

MINUTES

Eugene City Council  
East Wing Conference Room--Eugene City Hall

April 24, 1995  
4 p.m.

COUNCILORS PRESENT: Shawn Boles, Laurie Swanson Gribkov, Kevin Hornbuckle,  
Tim Laue (after 4:25).

The special meeting of April 24, 1995, of the Eugene City Council was called to order by Councilor Shawn Boles.

I. INTERVIEWS FOR POSITION ON PLANNING COMMISSION

Mr. Boles welcomed candidate Alan Wilm, and members of the council introduced themselves. Mr. Wilm, and candidate Art Farley, were interviewed separately and were asked the following questions:

1. Why are you interested in serving on the Planning Commission and what would you bring to the commission?
2. The Planning Commission must often balance competing interests when it develops planning documents and makes land use decisions. In your opinion, what are the most important factors for the Planning Commission to consider in its decision-making?
3. How can the Planning Commission ensure the concept of compact urban growth is clearly articulated and implemented through ordinances and standards?

Mr. Boles asked if Mr. Wilm had any questions of the councilors. Mr. Wilm asked for an explanation of how neighborhood plans are implemented in contrast to the Metropolitan Plan. Mr. Boles said the council has tried to shorten the process for developing refinement plans and adopts the ordinances implementing the plan at the time of plan adoption.

Mr. Laue arrived.

Mr. Wilm asked about the need for notice to be given when projects that implement a plan are undertaken. Mr. Boles explained that notice is given, but citizens may not agree with the plan.

Mr. Farley was interviewed by the council, being asked the above three questions. Mr. Boles asked if Mr. Farley had any questions for the councilors. Mr. Farley asked for an affirmation that the City Council is actively looking for ways to plan for growth.

**II. INTERVIEWS FOR POSITION ON HUMAN RIGHTS COMMISSION**

Mr. Boles welcomed each candidate in turn. The councilors present introduced themselves. The candidates, John Dobson, Charles Durham, and Kavi Luke, were interviewed separately and asked the following questions:

1. Why are you here; what would you bring to the Human Rights Commission.
2. Can you tell us about your experience working with human rights issues and what skills you bring to those situations.
3. Please give an example of a conflict situation you've been in and tell us how you resolved it.
4. Tell us about the human rights situation as it relates to the separation of church and state.

**III. COUNCIL DISCUSSION**

The councilors present briefly exchanged their impressions of the applicants.

The meeting adjourned at 5:15.

(Recorded by Linda LaDu)  
cc40024.045

MINUTES

Eugene City Council  
City Council Chambers--City Hall

April 24, 1995  
7:30 p.m.

**COUNCILORS PRESENT:** Tim Laue, Shawn Boles, Kevin Hornbuckle, Barbara Keller,  
Laurie Swanson Gribkov, Jim Torrey.

**COUNCILORS ABSENT:** Pat Farr, Nancy Nathanson.

The adjourned meeting of 4 p.m., April 24, 1995, of the Eugene City Council was called to order by Her Honor Mayor Ruth Bascom.

Mayor Bascom determined that there was consensus to use the amended agenda distributed at the beginning of the meeting, which altered the order of considerations of items and deferred consideration of the Capital Improvement Program to May 8 at the request of Councilor Nathanson.

**I. APPROVAL OF HEARINGS OFFICIAL'S MINUTES, FINDINGS, AND RECOMMENDATIONS, AND ORDINANCE LEVYING ASSESSMENTS FOR SANTA CLARA AREA BASINS "L," "M," AND "V"**

Mr. Laue moved, seconded by Mr. Boles, to approve the Hearing Official's minutes, findings, and recommendations of March 29, 1995. Roll call vote. The motion passed unanimously, 6:0.

CB 4534--An ordinance levying assessments for sanitary sewers in the Santa Clara area for Basins, L, M, and V; and declaring an emergency.

Mr. Laue moved, seconded by Mr. Boles, that CB 4534, with unanimous consent of the council, be read the second time by council bill number only, and that enactment be considered at this time. Roll call vote. The motion passed unanimously, 6:0.

Council Bill 4534 was read the second time by number only.

Mr. Laue moved, seconded by Mr. Boles, that CB 4534 be approved and given final passage. Roll call vote. The motion passed unanimously, 6:0 (and became Ordinance No. 20007).

**II. APPROVAL OF HEARINGS OFFICIAL'S FINDINGS AND RECOMMENDATIONS AND ORDINANCE LEVYING ASSESSMENTS FOR TRAFFIC SIGNAL ON GREEN ACRES ROAD**

Mr. Laue moved, seconded by Mr. Boles, to approve the Hearings Official's findings and recommendations of April 5, 1995. Roll call vote. The motion passed unanimously, 6:0.

CB 4535--An ordinance levying assessments for installation of a traffic signal on Green Acres Road, 1,000 feet east of Delta Highway, and declaring an emergency.

Mr. Laue moved, seconded by Mr. Boles, that CB 4535, with unanimous consent of the council, be read the second time by council bill number only, and that enactment be considered at this time. Roll call vote. The motion passed unanimously, 6:0.

Council Bill 4535 was read the second time by number only.

Mr. Laue moved, seconded by Mr. Boles, that CB 4535 be approved and given final passage. Roll call vote. The motion passed unanimously, 6:0 (and became Ordinance 20008).

**III. PUBLIC HEARING, ORDINANCE CONCERNING NATURAL RESOURCES CODE REVISIONS**

Neil Björklund, Natural Resource Planner (PDD), stated that the West Eugene Wetlands Plan (WEP) had been adopted with the passing of Ordinance #19853 on May 20, 1992. He added that the Lane County Board of Commissioners had adopted the plan with changes and that the council had adopted the board's amendments by passing Ordinance #19867 on October 10, 1992. He reported that the Joint Planning Commission had approved the WEP on April 20, 1993; that the Eugene Planning Commission had given its final approval on September 26, 1994; and that the Lane County Planning Commission had requested an additional public hearing still to be held to allow broader notification procedures. He indicated that the recommendation to the council was to adopt those portions of the WEP that applied inside the city limits.

Mr. Björklund explained that WEP policies called for development, adoption, and application of code amendments to put into place protective measures for identified wetlands and streams. He said that State law required local ordinances to put stream and wetland setbacks into place as a prerequisite to Wetland Conservation Plan approval and transfer of wetland permitting authority. He noted that adopting the recommended code amendments would satisfy State and Federal conditions.

Mr. Björklund stated that notification about the public hearing to be held had been extensive, including all persons who had ever attended any meeting or hearing on the issue.

Ms. Adelle McMillan, Eugene Planning Commission (EPC) chair, directed the attention of councilors to the report of the EPC to approve the code amend-

ments to allow completion of the WEWP, to satisfy State and Federal requirement for transfer of wetland permitting authority to the City.

Ms. Keller asked if the EPC had reviewed recommended code changes proposed by staff. Ms. McMillan responded that the commission had not, but that she believed that it would approve of them.

Mr. Torrey asked if the proposed amendments "went further" than was required by State and Federal regulations. Mr. Björklund replied that there were no specific State or Federal standards for the width of wetland and stream setbacks.

Mr. Torrey asked if properties outside city limits under consideration for being acquired by the Bureau of Land Management (BLM) had reduced their value. Mr. Björklund replied that such properties had been appraised with the knowledge of their potential of their being acquired by the BLM and that it had affected their value.

Mr. Torrey asked how much land was being "taken" from property impacted by the proposed wetland amendments. Mr. Björklund replied that it ranged from .5 percent to 20 percent. He said that an exception process was provided in the Waterside Protection provisions when more than 33 percent of a piece of property was affected. Mr. Gleason added that there were mitigation provisions were also included in the amendments.

Mr. Boles asked if not passing the recommended amendments would jeopardize local wetland permitting authority. Mr. Björklund said that it could. Mr. Boles asked if it would also affect the City's ability to acquire Federal funds for mitigation measures. Mr. Björklund said that it was difficult to answer the question, but that the intention of the amendments was to relieve property owners of the complications of State and Federal wetland regulations.

Mayor Bascom opened the public hearing, requesting that those providing testimony speak to the issues in the code amendments and limit their presentations to three minutes.

Carol Fisher, 88460 Fisher Road, stated that she lived outside the city limits, but that she was opposed to the zoning plan. She said there were inherent dangers in zoning overlays. She observed that the proposed code amendments contained unclear definitions of wetland and waterside buffer zones, and that the public hearing notice had contained nebulous language about the area to which the WEWP applied. She submitted a series of questions for which she requested answers.

Jeff Cole, 450 Country Club Road, stated that he did not object to natural resources zoning, but that he disagreed with conditions being placed on private land without compensation for lost value. He said that he owned property that would be reduced \$20-\$50 thousand in value by the proposed code amendment. He commented that he had dealt with the State and Army Corps of Engineers about wetlands and had not had buffer zone requirements imposed.

**Bill Sweetland**, 1251 Courtney Place, stated that he had purchased and prepared land for development that would be affected by the proposed code amendments in 1967. He said that he had been unable to sell 2 of the 17 parcels into which he had subdivided his land because of the "wetland cloud" on them.

Mayor Bascom determined that no one else wished to testify and closed the public hearing. She invited councilors to discuss the testimony and proposed code amendments.

Mr. Laue asked if citizens could continue to follow State permit processes if the proposed code amendments were adopted. Mr. Björklund replied that he did not believe they could.

Mr. Torrey asked how the proposed code amendments dealt with provisions of the Dolan ruling. Deputy City Attorney Glen Klein replied that since the buffer zones were individually determined for property and were not imposed because of "upstream" impact, that the ruling did not apply.

Ms. Keller asked if the property of Mr. Sweetland was the same the council had considered approximately one month previously. Mr. Björklund said that it was and that the net effect of the previous council action was that building could take place to the wetland edge.

Ms. Keller asked if the wetland plan gave authority to the City to approve filling of wetland areas and if State and Federal management of the authority had the same flexibility. Mr. Björklund replied that the City had authority to approve filling wetland areas. Mr. Gleason speculated that State and Federal management would have less flexibility than cities to be site specific in the application wetland regulations.

Mr. Gleason read, by number and title only, CB 4533--An ordinance establishing a Natural Resource Zoning District; amending Sections 9.015, 9.060, and 9.690 of the Eugene Code, 1971; and adding Sections 9.262, 9.264, 9.333, 9.301, 9.302, 9.303, 9.304, 9.305, 9.306, and 9.726 to that code.

Mr. Laue moved, seconded by Mr. Boles, that CB 4533, with unanimous consent of the council, be read the second time by council bill number only, and that enactment be considered at this time. Roll call vote. The motion passed unanimously, 6:0.

Council Bill 4533 was read the second time by number only.

Mr. Laue moved, seconded by Mr. Boles, that CB 4533 be approved and given final passage.

Mr. Torrey stated that he was opposed to the motion because he was concerned about taking property for the good of the society and requiring that individuals bear the burden.

Mr. Torrey moved to amend the motion to include compensation for owners when requirements of the ordinance resulted in reduced

property values. The motion to amend died for lack of a second.

Roll call vote. The motion to approve CB 4533 was adopted, 5:1, with Councillor Torrey voting in opposition (and became Ordinance 20006).

#### IV. PUBLIC HEARING: SUPPLEMENTAL FINDINGS FOR WHITEAKER PLAN AND RELATED ACTIONS

Ms. Swanson Gribkov announced that she had a conflict of interest in matters affecting the Skinner Butte Mixed Use Area and would excuse herself from its consideration.

Mr. Boles announced that he had a conflict of interest in matters affecting the Rose Garden Residential Area and would recuse himself from its consideration.

Teresa Bishow, Planning and Development Department (PDD), reminded councilors that they had adopted a new plan for the Whiteaker Neighborhood in August 1994. She said that several citizens had appealed the adoption of the plan to the Oregon Land Use Board of Appeals and that it had determined that supplemental findings were necessary to provide the explanations and interpretations needed to support the action of the council.

Ms. Bishow stated that the council could either adopt supplemental findings to affirm the adoption of the plan or provide direction to staff concerning an alternative course of action.

Ms. Bishow directed the attention of councilors to material distributed at the beginning of the meeting: a letter from Al Johnson, dated April 24, 1995, providing proposed alternative motions; a letter from Raimon Franck, dated April 20, 1995, supporting adoption of the supplemental findings; and Land Use Diagrams from the 1978 and 1994 Whiteaker Plans.

Ms. Keller summarized her understanding of the dates and sequence of events pertaining to the land use policy for West Skinner Butte Residential Area. She then asked staff if her assessment was correct. Ms. Bishow affirmed that it was.

Ms. Keller commented that to adopt the supplemental findings would mean that the council interpreted West Skinner Butte Residential Area as designated for medium-density residential in the Metro Plan.

Mayor Bascom opened the public hearing.

John Hammer, 1768 West Sixth Avenue, stated that he owned 26 tax lots in the Whiteaker Neighborhood and that he was opposed to provisions of the adopted plan. He said that site review requirements were not in the best interests of the neighborhood and requested that the ordinance be revised to delete them.

Donald McRae, 84535 Thomas Judson Road, stated that the Whiteaker Neighborhood plan had been appealed to the Land Use Board of Appeals (LUBA) because its site review requirements placed unfair restrictions on business owners. He recommended that the council refrain from imposing them until completion of the Zoning Code Review project.

Ron Saylor, 10 Monroe Street, stated that he had been one of the petitioners to LUBA. He objected that the proposed supplemental findings had not been available to the public until the previous Monday. He recommended that the findings not be approved and observed that public funds were wasted on such studies.

Doug Ebbitt, 444 Blair Boulevard, stated that, without site review, the Whiteaker Neighborhood plan would have a deleterious effect on the area. He provided councilors with a petition encouraging their support from 40 residents of the neighborhood.

Cheryle Hawkins, 364 Hawthorne Avenue, urged adoption of the findings. She said that she was a former member of the Whiteaker Planning Team that had prepared the original draft plan. She said that LUBA had only requested supplemental data supporting the plan and that State goals had been carefully considered in its development. She reminded members that the site review provisions of the plan were applicable only to new or renewed development.

Anthony Mesterberg, 3849 Monroe Street, said that he represented Recreation Equipment, Incorporated (REI), and wished to retract statements attributed to REI that it supported site review provisions of the plan. He said that the retailer did not.

Raimon Francke, 328 Cheshire Avenue, stated that he was a resident and home owner in the Whiteaker neighborhood. He said that he had participated in development of the plan since 1992 and supported the supplemental findings. He suggested that councilors postpone making a decision about adoption of the findings until a May meeting to allow for full study of its provisions. He indicated that he supported site review and medium-density zoning for the West Skinner Butte Residential Area.

Al Johnson, Suite 203, 767 Willamette Street, stated that he represented petitioners of the Whiteaker Plan. He referred to his letter of April 24, 1995, and recommended consideration of his suggested motions responding to the plan. He explained that it was important to understand that the land use 1986 map of the West Skinner Butte Residential Area was a judgement of staff and had never been implemented by code amendment.

Victoria Cherele, 65 North Lawrence Street, stated that she was a West Skinner Butte area resident. She testified that she believed the area was appropriate for medium density residency and urged councilors to adopt the staff findings.

Philip Klingensmith, 24600 Lawrence Road, Junction City, stated that the Eugene Permit and information Center (PIC) was overburdened with its current



responsibilities. He said that adding site review requirements for the Whiteaker neighborhood would take additional time and lead to arbitrary decision making. He suggested that the proposed findings were an attempt to maintain the status quo and that they would cause business and industry to locate development elsewhere. He recommended that all development standards apply throughout the city. He implied that the LUBA decision and findings of staff were contradictory. He urged councilors to be fair to the claims of all people and property.

Lynn Klingensmith, 24600 Lawrence Road, Junction City, stated her belief that the Whiteaker Neighborhood plan was only concerned about residential property and that the needs of commercial and industrial property owners were not considered. She said the plan implied that business and industrial uses of the area were unwanted. She submitted a written copy of her presentation for distribution to members of the council.

Tom Slocum, 1950 Graham Drive, stated that he was a petitioner to LUBA about the Whiteaker plan and indicated that the expense of pursuing it was high. He encouraged councilors to remove site review provisions from the plan, saying that there was no indication that developers would "waste" the community. He submitted a written copy of his presentation for distribution to members of the council.

Mayor Bascom determined that there were no other persons desiring to testify and closed the public hearing. She said the council would need to decide whether to take action following discussion or wait until a later meeting. She reported that neither Councilor Mathanson or Councilor Farr had requested that consideration of the matter be postponed.

Mr. Torrey asked Ms. McMillan to explain how the recommendation of the Eugene Planning Commission about the Whiteaker Plan had differed from the decision made by the City Council in August 1994. Ms. McMillan said that the commission had recommended that the West Skinner Butte Residential Area be zoned for limited high density development because it was near downtown where council policy suggested it be located. She commented that the recommendation did not imply that single family housing should be replaced with high density units. The limited high-density designated would allow up to 40 units per acre.

Ms. McMillan stated that the commission believed it was important to require site review for commercial, industrial, or mixed use zoning that was next door to or across an alley from, but not across the street from, property zoned low-density residential. She added that it was believed that site review was not necessary on multiple-family residential property because of its limited availability. She said the commission's recommendation had resulted in requiring site review on 16 properties and that the decision of the council had increased the requirement to approximately 406 properties. She indicated that the commission had believed that the issues relating to site review could be dealt with in the Zoning Code Review Project as citywide design standards are created.

Mr. Torrey asked how long it would take the Zoning Code Review Project to

reach citywide design standards. Ms. McMillan replied that it had been agreed to forward recommendations on the Zoning Code Review Project while the current council was sitting or by December 1996.

In response to a question from Mr. Boles about the Metro Plan, Ms. Bishow stated that the Whiteaker plan meets current identified density parameters.

Ms. Keller asked whether the Whiteaker Plan could be resubmitted to the Planning Commission, if the council determined that it did not wish to adopt the recommended findings. Ms. Bishow replied that the commission could be asked to reexamine the plan if there was significant new information that had not been considered at the time of the council's August 1994 public hearing. She indicated that asking the commission to reevaluate site review would extend the process: the Planning Commission would need to have clear direction on what should be investigated, a time line for the review, and whether it should conduct a public hearing. Ms. Keller said that she had not been aware of the large difference in the number of properties that were required to have site review in the Planning Commission recommendation and Council action.

Mr. Boles recalled that the Whiteaker Planning Team had recommended that multiple-family residential property be required to have site review, but that the Planning Commission had eliminated it in its recommendation to the City Council. He asked if site review was only required of new development or expansion of existing property. Ms. Bishow replied that the current site review "trigger" for Whiteaker was less onerous than it had been when it had been previously required, such as through the former mixed use zoning regulation affecting the REI area. She explained that site review had been previously required for all new developments including parking lots and that the current requirement was that site review was required only when the "foot-print" of the existing building was expanded. Site review was not required for parking areas or building rehabilitations that did not expand the foot-print.

Mr. Torrey asked if it would be possible to develop a compromise between opposing views if a council decision on the matter under consideration was postponed until its meeting on May 8. Ms. Bishow replied that many of the zoning changes had been made in the Whiteaker area to legitimize existing nonconforming uses in areas predominately zoned light-medium industrial. She said that the changes had also brought a need for greater public review of external changes. She expressed the opinion that it would be difficult to bring the parties involved to consensus.

Mr. Torrey asked if was there a way to estimate the chances of success or expense potentially involved, if the proposed findings were ratified and submitted to LUBA and petitioners continued to appeal. Mr. Klein expressed his opinion that, if the council adopted the findings, they would be affirmed by LUBA. He said that it was difficult to have certainty about the matter because the petitioners were raising issues not covered by case law.

Mr. Laue moved, seconded by Mr. Boles, that the council proceed to

take action on the proposed findings at the current meeting.

Mr. Hornbuckle stated that he supported the motion because the findings maintained current council policy.

Mr. Torrey stated that he opposed the motion to allow absent councilors to participate in the decision.

Ms. Swanson Gribkov stated that she would oppose the motion to allow additional time to study material related to the issues involved.

Mr. Klein stated that councilors who had declared a conflict of interest about the proposed findings could vote on the motion to proceed to take action.

Roll call vote; the motion was defeated, 3:4, with Ms. Keller, Ms. Swanson Gribkov, Mr. Torrey, and Mayor Bascom voting in opposition.

Mr. Boles invited councilors to tour the Whiteaker area to view the effect of site review on property development.

#### V. ADOPTION: CAPITAL IMPROVEMENT PROGRAM

Mayor Bascom determined that there was consensus to defer action on the Capital Improvement Program at the request of Councilor Nathanson.

#### VI. APPROVAL OF CITY COUNCIL MINUTES

Mr. Laue moved, seconded by Mr. Boles, to approve the City Council minutes of January 18, 1995, Lunch Work Session; January 23, 1995, Meeting; January 25, 1995, Lunch Work Session; and February 8, 1995, Lunch Work Session. Roll call vote. The motion was adopted unanimously, 6:0.

#### VII. INFORMATION SHARE

Mr. Gleason reported that he had been approached by representatives of Symantec Corporation, requesting a statement of "substantial reliance" on a decision about the westside parking structure.

Mr. Gleason reminded councilors that the issue had been previously considered, but said that he was reluctant to notify Symantec about the decision because new members had since joined the council. He proposed to draft what he believed to be the last decision by the council on the matter, submit it to the council in a memorandum for review, and request that it be discussed at a subsequent council meeting.

Mayor Bascom restated the proposal by suggesting that the City Manager would prepare a memorandum about past actions of the council on the westside parking garage and that it would be discussed for scheduling at the May 3, 1995, meeting of the council officers.

Mr. Gleason indicated that the memorandum would contain council instructions developed the last time the question was raised. He stated that it was important to have council review the memorandum before it was sent to Symantec because the company could litigate for reimbursement of costs if it were damaged from proceeding on a statement of substantial reliance.

Mr. Boles expressed concern about the matter being informally raised without written support for the council's consideration near the normal time for its adjournment. He requested that written background material be provided for a subsequent meeting to avoid implications of nonpublic consideration.

Mr. Hornbuckle expressed appreciation to the manager for informing council members of the request for information. He said he agreed with the procedure suggested by Mr. Boles.

Mr. Gleason reiterated that no information would be sent to Symantec until it had been approved by council.

Mr. Hornbuckle predicted that litigation would develop from a statement of substantial reliance.


Mr. Gleason stated that he was informing the council that he would be sending a memorandum for review, not adding an item to the agenda of the meeting. He indicated that Symantec had requested a statement about the position of the council on the parking structure, but that he had been reluctant to provide it without confirmation by the current council.

Mr. Lave determined that the council work session scheduled for May 17, 1995, would be an appropriate date for consideration of the matters related to the westside parking garage.

Ms. Keller asked why large corporate matters could be easily added to the agenda of council meetings, but concerns about police procedures of organizations representing Latinos could not. She suggested that the manager was insinuating there was consensus about a position on the parking structure, which all members did not agree had been reached. She said she hoped the manager would provide background materials that would include references to previous consideration of the matter by the council.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,



Micheal Gleason  
City Manager

(Recorded by Dan Lindstrom)  
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