection 4, to "make a decision to either approve the application or delay the application for 120 days."

Mr. Gary concluded by saying that it was his opinion that the council could either reverse the HRB's decision or uphold its decision, and nothing more.

Ms. Bishow stated that she had three points she wanted to address. She noted that the code establishes a two-phase delay process: 1) providing notice of sale, a minimum 90-day period; and 2) a delay established by the HRB if it decided to delay the demolition permit.

Ms. Bishow, in response to the challenge of the record's completeness, stated that there were about 541 pages included in the record, and she did not hear anyone specifically state that something had been inadvertently left out of the record. She assured everyone that the record was complete.

Ms. Bishow, responding to the assertion that some HRB members were restricted from attending the meeting, stated that staff did not indicate to the HRB members that they could not attend the meeting. She said it would be difficult for a member to appear before the council because technically everything he/she said would need to be in the record. She added that she had contacted Maureen Russell, chair of the HRB, to inquire if she would be attending the hearing. Ms. Russell had declined to attend due to recent surgery and because the HRB's findings and conclusions had clearly indicated that further delay would not likely result in preservation.

David Oaks, 2240 Arthur Street, stated that several times the Assistant Attorney General said that the council had no authority. He commented that the council did have the right to decide on any rational reason in making its decision. He stated that the council did have the authority to declare the application null and void because the UO did not solicit purchase offers. He urged the council to consider everything in its decision making process and not just what the lawyers told the councilors they could consider.

Mayor Bascom stated that the council would hear from the two attorneys. She noted that the UO attorney would be heard first, and councilors could ask questions of either attorney.

Ms. Doyle stated that she had made all of the comments she wanted to make, and would answer any questions. She noted that the UO was not attempting to remove housing from the city.

Responding to Mr. Laue's question about whether the City Code or the charter was the predeterminate document on the council's authority, she said that she thought the charter would control. Mr. Laue noted that the charter stated that "all power rests with the council." Ms. Doyle stated that the City could not assert authority in the charter or elsewhere that it did not have under State law. She said that the judicial branches had the authority to review civil and criminal complaints that allege noncompliance with applicable law. She said that she did not believe that any of that authority could be conferred on the City Council. Mr. Laue stated that it was conferred on the council, considering that under the charter the council acted as representative body, executive body, and judicial body. Ms. Doyle said that while that was true regarding those issues relating to City Code, it did not extend to issues that were reserved for the judiciary under the Constitution or other provisions of State law.

Responding to Mr. Laue's question about the UO's intentions around demolition, Ms. Doyle stated that the UO did intend to go ahead with demolition regardless of the outcome of this hearing.

Ms. Doyle reiterated that there were no proposals for mediation between the UO and SAC.

Responding to Mr. Hornbuckle's question about the appropriateness of the council overturning the HRB's decision on the basis that not enough units were going to be saved or moved, Ms. Doyle stated that in her view the council did not have the authority to impose such a requirement under the code. Mr. Hornbuckle agreed that the council did not have the authority and asked why the UO wanted the council to consider the proposed move. Ms. Doyle stated that the relevance was that if the demolition permit was delayed, that would lessen the opportunity for moving the four structures that were currently being considered for relocation. She added that there was a window of opportunity for movement, and it would close if the permit was delayed. She said that the phase II redevelopment offered other opportunities for moving

more buildings. She said that the UO could not even move the buildings without the permit. Mr. Hornbuckle said he did not believe that that part of the testimony was relevant to the issue.

Responding to Mr. Torrey's question about House Bill 2124, Ms. Doyle stated the UO would have the authority to remove the housing by May 22, 1995, regardless of the outcome of the hearing since the bill required local jurisdictions to allow property owners to remove property from historic designation.

Mr. Gary stated that HB 2124 should not have an impact on the council's decision.

Mayor Bascom stated that the council would hear from Mr. Stotter.

Mr. Stotter asserted that the UO's attorney was not here to represent the Attorney General's Office *per se*.

Mr. Stotter stated that he had received a letter from Al Johnson that indicated that there was an ongoing attempt to mediate the matter. He added that there was a great deal of evidence that indicated that a delay might result in a different outcome. He said the evidence consisted of a letter from the State Historic Preservation Office, a letter from the National Preservation Trust, and substantial evidence from the applicants who were involved in getting mediation for the issue.

Mr. Stotter stated that the issue at hand was not one of completeness of the application, but rather a blatant failure to meet preapplication requirements. He reiterated his contention that Ms. Bishow had directly ordered Ms. Sirmio not to attend the City Council meeting.

Responding to Mr. Torrey's question, Mr. Stotter stated that a great deal could be accomplished in the next 31 days. He added that HB 2124 and any discussion pertaining to it was not part of the record. He added that SAC has made tremendous progress through public pressure on the UO. He said that the 31 days would allow time for more public pressure.

Mr. Stotter stated that it was his opinion that the requirement under the City Code was for an owner of an historic property to make a "good faith" solicitation. He added that his clients were going to continue to use a multimedia approach to apply pressure to the UO. He added that they were continuing to

gather the finances necessary to purchase the property. He said they were currently seeking Federal court review of some of the actions of the UO and City staff.

Mr. Laue asked Mr. Stotter if it would have been possible for someone to have bought two city blocks, cleared the property, and met the criterion of the UO. Mr. Stotter said that it could not have been done within the time period allowed for the bid. Mr. Laue stated that at the time of the bid the requirements did not have to have been met. Mr. Stotter said that it was physically impossible for someone other than the UO to meet the requirements of the UO solicitation.

Mr. Laue commented that the UO seemed unwilling to be involved in mediation, and to that extent how would a delay likely result in the preservation of the property. Mr. Stotter stated that the Oregon State Board of Higher Education would have the last word on the land ownership. He said that his clients had had a very receptive response from that board and referred the council to page 61 of the mauve document.

Mr. Torrey asked for clarification since the letter referred to by Mr. Stotter in the record was from Mr. Stotter, not from the Oregon State Board of Higher Education. Mr. Stotter replied he had additional letters from the Board, but they were not in the record and could not be considered.

Mayor Bascom closed the public hearing.

F. Council discussion

Mr. Hornbuckle stated that he believed the HRB made a mistake when it decided that it did not have the authority to rule on the completeness of the demolition application. He quoted Ms. Sirnio who, at the January 19, 1995, HRB meeting, read from the Eugene Code that "no person may move or demolish an historic property unless the HRB or council has approved an application to do so and a building permit has been obtained from the building official." He noted further that Ms. Sirnio had also quoted from the code that "demolition application shall include sufficient proof that the preapplication requirements have been completed." He added that another relevant part of the code was "an application shall be submitted in a manner prescribed by the Planning Director." He said that this was merely the City's way of authorizing the Planning Director to format the application.

Mr. Hornbuckle stated that the council did have authority to rule on the completeness of an application. He noted that the intent of the law was that it create an opportunity to preserve historic properties, and it did not require a creative interpretation to reach that conclusion. He added that he found it disturbing that the representative from the Attorney General's Office appeared gleeful that the City Council had been "fooled" for 31 days and had not ruled on the completeness of the application.

Mr. Hornbuckle stated that the probability of rehabilitation has proved to increase by additional time, and to say otherwise was to ignore the whole process. He added that if he were to decide the issue by speculation he would say that the UO's eagerness to demolish the complex was supported by the fact that it had siphoned off maintenance money from the Amazon Housing Complex for years and allowed it to deteriorate so that it could demolish the complex.

Mr. Hornbuckle said that while his last point was of a political nature he was making his decision based on two points: 1) the probability of rehabilitation; and 2) the need to reject the application.

Mr. Torrey asked when the council would have the chance to deal with the issue again if it decided to defer the decision making process to Wednesday, when Ms. Bishow stated that based on the Council's direction at the Wednesday noon meeting, staff could develop findings by late Wednesday afternoon and the council could take final action on Thursday morning.

Ms. Swanson Gribskov reiterated that the council was dealing with the question of whether the HRB erred in its deliberations in its judgment that it was unlikely that a 30-day delay would likely result in preservation. She said that was different from the question raised by Mr. Hornbuckle.

Mr. Gleason stated that the council was simply making a finding on the HRB's decision.

Mr. Gary stated that the council's scope of review was to affirm, reverse, or modify the decision of the board. He said that the council's job was to determine if there was evidence in the record to support the decision that the HRB made. He said that the question for the council was "is there sufficient evidence in the record that a delay of 120 days would not likely result in the preservation of the complex."

Ms. Bishow, responding to Mr. Laue's question, stated that Ms. Sirnio and Nancy McFadden were both in the minority view point when the HRB made its decision. She noted that both HRB members attempted to persuade the other members to vote with them, but they were not successful. She said that they did not move to forward a dissenting report.

Ms. Keller explained that the council's decision was not about how the low-income housing supply would be impacted, about the historic designation of Amazon, about the actions of the involved parties, or about fairness. She said that its decision only related to the existing law and to the record before council. She expressed her opinion that the council's decision would most likely unfair because its scope was limited by an inadequate law.

Ms. Keller stated that doing what was legal was not always doing what was right. She noted that she differed with staff on the point that the HRB did not have the ability to review the completeness of the application, but in reviewing the law she stated that the UO did meet the minimum requirement of soliciting purchase offers.

Ms. Keller stated that the council needed to, in the future, review its existing ordinances to provide adequate protection for historic properties. She said that the decision was a difficult one for her to make, but she felt that her position was in compliance with the law.

Mr. Laue stated that his problem with the decision made by the HRB was that it spoke around the issue and not to the issue. He said the HRB discussed the issue of the likelihood of a delay increasing the chance of preservation only toward the end of its meeting and only to say that there was no evidence in the record indicating that premise. He said that that was an error because there was such evidence in the record, but added that he was not sure that the evidence was so strong that a delay would lead to preservation of Amazon. He said that while the decision was a difficult one, he could not agree with the HRB.

Mayor Bascom stated that if she had to vote she would vote to affirm the HRB decision.

Mr. Laue moved to defer the decision until Wednesday. The motion died for lack of a second.

Mr. Hornbuckle moved, seconded by Mr. Laue, that the City Council overturn the decision of the Historic Review Board citing errors in its consideration of the record and that staff prepare findings for formal action on Wednesday.

Mr. Torrey stated that he would vote in opposition to the motion because he did not believe that the HRB erred in making its decision. He said he would vote in favor of affirming its decision. He commented that the council's discussion about the ultimate authority of the City Council in such cases was valid and accurate. He added that he hoped the cause before the council would not become greater than the need to mitigate the need for low-income housing in the community. He urged the UO and the SAC to get together to create as many alternative options as possible.

Ms. Swanson Gribkov stated that she would vote against the motion because the council was bound by legal constraints and the best thing would be to work toward moving as many units as possible. She said that she did not believe the HRB erred.

Mr. Laue stated his support for the motion because he believed that the HRB erred in its findings.

Mr. Hornbuckle stated that it would only be a matter of time before these kinds of decisions by the council would create political ramifications. He stated that the council has not come through in support of low-income housing, and at some point the people would be moved to change the make up of the council.

The motion failed by a vote of 4:2, with councilors Laue and Hornbuckle voting in favor.

Mr. Torrey moved, seconded by Ms. Swanson Gribkov, to affirm the decision of the Historic Review Board and have staff prepare the necessary findings for Wednesday's meeting. The motion passed by a vote of 4:2, with councilors Laue and Hornbuckle voting in opposition.

Ms. Keller stated that she would bring some suggestions back to council in April regarding changes in the historic preservation laws.

The council took a five minute recess at 11:20 p.m.

Ms. Nathanson moved, seconded by Mr. Laue, to hear item VII next.
The motion passed unanimously, 8:0.

V. PUBLIC HEARING: ORDINANCE CONCERNING AMENDMENTS TO THE WEST
EUGENE WETLANDS PLAN

CB 4529--An ordinance adopting amendments to the West Eugene
Wetlands Plan, and adopting a severability clause.

Mr. Gleason introduced the item and noted that Neil Björklund, Planning
Division, would deliver the staff report.

Mr. Björklund stated that he would respond to questions from council.

A. Public Hearing

Mayor Bascom opened the public hearing.

Dave Sweet, 2519 Kincaid Street, stated that the hearing should not have been
held this late in the evening. He noted that the .64 acres that the council
was considering for removal from wetlands protection is next to the Amazon
Creek. He stated that the City admitted that the land in question met several
criteria for protection. He urged the council not to remove this land from
wetlands protection.

William Sweetland, 1251 Courtney Road, testified that he owned the property in
question for 28 years.

Mr. Sweetland was interrupted by Mr. Sweet who spoke to both Mr. Sweetland and
the council. Mayor Bascom asked Mr. Sweet to withhold his comments.

Mr. Sweetland said that he had attempted to create an attractive park with his
property. He noted that he divided his land into 17 lots, and he had sold 15
of them. He said the remaining two lots have been protected by the wetlands
program, and potential buyers were turned away by the problems associated with
wetlands. He said that the Bureau of Land Management (BLM), after further
examination of the land, had declared that it was inappropriate for wetland
acquisition.

Mayor Bascom granted Mr. Sweetland a couple extra minutes to finish his testimony.

Mr. Sweetland stated that if the land occupied by wetlands is over 30 percent of a particular lot, then the owner has a right to reuse that land and consider it not necessarily as a wetland. He said the BLM's rejection of the land as appropriate for wetlands protection, the exception that is allowed because of lack of viable economic use of the property, and the fact that the Planning Director can make an exception to the buffers made his request very acceptable. He said he would like to see his property be removed from the wetlands inventory.

B. Questions from council

Mr. Björklund stated that the area in question included Mr. Sweetland's property and some additional acres adjacent to his property. He noted that the rare plants in West Eugene were associated with relatively undisturbed habitat called "wet prairie." He said that wet prairie did not exist on Mr. Sweetland's property, and that parcel of land was a swale that had been disturbed over time.

Mr. Björklund noted that Mr. Sweetland had made reference to some items that were not currently before the council. He stated that the reference to 30 percent lot coverage and the waterside protection were elements of the Natural Resources Code Amendments that would be coming to the council in the spring.

Mr. Björklund said that it was not within the City's authority to determine whether Mr. Sweetland's land would be listed as wetlands; rather, that decision was made at the Federal and State levels. He said that the City could say what designation the land would have in the City's plan, but not whether it was a wetland.

Mr. Björklund, responding to a question from Mr. Boles, said that the total acreage involved in both the Sweetland and Shelton-Turnbull sites amounted to 0.2 percent change in the acreage of wetlands protected. He said that, overall, 1,300 acres were protected in the plan, so this change was a very small proportion of the total. He added that the land swap involved in the Shelton-Turnbull site resulted in the BLM owning a wetland that was formerly designated for development and is approximately equal to the size of both the Sweetland and Shelton-Turnbull sites. He said the acquired wetland was of higher value than the other two sites. He commented that on both sites any

development in the wetland would have to be compensated for by mitigation under State and Federal laws. He said that the compensation ratio was at least an acre for acre and in some cases two acres for every one acre filled.

Ms. Keller stated that one of the problems with the plan was that many of the designations were not made for natural resource value reasons. She asked Mr. Björklund what had changed since the time of designation of this area as wetlands and now when the land could possibly be redesignated.

Mr. Björklund said that the main changes that had occurred over time were experience and the reality of management. He noted that staff members made some early decisions that, with experience, they learned were not decisions that made good sense in terms of being able to protect some parcels of land. He said that the Sweetland wetland was very narrow and it would be very difficult to protect.

Mr. Björklund stated that this redesignation would have been a decision made by staff regardless of Mr. Sweetland's request. He said this was the first of several amendments to the West Eugene Wetland Plan based upon management considerations that the council would hear this year.

Ms. Keller stated that she would have liked more information about how the redelineations were being made at the current time.

Ms. Nathanson moved, seconded by Mr. Laue, 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. The motion passed unanimously. 8:0.

Ms. Nathanson moved, seconded by Mr. Laue, that the bill be moved and given final passage. The motion passed unanimously. 8:0 and became Ordinance 20002.

VI. PUBLIC HEARING: RESOLUTION CONCERNING SUPPLEMENTAL BUDGET NO. 2
FOR THE CITY OF EUGENE

Res. No. 4446--A resolution adopting a Supplemental Budget; making appropriations for the City of Eugene for the Fiscal Year beginning July 1, 1994, and ending June 30, 1995.

Mr. Gleason introduced the item, and said that Warren Wong, Administrative Services Department Director, was available to answer questions.

A. Public Hearing

Mayor Bascom opened the public hearing.

Dave Sweet, 2519 Kincaid Street, stated that the supplemental budget was a facade for giving money to the promotion of a Ferry Street Bridge ballot measure. He asserted that the Ferry Street Bridge issue is over, and the taxpayers should not have to pay for City support of a new initiative. He said that the council should not approve the supplemental budget.

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

B. Questions from council

Ms. Nathanson moved, seconded by Mr. Laue, to adopt the resolution.

Mr. Wong, responding to a question from Ms. Keller, stated that the City was the managing partner in the Eugene-Springfield Metropolitan HOME funding relationship.

Ms. Nathanson stated that she appreciated having the council packets being prepared earlier because she had the opportunity to review the material and get her questions answered before the meeting.

The motion passed by a vote of 7:1, with Mr. Hornbuckle voting in opposition.

VII. PUBLIC HEARING: CAPITAL IMPROVEMENT PROGRAM (CIP)

A. Public Hearing

Mayor Bascom opened the public hearing.

Ms. Keller stated that it was getting very late, and she felt it was time to adjourn the meeting. She said in order to do justice to the CIP that the councilors needed to address it at a later date.

Mr. Boles stated that if there were citizens that had signed up to speak the council was obligated to let the citizens speak.

Dave Sweet, 2519 Kincaid Street, stated that the CIP was inadequate. He said that there was no funds for parks acquisition. He added that public buildings were deteriorating at twice the rate that they should be allowed to deteriorate. He said that the citizens were being short-changed.

Bonny Bettman, 2191 Friendly Street, submitted a letter from a member of her neighborhood organization. She testified that neighborhood traffic issues were important problems to be addressed. Problems were escalating at an alarming rate. She said that the speed bumps on Lincoln Street were working well, and suggested directing more money to such solutions. She said that traffic calming was a viable option because it had been proven to work. She also advocated for increased development charges.

David Hinkley, 1308 Jefferson Street, said that he agreed with what Ms. Bettman had said. He said that it was imperative to make funding available for street calming.

Mary Glover, 2150 Friendly Street, stated that sometimes when citizens worked to find solutions to problems they found that the money was not available to implement the solutions. He stressed the importance of funding the traffic calming line item. He said that funding this item would help empower people in their neighborhoods to find viable solutions. He said the neighborhoods simply wanted to have some discretionary spending, so that they felt as if they had some power in creating solutions.

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

B. Questions from council

Ms. Nathanson moved, seconded by Mr. Laue, to adopt the proposed Capital Improvement Program for fiscal years 1996 through 2001, as recommended by the Budget Committee.

Mr. Hornbuckle moved to amend the main motion by deducting \$65,000 from services for new development and \$80,000 from Ferry Street Bridge and overpass and dedicating it to neighborhood traffic calming.

Mr. Boles asked staff if those funds could be transferred in that fashion.

Dave Reinhard, Public Works Transportation Division, stated that services for new development received its funding from assessments or SDCs, and the councilors had decided that SDC money would not be available for traffic calming. He noted that the Ferry Street Bridge item contained \$125,000 in Road Funds, so the money could be available for traffic calming.

Mr. Boles stated that the current motion could not be seconded due to an earlier council decision, but if Mr. Hornbuckle changed the funding source the motion could be seconded.

The motion died for lack of a second.

Ms. Keller moved, seconded by Mr. Boles, to delete funding in the next fiscal year for the Riverfront Research Park improvements and move the funding cycle back one year.

Mr. Gleason stated that the UD requested the opportunity to make a presentation to the council. He said he thought council should postpone this discussion until he contacted UD President Dave Frohmayer.

Ms. Swanson Gribkov stated that it was 12:15 a.m., and she was concerned about her ability to adequately serve the public because she was exhausted.

Ms. Nathanson moved to adjourn.

Mr. Gary stated that a motion to adjourn takes precedence over all other motions. He added that he did not think the motion to adjourn was in order.

Ms. Nathanson withdrew her motion to adjourn.

Ms. Nathanson moved, seconded by Mr. Torrey, to table the amendment to the main motion. The motion passed by a vote of 5:3, with councilors Laue, Keller, and Hornbuckle voting in opposition.

Ms. Nathanson moved, seconded by Mr. Torrey, to table the main motion. The motion passed by a vote of 7:1, with Mr. Laue voting in opposition.

Ms. Nathanson moved, seconded by Mr. Torrey, to adjourn. The motion passed unanimously, 8:0.

The meeting was adjourned at 12:20 a.m.
Respectfully submitted,

Micheal Gleason
City Manager

(Recorded by Jennifer Self)
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