

**Troutdale City Council – Work Session
Troutdale City Hall – Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099**

Tuesday, January 29, 2008

1. ROLL CALL

Mayor Thalhofer called the meeting to order at 7:02pm.

PRESENT: Mayor Thalhofer, Councilor Kight, Councilor Thomas, Councilor Canfield, Councilor Daoust, and Councilor Ripma (7:36pm).

ABSENT: Councilor Kyle (excused).

STAFF: John Anderson, City Administrator; David Nelson, Chief of Police; David Ross, City Attorney; Clyde Keebaugh, Parks and Facilities Supervisor; Rodney Wilkerson, Police Officer; and Sarah Skroch, Deputy City Recorder.

GUESTS: See attached list.

2. DISCUSSION: Ban on back yard burning.

David Nelson, Chief of Police, reviewed his staff report.

Kim Coxen, Deputy Fire Marshal of Gresham Fire Department, stated the majority of the citizens in Gresham have been very receptive to this program. The ones that have been hesitant are the ones who have large parcels of land. An example would be an elderly person with a large parcel that is maintaining their landscape and is not able to afford to have someone haul the debris away. In situations like that we grant hardship permits. It's not a one size fits all ban. Within those parameters there are exceptions to the rules. We still issue permits for agricultural burning and we have open burn permits for special circumstances. People are able to do recreational burning such as using a backyard fire pit. It's not an all out ban, it's just restrictions on what was once pretty broad burning. When we began the program we tried to get the word out by using our city newsletter, media sources, and meeting with neighborhood associations. In the unlikely event that we are called to a residence for burning on a non-burn day, we put door hangers on their door. The door hangers are a warning for those that maybe aren't aware of the restriction and it describes when they can burn. We also have a 24-hour burn line has information about who can burn in different areas.

Councilor Daoust asked who determines burn days, DEQ?

Kim Coxen replied DEQ can determine a burn day but also there can be burn restrictions locally by the Fire Marshal or statewide by the State Fire Marshal's office. The 10 burn days

allowed in Gresham in the fall were on DEQ burn days. DEQ prohibits all burning west of 182nd.

Councilor Daoust asked do you allow 10 burn days in the spring and 10 in the fall?

David Nelson replied Gus Lian, Fire Marshal for Gresham Fire Department, stated at the previous work session and at the joint meeting with the public committees that there is a 20 day window that DEQ allows burning two times a year. Gus chooses 10 days from the 20 and splits them up so they are on both week days and weekends.

Councilor Daoust asked is the goal to get all four East County Cities synchronous in what days they can burn?

Kim Coxen replied consistency would be very helpful. It's not that we can't learn the different rules for the different cities. But it's hard for a neighbor on one side of the street to be allowed to burn and the neighbor across the street can't.

Councilor Daoust asked what's the problem with backyard burning?

Kim Coxen replied the big picture problem is our area has changed from a somewhat rural area towards a suburban area. There's a larger population with people that still want to burn and it's starting not to fit.

Councilor Daoust asked is this complaint driven?

Kim Coxen replied it's very much so complaint driven.

David Nelson stated this issue went before the Citizens Advisory Committee (CAC) and the Public Safety Advisory Committee (PSAC) was because of the long term idea of a complete ban. That may occur whether or not the City of Troutdale passes this because it could be enforced by DEQ.

Councilor Daoust asked is there any indication that DEQ is going that way?

David Nelson replied they already have west of 182nd Avenue and sounds like they could.

Councilor Daoust asked what have Fairview and Wood Village decided?

David Nelson replied I believe they both have supported it.

Councilor Kight stated please explain the hardship process?

Kim Coxen replied an example would be anyone with a large lot where it would be a financial hardship for them to pay to have their yard debris removed.

Councilor Kight asked do they have to prove that?

Kim Coxen replied it would just be an appeal. They would submit their request in writing explaining how it is a hardship to them.

David Nelson asked is the hardship year round or only during the designated burn days?

Kim Coxen replied it's only during the burn season.

Councilor Kight asked is there a cost involved?

Kim Coxen replied not in Troutdale.

Councilor Kight asked do the citizens see this as convoluted as far as trying to figure out if they call DEQ or Gresham Fire Department?

Kim Coxen replied all of the literature that we distribute lists our Gresham Burn Line and the recorded message is updated daily.

Councilor Kight stated you mentioned this was complaint driven. Are people calling complaining of smoke?

Kim Coxen replied the complaints are from the smoke and people that aren't monitoring their fires. The last year in Troutdale we had 30 calls for what we classify as unauthorized burning. This would be for unattended fires or burning too close to the neighbor's house or fence.

Councilor Thomas stated when I looked at the reports it seem that Troutdale averages about 80 calls a month and out of those 1 or 2 percent are fire calls. I'm not sure that anything is broken here.

Councilor Canfield asked what days was it ok to burn in Troutdale?

Kim Coxen replied fall the burn season opens in October and closes in late November. Without any restrictions in Troutdale, a person could burn any of the days during that time period that DEQ allowed. They make a designation daily. In the spring it opens in March and closes in early June.

Councilor Canfield stated you mentioned that there were 30 calls for unauthorized burning in 2007.

Kim Coxen replied those would be an actual burn occurring on a day that was not a DEQ burn day.

Councilor Canfield stated so these calls were because they weren't burning on DEQ days.

Kim Coxen replied the majority of them. There may have been some calls where they were either burning too close to the neighbor's fence or other kind of property such as a house.

Councilor Canfield stated in my neighborhood just about everyone has a fire pit in their backyard and use them all summer long. Why aren't you going to ban those also?

Kim Coxen replied in most cases those fires are small and in most cases they are burning wood. In backyard burning people often burn things other than yard debris, they'll burn larger piles, and these produce more smoke. I think that's why more complaints are generated than from the small recreational fires.

Councilor Canfield stated I believe this burn ban wouldn't make a difference on the environment but it would be more convenient for the fire fighters and less convenient for our citizens.

Kim Coxen replied the burning restriction is not about convenience for the fire department. The burn restriction is in response to complaints from the community. The burn restriction is about reducing the health hazards that are caused from burning. It's not because our fire fighters don't want to respond to those kinds of calls. It has very little to do with the nature of our business it has more to do with quality of life.

Councilor Kight asked how long have you had this program in Gresham?

Kim Coxen replied it was enacted by Council prior to the fall burn season so it hasn't been a complete year yet.

Councilor Kight asked since then, have you had any complaints about neighbors doing backyard burning?

Kim Coxen replied when we receive complaints in the office an investigator responds.

Councilor Kight stated even with a backyard ban you may still have problems. It may be exacerbated because you have the days concentrated instead of dispersing them over several days. People know there is only a certain window in which they can do their backyard burns so they build up their material for a longer period and then have a larger fire.

Kim Coxen replied what we have is an increased amount of people utilizing recycling and not as many people burning.

Mayor Thalhoffer asked is there anyone here that would like to speak to us on this issue?

Glenn White, Citizens Advisory Committee, stated our group didn't feel that there was a problem and that the current system was working better than the proposed system. The CAC vote was 11 to 1 against this. We feel it's a quality of life issue. For me personally, if I could only burn twice a year I'd have a big pile and I think that's a greater risk. We brought up the idea of putting something in the Troutdale Champion, with the help of the Fire Department,

about better ways of burning. I feel if you burn on the right days it's a pretty safe practice. We've been doing a good job to date.

Tanney Staffenson, Citizens Advisory Committee, stated when Gus spoke to us and the PSAC he stated that there were a total of 250 complaint calls with 16 in the City of Troutdale. That represents 13% of the calls. Gus told us that the system is working really good. I think the system that we have in place needs to be modified but I don't think that a permanent ban on burning is the way to go. We have to compare our self to Gresham by the amount of land owners we have here with large acreage. We also have more wind, more fallen trees, and more issues that you have to contend with as a home owner. Something that was stressed to us was if a ban were not put into place then an engine would be responding to a call and "someone's probably going to die" because the engine wouldn't get to an emergency in time. Kelly Kyle made the comment of what happens when the engine is at the Wood Village Fred Meyer and there's a call somewhere else? His response was that we have redundancy in each and every case within our system. There was a letter from DEQ which listed a lot of chemicals and I asked if most of the chemicals came from burning wood. The response I received was yes. I thought that this should be all over the evening news because if there are all of these chemicals then why are there fire places in our homes.

Councilor Ripma arrived at 7:36pm.

The Council decided to take no action on this agenda item.

3. DISCUSSION: A discussion on implementing a parking fee at Glenn Otto Park.

David Nelson, Chief of Police, reviewed his staff report.

Councilor Thomas stated I've been working on this project with Officer Rodney Wilkerson and Clyde Keebaugh, Parks and Facilities Supervisor. My thoughts on this were to try and set it up so that any funds collected from parking at Glenn Otto would go directly to that park. I talked to the Finance Director today and was told it was doable. The initial idea is to have the parking fee effective from May to just after Labor Day. One possibility that we talked about was having Jack's Snack-N-Tackle be a vendor for us and sell annual parking passes. Then we could give them a few dollars for handling the process similar to selling fishing licenses.

Rodney Wilkerson, Troutdale Police Officer, stated I was probably one of the first School Resource Officer (SRO) that the City has had. Being in the schools during the school year left my summers open. I found myself working beach patrol at Glenn Otto Park in the summer. The first few years that we were down there we made a real difference and had a lot of positive contact with the community. We've lost that full time patrol of the beach and a lot of those problems have returned. Some of the more infamous problems are fights at the beach that end up on the web and all out beach brawls that happen under the bridge that take Officers from 4 or 5 other agencies to respond. I'm talking about the clientele that are here to abuse and take our resources. The major thing that I wanted to do when this started is make sure that we didn't come up with an attitude that this is to punish the citizens of Troutdale for using their own park. From the end of June to September I did a parking lot survey. I ran the plates of 250 cars in the parking lot. Of those vehicles, 24 came back as

Troutdale residents. I conducted my survey in a way that no vehicle was counted twice and I was the only Officer doing the survey to ensure that. This is not a money making venture for the police department. I was looking to weed out some of the undesirables that we get during the summer season. Several times I've seen people park at Glenn Otto and walk their cooler across the bridge to the east side where it's been accepted that you could drink there as long as you're quite about it. Then they go under the bridge where we can't see them and an hour later we have a 20 person fight. I'm looking at that crowd. We have looked at different locations in the park for the machine. Ideally we would like something close to the caretaker's residence, not because it would be their responsibility to watch it but that location would be less likely to be vandalized. Also you'd want it away from the driveway to avoid a backup of cars. We also talked about putting in an alarm or surveillance system for the machine.

Clyde Keebaugh, Parks and Facilities Supervisor, stated this is to help mitigate some of the undesirables that we've seen building up in the park. We are hoping a fee for parking would help give a more controlled feel. We are looking at using some video surveillance to help protect the parking machine. It could also be used in other sections of the park should it be necessary. We would also like to have a shelter over the machine and some lighting. In the data gathering for the Parks Master Plan there was a survey sent out to Troutdale citizens. One of the questions asked was would they support a fee charged at Glenn Otto Park. Over 60% of those that responded were in favor of a fee for parking. Any extra funds, once the system is paid for, could be rolled back into a fund that would support improvements at that park. It won't be a huge money maker but it will help push down the undesirables and put some money back into the park.

Councilor Thomas replied the purpose of tonight is to get out the information and see if we want to pursue it. I didn't want staff to put a whole package together with a lot of detail if it's not going anywhere. If you want to consider it then staff could put the work into it to prepare specific information.

Mayor Thalhoffer asked how do you get people to buy the parking pass?

Rodney Wilkerson replied it would be up to the police department to patrol that. The people working beach patrol would be in a place that they could do that as well. A lot of this would depend on signage letting people know in advance that this would be occurring in the future.

Councilor Daoust asked is there a connection between the cars in the parking lot and the stuff going on down at the beach? Do you think that the people that cause problems at the beach won't pay for parking?

Rodney Wilkerson replied I've talked with Kevin Price who works for the State Parks Department. He said since they've implemented systems like this that they have seen a decrease in unwanted elements. People may or may not be willing to pay to come to the park. They may decide to go elsewhere. It's not a cure-all. We're not going to crush crime by doing this but it may be a way to divert some of that activity away from Troutdale and at the same time it may provide some of the funds to clean up the park.

Councilor Kight stated Glenn White charges \$2 to park on his property across the street. Do you find that the undesirables stay away?

Glenn White replied I don't really see that connection. I think you'll have more problems by pushing people out of the park and into private residences. We could make more money by enforcing law such as littering in a waterway, that's a huge fine. I donate a percentage of the \$2 that I charge to the lifeguard program. When you charge \$2 to these kids a lot of them can barely scrape that up. It's a community thing to have a free park and I'd hate to see that go away. I think we really need to get the patrol back in there.

Councilor Kight asked since you've been charging to park on your property have you seen a change in the type of people that are attracted to the park?

Glenn White replied I noticed the biggest change in the park when we got lifeguards. I'd like to see some of the proceeds be earmarked for the lifeguard program. That service has made the park more family oriented.

Councilor Kight stated it appears the bigger problem is we don't have enough police presence at the park.

Rodney Wilkerson replied in the past few years we've been running on bare bones as far as police patrol goes.

Councilor Kight asked what does bare bones mean?

Rodney Wilkerson replied if we're lucky we can get one person on the beach a few times a week.

Councilor Kight asked we don't have a dedicated beach patrol anymore?

Rodney Wilkerson replied we do but it's only one person and he needs days off. That may change this year because we have more SRO's in our department. We're responsible for more portions of the river that we have in years past. We used to take care of Glenn Otto, anything from the Troutdale Bridge to the south beach. As of last year we are responsible for the east side of the river. Even if we get 2 or 3 SRO's working on the beach we have probably doubled our area.

Councilor Kight asked why did we take on the east side of the river?

David Nelson replied Our area of responsibility at the beach was expanded because we were looking at this issue and realized that the City boundary goes to the north of the river. If we have 1 officer on duty that is on the south side and there is activity on the north side, by the time the officer can get over there they are gone.

Councilor Kight stated I don't think there's a parking machine in the world that will help the staffing problem with the police.

David Nelson replied we're not looking for it to do that. This year with the addition of our new SRO at the high school for a total of 3 SRO's, we have a little more man power and are hoping that will help. Right now we are looking to see if this is something that the Council wants to move forward on. Our budgets are being prepared right now and if this is something that we want to move forward on we need to include it.

Councilor Kight stated I'm seeing a number of approximately \$25,000 for equipment. Is that just for the machine?

Rodney Wilkerson replied that's for the machine, setup, running of electricity, and building of the structure. The cost would also be based on what kind of machine you purchase.

Councilor Kight stated my concern is this fee will shift cars up into the neighborhoods and the problem is going to spread out. I'd rather see increasing police presence on the beach first.

Councilor Ripma stated I'm convinced there's a problem. Charging is just a way to help clean it up but it wouldn't be a solution to the people taking coolers across the bridge.

Rodney Wilkerson replied that's certainly where the money would go. I've talked to other entities that have this system in place and they have seen a decrease in the amount of activity that is harmful to the park. That tells me that the element that's doing this have gone elsewhere.

Councilor Ripma stated if there weren't free places to park near Glenn Otto then I'd agree that would help. I'm all for beefing up patrols but if it isn't going to make any money then the reason that it advances shouldn't be that it'll help pay for anything because it won't.

Clyde Keebaugh stated the issue as to whether it'll make any money or not is debatable. I could see that in time it would incur a profit because of the amount of people that visit the site. I think it would present an air of more control and that more attention is being paid to the parking lot so that people feel like their coming into a more controlled environment. Those people that don't like that kind of environment, the undesirables, would hopefully go elsewhere. That in its self will help defray some costs because you won't have to clean up nearly as much litter and vandalism from those folks.

Councilor Ripma asked can't they go and park across the bridge?

Clyde Keebaugh replied yes but there is limited parking there.

Councilor Ripma stated the only thing that might make sense to me is on the busiest days to have a charge. But that would be hard to do.

Mayor Thalhoffer stated I think this pushes people to another area where they can park for free. They can park along Jackson Park Road and along the highway. Do you have problems on the beach where AMR is located?

Rodney Wilkerson replied we don't have problems inside the parking lot. In the last 4 years I believe we've had 16 car prowls or break-in's reported. That number jumps quite a bit on the east side of the river. We don't see a lot of violations on the beach. You mainly see pets that aren't on a leash. You also see people that have snuck their coolers with alcohol over from the east side. We're not seeing a lot of alcohol in the park itself. When you're dealing with large numbers of people on the beach and alcohol is involved it becomes an officer safety issue. One officer can't approach 50 people. I can't effectively deal with 10 people and watch my back at the same time. Even if we had 2 beach patrol officers on duty and there was a situation at the south beach, it would take both of them out of commission to address the situation.

Mayor Thalhoffer stated I'm not sold on imposing a parking fee.

Councilor Canfield stated I understand what you're trying to do. I don't know if a fee will work but I'm open to it. I'd agree that the main problem is staffing.

Councilor Kight asked if you have a staffing problem to begin with, how are you going to make sure people pay the fee? Have you considered hiring someone to collect the fee so you don't have vandalism of the machine and you don't have to buy cameras or lighting?

Rodney Wilkerson replied it's easier to patrol the parking lot even on foot than it is to have to park their car, get a quad, and go down to an area of the beach. We're also looking at having more SRO's available this year.

Roy Whipple, Northwest Parking Equipment, and Ellis McCoy, Parking Operations Manager for City of Portland, came before the Council to discuss their parking machines.

Ellis McCoy stated we use a fully automated system that we have a great deal of experience with. I'm here as a resource for how the operations and the technology works.

Roy Whipple stated we have different types of equipment. An option that we have that the machines the City of Portland doesn't is the ability to give change. You would need to choose whether you want a cash machine or if you want to accept credit/debit cards. Ven Tek is our manufacturer based out of California.

The machines are definitely revenue enhancers. The biggest difference of what the machine does for you is it provides a method of control. I've dealt with many parks and recreation departments that have said by charging a fee it has cut down some of the undesirables that have frequented their parks.

Councilor Thomas asked can you give us a cost?

Roy Whipple replied the cost depends on the technology options you select. We generally start around \$10,000.

Councilor Daoust asked does your company maintain the machines?

Roy Whipple replied no we don't.

Lewis Berkoelen, Cale Parking, stated I supplied the City of Portland with their machines. The biggest significant difference between our machines is ours are designed to run free standing without power. It is solar charged and battery operated. They are also controlled through the internet and can be programmed and monitored that way. The base cost is \$10,000. The City of Portland's contract is \$7,500 per machine. We also do not maintain the machines. We do provide local support and training. The monitoring fee for online services runs about \$45 per month. The machines are relatively low maintenance.

Councilor Kight stated staff has given us a number of \$25,000 for a parking machine. You have indicated that your low end machine is \$10,000. Why do we have such a huge differential?

David Nelson stated the \$25,000 included the high end machine, installation, running power to it, permitting for it, and also a kiosk and an alarm. I'd rather come in high and surprise you if we do it for less. I didn't know the exact cost of the machine at the time that I did the staff report.

Jack Glass and Rob Brown, both with Jack's Snack-N-Tackle, came before the Council to talk about this agenda item.

Jack Glass stated we need more beach patrol. That's been a huge benefit for the area. There's a cost to maintain the park. The Parks Department has been hiring seasonal help to clean up the park that all of these people from outside the area are using. The City has to burden the cost to clean up. Almost all parks in Multnomah County charge a fee. At Dabney State Park the machine gets vandalized at least once or twice a year. The State Parks have a big blanket of money to pay to fix the vandalism that the City would be stuck with here. There are still undesirables that visit Dabney. The \$3 fee turns away some of them but not all. Where are you going to locate the machine? I guarantee that people will say they didn't see the machine. How will you penalize these people? Rob and I are in favor of a parking fee to help burden the cost of cleaning up the park. It takes our tax paying dollars to clean up the mess that other people bring. This is a valid reason to have a parking fee. Our solution is to have the fee effective Memorial Day to Labor Day at \$3 per car from 7:00am to 6:00pm. People will pay it as long as Glenn doesn't charge less than that in his lot. It will add security with the Officer patrolling to look for passes. Let Jack's Snack-N-Tackle burden the responsibility of selling the parking tickets. You won't have the cost of a machine. Jack's has been there for 10 years and been open and staffed seven days a week from 7:00am to 6:00pm through that period. There may be a fee involved for Jack's because they are burdened with it. But the City is only going to be out a few signs to let people know that they have to purchase a pass. Then you have instant cash flow for the park and you're not out

\$25,000. There would have to be a handling fee like when you purchase a fishing license. If that doesn't work out then you can look at other alternatives.

Rob Brown stated at Jack's we are already set up to handle credit and debit cards. I also agree that the patrol is a big part of it. I think the parking fee will help with the cost for the operation of the park but patrolling the park would be the key.

Mo Haagenson, Troutdale Resident, stated I live on Jackson Park Road. I have a problem with people parking on Jackson Park Road instead of at Glenn Otto Park. With the fee you'll have more people parking elsewhere and you'll have a problem. I don't see any correlation between the fee and more or less crime. Is this parking fee to generate funds or is it to try and control crime? I have a hard time using that as a budget generated thing when that's not the intent. I agree that you need more patrols. When I walk down to the park I see lots of families enjoying the river with their children. I think we get carried away with money that we forget about some of these families that don't want to spend the money. They want to spend the day at the river and having a picnic. Sometimes we have a moral obligation to say lets welcome people to our parks instead of trying to restrict them. If we are looking at it for money for police or cleaning up the park I think there are other methods to do that. I think that's a budget issue and not a park use problem.

Tanney Staffenson, Troutdale Resident, stated I'm representing citizens on the east side of the river. I'm concerned that we are moving the problem out of Troutdale. If the riff raff goes elsewhere so be it and I think that's what's going to happen. I think we're wrong to assume that they're going to pay to park when they can go across the bridge and park for free. I don't know if you've been out there when the weather is warm but they park in every imaginable spot that you could possibly fit a car. They are up and down the streets. We put in No Parking signs 20 years ago and that didn't work so we put in Tow Away signs. That is sometimes effective but sometime it is not. Not only are those areas patrolled by the City of Troutdale but also by the County. It is a continuous problem with cars parked on both sides of the street. There are a lot of people that travel that road. What you're going to do is put a lot of cars on the shoulders of that road and it can't handle it. Already there are drivers that are distracted and collisions occur and I think that's going to be an ongoing problem more than you realize. I was surprised that drinking is acceptable on the east side of the river and not acceptable on the west side.

David Nelson stated the rule is that you can't drink in the park. The other side of the river is not in the park but it's in our city limits. It's our responsibility to police that side but we don't have the park rules to enforce on that side. No alcohol is a park rule.

Tanney Staffenson stated the river is not a line of scrimmage. Both sides of the river are Troutdale. I believe something needs to be done. I think we need money to clean up the park, we need to reduce crime, but I don't think that charging for parking is going to solve the problem. They are going to go where they can park for free.

Mayor Thalhofer asked the Council if they wanted to direct staff to prepare a proposal for this agenda item.

The Council decided not to pursue this agenda item.

4. DISCUSSION: A discussion regarding implementing an ordinance to require all spray paint cans to be secured.

David Nelson, Chief of Police, reviewed his staff report.

Councilor Thomas stated I wanted to bring this up as a topic of discussion after I saw the City of Portland and a couple of areas pursue. They were trying to regulate possession and sale of spray cans and large markers that are commonly used for graffiti. I thought we should at least talk about this and see if we want to do anything. When the Chief and I talked last week we thought that maybe the best idea was to regulate it when the person comes in to buy paint or the markers and ask the sales clerk to do an I.D. check. The idea is to try and control the opportunists. My thought was to bring this down to where the police have something to enforce it with. We have a couple major stores in Troutdale that sell spray paint and those kinds of things. I didn't want them to have to put them behind bars or have to get a note from their parent to buy paint. They'd just have to provide I.D. showing that they are at least 18. This would give the police department something to help enforce it. One thing that really brought this to mind was the news report about the recent gun incident at Columbia Park by the High School. I noticed in the background all this stuff that wasn't a natural color. Everything had been painted with some type of graffiti. On occasion you see it on the fences along 257th. The property owner that gets graffiti on their property shouldn't be punished for it but be asked to get rid of it.

David Nelson stated this is one small tool in our tool box that we'll be able to use to help deal with this. It won't eliminate the problem but it's a step in the right direction. The gun incident at Columbia Park was somewhat graffiti based. One group of kids tagged an area. The kid that brought the rifle to campus was going to retag over what the other kids had done and wait for them to come back to retag over what he had done. At that time he was going to challenge them with the rifle. I'm not saying only kids that are 18 and under are the ones doing this. There are older kids doing it and the only thing we can do for those over 18 is if we catch them in the act we can charge them with criminal mischief. If they are under 18 we could charge them with being in possession of these kinds of items.

Councilor Daoust asked what tools do you have now?

David Nelson replied if we catch them in the act we can charge them with criminal mischief.

Councilor Daoust stated if we go the point of sale route and a minor had a can of spray paint in possession but was just walking down the street, is that really a tool?

David Nelson replied there's going to have to be some common sense used with the enforcement of this. If we stop a car at 2:00am and there are 16 and 17 year old kids in the car with multiple cans of spray paint on the floor board of the car that's an indication that they're out doing some tagging. If there is a boy scout that needs to buy a can of spray paint

from Home Depot for a project, they won't be able to under Councilor Thomas's idea unless they are over 18. There has to be some common sense and digression applied to it.

Councilor Daoust stated of the 3 options I like the minor in possession better.

David Nelson replied it will only hit a small portion of the population because there a people 18 and above doing this too. On a personal level, I have a hard time punishing the property owners.

Councilor Daoust stated I don't like that at all. I just had graffiti on my own fence and I sanded it off because it was on wood.

Mayor Thalhoffer stated your proposal is essentially minor in possession. Are you trying to stop it at the point of sale also?

Councilor Thomas replied that's what I was thinking but without record keeping.

Councilor Canfield asked what other jurisdictions in the area have minor in possession of spray paint?

David Nelson replied I don't know of any.

Councilor Canfield asked are the majority of the people that you've caught in the act minors or adults?

David Nelson replied I don't know if we've ever caught anyone in the act. We've been able to identify specific tags and relate that tag to a specific person or gang. It's never been in the act, it's always been after the fact.

Councilor Kight asked so no other cities have anything like this?

David Nelson replied Portland is in the process of enacting something.

Councilor Canfield stated you are trying to measure the intent. How are you going to do that?

David Nelson replied by investigations, talking to them, and asking them questions.

Councilor Ripma asked would this be constitutional?

David Ross, City Attorney, replied I'd have to think about it because paint is not regulated, it's different from tobacco. Would we want to make it a misdemeanor or a violation?

David Nelson replied I would like it the same as tobacco and alcohol which is a violation.

Mayor Thalhoffer asked could you write this so it's constitutional?

David Ross replied I can certainly give it a try.

Mayor Thalhofer asked the Council if they wanted staff to prepare a proposal for implementing a charge for minor in possession of spray paint and wide tip markers.

The Council directed staff to pursue implementing a charge for minor in possession of spray paint and wide tip markers.

5. ADJOURN

David Nelson stated I wanted to let you know that I met with DJ Simcoe yesterday regarding the concerts at Edgefield. He gave me a draft of the November 1st neighborhood meeting. He said that a copy of the final minutes will be posted on their website by tomorrow.

The Council asked to have a copy of the minutes e-mailed to them.

MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Thomas. Motion passed unanimously.

Meeting adjourned at 9:49pm.

Paul Thalhofer, Mayor

Approved March 11, 2008

ATTEST:

Sarah Skroch, Deputy City Recorder