

## MINUTES

Eugene City Council  
McNutt Room--City Hall

November 20, 1996  
11:30 a.m.

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

**COUNCILORS ABSENT:** Shawn Boles.

Mayor Ruth Bascom called the meeting to order.

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

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to approve the order of the agenda. The motion passed unanimously, 5:0 (Mr. Hornbuckle and Ms. Nathanson not having arrived at the meeting).

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

Ms. Keller flagged the request from the Human Rights and Planning commissions for a waiver of the threshold fee of \$5,000 for a plaque honoring the late Vern Ho for further discussion at the end of "Items."

Ms. Keller acknowledged Public Works staff's efforts during the recent rain storm. She said that material was being cleared from the streets rapidly.

Ms. Keller called the council's attention to the recent wastewater treatment plant bypasses caused by the heavy rainfall and said that the bypasses contradicted statements made about the plant capacity at the time Hyundai came to the community. She noted the likelihood a prison might be sited in the area, causing additional demand upon the plant's capacity. Ms. Keller suggested that the council reconsider the wastewater treatment system and examine the adequacy of current systems development charges. She said that the plant does not now have adequate capacity if bypasses occur during every heavy rain.

Mr. Farr commended Ms. Norris for her clear and timely response to allegations regarding the Department of Public Safety in a letter from the Eugene Police Employees Association (EPEA).

Mr. Farr said he had been concerned about the effect of heavy rains on the partially constructed Fern Ridge Bicycle Path, but was pleased to report that the rains did not appear to have any impact. He commended Public Works staff for the quality of construction and engineering on the path.

Mr. Farr acknowledged a card he had received from an Oakridge couple, Lee and Audrey Rockwell, congratulating him on his election.

Ms. Swanson Gribkov thanked Public Works crews for their efforts during the recent heavy rains, saying she personally experienced staff's quick reaction during the storm while attending a basketball game at the University of Oregon.

Ms. Swanson Gribkov asked Ms. Norris to communicate to the council how she intended to identify the consultant she proposed to hire to evaluate the issues raised as a result of the EPEA's letter. She wished to ensure that the process had credibility for both management and the union.

Ms. Swanson Gribkov discussed the results of the November 6 Road Fund status meeting, reporting that the County was considering an approach that eliminated the likelihood that special project moneys would be available. She said that money for the Ferry Street Bridge was not affected.

Ms. Swanson Gribkov said that the council officers had discussed the possibility of holding a social event to honor the departing councilors at her home on Tuesday, December 17 or Monday, December 16. She asked staff to ballot the council for its preference by the next officers meeting on December 3.

Mr. Laue said that he, Springfield City Councilor Stu Burge, and Lane County Commissioner Steve Cornacchia attended the siting hearing before the Prison Siting Council and presented the three jurisdictions' 70 conditions and offered testimony regarding the siting proposal. The negotiating team met with the siting staff prior to the hearing and indicated that, to preserve the area's options, the three jurisdictions filed a notice of intent to sue regarding the urban growth boundary and conflict with State law. Mr. Laue thanked staff, in particular Jim Johnson and his staff, for work well-done within a very short time frame.

Mr. Laue commended Public Works for its timely response to storm sewer blockages.

Mr. Laue noted his membership on the Public Safety Coordinating Council's Prevention Task Group, which had done a rough estimate of the costs of juvenile crime in the area. The task group estimated the cost of local juvenile crime at about \$18 million annually, in contrast to a prevention program that costs about \$2 million annually. Mr. Laue stressed the importance of avoiding an approach that was "pound-wise and penny-foolish" when considering upfront expenditures that avoided greater future costs, and expressed hope that the council did not lose sight of that in the upcoming budget cycle.

Mr. Torrey thanked Mr. Laue for his participation on the prison siting negotiation team. He said that the State indicated that the local area was the best prepared and best organized community it had encountered in the process.

Mr. Torrey suggested that the council use an early December meeting as an orientation session. He asked that councilors with suggestions for improvements and additions to council orientation to contact him.

Mr. Torrey said that he had attended the first Growth Management Study forum the previous evening. He said that the event was not as well-attended as hoped. He said that a second forum would occur later that day at Sheldon High School. Mr. Torrey encouraged the council to attend the remaining two forums.

Ms. Nathanson arrived at the meeting.

Ms. Bascom said that she had selected December 18 for her farewell ceremony. The event would occur at 11:30 a.m. in the Hult Center lobby.

In response to Mr. Torrey's suggestion that the council hold a orientation session in December, Ms. Bascom noted she would not be available on December 9.

Ms. Bascom said that she had reviewed a copy of the 2040 Metro Plan from Portland and thought the plan was excellent and could give guidance to Eugene.

Ms. Bascom thanked Mr. Laue for his work on the prison siting negotiations team.

Ms. Bascom circulated a "Save Mother Earth" disk she had found in a Korean hotel. The disk read "Bed sheets washed daily in thousands of hotels in this world use millions of gallons of water and tons of detergents. Sheets are customarily changed daily but if you feel that this is unnecessary leave this card on your pillow in the morning and your sheets and your towels will not be changed that day." Ms. Nathanson observed that she had attended an ecotourism session at a recent Cascadia tourism conference and learned that there was a similar movement in the United States.

Mr. Hornbuckle arrived at the meeting.

Ms. Norris said that she would provide a report to the council on sewage treatment plant bypasses.

Ms. Norris said that she had a good meeting with the EPEA president and vice president the previous Friday. She said that she would work with Public Safety management and the EPEA to select a consultant, and indicated she would keep the council informed of that process as it was fully developed.

Regarding attendance at the Growth Management Study forum the previous evening, Ms. Norris suggested it was not well-attended because local radio stations warned people to stay off the streets. She reminded the council that the second forum would occur at 6 p.m. at Sheldon High School and on Thursday at St. Mary's Parish Hall at 9 a.m. Ms. Norris asked that further discussion of the Growth Management Study be held at the end of "Items" if time allowed.

Ms. Norris asked that the council give direction to staff on the time line for the police serial levy if time allowed.

Mr. Hornbuckle asked the Council Officers to schedule a discussion of a resolution asking the State Legislature and Governor John Kitzhaber to avoid consideration of a sales tax as a replacement revenue for property taxes lost as a result of Ballot Measure 47. He indicated his continued opposition to such a tax and predicted any such tax measure would fail. Mr. Hornbuckle said that if the officers did not schedule the item, he would draft a letter to the legislature and governor in opposition to a sales tax and request that interested councilors sign it.

The council returned to the items flagged for further discussion.

Ms. Keller said that a tree was planted in the Riverfront Park near the Valley River Bicycle Bridge last summer to honor the late Vern Ho, and the issue of a plaque to mark the area was still outstanding. She said that the Planning and Human Rights commissions requested that such a plaque be placed, and that the \$5,000 threshold contribution be waived. Ms. Keller reviewed many of Mr. Ho's civic accomplishments and suggested that in light of his immense contribution, such a plaque was appropriate. She said that it would be a small plaque located next to the tree. Ms. Keller reminded the council that the \$5,000 threshold contribution had been established not to recover costs, but to avoid the possibility of numerous plaques in public spaces.

Ms. Keller moved, seconded by Mr. Farr, to place a plaque commemorating Vern Ho.

Responding to a question from Ms. Bascom, Ms. Norris said that while she did not know why the threshold contribution was established, she believed that there might be maintenance issues related to such plaques.

Responding to a question from Mr. Laue, Ms. Norris said that the threshold contribution went into the General Fund. Ms. Keller said that in this case, the City would simply be waiving the fee. Mr. Laue pointed out that the council had a policy not to waive fees. Ms. Keller clarified that the council did not waive fees in instances where there was a cost to the City. Mr. Laue acknowledged Ms. Keller's remark, but expressed concern about the precedent established by a fee waiver. He termed the situation "a distinction without a difference" but if the fees were to be paid from the Contingency Fund, the moneys would return to the General Fund. Mr. Laue said that such a course would be in keeping with adopted council policy.

Mr. Torrey believed Mr. Laue had arrived at a potential solution to the policy dilemma, adding that while he was fully supportive of the proposal, any other approach might raise a precedent. He indicated support for the motion if Mr. Laue's proposal were incorporated.

Ms. Keller and Mr. Farr accepted a friendly amendment from Mr. Laue to pay the fee out of Contingency Funds with the understanding that the moneys would be returned to the General Fund. The motion then read (added material in italics):

Ms. Keller moved, seconded by Mr. Farr, to place a plaque commemorating Vern Ho *and pay the threshold fee of \$5,000 from the Contingency Fund.*

Ms. Norris said that Mr. Laue's proposal was workable, but she believed that there were still maintenance costs to the City.

Mr. Hornbuckle said that he disagreed with Ms. Keller about the merits of placing the plaque for Mr. Ho. He said that while Mr. Ho was a nice person, his public policy analysis and advocacy was "quite shallow." Mr. Hornbuckle said that Mr. Ho wished to make people of disparate political orientations "feel good," but he did not think that Mr. Ho offered substance in terms of his advocacy for basic public interests.

Roll call: the motion passed, 6:1; Mr. Hornbuckle voting no.

The council responded to Ms. Norris's request for direction on the timing of the serial levy.

Ms. Swanson Gribskov suggested that December was premature for a decision and stressed the need for coordination with the City's metropolitan partners in seeking additional revenues from the voters.

Ms. Norris said that the last day for a ballot title decision for a March election would be January 9.

Ms. Keller suggested that staff would be better employed analyzing the City's financial situation and revenue options than preparing the materials needed for a decision about a election in December.

Mr. Torrey said he still supported the levy but suggested that the council forget about a March election and consider a May election. He added that he did not think the State legislature would be able to act before then.

Mr. Hornbuckle reminded the council that he had proposed that the voters be allowed to select a funding source for policing through preference voting in the November election. He suggested that if the council had adopted his proposal, the service would be funded by now. Mr. Hornbuckle believed that inadequate funding contributed to overwork and morale problems in the Department of Public Safety.

Ms. Keller moved, seconded by Ms. Nathanson, to extend the agenda item by taking 5 minutes from item III. Roll call: the motion passed unanimously, 7:0.

Mr. Laue did not think it was prudent to proceed with the serial levy until legal issues surrounding Ballot Measure 47 had been resolved. On the other hand, Mr. Laue believed that public safety services must be adequately funded soon, and supported a coordinated approach with other local jurisdictions in seeking replacement revenues.

The council agreed to remove the agenda item from its December schedule.

Ms. Norris referred the council to the letter it had received from Ed Weeks regarding data gathering efforts for the Growth Management Study and suggested that the council discuss whether it was comfortable with the time line established for review of the results of the data gathering.

Ms. Swanson Gribakov asked if postponing the decision about the time line to November 25 when Councilor Shawn Boles would be present would give staff and Mr. Weeks sufficient time to adjust the schedule if necessary.

Mr. Torrey moved, seconded by Ms. Swanson Gribakov, to extend the agenda item for 5 minutes, and take 5 minutes from the last item. Roll call: the motion passed, 6:1; Ms. Keller voting no.

In response to Ms. Swanson Gribakov's question, Mr. Weeks said that he would be ready to proceed as directed by the council on November 25. He said that a question was raised at the Planning Commission meeting of November 12 regarding whether he was prepared to meet the time commitments originally agreed to. Mr. Weeks said that he was prepared to meet that time line. He said he had indicated to the commission that keeping the time line was perhaps not the wisest course, but if the council and commission wanted the preliminary report in December, he was prepared to provide that information.

Mr. Torrey said he wished to be clear that the City Manager's Office did not slow the process. He believed that staff had been working as hard as it could, but it was not physically possible for staff and the consultant to have the information ready so the outgoing councilors would have a chance to "put a thumbprint on the process." Mr. Torrey said that the commission and council liaisons agreed that a good end product was better than a fast end product, and further agreed to involve Councilor Boles in the study past his term of office for the sake of continuity.

Ms. Swanson Gribakov said that she had discussed the issue with Councilor Boles, and he indicated to her he was willing to continue working with the commission.

Responding to a question from Mr. Laue regarding the timing of the random sample survey, Mr. Weeks said that he would send the survey out right away using the methodology initially proposed.

Mr. Hornbuckle indicated he would prepare a council ballot regarding replacement revenues.

### III. REPORT FROM COUNCIL COMMITTEE ON TELECOMMUNICATIONS

Ms. Nathanson introduced the item, referring the council to the nine draft policies created by the Council Committee on Telecommunications included in the meeting packet. She said that the policies had been offered to the public and were subject to extensive review, including review by service providers. Ms. Nathanson said following that review the committee made some minor changes to the policies and were forwarding them to the council for acceptance.

Ms. Nathanson said that at the direction of the committee, the policies were broad in nature to give staff leeway to develop further options for the council. She said that, in her opinion, the language in the policies touched on both policy and desired goals. Because the policies would be used for general planning direction, she did not think that was a problem.

Randy Kolb, Administrative Services Department, described the planning process to this point, forecast the committee's next several agendas, and indicated that it would be done with the majority of its work by January. He noted the probable impact of the policies on the City's legislative agenda, land use ordinances, and management procedures and policies for public rights-of-way.

Mr. Kolb noted that each policy included follow-up steps for implementation.

Ms. Swanson Gribakov asked if the committee had discussed the impact of Ballot Measure 47 on its work program. She asked when the moratorium expired. Ms. Swanson Gribakov asked the committee members to discuss the nature of the committee's relationship with the telecommunications industry as it developed the policies. She also asked who the consultant for the project was.

Ms. Nathanson said that the committee had not discussed Ballot Measure 47. It had already spent the majority of the funding committee members envisioned would be needed on the consultant's contract. Ms. Nathanson believed that Ballot Measure 47 could have an impact on the committee's final recommendations; for example, if the committee recommended an approach to service provision that included participation by the City, it could require a major capital outlay that might be precluded by the measure. She said that the moratorium was scheduled to expire on January 14, and she anticipated that the committee would request a 45-day extension of the moratorium. Regarding the nature of the relationship between the providers and committee, Ms. Nathanson said that the committee had scheduled an entire meeting to hearing input on the policies from the various providers, and the providers had also provided written input and many attended and observed committee meetings.

Mr. Kolb said that the committee's consultant was Tim Lay of Miller Canfield Paddock and Stone, a law firm in Washington, DC, that represented the Council of Mayors and National League of Cities during development of the Telecommunications Act. Mr. Lay had subcontracted some of the committee's technical work to RW Beck, a telecommunications consulting firm in Seattle. The committee was also contracting with Lane Council of Governments for the siting analysis.

Mr. Laue asked if the United States Supreme Court's stay on the Federal Communications Commission's administrative rules implementing the act had affected the work of the committee. Ms. Nathanson said that the stay had no effect on what the committee was considering. Mr. Kolb said that much of the act will be sorted out by the courts. City Attorney Glenn Klein and Mr. Lay had provided legal advice to the committee about the most prudent approach to take in its recommendations. Mr. Klein said that he would contact Mr. Laue with more information. He said that there were many levels of government that would be involved in interpreting and implementing the act.

The council reviewed and amended the policies.

Referring to the direction under Policy 2, Ms. Keller asked that the last sentence in the last paragraph be modified by the addition of the following text: "...only where the public benefit is equal to or greater than the fee displaced."

Ms. Keller believed that Policy 3 should encompass safety of the public, and address issues like radiation and siting distances from residents and schools. She asked that the concept be incorporated. Mr. Farr responded that the act precluded the City from addressing many safety concerns raised in conjunction with the installation of telecommunications facilities. Ms. Keller continued to maintain that the concept should be addressed if possible. Mr. Kolb clarified that the intent of Policy 3 was to protect the public from adverse safety consequences. Mr. Laue believed that the policy addressed Ms. Keller's concerns, but he suggested that the term "adverse safety consequences" as used in the policy was overly broad. He asked if "safety" could be dropped. Mr. Farr said that the policy was specific to safety, and other policies address other adverse consequences.

Ms. Swanson Gribkov asked if the reference to updating chapters 7 and 9 of the code in policies 4 and 5 meant that the needed work would be referred to the Land Use Code Update or would be separate work items. Mr. Kolb clarified that the work called for would be separate.

Responding to a question from Mr. Torrey, Mr. Kolb said that the committee was looking closely at the work on the siting of telecommunications facilities done by other communities both in Oregon and across the country.

Ms. Keller suggested that Policy 4 be modified by the addition of direction reading "Review measures to encourage co-location or location on existing structures."

Ms. Keller suggested that policies 5 and 6 both be modified by the addition of direction reading "Explore city provision of conduit within the right-of-way."

Responding to a question from Mr. Torrey regarding Policy 5, Mr. Klein said that a policy specific to the question of what full compensation was would be reviewed by the committee at a future meeting. He added that Policy 5 did not mean that business owners would receive compensation because of work that occurred in front of their establishments, but was designed to ensure that there was appropriate signage and access to business. To the extent the City incurred costs to ensure that happened, the telecommunications provider creating the disruption would pay those costs.

Ms. Swanson Gribkov referred to the Fiber Optical Group (FOG) proposal and flagged the issue of the relationship of that proposal to the work being done by the committee. Ms. Nathanson said that the committee discussed ownership options and believed there was a wide range of possibilities. For example, a group of intergovernmental partners could own conduit and lines, or own conduits and lines and provide services. She added that there were examples from other communities that the committee could learn from.

Mr. Torrey asked if the phrase "taking into account reasonable differences among them [telecommunications providers]" included situations where a provider was already in Eugene as opposed to a provider newly arrived in the community. Ms. Nathanson said yes, noting that the level of capital investment differed among providers. She said that the City must treat providers equally while recognizing not all providers were entering the market as equals, and that was difficult. Mr. Klein added that the act stipulated that communities must treat similarly situated entities in a similar fashion while recognizing different circumstances. He said that the City cannot require a new provider to invest at the same levels as providers who have been in the community for a longer



period. Mr. Torrey asked if providers can be stopped from investing in the community. Ms. Nathanson said no, and in addition the City cannot establish aesthetic or zoning rules that would prevent a provider from serving the community.

Ms. Keller suggested that Policy 8 be reworded "Competing similarly situated telecommunications providers shall be treated in a similar fashion." Other councilors agreed.

Responding to a question from Mr. Laue, Mr. Klein said that the City could preclude a provider from adding poles and could require the provider to locate facilities underground. He believed that all new facilities could be directed underground by the municipality, even when existing pole facilities were in place.

Mr. Laue asked if the City could collect fees from each provider who did business in Eugene. Mr. Klein said yes.

Ms. Swanson Gribakov expressed concern about the focus on the Internet in Policy 9 because of the many citizens who were not computer literate. Mr. Farr said he had some of the same concerns, but pointed out that the Internet provided instant two-way communication, and one of the committee's goals was to provide universal Internet access to all citizens. Ms. Nathanson clarified that the committee's focus was on telecommunications, and its recommendations were not intended to suggest that the City would not use other means of communications.

Ms. Keller said that she wished to reiterate Ms. Swanson Gribakov's comments because she did not think they had been heard. She said that many people were not going to have access to a computer whether because of "technophobia, cost, or time." She asked that Policy 9 be amended to read "The City shall use telecommunications, along with other media, to communicate. . ." She said that the Internet could supplement other means of communications. Ms. Keller also criticized the direction under the policy in light of Ballot Measure 47, saying she would hate to see the City attempt to use Internet, voice, and video systems to achieve the goals of the policy when other lower cost methods might exist. She also pointed out it might not be possible to continue to fund the Internet Public Access Center. Ms. Keller said that the committee should reconsider all the policies and put its priorities on where the public's dollars should go.

Ms. Keller moved, seconded by Ms. Nathanson, to approve the draft Telecommunications Policies as amended. Roll call: the motion passed unanimously, 7:0.

Eugene Water & Electric Board Manager Randy Bergeron and board member Dorothy Anderson provided a presentation on the Fiber Optical Group (FOG) proposal, a proposal for a consortium of public partners to operate a fiber optical network.

Mr. Laue moved, seconded by Ms. Swanson Gribakov, to postpone item IV to a future meeting. Roll call: the motion passed, 6:1; Mr. Hornbuckle voting no.

Councilors indicated support for the FOG proposal.

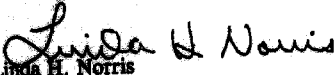
The item was postponed to a future meeting.

**V. RATIFICATION OF COUNCIL OFFICERS' RECOMMENDATIONS**

Mr. Laue moved, seconded by Ms. Swanson Gribskov, to ratify the council officers' recommendations. Roll call: the motion passed unanimously, 7:0.

The meeting adjourned at 1:30 p.m.

Respectfully submitted,

  
Linda H. Norris  
City Manager pro tem

(Recorded by Kimberly Young)  
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