

## MINUTES

Eugene City Council  
McNutt Room--City Hall

May 10, 1995  
11:30 a.m.

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

The adjourned meeting of May 8, 1995, of the Eugene City Council was called to order by Her Honor Mayor Ruth Bascom.

### I. APPROVAL OF THE ORDER OF THE AGENDA

Ms. Keller moved, seconded by Mr. Hornbuckle, to extend the time for Item III, the Bethel-Danebo Refinement Plan to 30 minutes; the time to be taken from Item IV, Consideration of Amendments to Ozone Protection Ordinance. The motion failed, 5:2; with Ms. Keller and Mr. Hornbuckle voting in favor.

Ms. Nathanson moved, seconded by Mr. Laue, to approve the order of the agenda. The motion passed, 7:1; with Ms. Keller opposed.

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

#### A. West Side Bike Path

Mr. Boles said Diane Bishop, City staff, was exploring the idea of forming a departmental committee to address the westside bike path issue.

#### B. City Sponsored Internet Access Open House

Mr. Boles announced an open house at the Library on May 12 on City-sponsored Internet Access.

#### C. Council Chamber Sound System

Mr. Torrey asked staff to investigate and repair the sound system in the council chamber.

#### D. Low-Income Housing

Ms. Keller reported that tax credit applications were approved for the

following low-income housing projects: Woodleaf Village; Walnut Orchard Duplexes; and a new project from the Housing Policy Board, a 42-unit single resident occupancy (SRO) project to be built by the Housing Authority and Community Services Agency (HACSA).

**E. Permit Fee Waiver**

Ms. Keller asked for consensual agreement to allow HACSA to submit an application for a permit fee waiver for the Willakenzie Housing Project. Later in the meeting, council gave consensual approval for an application to be submitted.

**F. Council Committee on Automation**

Ms. Nathanson reported on the Council Committee on Automation's (CCA) first meeting and identified councilors Farr and Boles as the other council representatives on the committee and Randy Kolb as the staff person. She indicated that her written report was forthcoming, including the committee's self-described charge for the council's approval.

**G. Calendar Consolidation**

Ms. Nathanson said she was working with staff to develop a calendar that better meets all of the council's needs.

**H. Oregon Public Employees Union (OPEU) Strike**

Mr. Hornbuckle said he supported the OPEU strike.

**I. Appreciation**

Mr. Hornbuckle thanked Ms. Nathanson for her work on the CCA and the calendars.

**J. Poverty**

Mr. Farr reported on a conference he attended in New Orleans last week, saying that the keynote speaker gave the following statistic: of the people who meet three criteria (finish high school, start and stay in a family, and get a job and keep it), only 1 percent are below the Federal poverty level.

**K. Beltline Road Project**

Mr. Farr said he spoke to a person picketing at Beltline Road and Barger Drive who was urging people to oppose the reopening of Willamette Street until the Beltline project was completed. He added that the council's May 11 packet would include information he asked to distribute to councilors.

**L. St. Vincent de Paul Project**

Ms. Swanson Gribkov asked that St. Vincent de Paul be allowed to submit an application for contingency funds for its Hope Loop Project. The council gave consensual approval.

**M. Public Transit**

Ms. Swanson Gribkov said she toured Symantec and was impressed with its effort in getting employees to use alternative transportation and willingness to do even more. She said the company will distribute a memorandum describing its effort and soliciting other suggestions from the council.

**N. Fire Redeployment**

Ms. Swanson Gribkov said she met with Bill Bass, Department of Public Safety, and toured some fire stations and now has a good understanding of the problems facing the department.

**O. Residential Lands Study**

Mayor Bascom said she has distributed a memorandum in the council packets regarding the ongoing Residential Lands Study Advisory Committee and has recommended Emily Schue to represent the City in the study. She asked that any concerns be communicated to her.

**P. Stormwater Volunteer Program**

Mayor Bascom announced that Dream Team certificates were awarded to the following projects: Miracle on 33rd Street; Southeast Neighbors; Friends of Delta Pond; McKinley Neighbors; and the Second Presbyterian Church.

**Q. Networking for Youth**

Mayor Bascom reported that the City was awarded an appreciation plaque from Networking for Youth. Mr. Boles asked for an evaluation report, if one was available for this project.

**R. Parking Garage Proposal**

City Manager Mike Gleason distributed a memorandum on a west end parking structure originally requested by Symantec, noting that the council would discuss the issue at its May 17 meeting.

Mr. Boles asked staff to invite Symantec representatives to the May 17 discussion.

**III. ORDINANCE RELATED TO THE BETHEL-DANEBO REFINEMENT PLAN AMENDMENT  
(GRAVILLE PROPERTIES, RA 93-1)**

City Attorney Bill Gary said council bill 4536 was an ordinance before the council on first reading, adding that the meeting packet also contained a potential substitute amendment reinstating the Planning Commission's decision on the Bethel-Danebo Refinement Plan. He distributed a substitute page 6, correcting an error.

Ms. Nathanson noted that Mr. Laue had removed himself from the table for the discussion due to a potential conflict of interest.

CB 4536--An ordinance amending Exhibit A to Ordinance No. 19952 amending the Bethel-Danebo Refinement Plan, and Repealing Ordinance No. 19993.

Ms. Nathanson moved, seconded by Mr. Farr, to amend CB 4536 by substituting an ordinance amending the Bethel-Danebo Refinement Plan and repealing Ordinance Nos. 19952 and 19993.

**Council Discussion**

Ms. Nathanson explained that the point of the motion was to put on the table the council bill that prepares a decision and findings consistent with the Planning Commission's recommendations.

Ms. Keller displayed a map depicting the area and compared the subject acres to developed commercial sites, including Costco and Shopko. She opposed the motion and said there should be no changes in zoning prior to completion of the Planning Commission's zoning code review.

Ms. Nathanson said it was a matter of equity, adding that the people in the subject area were entitled to the goods and services in other areas. She urged the council to separate the issues of use/services and design. She asked staff to clarify the difference between C-1 and C-2 zones.

Staff responded that C-1 uses can be placed in C-2, resulting in permitting more uses in C-2, but the differentiation is difficult--something that the zoning code review will clarify.

Mr. Boles was unsupportive of the motion, agreeing with Ms. Keller's contention that the rezoning was not in the best interests of citizens and did not meet the spirit of the Metro Plan. He asked the council to think about the contiguous relationships among uses and avoid developing "big box retailing," which he said was inconsistent with State mandated and an adopted council goal around the reduction of automobile use, and it did not meet the original neighborhood commercial goal in conjunction with the Commercial Lands Study.

Mr. Torrey expressed support for the motion.

Mr. Hornbuckle said he agreed with Mr. Boles that the motion would subvert the

trip reduction goal. He disagreed with councilors Nathanson and Torrey that this was a human rights issue.

Mr. Farr expressed support for the motion, adding that placing the commercial development in that area would actually reduce automobile trips for the residents there. He said he would distribute a letter from Steve Lane, neighborhood leader, who recommends a mixture of C-1 and C-2. Staff recalled that the council's previous decision was to allow GO (general office) and C-1 uses.

Mr. Gary explained that the motion effectively substitutes the draft distributed to the council on May 9 with that included in the packet, reinstating the Planning Commission's recommendations. Mayor Bascom said the commission's recommendations calls for all three uses.

The motion passed, 4:3; with councilors Keller, Boles, and Hornbuckle opposed.

Mr. Gleason asked the council to consider CB 4536.

Ms. Nathanson moved, seconded by Mr. Torrey, that the bill be read a second time by council bill number only, and that enactment be considered at this time. Roll call vote. The motion failed 5:2, with councilors Keller and Hornbuckle opposed.

Mayor Bascom said the motion required a unanimous vote and therefore the motion failed. She asked if there was anyone requesting that the bill be read in full. There were no requests.

Addressing a question from Mr. Torrey, Mr. Gary said further action on the bill must be deferred to the next meeting, adding that the motion on first reading encompasses two concepts: dispensing with reading the bill in full and acting in one meeting instead of two. He said if any councilor requests a reading in full, the bill will be read now and come up again at the next meeting for a second reading. Mr. Gary added that the council could dispense with reading the bill in full if no councilor requests it, but the bill will still come up at the next council meeting for second reading.

Ms. Nathanson moved to postpone a decision to the council's May 17 meeting. There was no second to the motion.

Mr. Gary explained that if the motion to postpone carried, the bill would not have to be read in full but it would come up for a first reading at the May 17 meeting. He added that even if a councilor requested a reading in full, it would not have to be done because more than seven days will have passed before the bill was made available.

Ms. Nathanson withdrew her motion.

Mayor Bascom called for a five-minute recess.

The meeting was reconvened at 12:25 p.m.

Mayor Bascom reiterated there had not been a request to read the bill in full and called for the next item on the agenda.

#### IV. WORK SESSION: WETLAND BURNING ORDINANCE

##### A. Introduction

Neil Bjorklund, Planning and Development Department, introduced staff from the Bureau of Land Management (BLM) and Nature Conservancy who were involved in the project. He made a brief background report and said staff has proposed expanding the areas to be burned in west Eugene. He noted that the program has been in effect since 1986; there have been five burns, all successfully executed with substantial beneficial results for the wetlands areas.

Mr. Bjorklund described the areas burned and those proposed for burning.

##### B. Council Discussion

Ms. Nathanson expressed support for this approach of managing land within the urban environment. She noted that she attended a burn and was impressed with the sensitivity and knowledge of all involved in the burn, adding that it was obvious that everyone recognized the dangers involved and took every precaution to insure safety.

Ms. Keller wondered if the five-year deadline could be eliminated, noting that any problems would come before the council anyway. Staff indicated that the deadline identified a point at which to review the program, with the potential for adding wetlands sites or for changing the method of burning sites currently being restored.

Mr. Farr expressed support for the project. He asked at what point non-native vegetation became native, adding that some say that by burning the Willamette Valley, the natural evolution of vegetation has been destroyed. Staff explained that there were two separate issues: native vs. non-native species the latter having occurred after about 1800; and had the Willamette Valley not been burned, there would be native forests--oak and ash. Staff noted that the cultural system (the native culture) dominated the natural system (ash and oak forests) by the practice of burning long before now.

Addressing a question from Mr. Boles, staff said the native species that were influenced by fire for thousands of years have adapted and some of the non-native species have done the same, increasing temporarily, but others have not, decreasing temporarily. On balance, staff said, there is more benefit to the native species.

Mayor Bascom summarized the discussion by saying she heard general support for the five-year checkpoint.

Ms. Swanson Gribskov expressed appreciation for the project.

Mayor Bascom said the item was scheduled for council action in the near future.

V. WORK SESSION: CONSIDERATION OF AMENDMENT TO OZONE PROTECTION ORDINANCE

A. Introduction

Mary Walston, Council and Intergovernmental Services, introduced the item and gave background information, recalling a defeat at the polls in May of 1994, of a charter amendment prohibiting the use of certain products and chemicals. Councilor Keller subsequently met with both opponents and proponents and presented an ordinance adopted by the council on December 7, 1994, with prohibitions going into effect on July 1, 1995. Council officers have requested that the council consider revisions to the ordinance and those are presented today. She said the task before the council is to decide how it wants to continue the discussion in the community.

Ms. Walston said the proposed changes focus on products rather than chemicals. She described the proposal, including an administrative process and an advisory citizen committee which would sunset on June 30, 1995.

City Attorney Glenn Klein addressed four suggestions submitted by Gary Houser, a member of the Save Our Ozone group: 1) include a specific time frame for the City Manager to propose the administrative rules to ensure that the rules are proposed before the committee sunsets; 2) include a severability clause in case some part of the ordinance is declared unconstitutional; 3) prohibit the City from exempting itself from part of the ordinance; and 4) specifically call out as part of the criteria the United Nations Environmental Program conclusions and recommendations. He said there was no problem incorporating suggestions 1, 2, and 4; however the third was unnecessary because the portion of the original ordinance which required an exemption process had been rendered moot by the proposed revisions.

B. Council Discussion

Mr. Torrey asked for a breakout of expenses and ongoing costs, including staff resources. Mr. Farr asked that the analysis include the cost of notifying interested parties.

Addressing a question from Mr. Laue, Mr. Klein said legal staff have discussed concepts for the administrative rules but none have been drafted.

Mr. Farr expressed confusion regarding the following: 1) what can the City do at the local level, suggesting that it can best be addressed at the Federal level; 2) can the City afford to carry out the program; 3) how effective would the program be; and 4) why is the City pursuing something so soundly defeated at the polls.

Ms. Nathanson clarified that the existing ordinance prohibited chemicals and the proposed revision prohibited products rather than categories of chemicals. She said she shared many of Mr. Farr's concerns when the issue was raised last fall, but the revision addresses those concerns. Ms. Nathanson said she is convinced that the proposed ordinance can be implemented and maintained using the Lane Regional Air Pollution Authority (LRAPA), noting the authority has access to educational funding, should it decide on such a program.

Mr. Boles addressed Mr. Farr's concerns and urged action at both local and Federal levels. He recalled that the voters turned the charter amendment down following a massive opposition campaign from outside interests. He asked the council to "stop pretending we have an ordinance when we don't."

Ms. Swanson Gribbskov supported the revisions, but expressed concern with air quality and costs. She asked for clarification of the criteria for banning a product, noting that one had to do with substitute costs and another had to do with the public health.

Mr. Klein said the intent of the language was to develop an objective standard that was defensible in court.

Mr. Hornbuckle noted that external costs were not considered, adding that it will always be cheaper to deplete the ozone. He said this was inconsistent with the intent of the outcome: to save the ozone.

Mayor Bascom said the emphasis should be placed on the local environment, not the stratosphere. She noted that the City was ahead of its target with regard to the issue. She agreed with Mr. Farr that the issue was a global one and should be addressed at an international level.

Mr. Torrey said he agreed with Mr. Houser's second recommendation.

Mr. Boles called the council's attention to Subsection 2 of Section 6.720 on page 44 of the proposed ordinance, and wondered why the term "may" had replaced "shall." He objected to the discretionary nature of the term "may."

Mr. Hornbuckle agreed with Mr. Boles. With regard to the process, he said the distinction between a work session and taking action is a false one because "work is action."

Ms. Keller noted that the City of Eugene was the first City in the nation to pass an anti-smoking ordinance, which over time changed people's ideas. She said change has to start some place.

Mayor Bascom said there was enough interest in the community that the council had to move forward with the proposed revisions, identifying and resolving areas of disagreement.

Ms. Nathanson said she heard support for items 1, 2, and 4 on Mr. Houser's memorandum and asked staff how to incorporate those changes in the revision.



Mr. Klein said it would be helpful to know what those changes are today so an ordinance that the full council can adopt can be presented for council action.

Ms. Nathanson moved, seconded by Mr. Hornbuckle, to add language to address the intent carried in item 1 of Mr. Houser's memorandum: a specific time frame to formulate the administrative rules. The motion passed unanimously, 8:0.

Ms. Nathanson moved, seconded by Mr. Farr, to incorporate the idea of severability. The motion passed unanimously, 8:0.

Ms. Nathanson moved, seconded by Mr. Torrey, to incorporate the concepts detailed in Item 4 of Mr. Houser's memorandum. The motion passed unanimously, 8:0.

Mr. Boles moved, seconded by Ms. Keller, to change back to the word "shall" in Subsection 2 of Section 6.720 of the revised ordinance.

Addressing a question from Mr. Laue, Mr. Klein explained he changed the word to "may" because, generally, when enforcement language is crafted, "may" is used so that the City Manager can prioritize what enforcement action to take. The change ensures that no one can go to court to require the manager to take enforcement action.

In response to a question from Ms. Nathanson, Mr. Klein said that all the ordinances he has crafted have used the term "may." There may be, he added, some ordinances in the code, required by State statutes, that remove any discretion.

Mr. Gleason added that the intent is to get compliance, not to penalize.

Ms. Swanson Gribkov suggested leaving in the term "may" and changing it back to "shall" if a problem develops. Mr. Klein confirmed that it was possible to do that.

Retaining the term "may," Mr. Torrey wondered if language could be inserted for recovery of appeal costs. Mr. Gleason said he did not recommend the approach, except in prosecution cases. He added that a "may" ordinance encourages and informs, while a "shall" ordinance has enforcement as its focus.

The motion failed, 5:3; with councilors Hornbuckle, Boles, and Keller voting in favor.

Mr. Hornbuckle asked that external/societal costs be added. Mr. Klein said the costs could be added by changing paragraph (a) on page 5 of the ordinance under Subsection 3.

Mr. Hornbuckle moved, seconded by Mr. Boles, to insert a period after the word "available" in paragraph (a) of Subsection 3 on page 5 of the revised ordinance.

Mr. Gleason suggested choosing a percentage, e.g, 15 percent. He said it was important when dealing with a hearings official to have some threshold. When broader language is used, he explained, it is difficult to ascertain what the hearing is being held on because the stipulated facts are not clear enough to draw the line and make a decision.

Ms. Mathanson pointed out that the motion called for deleting any reference to costs and the discussion underway was irrelevant. Mr. Gleason argued that his explanation was relevant because he believed that the substance of the ordinance is to have a finding of fact.

Ms. Keller called for the question.

The motion to call for the question passed unanimously, 7:0.

The motion failed, 5:3; with councilors Hornbuckle, Keller, and Boles voting in favor.

The meeting adjourned at 1:30 p.m.

Respectfully submitted,



Michael Gleason  
City Manager

(Recorded by Yolanda Paule)  
cc113010.055