MINUTES

Eugene City Council
Council Chamber—City Hall
777 Pearl Street—Eugene, Oregon

February 21, 2012
7:30 p.m.

COUNCILORS PRESENT: George Brown, Pat Farr, Betty Taylor, Andrea Ortiz, George Poling, Mike Clark, Chris Pryor, Alan Zelenka.

Her Honor Mayor Kitty Piercy called the February 21, 2012, regular meeting of the Eugene City Council to order.

1. PUBLIC HEARING:
An Ordinance Adopting Hazardous Substance User Fees for the Fiscal Year Commencing July 1, 2012

City Manager Jon Ruiz introduced the item, an ordinance adopting fees for the City's Toxics Right-to-Know Program for fiscal year 2013. The Toxics Board recommended a fee of $79 per full-time equivalent employee for affected businesses, up to a maximum of $2,000 annually as mandated by State law.

Mayor Piercy opened the public hearing. There being no requests to speak, Mayor Piercy closed the hearing.

2. PUBLIC HEARING:
Proposal to Redesignate and Rezone "The Rexius Site" by: Amending the Eugene-Springfield Metropolitan Area General Plan Diagram; and Amending the Eugene Zoning Map (City Files MA 11-12 and Z 11-4)

City Manager Ruiz introduced the item, a public hearing on a request to amend the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) Diagram and Eugene Zoning Map for the Rexius site. The amendment would change the plan designation and zoning on the 29-acre site from Light Medium Industrial to a combination of Low-Density Residential, Medium-Density Residential, and Commercial. He noted the applicable approval criteria found in Eugene Code Section 9.7730(3) and 9.8865 and reported that Eugene Planning Commission's unanimously adopted findings of consistency were included in the meeting packet as Exhibit C.

Mayor Piercy asked councilors to declare conflicts of interest or *ex parte* contacts. There were none. Mayor Piercy reviewed the rules governing the hearing and opened the hearing.

Larry Reed, Ward 5, concurred with the Planning Commission's recommendation and asked the council to approve the application as submitted.

Rusty Rexius, Ward 8, shared his vision of a mixed-use development on the site and suggested that vision was in keeping with the tenants of Envision Eugene, the West Eugene Collaborative, and made sense from a sustainability perspective. He requested council support for the application.

There being no other requests to speak, Mayor Piercy closed the public hearing and called on the council for questions.

Councilor Zelenka asked that the council be provided with a map showing the zoning of surrounding areas prior to its deliberation. He was also curious about the impact of retaining 3.55 acres of existing industrial zoning given its proximity to adjacent low- and medium-density zoning. He questioned whether it was a good idea to retain the industrial zoning and suggested that alternatively, the City could change the zoning and grandfather in the existing use.

Mayor Piercy determined that no councilor wished to keep the record open and deemed the record closed.

3. PUBLIC HEARING: An Ordinance Concerning Permitted Overnight Sleeping and Amending Section 4.816 of the Eugene Code, 1971

City Manager Ruiz reminded the council that it adopted a temporary code amendment on December 20, 2011, that provided for an exception for the provisions in Eugene Code Section 4.816 regarding overnight camping. The amendment allowed overnight sleeping in tents at sites normally reserved for legal overnight car camping and expanded the definition of vehicles to include tents. City Manager Ruiz reported that the amendment would sunset on April 15, 2012. The council was scheduled to take action on March 12, 2012.

Mayor Piercy opened the public hearing. Councilor Taylor arrived during the hearing.

Donna Riddle, a resident of Lane County, supported the ordinance and hoped it was made permanent. She did not think it went far enough and called on the City to decriminalize sleeping in public. She continued to wait to see where the wet bed facility promised for opening in winter 2012 would be.

Irene Cardenas, Ward 1, supported the ordinance as giving people more places to sleep protected from the rain. She spoke of the healthful benefits of living with nature in a tent.

Randy Cain, Ward 1, supported the ordinance. He recommended that it be revised to allow homeless people to be involved in managing their campsites as a means to build community.

Terrill Purvis, Ward 8, supported the ordinance because it would facilitate the delivery of needed services to the homeless.

Sabra Marcroft, Ward 7, supported the ordinance because people without a legal place to sleep lost self-respect, which made them more likely to misbehave.

John Monroe, Ward 1, supported the ordinance. He suggested the ordinance be revised to permit more than three vehicles or tents on very large parking lots. He also wanted to see justification for any conditions placed by the City on participating property owners, such as conditions related to public safety or zoning.

Alley Valkyrie, Ward 1, supported the ordinance. She went on to criticize the City for not doing enough to solve the problem of homelessness and questioned why the City prohibited property owners from doing what they wanted with their property so people could build communities on private property.

Michael Carrigan, Ward 7, supported the ordinance. He acknowledged the City and St. Vincent de Paul was having trouble finding vehicle and tent camping sites, and hoped the City Manager directed staff to work harder to find more sites.

Ruth Duemler, Ward 3, supported the ordinance. She also hoped that more spaces could be found to reduce the existing waiting list. Her church accommodated a car camp and found the occupants helped the church with security and maintenance issues. She encouraged other churches and businesses to accommodate homeless campers.

Joe Tyndall, Ward 1, supported the ordinance, although he considered insufficient to meet the need that existed. He advocated for a publicly camping site based on the Occupy Eugene model.

Mayor Piercy closed the public hearing and called on the council for questions and comments.

Councilor Zelenka asked why the number of car camping sites had been limited to three and requested information about the pros and cons of adding more spaces to each site. He also wanted more information about the waiting list. He asked where more sites could be located.

Councilor Brown asked if there were site providers who would like to have more camping spaces on their properties but were limited by the City Code. Michael Wisth of the Community Development Department reported that the number of camping sites was limited to facilitate site management. Councilor Brown suggested that funding could be increased so service providers could add more site managers. Mr. Wisth said that the funding had been increased in fiscal years 2012 by $50,000 to increase the number of sites and underwrite the cost of site management.

4. PUBLIC HEARING: An Ordinance Concerning Downtown Public Safety Zone; Amending Section 4.874 of the Eugene Code, 1971; and Providing a Sunset Date

City Manager Ruiz reported that the City's Downtown Public Safety Zone (DPSZ) would expire on April 30, 2012, unless the council desired to extend it.

Mayor Piercy opened the public hearing.

Mark Rust, Ward 4, supported the continuation of the DPSZ. He believed the zone had improved conditions downtown, leader to greater community satisfaction with downtown, and ending the zone would undo that satisfaction and stifle additional improvements. He believed exclusion was a reasonable alternative to jail for both the offender and community due to limited jail capacity for low-level offenders.

Larry Leverone, Ward 3, encouraged the council to consider long-term solutions including a downtown youth community center; progress on the Opportunity Eugene Task Force; more well-trained and well-paid publicly accountable downtown police officers; just and equitable law enforcement; two or three more CAHOOTS vans or a publicly funded health facility; more public and private jobs; higher taxes on higher earners; integration of institutions of higher education into the downtown; improved medical care for all; and increased respectful dialogue between all.

Lauren Regan, Civil Liberties Defense Center, reiterated her organization's written testimony regarding its constitutional concerns about the ordinance. She suggested the ordinance failed to meet the tests of being the least restrictive means of dealing with a problem and being effective in actually solving the problem it was intended to solve. She believed the ordinance resulted in people being targeted for their economic status and appearance in violation of the Equal Protection Clause. She described the exclusion process and emphasized the burden it placed on homeless people. Homeless people were frequently excluded for 90 days and then charges against them were dropped.

Jan Wostmann, Ward 3, supported the expiration of the DPSZ because 20 percent of those issued exclusions had their exclusions dismissed later. He said that the council would not accept such a high error rate in other areas.

Claire Syrett, representing the American Civil Liberties Union of Oregon (ACLU), opposed the DPSZ because it infringed on the rights of the individual to travel and associate freely in public spaces without due process. She said there was no evidence that the zone helped make the downtown safer. The Eugene Police Department (EPD) seemed unprepared to provide the data the council needed to evaluate the program, although the deadline for that report had been known since the ordinance was established. Ms. Syrett said the community could not wait for the EPD to improve its data collection methods and called for the zone to end. Judges could already impose exclusion for criminal conviction, which could accomplish the council's goals without the process created by the zone.

Michael Carrigan, Ward 7, said his organization, Community Alliance for Lane County, opposed the DPSZ because people were not being treated with dignity and respect. He maintained the homeless were targeted by the EPD and treated differently. He advocated for a downtown "inclusion zone" that was where all were welcomed.

Joe Tyndall, Ward 1, opposed the DPSZ because of his belief it was targeted at the homeless and less well-off. He advocated for the establishment of a homeless camp based on the Occupy Eugene model as a more humane and effective solution.

Sabra Marcroft, Ward 7, opposed the DPSZ. She suggested that parking meters rather than homeless people and delinquent youth discouraged residents from coming downtown. She shared the story of a young homeless man who had been warned away from downtown by police. She suggested that such a zone caused decent people to lose self-respect, become marginalized, and turned them toward criminal behavior.

Jean Stacey, Ward 1, opposed the DPSZ because it deprived people of due process. She believed there were better solutions. She thought the zone was being improperly directed against homeless people. She asked the council to let the zone expire.

Charles Warren, Lane County, representing the Board of Directors of Midtown Business Associates, said his organization paid for private security patrols for the businesses it represented. The area was not included in the DPSZ although it experienced many of the same problems. His organization supported the DPSZ and urged the council to extend it. He said the monthly exclusion reports illustrated that those excluded were chronic, repeat offenders who were disruptive and in some cases violent rather than people who were down on their luck. Judges must approve the exclusions. He questioned what choice Eugene had in the absence of adequate jail bed capacity.

Carol Berg Caldwell, Ward 3, read the council a poem in opposition to the continuation of the DPSZ.

Vickie Nelson, Ward 1, asked the council to let the DPSZ sunset. She asked where the people excluded from downtown went and suggested they went to someone's backyard or lived on the river banks because they had to be somewhere. They were out of sight but people should still care. She questioned the constitutionality of the DPSZ and suggested it had not been challenged because the homeless lacked lawyers.

Donna Riddle, a resident of Lane County, did not think the DPSZ worked because of what she saw when she visited downtown. She termed the zone un-American. She questioned where excluded people would go to use the bathroom if they could not use the bathrooms in downtown. She recommended the council let the zone sunset. She also recommended the City fund a day center and a homeless shelter.

Irene Cardenas, Ward 1, opposed the DPSZ. She advocated for more harmonious interactions between the police and citizens. She spoke of the trauma of such exclusions. She also recommended that police provide homeless people with cards with information about where they could recreate, meditate, garden, eat, and camp.

Randy Cain, Ward 1, believed the ordinance should take into the account the fact that some people were attracted to downtown by the steam heat system, privacy partitions, and public bathrooms. He asked that the DPSZ be allowed to expire. He did not want to pay to fight a lawsuit against the City.

Bill Whalen, Ward 5, representing the Local Government Affairs Council of the Eugene Area Chamber of Commerce, expressed the council's support for the DPSZ because of the current lack of jail capacity. He said the council believed the DPSZ was conducted thoughtfully and responsibly. He said the DPSZ had deterred downtown crime and led to deceased trespass, alcohol-related crimes, and property crimes.

Joseph Newton, Ward 7, agreed with the remarks of Ms. Regan and Ms. Syrett. He maintained the DPSZ was counter-productive and useless and was directed against annoyances rather than real crimes, such as the assault he experienced at Kesey Square without a police response.

Ruth Deumler, Ward 3, agreed with the remarks of previous speakers and urged the council to end the DPSZ. She advocated for more public bathrooms and for publicly funded lockers so homeless people could store their belongings during the day and did not have to carry them around. She also advocated for a wet bed facility and a full-time community center for youth.

Alley Valkyrie, Ward 1, opposed the DPSZ because it punished people for a crime they had yet to be convicted of. She opposed excluding the homeless from downtown because that was where they lived and received assistance. She averred that exclusions "happened in secret" and that she had a right to know when a member of her community was excluded. .

Walter Hunt, Ward 3, said he would not support the DPSZ if he believed it was used against Occupy Eugene and the homeless. Instead, he saw it used against really scary people doing really criminal things repeatedly, which led to their exclusion. He believed due process occurred because of a judge reviewed each exclusion order. Mr. Ward recommended that the council retain the DPSZ for the time being and that it direct the EPD to follow through on its review so it could convince the council that the zone worked.

David Mort, Ward 5, supported the retention of the DPSZ. In the three years he had worked downtown he had seen a drastic improvement in downtown conditions, particularly at the corner of Olive Street and

Broadway. He did not see random or unfair enforcement of the ordinance but instead witnessed officers addressing bad behavior and crime.

David Hauser, Ward 1, representing Downtown Eugene, Inc., supported the continuation of the DPSZ. He believed it was one of many important public safety tools. The DPSZ created consequences for chronic offenders in the absence of adequate jail capacity and temporarily displaced persistent violators from downtown. The Eugene Police Commission and Eugene Area Chamber of Commerce had expressed support for the DPSZ. Mr. Hauser feared that ending the zone would stifle improving conditions downtown and send the wrong message. He recommended the council extend the sunset provision to give the community a chance to reassess the cumulative impacts of all downtown tools.

Steven Michael Todd, Ward 1, opposed the extension of the DPSZ. He questioned why people were criminalized by sleeping. He hoped the council did not extend the law.

Art Bowman, Ward 2, opposed the DPSZ because he feared it would ultimately be used against activists expressing their First Amendment rights. He asked the council to end the zone.

Brian Michaels, Ward 1, opposed the DPSZ as an attempt on the part of the City to "try to throw people away." He suggested that it was more cost-effective to spend money on portable toilets rather than jails and law enforcement.

Tom Kamis, Ward 1, said while the DPSZ was not the best tool, it was a tool to address the problems caused by repeat offenders, who were not represented at the hearing. He said the zone was needed because of the lack of adequate jail capacity.

Michael Gannon, Ward 7, recommended the City and business community look to the Asian Festival and Oregon Country Fair as models for housing the homeless in self-maintained communities.

Curtis Surpless, homeless, suggested the ordinance would be challenged in court and the taxpayers would bear the cost of the legal fight. He hoped that the council let the ordinance expire. He averred that some of the people who had been excluded from downtown had been spending money in downtown businesses but apparently had not been spending enough.

James Black, Ward 3, opposed the DPSZ. He suggested that instead, the City establish an inclusionary zone. He believed the money used to enforce the zone could be better spent.

Janet Brown, Ward 4, shared some statistics about the use of the ordinance between October 2008 and June 2010. She believed that all citizens benefited equally from the ordinance. Ongoing reductions in jail capacity suggested it did not make sense to end the DPSZ. Ms. Brown said the ordinance was not about homeless, discrimination, or status; it was about behavior and accountability. She asked the council to support a two-year or more extension of the ordinance.

Kimberly Gladen, Ward 1, said downtown had unique problems not shared by other areas of the community. She believed that prior to the exclusion zone, the downtown looked like a "war zone." People were threatened and harassed under the guise of free speech. She termed the DPSZ a "time out" for repeat offenders and asked the council to extend it until conditions improved and citizens did the right thing and supported a homeless shelter.

Betty Snowden, Ward 1, supported extending the DPSZ because it was effective in deterring downtown crime. She maintained the EPD had employed the tool sensibly. Her family had a business downtown

for more than 20 years. Before the zone took effect, her family was bullied and taunted with racial epithets for 15 years by offenders who knew there were no consequences for their actions. She asked where the ACLU had been during that time. The DPSZ had improved conditions for her family and customers. The zone was targeted at repeat offenders. She believed the zone was about inclusion of everyone.

Cynthia Kokis, Ward 1, maintained the zone was based on fear and unfamiliarity with those who were different. She believed the zone was unfair, discriminatory, and used against people because of the way they looked. She suggested there were solutions based more on compassion than rebuke and isolation. She offered to pay more taxes to support more compassionate solutions.

John Monroe, Ward 1, did not think the EPD's research supported the continuation of the DPSZ and called for more rigorous analysis of the statistics. He acknowledged the problem of downtown public safety and regretted the problems suffered by downtown merchants. However, he pointed out that there were now more police downtown as well as private security. Mr. Monroe said that those who were excluded from downtown were likely to go to neighborhoods more difficult to monitor and were there were fewer police. He suggested the council and those in support of the ordinance to view a show cause hearing at Municipal Court and then decide if the zone was being applied justly.

Henry Jones, Ward 6, opposed the DPSZ because he believed it was being used against people for the way they looked and as an "economic tool for class warfare." He suggested concentrated police enforcement downtown diminished the public response to other parts of the community. He advocated for a downtown drop-in center where the homeless were made to feel welcome. He refused to shop downtown until the DPSZ was gone.

Carla Newbre, Ward 1, opposed the DPSZ because there was no data to show it was working. In addition, the zone seemed to be quite polarizing and criminalized those who should not be criminalized. She also was concerned about a lack of due process. She said that homeless people were disadvantaged when dealing with the court system and trying to have their civil rights addressed. They were unaware of the resources that existed to assist them, some of which were in the exclusion zone, and lacked means to access those resources. They often just gave up.

Mark Johnson, Ward 4, representing Lane Transit District, supported the continuation of the DPSZ. He believed the zone had improved public safety and was targeted at criminals rather than at people because of their status.

Heather Marek, Ward 1, opposed the extension of the DPSZ. She challenged both the data and data analysis provided by the EPD. The data did not include information on how exclusions were used and enforced or the race, gender, economic status, housing status, and mental health background of those excluded, making it impossible to know the impact of the zone on marginalized communities. No information was included about the crimes leading to exclusion, making it difficult to assess the safety threat of those excluded. She found other factors lacking in the data that made the zone difficult to evaluate.

Cassandra Snowden, Ward 1, supported the extension of the DPSZ because it was proven to be effective. The zone did not discriminate against people because of their appearance or economic status. The violence and harassment her family had experienced had stopped and the entire downtown atmosphere had improved. Ms. Snowden believed eliminating the zone sent the wrong message to criminals. She reiterated Betty Snowden's remark that the ACLU never contacted her family to offer assistance when they were being harassed and called racial epithets.

Celeste Edman, Ward 4, Downtown Business Association, said downtown businesses had witnessed dramatic changes in downtown because of the DPSZ. She emphasized the importance of public safety to a vibrant downtown. Her association strongly supported the continuation of the DPSZ. She did not believe the zone was targeted at the homeless or marginalized; instead, it was targeted at career criminals who preyed on downtown businesses, their patrons, and the homeless. Ms. Edman asked the council to review the exclusions that occurred in the last two years, which were for repeat violent offenders who committed crimes with an acute human cost. She pointed out that judges made decisions that restricted where people could be all the time. She asked the council to extend the DPSZ for at least another 12 months. The ordinance protected more than buildings or assets; it protected people.

Jesse Lohrke, Ward 6, believed the DPSZ was an oversized tool that invited violation due to the length of the exclusions imposed. He suggested that if the zone was extended it should only be for a short time with an opportunity for changes to be made.

Jim Welsh, Eugene Association of Realtors, expressed his association's support for the DPSZ. He asked that it be extended until it was evident the increased police patrols were effective and jail space was available.

Mark Jordan, Ward 5, believed the DPSZ violated people's rights, including freedom of movement, freedom of assembly, due process, and equal treatment and protection under the law. He urged the council to end the DPSZ to protect the right of its citizens.

Mayor Piercy closed the public hearing. She thanked those who testified. She said that all people were in the community together and both proponents and opponents of the zone had legitimate and deeply held concerns. She reminded the audience the councilors were tax payers too. She encouraged dialogue among those testifying and emphasized her interest in an outcome that was fair and just and enhanced downtown safety.

Mayor Piercy called on the council for questions and comments.

Councilor Clark agreed with the mayor's remarks. He noted the community's lack of jail capacity and the impact that had on crime levels. He anticipated the community would lose more jail beds due to Lane County's budget shortfalls. He urged the council to extend the DPSZ for an opportunity for future review.

Councilor Ortiz expressed appreciation for the mayor's remarks and for the testimony offered by the public.

Councilor Brown also thanked those who offered testimony. Speaking to Councilor Clark's comments, Councilor Brown said he was unable to see a correlation between the decreasing number of jail beds and the zone's effectiveness. He requested data related to the sanctions imposed on individuals who violated the exclusion order more than once and also asked staff to provide crime data for the neighborhoods around the downtown so the council could determine if the zone had led to a spike in activity in those areas.

Councilor Zelenka asked staff for data characterizing the individuals excluded from the zone. He also asked staff for suggestions to improve advocacy for those excluded.

Councilor Taylor also thanked those who testified. She did not support the DPSZ and believed improved conditions downtown could be attributed to the increased police presence. She said that people had to be somewhere, and it was better to have them downtown where there were more people and more police. She also questioned how there could be no jail capacity but the City could still jail people who violated their exclusion order.

Councilor Farr asked Police Chief Pete Kerns questions clarifying some of the statistics provided to the council regarding the exclusions requested by officers but not granted by judges.

Mayor Piercy adjourned the meeting at 10:05 p.m.

Respectfully submitted,

Beth Forrest

Beth Forrest
City Recorder

(Recorded by Kimberly Young)