

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

Tuesday, October 9, 2007

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called the meeting to order at 7:00pm.

PRESENT: Mayor Thalhofer, Councilor Kight, Councilor Ripma, Councilor Thomas, Councilor Canfield, Councilor Kyle and Councilor Daoust.

ABSENT: None.

STAFF: Jim Galloway, Public Works Director; Rich Faith, Community Development Director; David Ross, City Attorney; Debbie Stickney, City Recorder; Olaf Sweetman, Civil Engineer

GUESTS: See Attached.

2. CONSENT AGENDA:

- 2.1 RESOLUTION:** A resolution approving a Memorandum of Understanding with ODOT and the Port of Portland for the I-84 right turn lane at 257th project.
- 2.2 RESOLUTION:** A resolution exempting certain brand name items from competitive bidding requirement.

MOTION: Councilor Kyle moved to accept the consent agenda. Seconded by Councilor Daoust. Motion Passed Unanimously.

3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

Michael Mainridge, resident of Sedona Park, asked the Council for an update on the McMenamins concert issue and shared with the Council what their neighborhood has experienced and what they believe would be a satisfactory resolution. Some of the issues are: Volume is too loud; too much base; the frequency of the concerts; concerts going past the expected time of 9:30pm; vulgar lyrics; sound checks were too loud, too long and were at an inconvenient time of the day; the floodlights stay on too late; and there was significant parking lot noise after the concerts. We hope that all of these factors are taken into consideration when you work on a resolution with McMenamins. Our neighborhood feels

that the concerts are a privilege and not necessarily a right and that McMenamins has abused the privilege. We feel that since the Council gave them the privilege, you need to either amend or revoke that privilege. We are recommending that the concerts be eliminated, but we know that may not be realistic, so we would like to recommend that a noise ordinance be drafted which addresses the volume and base issues. The ordinance could be specifically tailored just for these concerts. Secondly, a process should be put in place that enforces the noise ordinance so that sound does not exceed the limit in Sedona Park or other neighborhoods around McMenamins. We would also like to have the number of concerts limited during the summer. At one point they were having three per week. We would also recommend moving the sound checks closer to the time of the concert, limiting the sound checks to 1 hour and keeping the volume of the sounds checks within the newly created noise ordinance. Finally, we would recommend that you have a trial period where McMenamins has a few concerts and then you can have a review to see how things are going.

Mayor Thalhoffer stated we have already begun work to address all of these issues. It was a problem this last year and we recognize that. Will we be holding a meeting with McMenamins in the near future and we could have some residents of Sedona Park attend the meeting

Scott Clayton, DA Gray, stated I am here tonight because we have a technical roadblock on our Tyson's Place project. The County has dropped their request for a berm on our frontage and on the Sedona Park frontage and they are working out the details for a guardrail barrier with Sedona Park. In the meantime I can not really accurately design the guardrail for the frontage of our site to match up with Sedona Park. I think Public Works has reviewed all of our plans and they are okay with them except for the guardrail, which is one of the conditions. Since this is such an unusual situation I am here to ask you if we can proceed on construction of the site development while we sort out the issues of the guardrail.

Mayor Thalhoffer asked Mr. Galloway to comment on this matter.

Jim Galloway, Public Works Director, stated I believe what Mr. Clayton is referring to is we have a requirement in our construction standards that says a development doesn't start construction until we have obtained the approvals of their construction drawings from all of the effected agencies, and in this case there is a common right-of-way and Multnomah County approval is required. Normally we wouldn't entertain a request to deviate from those standards. I do believe that Mr. Clayton is correct and this project is not the usual project and we would not have a problem honoring their request with two conditions. One being that we have an understanding, in writing, indicating that DA Gray would hold the City harmless if anything develops in the future that causes them to have to do some additional work, that by our allowing them to start early wouldn't in any way come back on the City. Secondly, I think there is another issue, unless it has been resolved in the last day or so, which is the proximity of the water and sewer lines, that needs to be resolved with state agencies. I think with those two conditions I wouldn't have a problem with honoring their request.

Mayor Thalhoffer stated the problem we have is that we don't take action on items under public comment.

MOTION: Councilor Canfield moved to temporarily suspend the rules to allow the Council to address this issue under public comment. Seconded by Councilor Kight. Motion Passed Unanimously.

Councilor Kyle stated I would like some assurance from our Attorney that it is okay for us to grant their request.

David Ross, City Attorney, stated we will need to get a hold harmless indemnification agreement where we would be held harmless in the event that allowing construction before the County approves the plans later causes the developer problems. Subject to working that out with the developer's counsel, I believe we are okay.

Councilor Daoust stated I don't have a problem with this at all. The only thing I thought of was the setback of the house closest to the guardrail or berm, if the guardrail did not go in and instead the berm went in I think the setback of that one house would have to be further in.

Scott Clayton replied the County no longer wants to put in the berm.

Councilor Kight asked what is the issue with the sewer and water line? How close is that to where you are going to put in the barrier?

Jim Galloway replied it is not in close proximity to the barrier, but that is one of the things that we would like to have resolved before we do start because that could have a greater impact on their efforts than the guardrail issue would.

Councilor Kight asked is the guardrail a done deal?

Jim Galloway replied the City's conditions of approval in the approved land use decision says guardrail. My understanding is that the County's prior efforts to switch to a berm has been dropped and that they are content with a guardrail and my understanding is that the developer is fine with the guardrail they just want a decision so that they can start working. I believe the issue regarding guardrail versus berm has been resolved.

Councilor Kight asked so the easement for the sewer and water line is no longer an issue, it just disappeared? I thought it was an issue with Sedona Park that they couldn't put in the guardrail because of the sewer and water line.

Scott Clayton replied I think they are still talking about guardrail versus jersey wall.

Councilor Kight asked with your property, is putting in a guardrail an issue as far as utilities?

Scott Clayton replied no, because I can move it behind whereas Sedona Park can not, but it should kind of line up with them. All of these things need to be considered.

Councilor Kight stated I don't have a problem with this.

Councilor Ripma asked this deals just with the DA Gray property and for Sedona Park whether it is a guardrail or jersey wall is still something that is under consideration?

Jim Galloway replied that is correct. Representatives of the County invited residents of Sedona Park to an open house last Wednesday where there was a rather small turnout (maybe 6 or 7 Sedona Park residents). There was a discussion and there were two or three unanswered questions. They were questions that the County was unable to answer on the spot and they promised to get back to the residents with a response this week. The County was then going to ask the residents to respond to the County within two weeks letting them know if the County's proposal was acceptable. We have tentatively scheduled the first meeting in November for the County to come back and brief the Council on what is happening with Sedona Park.

Councilor Ripma stated as long as it gets done in a way that is satisfactory, then I am also okay with this request.

Councilor Canfield stated I am okay with this request.

Chad Tippen stated Sedona Park residents did meet with Multnomah County and there were some unanswered questions. We are still talking about the difference between guardrails and jersey barriers. I am also concerned that we should step back and think about the project in total. What would it look like if part of it were jersey barriers and part was guardrail? Lets not forget the transition between the two properties. All along Sedona Park has brought forward that they cross the Tyson's Place property then launch into the Sedona Park property. I would propose that this not be passed and we do go ahead and stick with the way things have been. It is not a done deal yet; we are still waiting to hear from Multnomah County regarding our concerns. I think both properties are completely related.

Councilor Kight stated the problem is you have a developer that is sitting on a piece of real estate and he can't move forward. We are kind of caught between trying to satisfy both DA Gray and the residents of Sedona Park. What do you see as a resolution?

Chad Tippen replied I would like to back up by saying that I don't even know if ground could be broken in October. There are some very specific guidelines set forth in the erosion control plan. I'm not even sure if the NPDES permit has been applied for.

Scott Clayton replied we have received it. What I am requesting actually facilitates exactly what Mr. Tippen is talking about. Right now I could design a guardrail and Multnomah County approve it and we could start but it is not going to match up to what they are doing for Sedona Park and it won't look right. All I am trying to do is sort out what they are going

to do on the frontage of Sedona Park so that I can design something to match it. I am just asking to be able to proceed with our project while we are ironing out those details.

Councilor Kight asked could you address his comment about not being able to start the project in October because of erosion control?

Scott Clayton replied we can start in October.

Councilor Ripma stated it sounds like DA Gray can not begin doing anything until they get a permit from the City and because the City required a guardrail we can't issue a permit until that gets all sorted out. The guardrail or whatever gets built, will be designed after your meetings with the County. The whole idea is to build a compatible guardrail or barrier that matches Sedona Park. This seems like a reasonable request from Mr. Clayton.

Mayor Thalhoffer asked can we be assured that you won't do anything as far as the guardrail until the residents of Sedona Park work out their issues with Multnomah County?

Scott Clayton replied if I can continue working on my project, then yes. But at some point we could hit a wall where they could be arguing forever and I can not commit to...

Mayor Thalhoffer interrupted and stated we are not going to let them argue forever.

Councilor Canfield stated I appreciate your comments Mr. Tippen. However, in my mind the City, as part of the settlement regarding the Sedona Park/Tyson's Place issue, came to an agreement to put in a guardrail which DA Gray has every right to go ahead with.

Chad Tippen stated if there is going to be construction during the winter there will be a definite impact on erosion through Sedona Park.

MOTION: Councilor Thomas moved to allow DA Gray to continue the process based on the two items that Mr. Galloway outlined, a letter of agreement holding the City harmless and a second condition in regards to the sanitary sewer and water system that needs to be taken care of by agreement with DA Gray. Seconded by Councilor Daoust.

Councilor Kight stated just a caveat, the Mayor had asked the developer to forestall doing the guardrail until there is some resolution regarding Sedona Park and in the meantime you can work on your project.

Councilor Ripma stated guardrail is what we asked for originally and that is what Sedona Park residents wanted. The County came up with the berm idea and it ended up delaying things but now they are at least in a position where they are agreeing to allow the guardrails to be built. We will still have a chance to make sure that it is designed for the safety of both neighborhoods.

Councilor Canfield stated this is what Sedona Park wanted and that Multnomah County, DA Gray and the City agreed to.

VOTE: Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes; Councilor Canfield – Yes.

Motion Passed 7 - 0.

Chad Tippen stated I am here tonight to support my new neighbor Michael Mainridge and was audibly assaulted. I wan to go on public record that we were assured that in October we would have a meeting between McMenamins and Sedona Park. Not one member of Sedona Park has been notified of a meeting. We are still hoping that this meeting is going to take place.

Jim Galloway stated I spoke with Chief Nelson earlier today and he mentioned that he has been talking to the folks at McMenamins and they still intend to hold a meeting by the end of the month but a specific date has not yet been set.

4. PROCLAMATION: Proclaim the week of October 25-31 to be National Magic Week.

Mayor Thalhofer read the Proclamation.

5. REPORT: Metro's New Look at Regional Choices

Metro Councilor Rod Park showed the Council a PowerPoint Presentation and updated them on Metro's New Look at Regional Choices which included: Looking at new approaches for implementation of the 2040 Growth Concept; convening elected partners and other stakeholders; promoting greater flexibility and predictability in land use decisions; needing to get away from divisive and costly five-year UGB expansion cycle; regional successes; why a new approach is needed; urban and rural reserves; why reserves are a good idea; performance-based growth management; regional investment strategy; new direction at Metro; community investment toolkit; how to get involved; and the Regional Transportation Plan. Councilor Rod Park provided the Council with dates for upcoming public hearings on the Regional Transportation Plan and Regional Roundtable meeting dates.

6. RESOLUTION: A resolution opposing the enactment of new general aviation user fees and taxes as part of the congressional reauthorization of the Federal Aviation Administration.

Doug Badger, Alliance for Aviation Across America, stated we are a nationwide grass roots coalition made up of pilots, small businesses, local airports, local officials, agricultural interest, and anyone who is connected to general aviation and has an interest in maintaining the vibrant general aviation community either for business purposes or recreation. Our main interest is in the reauthorization of the federal aviation administration. There have been some proposals put forward by commercial airlines that would cost-shift some of the airport modernization investment from the commercial airlines onto general aviation more so than the existing law. We have some real concerns about that. The current breakdown is about

right; their proposal would cost-share a significant amount of the burden onto general aviation. Secondly, they have proposed new user fees that would be overlaid on the existing excise tax on fuel. That had proven to be a good system of collecting revenue, kind of a pay as you go system so the more fuel you use the more you pay. There have been a couple of bills put forward in Congress, one of them recently passed the House of Representatives that did not include new user fees, which we support, although it did include an increase in the excise tax both for general aviation and commercial aviation. There was also a bill that was recently passed out of the Senate Finance Committee that would again not include a user fee but would impose an increase in the excise tax for both general and commercial aviation and again we support that. The debate now moves to the Senate floor and we anticipate that there will be a lot of effort by the commercial airlines to continue to push this issue of putting more cost burden on general aviation. We have went around the country and looked at a lot of communities like Troutdale where there is a small airport that is an important part of the economic development strategy. We have worked closely with the East Metro Economic Alliance and they have been very supportive of our efforts as well as individual pilots and folks that have businesses at the Troutdale Airport. They are all working closely with us to communicate with our Senators and our Congressional Delegation on conveying our message.

Joe Smith, President of the Oregon Pilots Association and the founder of the Troutdale Chapter of the Oregon Pilots Association, stated we appreciate your recognition of the value and support of general aviation. When the initial proposal came down from the FAA it was said that it was because we are running out of money and we need to get a new funding system.. The problem was that when it was looked at carefully they had to admit that the system they were proposing was going to raise less money than the system that is presently in place. When asked what was the real agenda. We know that one agenda was to transfer a significant amount of cost from airlines to general aviation. The airlines have said that is good because the people who are really paying those costs right now are the passengers. I believe that the long-term objective was to transfer the cost. I believe a more short-term objective is to divert public attention from the problems that have developed because the hub-and-spoke system that the airlines have gone to has produced delays which are getting worse.

Joe Smith stated if they go with the new proposal of a user fee system, I'll give you an example of what could happen. I flew from Bend to Seaside to take my wife and her friend to a conference. We flew on what is called an instrument flight plan. There were clouds on the coast so we had to make an approach in Astoria and submit our flight plans so you are separated from other airplanes because you are inside the clouds with other planes so you are talking to air traffic control when you are making your approach. If the Senate proposal, which is mentioned in the proposed resolution before you, were adopted that would cost me \$25 to register my flight plan. Right now it would not cost me because my airplane is too small. What is the temptation going to be? The temptation of course is going to be to not communicate the flight plan and then you wouldn't be charged the \$25. But they could see you on radar and they will follow you and collect the \$25. Then the temptation will be rather than impeaching in the airspace where you have to pay the \$25 would be to stay down low off of the radar, and people will be killed. That doesn't justify that pilot saying that I am willing

to take the chance rather than spend the \$25, but it is recognizing human nature. The fact that you are willing to consider this resolution, and I am hoping that you will adopt it, is really a wonderful thing.

Councilor Daoust asked if the House Bill passed with no user fees and the Senate Bill passed with no user fees, what is the struggle?

Joe Smith replied the Senate Bill does have a \$25 user fee.

Doug Badger stated there are two separate Senate Bills that were passed by two separate committees, one has a user fee and one doesn't.

Councilor Kight stated it seems clear to me in the documentation you provided to us that it would have a negative affect on small aircraft. I would guess it would drop off by at least half. You have made a very articulate argument and I plan on supporting the resolution.

Councilor Ripma asked are there no general aviation user fees, or are you just against new ones?

Joe Smith replied there are no users fees at all right now.

Councilor Thomas asked this \$25 fee to register your flight plan, that is a user fee?

Joe Smith replied yes. There are user fees to go into certain airports, for example SeaTac charges me a landing fee. Because they charge a landing fee I go to an alternate airport that does not charge a landing fee.

Councilor Ripma stated you mentioned the hub-and-spoke system as being part of the problem. This resolution doesn't have anything to do with the hub-and-spoke.

Joe Smith stated it has a lot to do with hub-and-spoke because the hub-and-spoke system has caused problems which I believe in the short term inspired the airlines to try to divert attention. It will not affect the hub-and-spoke system.

Councilor Ripma asked if user fees are imposed will that correct some of the problems with the hub-and-spoke system in some way?

Joe Smith replied no it will not, however there is some smoke and mirrors out there that are suggesting that it will.

Councilor Ripma stated I am concerned that I don't have enough information about this. I do appreciate your request. Will we be hearing from someone from the other side of this issue? There must be some reason this is being proposed. My understanding, over years of following this, is that general aviation has been subsidized in some way by the systems that we have to the good of the country and certainly to the good of Troutdale. There are reasons

why these kinds of proposals have come up over the years and been batted down. Are we going to hear from anyone else Mr. Mayor?

Mayor Thalhoffer stated I called Mr. Finn at the Port of Portland to see what his take was on this, and he said that they have not taken a position on this issue.

Councilor Ripma stated I do think you have made a case. It is a bit confusing to me but I believe that general aviation is important to Troutdale because of our airport and the businesses there and for that reason I can support this.

Councilor Thomas stated the thing I found most interesting is the 57 hubs that the airline uses, that is a lot of planes to shove through very few airports.

Mayor Thalhoffer stated this is very important to Troutdale. What are you recommending that we do? The Port of Portland has told me that they have not taken a position on this issue that they have bigger fish to fry so they are not getting involved in this.

Joe Smith stated we are asking you to approve the proposed resolution and mail it to those folks identified in Section 2 of the resolution.

Councilor Canfield stated your arguments are very convincing on how important general aviation is to our Country. If you watch the national news shows, the way the airlines are selling this issue is that the general aviation is causing the problem with the hub-and-spoke system. If anyone has flown recently you can see that the airlines overbook the runway slots. The problem is not the general aviation and any user fee will not solve the problem. I will support the resolution.

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

No testimony received.

MOTION: Councilor Canfield moved to approve the resolution opposing the enactment of new general aviation user fees and taxes as part of the congressional reauthorization of the Federal Aviation Administration. Seconded by Councilor Kight.

Councilor Kight stated in looking at the material provided to us it is clear that this would have a major economic impact on general aviation throughout the United States and more specifically right here at our own Troutdale Airport. I can see general aviation cut down to probably less than half because of the increasing cost in the gas tax which would double as well as the user fees.

Councilor Kyle stated I am going to support this.

Councilor Daoust stated I will sort of support this. I kind of feel the same as Councilor Ripma, we don't have all of the facts to really get into this. But on just our local concern for the Troutdale Airport I guess I will support it.

Councilor Ripma stated I am always pleased to lend Troutdale's weighty voice on a Federal Congressional enactment, I know that it will be listened to carefully and probably influence the final decision.

Councilor Thomas stated I think this is a good idea. New fees don't always solve the problem.

Mayor Thalsofer stated I am going to support this. I think because we have one of the better airports in the State of Oregon, maybe in the top five, I think we get a lot of recognition for having an airport such as ours. General aviation is so important to the health of our airport so I am supporting this for that reason. I know that our Congressional Delegation will listen carefully to what we have to say because we do have one of the better airports in the State.

VOTE: Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalsofer – Yes; Councilor Canfield – Yes.

Motion Passed 7 – 0.

7. STAFF COMMUNICATIONS

None.

8. COUNCIL COMMUNICATIONS

Councilor Kyle thanked the 100 Year Committee for all of their hard work. It was a great birthday party and I hope everyone enjoyed it.

Councilor Daoust stated everyone that helped put on the 100 Year Celebration was happy Saturday. It rained in the morning just as we were starting to set things up but it didn't rain once during the entire party, but just after we started cleaning things up it started drizzling again. It was a very good celebration and I was glad to be a part of it.

Councilor Ripma stated I agree it was a great event and everyone loved it. I also want to thank all of the Committee members and all of the citizens who attended. I am looking forward to the next one.

Councilor Thomas thanked Councilor Daoust, Councilor Ripma and Debbie Stickney for putting together an excellent 100 Year Celebration. My grandkids loved it; it was really a lot of fun.

Mayor Thalhofer stated it was a wonderful Centennial Celebration.

Councilor Canfield stated it was a great time at the 100 Year Celebration. I would invite folks to visit the Troutdale Historical Society Barn Museum. They have a wonderful video presentation that shows the history of Troutdale.

9. ADJOURNMENT:

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

Meeting adjourned at 9:00pm.

Paul Thalhofer, Mayor

Approved January 22, 2008

ATTEST:

Debbie Stickney, City Recorder